



Status review of implementation of consumer protection rules of the Electricity Directive 2009/944 in the Contracting Parties

Background note

March 2024

1. About ECRB

The Energy Community Regulatory Board (ECRB) operates based on the Treaty establishing the Energy Community¹ (hereinafter ‘the Treaty’). As an institution of the Energy Community, ECRB advises the Energy Community Ministerial Council and Permanent High Level Group on details of statutory, technical and regulatory rules and makes recommendations in the case of the cross-border disputes between regulators.

ECRB is the independent regional voice of energy regulators in the Energy Community. ECRB’s mission builds on three pillars: providing coordinated regulatory positions to energy policy debates, harmonizing regulatory rules across borders and sharing regulatory knowledge and experience².

2. Background

The consumer protection framework established in accordance with the Third Energy Package³ is closely monitored by the Energy Community Secretariat and the Energy Community Regulatory Board since 2015.

On 30th November 2021, Electricity Directive (EU) 2019/944⁴ was included in the Energy Community *acquis communautaire* by the Decision of the Ministerial Council of the Energy Community.⁵

Apart from aligning the market design framework with substantial changes that occurred since the adoption of Directive 2009/72, Directive 2019/944 further develops the consumer protection framework and facilitates consumer empowerment by enabling their active role in the energy transition. Concerning the customers’ rights and consumer protection framework, Directive 2019/944 puts focus on the clarity and comprehensiveness of the information provided to the consumers, facilitation of the supplier switching, availability of the free-of-charge comparison tools, promptness and effectiveness of handling of the consumer complaints, fairness and efficiency of the out-of-court dispute settlement, etc. In addition, this Directive sets a solid basis for the active

¹ www.energy-community.org. The Energy Community comprises the EU and Albania, Bosnia and Herzegovina, North Macedonia, Georgia, Kosovo*, Moldova, Montenegro, Serbia and Ukraine. Armenia, Türkiye and Norway are Observer Countries. Throughout this document the symbol * refers to the following statement: This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Advisory Opinion on the Kosovo declaration of independence.

² For more information on ECRB visit <https://www.energy-community.org/aboutus/institutions/ECRB.html>

³ Electricity Directive 2009/72 (https://www.energy-community.org/dam/jcr:1af4857c-9985-4c2a-baff-95c5bf1ee38b/Directive_2009_72_EL.pdf) and Gas Directive 2009/73 (https://www.energy-community.org/dam/jcr:004b3ca7-fa52-4633-875e-8ac1b2cea021/Directive_2009_73_GAS.pdf)

⁴ https://www.energy-community.org/dam/jcr:4dd35c70-91d7-4219-8396-7637a0cef7c7/DirectiveEU2019_944.pdf

⁵ <https://www.energy-community.org/dam/jcr:3304cadf-c63b-433f-9636-79d9ec63b186/Decision%202021-13-MC-EnC.pdf>

participation of the consumers in the electricity markets by introducing dynamic price contracts, the possibility of aggregation with other consumers, demand response (through aggregation) and citizen energy communities.

The deadline for implementation of Directive 2019/944 in the Energy Community Contracting Parties was 31st December 2023.

3. Scope and methodology

In order to assist Contracting Parties in identifying legal gaps regarding the implementation of the consumer protection and empowerment provisions of the new Directive, the ECRB decided to assess the implementation status under its 2023 Work Program. The main deliverable of this survey can be found in the accompanying MS Excel file ('Annex') comprising a detailed overview of the transposition of legal provisions and the relevant references.

The present deliverable covers the Energy Community Contracting Parties: Albania, Bosnia and Herzegovina, Georgia, Kosovo*, Moldova, Montenegro, North Macedonia, Serbia and Ukraine. Data and analysis displayed in this report and its Annex file are based on information provided by the regulatory authorities of the Contracting Parties.

4. Main findings

Several topics concerning consumer protection and empowerment were of interest for this deliverable, namely:

- Free choice of the supplier,
- Market-based supply prices,
- Basic contractual rights,
- Dynamic price contracts,
- Switching,
- Aggregation contracts,
- Comparison tools,
- Active consumers,
- Energy communities,
- Demand response through aggregation
- Bills,
- Smart metering systems, functionalities of the smart meters and entitlement to smart meters,
- Conventional meters,

- Data management,
- Single points of contact,
- Out-of-court dispute settlement,
- Universal service,
- Vulnerable consumers and energy poverty

The analysis of data presented in the Annex revealed that the customers' rights with regard to the free choice of the supplier, market-based supply prices, basic contractual rights, switching, billing information, data management, out-of-court dispute settlement, universal service and measures to support vulnerable consumers are already well elaborated. The legal framework for their implementation is mostly based on Directive 2009/72 and in place since 2015. However, additional requirements introduced by Directive 2019/944, such as the minimum number of days to inform the households about the price adjustments, comparison tools, collective switching schemes and shortening the deadline for the supplier switching after 2026 are yet to be transposed in most of the Contracting Parties.

On the other hand, provisions related to consumer empowerment, i.e., aggregation contracts, dynamic price contracts, citizen energy communities, and demand response through aggregation, are not introduced in most of the Contracting Parties. In this regard, it is important to note that these provisions are crucial for enabling the active participation of the final consumers in the energy market.

In order to further develop a customer protection and empowerment framework in their electricity markets, **the Contracting Parties should transpose Directive 2019/944 as soon as possible, by addressing the gaps in legislation identified in the Annex of this document.** In the framework of its well-established process of the annual retail market monitoring, the ECRB will monitor the implementation of these provisions in practice, including their effectiveness and challenges faced by all retail market stakeholders.