



**Assessment of the draft amendments to the
Law of Ukraine “On the Electricity Market”
regarding the Coupling of the Ukrainian
Market and the European Union Markets**

by the Energy Community Secretariat

June, 2023

PURPOSE STATEMENT

Compliance assessment of the draft Law of Ukraine “On amendments to the Law of Ukraine “On Electricity Market” regarding the coupling of the Ukrainian market and the European Union markets” provided by the Ministry of Energy of Ukraine.

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Ukraine Energy Market Observatory

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Introduction

The present assessment follows a request of the Ministry of Energy of Ukraine (hereinafter, the Ministry) to the Secretariat to provide a compliance assessment of the draft Law “On amendments to the Law of Ukraine “On Electricity Market” regarding the coupling of the Ukrainian market and the European Union markets (hereinafter, the draft amendments to the EML), developed in cooperation with the National Energy and Utilities Regulatory Commission (hereinafter, NEURC) and market participants (in particular, the Market Operator and the electricity Transmission System Operator (hereinafter, TSO, *Ukrenergo*).

Background

The draft amendments aim at ensuring the necessary conditions to allow for the coupling of the Ukrainian electricity market with the markets of the Parties to the Energy Community. Most of the draft amendments relate to provisions relevant for the so-called ‘nominated electricity market operator’ (hereinafter, NEMO) providing day-ahead (hereinafter, DA) and intraday (hereinafter, ID) trading services and performing tasks related to the single day-ahead coupling (hereinafter, SDAC) and the single intraday coupling (hereinafter, SIDC). Furthermore, the draft amendments include general principles and concepts of market coupling, the tasks of the TSO, the competencies of the regulatory authority as well as some provisions on the balancing market in Ukraine. Finally, some provisions related to capacity allocation are also being amended.

On 15 December 2022, the Ministerial Council by Decision 2022/03/MC-EnC incorporated the European Union’s electricity market *acquis* in the Energy Community complemented by Procedural Act 2022/01/MC-EnC on Regional Energy Market Integration. The deadline for transposition and implementation of those acts by Contracting Parties, including Ukraine, is 31 December 2023. Regulation (EU) 2019/943 (hereinafter, Electricity Regulation) governs general principles of the internal electricity markets for several timeframes and in particular the management of day-ahead and intraday markets by TSOs and NEMOs. The new electricity package also includes the so-called Network Codes and Guidelines defining detailed rules related to different market segments and system operation, including those related to short-term markets (Regulation (EU) 2015/1222, hereinafter, CACM) and balancing markets (Regulation (EU) 2017/2915, hereinafter, EB GL) as well as on forward

capacity allocation (Regulation (EU) 2016/1719, hereinafter FCA GL). The CACM and the EB GL provide a framework for harmonisation of capacity calculation, capacity allocation and coupling in different market timeframes, in particular the SDAC and the SIDC as well as the different EU balancing platforms.

These Guidelines establish procedures for the development of terms, conditions and methodologies (hereinafter, TCMs) that have to be applied on regional or pan-European level in a unified manner and therefore require intensive cross-border coordination. The Guidelines themselves define the general content of such TCMs, the parties responsible for their submission (TSOs or NEMOs) as well as their approval by the NRAs or the Agency for Cooperation of Energy Regulators (hereinafter, ACER) and the deadlines for submission and/or implementation. Depending on their nature, the TCMs are either pan-European (submitted by all TSOs or all NEMOs), regional (submitted by the TSOs of a specific region) or national. Their development and implementation follows different rules. Namely, the pan-European TCMs¹ are to be applied by the Contracting Parties as developed and approved in the EU without a possibility to adapt or change them, whereas regional TCMs (limited to specific regions such as the so-called capacity calculation regions, hereinafter, CCR) for the CACM,² and national TCMs, the responsible parties in the Contracting Parties and, if applicable in the EU Member States, need to take action and submit the proposals to the NRAs concerned.

Finally, the new package, also includes Regulation (EU) 2019/942 (hereinafter, ACER Regulation) which together with the Procedural Act on Regional Market Integration³ ensures homogeneity and reciprocity between the energy sector stakeholders from both Contracting Parties and EU Member States⁴, in particular by empowering ACER to take decisions binding for the Contracting Parties in situations concerning both EU Member States and Contracting Parties. This is especially relevant for TCMs for specific regions which include both EU Member States and Contracting Parties. Such TCMs have to be approved by all relevant NRAs pursuant to the Guidelines. In case of disagreement, ACER is tasked to take the decision instead.

Impact of the proposed amendments

The transposition and implementation of the Energy Community's electricity integration package of 2022 is a legal obligation of the Contracting Parties. The draft amendments to the EML focus on provisions to allow the coupling of the Ukrainian electricity market with the electricity markets of the Parties to the Energy Community and the EU single electricity market. The single day-ahead and intraday coupling as well as the joint EU platforms for the exchange of balancing energy aim at effectively establishing a single integrated

¹ Such as, e.g., the common grid model (Article 17 CACM Regulation), the harmonised capacity calculation (Article 21 CACM Regulation), products for day ahead and intraday markets (Articles 40 and 53 CACM Regulation, the congestion income distribution methodology (Article 73 CACM Regulation, Article 57 FCA Regulation) or harmonised allocation rules (Article 51 FCA Regulation).

² Such as, e.g., the methodology for coordinated re-dispatch and countertrading (Article 35 CACM Regulation, the methodology for calculation of scheduled exchanges (Articles 43 and 56 CACM Regulation) or regional annexes to the harmonised auction rules (Articles 52 and 55 FCA Regulation).

³ 2022/PA/01/MC-EnC.

⁴ Regulatory and other designated authorities, TSOs, DSOs, NEMOs and RCCs.

electricity market to increase the overall efficiency of trading, increase liquidity and security of supply and enabling a more efficient utilisation of generation resources across Europe. The implementation of the package will result in scarce cross-border transmission capacity being allocated in the most efficient way by coupling wholesale electricity markets through common algorithms, simultaneously taking into account cross-border transmission constraints and thereby maximising social welfare.

Compliance assessment

The draft amendments to the EML do not transpose fully the CACM. Moreover, some of the provisions that are actually included are transposed in a non-compliant manner. It is not clear if the draft amendments are meant to also transpose the EB GL, for which they would not suffice in their current version. The same is true for the FCA GL: the draft amendments include the terms of the auction office and several provisions related to it, as well as long-term capacity allocation, but lack other provisions. Since the CACM, the FCA GL and the EB GL are detailed and technical acts, a complete transposition by primary legislation would not be possible, feasible or desirable. Instead, the draft amendments to the EML must include a legal basis, where necessary, for developing secondary legislative and regulatory acts in which the complete transposition would be ensured within the deadline established by the Ministerial Council, 31 December 2023.

With regard to the draft amendments related to capacity allocations, it is not clear how those relate to draft amendments to the EML already in procedure and subject to assessments by the Secretariat in Observatory Assessment Notes 4/23, 6/23 and 7/23⁵. In any event, the Secretariat's comments made in those reviews are still valid.

Besides the fact that the draft amendments do not transpose sufficiently and completely the CACM and the provisions of the Electricity Regulation, they also do not include the transposition of the ACER Regulation. Without obliging the Ukrainian market participants and the NEURC to cooperate with and provide information to ACER upon request, to take into account the opinions, recommendations and to respect, apply and implement ACER's decisions, neither would the transposition of the *acquis* be complete nor could Ukraine join any regional or pan-European process to which EU Member States are participating. Without transposing the ACER Regulation, the provisions from the CACM, EB GL and the FCA GL would not be implementable.

One of the main concerns related to compliance with the CACM and reflected throughout the draft amendments is the designation of the Market Operator as a NEMO directly through the draft amendments to the EML. That would amount to a breach of the *acquis*. The reference for the Market Operator functioning as NEMO should hence be removed. The CACM requires that any NEMO is designated based on a separate procedure and criteria defined in Article 6 of CACM, and cannot be designated directly by law. Instead, a legal basis should be included in the EML for NEURC to adopt secondary legislation with the criteria and defining the procedure for NEMO's designation in line with Article 6 of the CACM. The NEMO designation process must follow the requirements of the CACM by first

⁵ <https://www.energy-community.org/Ukraine/observatory.html>

adopting the relevant criteria and procedure, followed by an application for designation, assessment by the competent authority and finally, designation provided that the criteria are fulfilled by the applicant. The draft amendments also miss to transpose the mandate of NEURC to monitor compliance and revoke the designation in case of no compliance with the criteria for designation as required by Article 4 of the CACM.

The draft amendments also lack the obligation for the application of the pan-EU TCMs as required by Article 9(6) of the CACM, Article 4(6) of the FCA GL and Article 5(2) of the EB GL. As the TCMs relevant for NEMOs are all developed on pan-EU level and the Energy Community rules require those to be implemented by Contracting Parties without changes, the EML should envisage their immediate and direct application in Ukraine. Those TCMs are regularly changed on EU level. Immediate and direct application in Ukraine of the amended TCMs is of utmost importance to ensure the proper functioning of the coupling projects as well as the homogeneity of the applied conditions in the coupling and the Ukrainian legal framework. Moreover, the draft amendments also lack the obligation for participation in the processes on development of regional TCMs in accordance with the procedure established by Article 9(7) et seq. of the CACM, Article 4(7) et seq. of the FCA GL and Article 5(3) et seq. of the EB GL. Empowering NEURC to oblige the TSO and the NEMO to provide proposals, and NEURC, the ECRB or the ACER, to the extent EU Member States are concerned, to decide on TCMs in case of no agreement between NEURC and the other NRAs are also indispensable and missing in the draft amendments to the EML.

The requirements for TSO's cooperation with TSOs from adjacent countries only, which are included in the draft amendments to the EML, are also not compliant with the *acquis*. Namely, the draft amendments fail to include a requirement for cooperation between TSOs and NEMOs at regional and Energy Community level as required by Article 7 of the Electricity Regulation.

The tasks of the TSOs as listed e.g. in Article 8 of the CACM as well as Articles 14 and 15 of the EB GL, the tasks of the NEMOs required by Article 7 of the CACM and the competences of NEURC necessary for implementing and enforcing the implementation of these acts are not transposed completely by the draft amendments to the EML.

The draft amendments to the EML further include the term "commercial agent", which raises serious concerns about compliance with the *acquis*. The draft amendments envisage a market participant, to be appointed by the Ministry, at the same time to be responsible for the purchase, sale, import and export of electricity through the coupled DAM and IDM. This is not in line with the European market model. Instead of such a "commercial agent", the draft amendments to the EML should build on the terms "central counter party" and the "shipping agent" from the CACM. Within the SDAC and SIDC, market participants place their bids/offers which results in prices, net positions of bidding zones as well as the scheduled exchanges between bidding zones, scheduling areas and NEMO trading hubs from the matched and executed trades. The functioning is defined via TCMs on the detailed rules of SDAC and SIDC, and approved at pan-EU level (which do not allow for deviations by Ukraine). NEMOs are tasked with operating the coupling, interacting with other NEMOs to realize the trades and, post-coupling activities, i.e. to clear and settle with their market participants (clients). This comprises the task to act as central counter parties (which can be delegated to a third party) in accordance with Article 68 of the CACM. With regards to the physical parts of transactions, shipping agents transfer net positions in accordance with

the resulting scheduled exchanges. It is important, however, that the shipping agent itself does not purchase, sell, export or import electricity but only transfers net positions. This is also true for central counter parties. Usually NEMOs (and in some EU Member States TSOs) are performing this task. The corresponding provisions are missing in the draft amendments to the EML.

The draft amendments related to the Market Rules fail to transpose the requirements from the EB GL as well. Since in Ukraine separate Market Rules are in place for DAM and IDM, the Market Rules mostly govern balancing. In this regard, Article 18 of the EB GL requires the TSO of each Contracting Party to develop within six months upon entry into force (i.e. by 15 June 2023) national terms related to balancing for approval of NEURC. The market rules for balancing should cover all items with this respect. Therefore, when amending the content of the Market Rules, the draft amendments to the EML must take into account and transpose these requirements. Furthermore, the integrated EU balancing market operates on the basis of TCMs. The content of the Market Rules shall also include the application of the pan-EU TCMs (as explained above). This applies not only for the sake of complete transposition, but also to enable Ukraine to join the EU markets.

Finally, an issue that raises concerns of discrimination concerns the introduction of a procedure for non-residents to participate in the electricity market. Treatment of foreign market participants must be non-discriminatory. Market participants registered as balancing responsible parties in Parties to the Energy Community must be allowed on equal terms to participate in the electricity market of Ukraine in order to enable market coupling projects.

Conclusions and recommendations

The Secretariat still considers all comments from its previous Observatory Assessment Notes, related to draft amendments to the EML on capacity allocation, relevant because they ensure compliance with the Third Energy Package and do not aim at transposing the new electricity *acquis* (Observatory Assessment Notes 4/23, 6/23, 7/23). The draft amendments to the EML subject to the present assessment does not ensure the transposition of the new electricity *acquis*. It only addresses parts of the Energy Community *acquis* non systematically, and even in those cases (e.g. provisions on NEMO tasks, NEMO designation etc.) not all provisions are included in the draft amendments and some of the amendments proposed raise serious compliance issues.

The Secretariat therefore recommends that:

- the terminology of the draft amendments to the EML are fully brought in line with the terminology used in the electricity *acquis* as incorporated in the Energy Community;
- the scope of the draft amendments is extended, to extend to the transposition (at least) of the Electricity Regulation, the ACER Regulation, CACM, FCA GL and EB GL to the extent they affect Ukraine's integration in the European electricity markets. The draft needs to transpose the main concepts, tasks and obligations and provide legal bases for the transposition of details in secondary legislation;
- as a minimum, transposition of the ACER Regulation, application of the pan-European TCMs and obligation to participate to development of regional TCMs, as

well as a proper procedure and criteria for a NEMO designation have to be included in primary legislation;

- the designation of the Market Operator as a NEMO prior to having in place criteria and the procedure for designation has to be removed from the draft amendments to the EML. Instead, a proper procedure and criteria for designation should be developed, as well as powers attributed to NEURC to revoke the designation, if the criteria are no longer met;
- the scope of the cooperation needs to be extended beyond the neighbouring countries. The *acquis* requires regional and cooperation at Energy Community level in order to enable Ukraine to participate to any pan-European project;
- the concept “commercial agent” and the procedure for participation of non-residents to the electricity market have to be removed from the draft amendments to the EML. Procedures for cooperation between NEURC and NRAs from the Parties to the Energy Community cannot be made dependent on signing international agreements;
- amendments related to cross-border capacity allocations should be coordinated and harmonized with the recent amendments to the EML concerning the same issue, and taking into account the Secretariat’s comments and recommendations from previous Observatory Assessment Notes;
- final and transitional provisions need to include timelines for developing secondary legislation and deadlines for fulfilling the requirements from the new *acquis*;
- as a side note: the deletion of the ombudsman from the EML without a clear replacement by other out-of-court settlement is not compliant with the *acquis*.

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Annex

Detailed assessment of proposed Amendments to the Law of Ukraine “On the Electricity Market” regarding the Coupling of the Ukrainian Market and the European Union Markets

Current Version	Amendments Proposed	Energy Community Secretariat’s comments and recommendations
Law of Ukraine ‘On the Electricity Market’		
Article 1. Definition of Terms		
1. For the purpose of this Law, the terms below shall have the following meanings:	1. For the purpose of this Law, the terms below shall have the following meanings:	
13) available cross-border transmission capacity (hereinafter available transmission capacity) is the transmission capacity available at a cross-border interconnection not of the transmission capacity allocated through auctions and transmission capacity that is not subject to the requirements set in Article 38 and Article 39 of this Law. The calculation of a daily available transmission capacity shall take into account the unused transmission capacity, allocated at earlier auctions.	Deleted.	
16 ¹) security is the guarantee that the granted physical right to usage of an interconnector shall remain available to be exercised, and <i>reimbursement shall be paid</i> following the procedure of interconnector transmission capacity allocation should such right be diminished;	16 ¹) security – the guarantee that the granted physical right to usage of an interconnector shall remain available to be exercised, and the reimbursement or compensation shall be paid pursuant to the Rules of Interconnector Capacity Allocation should such right be diminished;	Definition is not compliant with Article 2(44) of the CACM. The draft amendment shall read: “ <i>firmness’ means a guarantee that cross zonal capacity rights will remain unchanged and that a compensation is paid if they are nevertheless changed.</i> ”
22) ancillary services are the services set out by this Law and Market Rules that are purchased by the TSO from ancillary service providers in order to ensure a reliable and secure operation of the Integrated Power	22) ancillary services – the services set out by this Law and Market Rules that the Transmission System Operator requires in order to ensure the due functioning of	The definition is not in line with Article 2(48) of the Electricity Directive. The draft amendment shall read: “ <i>ancillary services’</i>

<p>System of Ukraine and quality of electricity according to the established standards;</p>	<p>the Integrated Power System of Ukraine, as well as reliable operations of the European Network for Transmission System Operators for Electricity (ENTSO-E);</p>	<p><i>means a service necessary for the operation of a transmission or distribution system, including balancing and non-frequency ancillary services, but not including congestion management</i></p> <p>ENTSO-E is not a physical network but a cooperation of TSOs. Therefore, the last part of the definition has to be deleted.</p>
<p>None.</p>	<p>22') The ancillary services unrelated to frequency regulation – the services that the Transmission System Operator requires, in particular, to regulate voltage and reactive power, ensure the restoration of due functioning of the Integrated Power System of Ukraine following systemic incidents in the events as stipulated in this Law;</p>	<p>This definition is unclear. In the term to be defined it says 'unrelated to frequency restoration' while in the text it is services to regulate frequency and active power.</p> <p>The definition is not in line with Article 2(49) of the Directive 2019/944 that reads: <i>“non-frequency ancillary service’ means a service used by a transmission system operator or distribution system operator for steady state voltage control, fast reactive current injections, inertia for local grid stability, short-circuit current, black start capability and island operation capability.”</i></p> <p>Moreover, according to the Article 31(7) of the Directive 2019/944 the procurement of non-frequency ancillary services shall be done also by DSOs (unless Regulator granted the derogation). This is important to</p>

		support the development of distributed generation and increasing distribution system flexibility. Thus, definition shall cover also DSOs.
48) implicit auction is a mechanism for cross-border electricity purchase and sale, which includes simultaneous allocation of the right to physical transfer, purchase, and sale of electricity, as well as the determination of the respective consolidated price;	48) implicit auction – a mechanism for cross-border electricity purchase and sale, which includes simultaneous allocation of the right to physical transfer, purchase, and sale of electricity, as well as the determination of the respective consolidated price by the Market Operator that functions as the Nominated Operator of Electricity Market;	<p>The amendments to the definition are not compliant with the <i>acquis</i> because:</p> <ul style="list-style-type: none"> - the reference for the Market Operator's functioning as NEMO shall be removed as NEMO shall be designated based on a separate procedure and criteria defined in advance and cannot be designated directly by the Law; - an implicit auction is not automatically the single day-ahead (SDAC) and single intraday coupling (SIDC), but one of the two types of auctions used in the sector. The SDAC and SIDC are specific implicit auctions performed by NEMOs and should be defined explicitly in this document in accordance with the respective definitions of Article 2(26) and Article 2(27) of CACM.
None.	49¹) Nominated Operator of the electricity market (Nominated Market Operator) – a market operator that, jointly with the Transmission System Operator, ensures the accomplishment	The proposed definition is not in line with Article 2(23) of the CACM because:

	<p>of the tasks associated with the coupling of the Day-Ahead Market of Ukraine and the Intraday Market of Ukraine with the respective Day-Ahead Markets and the Intraday Markets of adjacent countries – parties of the Energy Community;</p>	<ul style="list-style-type: none"> - the proposed definition directly defines that the Market Operator will be NEMO. The reference for Market Operator functioning as NEMO shall be removed as NEMO shall be designated based on the separate procedure criteria defined in advance and cannot be designated directly by the Law; - it is important to correctly name the European project as ‘single day-ahead coupling and ‘single intraday coupling’ and to include the definition of CACM; - the SDAC and the SIDC include all EU Member States and not only ‘<i>adjacent countries – parties of the Energy Community.</i>’ This has to be corrected for the whole document and here the definition should not be restricted to the adjacent countries. <p>The definition shall read: <i>“nominated electricity market operator (NEMO)’ - an entity designated by the competent authority in accordance with this law to perform tasks related to single day-ahead or single intraday coupling.”</i></p>
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<p>54) Market Operator is a legal entity ensuring the due functioning of the Day-Ahead and Intraday Electricity Markets and the arrangement of electricity purchase and sale on these markets that has the right to arrange and conduct electronic auctions to sell and purchase electricity under bilateral contracts based on the respective licenses being issued by the National Securities and Stock Market Commission;</p>	<p>54) Market Operator – a legal entity ensuring the due functioning of the Day-Ahead and Intraday Electricity Markets and the arrangement of electricity purchase and sale on these markets, that acts as the Nominated Market Operator upon its appointment as the Nominated Market Operator by the Regulator, and has the right to organize and conduct electronic auctions to sell and purchase electricity under bilateral contracts based on the respective licenses being issued by the National Securities and Stock Market Commission;</p>	<p>The proposed amendments to the definition are not compliant with the <i>acquis</i> because a NEMO is a specific market operator designated by a competent authority provided that it fulfils criteria defined in advance. It is important to distinguish those two terms and to correctly refer to the NEMO in case of CACM/market coupling (throughout the whole document).</p> <p>The term market operator is defined in Article 2(7) of the Electricity Regulation “<i>market operator</i>” means an entity that provides a service whereby the offers to sell electricity are matched with bids to buy electricity.”</p>
<p>None.</p>	<p>70¹) offered interconnector transmission capacity (hereinafter – offered transmission capacity) – the value of transmission capacity of an interconnector offered for allocation at the respective auction;</p>	<p>Translation: volume / amount NOT value</p>
<p>73) The Ancillary Service Market is a system of relations occurring in connection with a <i>purchase of ancillary services by the Transmission System Operator from ancillary services providers</i>;</p>	<p>73) The Ancillary Service Market – a system of relations occurring in connection with the purchase and sale of ancillary services pursuant to the requirements of this Law and legal/regulatory acts regulating the electricity market;</p>	<p>The definition should be amended to cover the ancillary services as defined in the Directive 2019/944 (including balancing services). Those are services “required” by the TSO.</p> <p>Definition of “balancing market” should be defined in accordance with Article 2(2) of the EB GL</p>

		<p><i>“balancing market means the entirety of institutional, commercial and operational arrangements that establish market-based management of balancing”.</i></p>
<p><i>None.</i></p>	<p>91') Commercial Agent – a market participant, appointed by the central government body, that ensures the public policy on the electric power complex and is responsible for the purchase, sale, export, and import of electricity throughout the coupling of the Day Ahead Market of Ukraine and the Intra-day Market of Ukraine with the respective Day Ahead Markets and Intra-day Markets of adjacent countries;</p>	<p>It is unclear what exact task the commercial agent is assigned with and why it is needed, as there is no such definition in the electricity <i>acquis</i> and the proposal mixes trading activities with public policy activities. Without clear tasks and obligations being defined, such entity raises concerns of compliance with the <i>acquis</i> related to non-discrimination and potential preferential treatment.</p> <p>The draft amendments to the EML have to define the “central counter party” in line with Article 2(42) <i>‘central counter party’ - the entity or entities with the task of entering into contracts with market participants, by novation of the contracts resulting from the matching process, and of organising the transfer of net positions resulting from capacity allocation with other central counter parties or shipping agents;</i> and ‘shipping agent’ - the entity or entities with the task of transferring net positions between different central counter parties” in line with Article 2 (43) of the CACM.</p>

<p>96²⁾ registered participant is a business entity, including a non-resident entity that meets the requirements as specified by the interconnector transmission capacity allocation procedure and entered into a contract on participation in transmission capacity allocation with the Auction Office;</p>	<p>96²⁾ registered participant – a business entity, including a non-resident entity that meets the requirements as specified by the Rules of Allocation of Interconnector Transmission Capacity and entered into a contract on participation in transmission capacity allocation with the Auction Office;</p>	<p>This seems to only relate to the auction office and the explicit allocation of cross-border capacity. The SDAC and SIDC require market participants to join a NEMO to be able to place bids/offers for the day-ahead intraday markets. Furthermore, any trader active in the markets should be required to be a balance responsible party (having a respective contract with the TSO).</p>
		<p>The definitions are not completed, and several more need to be transposed if the objective of the draft amendments to the EML is to enable transposition of the electricity acquis relevant for market coupling. Examples include, but not limited to:</p> <ul style="list-style-type: none"> - CCR; - Adjustment of capacity allocation definition to include cross-zonal capacity reference; - Control area; - Delegated operator, - RCC; - Bidding zone; - Central counter party - Shipping agent; - ACER...
<p>Article 2. Legal Framework for Electricity Market Operation</p>		
<p>3. The Market Rules shall determine, inter alia, the procedure of registration of market participants and requirements for the fulfillment of obligations under</p>	<p>3. The Market Rules shall determine, inter alia, the procedure of registration of market participants and requirements for the</p>	<p>The proposed draft amendments to the EML including a procedure of participation of non-residents in the</p>

<p>agreements on the resolution of power imbalances; Balancing Rules; Rules of Ancillary Service Market; settlement procedures in the Balancing Market and the Ancillary Service Market; procedure for load reduction services by a producer selling electricity at the “green” tariff or at auction price; invoicing (billing) procedure; procedure of amending the Market Rules; and procedure for sustaining the market in the event of emergency occurs within the Integrated Energy System of Ukraine.</p>	<p>fulfillment of obligations under agreements on the resolution of power imbalances; Balancing Rules; Rules of Ancillary Service Market; settlement procedures in the Balancing Market and the Ancillary Service Market; procedure for load reduction services by a producer selling electricity at the “green” tariff or at an auction price; invoicing (billing) procedure; procedure of amending the Market Rules; procedure of the participation of non-residents in the market; and procedure for sustaining the market in the event of emergency occurs within the Integrated Energy System of Ukraine.</p>	<p>market is questionable as criteria for participation should be non-discriminatory. There could be a register for non-resident market participants different than the licensing registry (as NEURC would not issue licenses to them) and their registration as BRPs should be sufficient for participation to the market. But there shall be no separate procedure for participation.</p> <p>Moreover, the Market Rules do not reflect all the requirements from the EB GL (though governing mostly balancing). Their scope should be extended to include all TCMs and details allowing Ukraine to join the EU projects.</p>
<p>4. The Day-Ahead Market Rules and the Intraday Market Rules shall determine, inter alia, the procedure of registration of participants of the Day-Ahead Market and Intraday Market; the procedure and requirements to ensure fulfillment of obligations under agreements for electricity sales and purchase in such markets; procedures of the tender organization and tendering; procedure of electricity pricing, including in the cases of non-competitive behavior; settlement procedures in these markets; procedure of setting the value of services provided by the Market Operator and settlement procedures with respect to the services provided by the Market Operator; procedure for disclosure and publication of information; procedure for settlement of disputes between the Market Operator and Day-Ahead and Intraday Market</p>	<p>4. The Day-Ahead Market Rules and the Intraday Market Rules shall determine the general operating conditions of the Day-Ahead Market and the Intraday Market, establish the rules of and requirements to the coupling of these markets of Ukraine with the Day-Ahead Markets and IntraDay Markets of adjacent countries – parties of the Energy Community, and determine, inter alia, the procedure of registration of participants in the Day-Ahead Market and the Intraday Market; the procedure and requirements to ensure the fulfillment of obligations under Power Purchase and Sale Agreements in these</p>	<p>It is important to include all provisions necessary for the pre-coupling, coupling and post-coupling phase based on the respective provisions of the CACM Regulation and the subsequent TCMs. In the current draft e.g. fallback, back-up, cost sharing and other topics are not covered and more topics might arise with developments on EU level.</p> <p>In addition, as the TCMs relevant for NEMOs are all developed on pan-EU level and with that to be implemented by EnC CPs without</p>

<p>participants; and procedure of amending the Day-Ahead Market and Intraday Market Rules.</p>	<p>markets; procedures of tender organization and tendering; pricing procedures, including in the cases of non-competitive behavior; settlement procedures in these markets; procedure of setting the prices for the services provided by the Market Operator (including throughout the accomplishment of assignments associated with the coupling of the Day-Ahead Market and Intra-Day Market of Ukraine with the Day-Ahead Markets and the Intra-Day Markets of adjacent countries – parties of the Energy Community) and procedure of payment for these services; procedures for disclosure and publication of information; procedures for settlement of disputes between the Market Operator, and Day-Ahead and Intraday Market participants; and procedures of amending the Day-Ahead Market and Intraday Market Rules.</p>	<p>changes, the EML should include a concept of ensuring their immediate application in Ukraine. Those TCMs are regularly changed and the immediate application in Ukraine is of utmost importance to ensure the proper functioning of the coupling projects as well as the consistency of the applied conditions in the coupling and the Ukrainian legal framework.</p> <p>The provision shall also be amended as not to refer to the Market Operator as a NEMO (see comment above).</p> <p>Also the new legal framework for market coupling requires direct application of pan-EU TCMs and participation to development of regional TCMs. Thus, it is not sufficient to include provisions on coupling only to the DAM/IDM rules, but rather to detail the tasks and responsibilities of TSO and NEMO in developing and application of TCMs defined by the CACM.</p>
<p>Article 6. State Regulation in the Electricity Market</p>		
<p>3. The scope of the Regulator’s powers in the electricity market includes: ... <i>None.</i> ...</p>	<p>3. The scope of the Regulator’s powers in the electricity market includes: ... 3¹) the authority to appoint of Nominated Operator of the Electricity Market, setting the criteria for the appointment of a Nominated Market Operator with due consideration of the legal/regulatory acts of the Energy Community, and due</p>	<p>The proposed amendments are not sufficient and need to be amended. There shall be a clear legal basis for: - NEURC to adopt secondary legislation with criteria and procedure for the designation, not appointment or nomination,</p>

<p>4) approval of Market Rules, Day-Ahead Market Rules, and Intraday Market Rules, Transmission System Code, Distribution System Code, Commercial Metering Code, Retail Market Rules, and interconnector transmission capacity allocation procedure, which includes the provisions on specifics of the interconnector transmission capacity allocation with third countries, and other laws and regulations regulating the electricity market operation;</p> <p>...</p> <p>6) approval of: methodology (procedure) of price formation for universal services;</p> <p>...</p> <p>None.</p>	<p>monitoring of and control over the adherence to these criteria;</p> <p>4) The Day-Ahead Market Rules and the Intraday Market Rules shall set the general conditions of functioning of the Day-Ahead Market and the Intraday Market, as well as the requirements to and rules of coupling these markets with the respective day-ahead and intraday markets of adjacent countries – parties of the Energy Community and functioning of these coupled markets, in particular, the procedures of registration of participants in the Day-Ahead Market and Intraday Market, procedures and requirements concerning the fulfilment of obligations under Power Purchase Agreements in these markets, procedures of tender organization and tendering in these markets, power pricing procedures, including in the event of non-competitive behavior in these markets, settlement procedures in these markets, procedure of determining the cost of the value of the services provided by the Market Operator, including the services associated with coupling of the Day-Ahead Market and the Intraday Market, as well as the requirements to and rules of coupling these markets with the respective day-ahead and intraday markets of adjacent countries – parties of the Energy Community, and terms and procedures of payments for such services, procedure of disclosure – including public disclosure – of information, procedure of resolution of disputes between the Market Operator and participants in the Day Ahead Market and Intraday Market,</p>	<p>of NEMOs in accordance with Article 6 of the CACM;</p> <ul style="list-style-type: none"> - empowering the NRA to withdraw and renew the designation, set the fees or approve costs of the NEMO(s) as well as to take enforcement actions in case of NEMOs' incompliances; - empower the NRA to approve the TCMs developed on a regional level by the TSOs of the Contracting Parties and EU Member States but also to enforce application of methodologies developed at the pan-EU level; - empower the NRA to cooperate with NRAs and to jointly approve TCMs within deadlines from the Energy Community legislation as well as to jointly identify non-compliances of RCCs; - provide information when required by ACER; - take due account of ACER's opinions, recommendations and implement its decisions; etc. <p>In (6) some methodologies are mentioned which under the CACM have to be approved in line with these procedures. This provision needs to be amended to include all TCMs under CACM but also EB GL</p>
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<p>.... rates for connection of the facilities and rates for the linear part of connection; list of current accounts under the special mode of use; <i>rules, procedures, and terms provided by this Law;</i></p> <p>standard and sample contracts provided by this Law; reporting forms for market participants (except for the customers);</p>	<p>and procedures of amending the Day-Ahead Market Rules and the Intraday Market Rules. ... 6) approval of: methodology (procedure) of price formation for universal services; ... methodology for calculation and validation of available transmission capacity; re-dispatching and/or countertrade methodologies; and procedure for the appointment of a Nominated Operator of the electricity market;</p> <p>... rates for connection of the facilities and rates for the linear part of connection; list of current accounts under the special mode of use; rules, procedures, methods (methodologies), manuals, and terms provided by this Law, as well as the legal and regulatory acts of the Energy Community;</p> <p>standard and sample contracts as provided by this Law; reporting forms for market participants (except for the customers);</p>	<p>as this is a precondition to join the projects.</p> <p>The content of the day-ahead and intraday market rules seems to be repeated here and point 4) should be deleted. It is enough to assign the NRA with the power to approve such rules.</p>
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<p>4. The Regulator shall have the right to: ... 7) require the respective operators to prepare amendments to the Market Rules, Day-Ahead and Intraday Market Rules, Distribution System Code, Commercial Metering Code, and the procedures for interconnector transmission capacity allocations to ensure compliance with the proportionality and nondiscrimination principle;</p>	<p>4. The Regulator shall have the right to: ... 7) require the respective operators to prepare amendments to the Market Rules, Day-Ahead and Intraday Market Rules, Distribution System Code, and Commercial Metering Code to ensure compliance with the proportionality and nondiscrimination principle;</p>	<p>These provisions should be amended in accordance with Article 9 of the CACM in order to add the right of the Regulator to require amendments to the TCMs developed by the TSO/NEMO.</p>
<p>Article 8. Licensing of Commercial Activities in the Electricity Market</p>		
<p>None.</p>	<p>5. Non-residents may participate in the electricity market in Ukraine provided that the jurisdiction where such a non-resident operates grants the right to operate in the electricity market in this jurisdiction to the Ukrainian economic entities in the field. In order to implement the provision in the paragraph above, the Regulator enters into an agreement with the authorized bodies of a state – party of the Energy Community responsible for issuing licenses and permits in the energy field. The Regulator shall promptly disclose the information on the such agreement(s) on the Regulator’s official website and inform the Transmission System Operator of such agreement(s). The Regulator shall set and approve the terms and conditions of granting the right of participation in the electricity market to non-resident entities.</p>	<p>As the SDAC and SIDC include all EU Member States and in the future all Contracting Parties it is necessary to allow non-resident market participants to participate in the UA market. Market participants registered in other Member States and Contracting Parties do not always require a license but partly only to register at a NEMO and to sign a balancing responsible agreement including to provide the necessary financial guarantees.</p> <p>The approach that the NRA enters into agreements with all EU Member States and Contracting Parties described is not feasible or proportionate to the objectives to be achieved as there are less burdensome measures. For instance having a separate registry with non-residents maintained by the NRA for all foreign market participants from the Parties to the Energy Community which under national law fulfil criteria to</p>

		participate to the electricity market / are registered in such markets, or recognizing such right to all BRPs.
Article 15. Regional Cooperation		
2. <i>The Regulator shall promote the cooperation of the Transmission System Operator with Transmission System Operators of the states – parties of the Energy Community at the regional level, including on cross-border power transmission, with the purpose of fostering the consistency of their legal, regulatory, and technical frameworks.</i>	2. The Regulator shall promote the cooperation of the Transmission System Operator and market operator with proper operators of the states – parties of the Energy Community at the regional level, including the cooperation on cross-border power transmission, with the purpose of fostering the consistency of their legal, regulatory, and technical frameworks.	<p>This provision shall be amended to include cooperation with all EU Member States and EnC Contracting Parties, and not being limited to the regulators but also including the TSOs, NEMOs, RCCs.</p> <p>Provisions of regional cooperation within CCR etc. shall also be added.</p> <p>Please see above the comment that any reference for the Market Operator functioning as / being appointed by law as NEMO shall be removed as NEMO shall be designated based on the separate procedure and cannot be assigned directly by the Law.</p>
Article 33. Functions, Rights, and Obligations of Transmission System Operator		
1. The Transmission System Operator shall: ... 13) <i>ensure operation of the Ancillary Service Market and purchases ancillary services in order to maintain the operational safety of the Integrated Power System of Ukraine;</i> ... 15) allocate interconnector transmission capacity under the procedure as specified by this Law and	1. The Transmission System Operator shall: ... 13) ensure operation of the Ancillary Service Market and purchases ancillary services in order to maintain operational safety of the Integrated Power System of Ukraine and reliable operation of the Integrated Power System of Ukraine or the energy systems within the European Network for Transmission System Operators for Electricity (ENTSO-E); ... 15) allocate interconnector transmission capacity under the procedure as specified	<p>This provision should be amended in order to include all tasks that the TSOs have to perform in order to completely transpose the electricity package, but also to enable Ukraine to join the SDAC and SIDC. For example, but not limited to, Article 8 of the CACM is completely missing. Obligation to respect the TCMs as listed in Article 9(6) CACM developed at pan-European level and to participate to developments of regional TCMs listed in Article 9(7) CACM such as the coordinated</p>

<p>interconnector transmission capacity allocation <i>procedure</i>;</p> <p>16) cooperate with the Transmission System Operators of adjacent countries, coordinate activities and exchange information with such Operators;</p> <p>17) develop the Market Rules, Transmission System Code, Commercial Metering Code, and <i>interconnector transmission capacity allocation procedure</i> and submit these for approval by Regulator;</p> <p><i>None.</i></p>	<p>by this Law and the Rules of Interconnector Transmission Capacity allocation;</p> <p>16) cooperate with the Transmission System Operators of adjacent countries, coordinate activities and exchange information with such Operators, including with regard to cross-border flows due to the coupling of the Day-Ahead Markets and Intraday Markets;</p> <p>17) develop the Market Rules, Transmission System Code, and Commercial Metering Code and submit these for approval by Regulator;</p> <p>17') approve the rules of capacity allocation at cross-border interconnectors and submit these for the Regulator's approval;</p>	<p>capacity calculation or redispatching/countertrading methodology shall also be included.</p> <p>Limiting the cooperation of the TSOs with TSOs from neighbouring countries is not compliant with the electricity acquis. For example, Article 7 of the Electricity Regulation requires cooperation at Energy Community and regional level. TSOs have to cooperate and exchange information with NEMOs and later on with regional coordination centres performing the capacity calculation process as basis for the SDAC and SIDC.</p> <p>In addition, obligations for the TSO to provide information upon request to ACER and to respect the opinions, recommendations and individual decisions shall also be included.</p> <p>Please see the comment above on ancillary services and ENTSO-E role and function and amend accordingly.</p>
<p>Article 38. General Principles of Congestion Management</p>		<p>The provisions of all articles related to congestion management and capacity allocation shall be aligned with the CACM and the FCA Guidelines and need to be amended accordingly. The proposed amendments relate only</p>

		to the procedures in place and do not transpose the new <i>acquis</i> .
<p>5. The Transmission System Operator shall develop, coordinate with the respective transmission system operator of an adjacent country – party of the Energy Community, and submit for the Regulator’s approval the Procedure of interconnector transmission capacity allocation that may provide for special regional conditions. Such conditions shall apply to the respective region or respective interconnector and be integral annexes to the Procedure of interconnector transmission capacity allocation.</p>	<p>5. The Transmission System Operator shall develop, coordinate with the respective transmission system operator of an adjacent country – member (party) of the European Union or the Energy Community, and submit for the Regulator’s approval the Rules of Interconnector Capacity Allocation between the two respective energy systems of the adjacent states.</p>	<p>This draft amendment is not compliant. It shall transpose the obligations of the CACM which require regional capacity calculation within CCRs as defined in Annex I. The respective TCM is to be developed by 15 June 2023 with all TSOs concerned and to be submitted to the respective NRAs for their joint approval (Article 20).</p>
<p><i>10. Owners of the physical transmission right shall be indemnified by Transmission System Operator for any curtailments of the physical transmission right pursuant to the interconnector transmission capacity allocation procedure, except for curtailments caused by the force-majeure circumstances.</i></p>	<p>10. Owners of the physical transmission right shall be indemnified by the Transmission System Operator for any curtailments of the physical transmission right pursuant to the Rules of Interconnector Capacity Allocation.</p>	
<p>11. All available interconnector transmission capacity should be offered for allocation taking into consideration the operational security standards. The Transmission System Operator shall determine the available transmission capacity pursuant to the methodology to be adopted by the Regulator – following the consultations with the Energy Community Secretariat – and posted on the official website of the Transmission System Operator.</p> <p><i>None.</i></p>	<p>11. All available interconnector transmission capacity should be offered for allocation taking into consideration the operational security standards. The Transmission System Operator shall determine the available transmission capacity pursuant to the methodology to be adopted by the Regulator – following the consultations with the Energy Community Secretariat – and posted on the official website of the Transmission System Operator.</p> <p>The Auction Office shall determine the offered transmission capacity pursuant to the Rules of Interconnector Capacity Allocation, taking into consideration the available transmission capacity and</p>	<p>For the SDAC and SIDC, the available capacity has to be provided by TSOs (for a region) to the projects. As these are implicit mechanisms, the allocation is done directly via the coupling process and without any involvement of the auction office.</p> <p>In addition, for long-term allocations, complete transposition of the FCA Guideline is missing, and should be completed with the amendments to the EML within the deadline by 31 December 2023.</p>

	transmission capacity allocation structure.	Please also see Secretariat's assessment in Observatory Notes 4/23, 6/23 and 7/23.
12. The Transmission System Operator may not decrease the interconnector transmission capacity to address congestions in the Integrated Power System of Ukraine, with the exception of cases related to violations of operational security. The Transmission System Operator should inform the registered participants of a reduction of the interconnector transmission capacity, as well as the causes of such a reduction, and make <i>reimbursements</i> following the interconnector transmission capacity allocation <i>procedure</i> .	12. The Transmission System Operator may not decrease the interconnector transmission capacity to address congestions in the Integrated Power System of Ukraine, with the exception of cases related to violations of operational security. The Transmission System Operator should inform the registered participants of a reduction of the interconnector transmission capacity, as well as the causes of such a reduction, and pay reimbursements or compensations pursuant to the Rules of Interconnector Capacity Allocation.	It is unclear what is the difference between reimbursement and compensation
Article 39. Available Transmission Capacities at Interconnectors		See comment above - complete transposition of the FCA Guideline is missing and these provisions need to be amended to include also this act.
Article 39. Allocation of <i>Available</i> Transmission Capacity at Interconnectors	Article 39. Allocation of Offered Transmission Capacity at Interconnectors	
1. The <i>available</i> interconnector transmission capacity shall be allocated at the explicit and/or implicit auctions to be conducted pursuant to the electronic auction procedure providing for electronic document turnover and electronic digital signature. Both auctions may be conducted for the same interconnector.	1. The offered interconnector transmission capacity shall be allocated at the explicit and/or implicit auctions to be conducted pursuant to the electronic auction procedure providing for electronic document turnover and electronic digital signature. Both auctions may be conducted for the same interconnector.	It should be clarified that as soon as borders are integrated in SDAC and SIDC, there shall be no parallel explicit auctions for those borders anymore. CACM only allows for complementary regional auctions in accordance with Article 63 for the intraday timeframe.
5. Each auction should allocate a part of the available transmission capacity planned to be allocated at this auction as well as transmission capacity previously		

<p>unallocated, as well as the unused transmission capacity allocated at previous auctions.</p>		
<p>6. Interconnector transmission capacity shall be allocated following the interconnector transmission capacity allocation procedure. The allocated interconnector transmission capacity shall be guaranteed.</p>	<p>6. Interconnector transmission capacity shall be allocated through explicit auctions pursuant to the Rules of Interconnector Capacity Allocation. Implicit auctions shall be applied to allocate intraday and day-ahead capacities pursuant to the Day-Ahead Market Rules and the Intraday Market Rules. The interconnector transmission capacity allocated at the explicit and implicit auctions shall be guaranteed.</p>	
<p>7. Interconnector transmission capacity for a short-term period being offered in the allocation process at the auction can be determined as non-guaranteed, which shall be disclosed before the auction. Owners of the physical transmission right for long- or mid-term periods shall have the right to transfer or sell to other registered participants such physical transmission right having notified about it the Auction Office under the established procedure. Should the request for a sale/transfer of such a physical transmission right be declined, the Auction Office should clarify the reasons for such rejection to the respective owners of the physical transmission right and the Regulator. The list of grounds, on which the Auction Office can decline a transfer or sale of the physical transmission right, shall be determined as a part of the interconnectors' transmission capacity allocation procedure. The principle "use or sell" shall be applied to the physical transmission right for a long- or mid-term period taking into consideration the requirements of</p>	<p>7. Owners of the physical transmission right for long- or mid-term periods shall have the right to transfer or sell to other registered participants such a physical transmission right having notified the Auction Office under the established procedure. Should the request for a sale/transfer of such a physical transmission right be declined, the Auction Office should clarify the reasons for such rejection to the respective owners of the physical transmission right and the Regulator. The grounds on which the Auction Office can decline a transfer or sale of the physical transmission right shall be determined in the Rules of Interconnector Capacity Allocation.</p> <p>The principle "use or sell" shall be applied to the physical transmission right for a long- or mid-term period taking into consideration</p>	

<p>the interconnector <i>transmission capacity allocation procedure</i>. Prior to each allocation of the physical transmission right, the Auction Office shall make public <i>the volume of transmission capacity to be allocated</i>, as well as the time periods, during which the transmission capacity will be reduced or unavailable.</p>	<p>the requirements of the Rules of Interconnector Capacity Allocation. Prior to each allocation of the physical transmission right, the Auction Office shall make public the offered transmission capacity, as well as the time periods, during which the transmission capacity will be reduced or unavailable.</p>	
<p>8. <i>Market participants shall, within the established period, notify the Transmission System Operator of the usage of the transmission capacity purchased by such market participants pursuant to the Market Rules. The Auction Office shall allocate the unused transmission capacities at auctions for the next allocation periods pursuant to the interconnectors' transmission capacity allocation procedure.</i></p>	<p>8. The Auction Office shall allocate the unused and returned transmission capacity for the next allocation periods at auctions pursuant to the Rules of Interconnector Capacity Allocation, and at implicit auctions pursuant to the Day-Ahead Market Rules and the Intraday Market Rules.</p>	
<p>9. <i>Intraday allocations of available transmission capacity for the delivery day shall take place one day before the delivery day and on the delivery day following the acceptance of the daily electricity generation schedules for the delivery day.</i></p>	<p>Deleted.</p>	
<p>Article 40. Information on Interconnector Transmission Capacity</p>		
<p>1. Transmission System Operator shall publish: ... e) information on the already allocated capacity by settlement period in the electricity market and the respective conditions of use of transmission capacity in order to determine any <i>available</i> capacity;</p>	<p>1. Transmission System Operator shall publish: ... e) information on the already allocated capacity by settlement period in the electricity market and the respective conditions of use of transmission capacity in order to determine any offered capacity;</p>	
<p>Article 43. Use of Income from Congestion Management</p>		
<p>1. Any revenues from the allocation of interconnector transmission capacity shall be used for the following purposes:</p>	<p>1. Any revenues from the allocation of interconnector transmission capacity shall be used for the following purposes:</p>	<p>The proposed amendment is not compliant with Article 19 of the Electricity Regulation and this</p>

<p>1) guaranteeing the actual availability of the allocated transmission capacity; 2) maintaining and increasing the transmission capacities through investing in the transmission system, in particular, the construction of new cross-border transmission lines;</p> <p><i>None.</i></p>	<p>1) guaranteeing the actual availability of the allocated transmission capacity; 2) maintaining and increasing the transmission capacities through investing in the transmission system, in particular, the construction of new cross-border transmission lines; 3) payment of tax receivables associated with the revenues from the allocation of interconnector transmission capacity and the functions of Transmission System Operators throughout the coupling of day-ahead markets and intraday markets.</p>	<p>provisions governs the usage of congestion income.</p> <p>Furthermore, the draft amendments shall include an obligation for the TSO to apply the congestion income distribution methodology applicable under Article 73 of CACM (as a pan-EU TCM) which defines the detailed rules for sharing of congestion income related to the SDAC and SIDC. This methodology (as the other pan-EU TCMs) shall be implemented by the TSOs in the Contracting Parties pursuant to Article 9(6)(m).</p>
<p>Article 51. Electricity Market Operator</p>		
<p>3. The Market Operator shall: ... 10) ensure confidentiality of the information from market participants, which the Market Operator employs to perform its functions in the electricity market and which constitutes commercial secret pursuant to the legal requirements, as well as ensure confidentiality of information concerning the Market Operator's activities, disclosure of which may create commercial advantages of market participants; <i>None.</i> 11) perform other functions provided for by this Law and other laws and regulations.</p>	<p>3. The Market Operator shall: ... 10) ensure confidentiality of the information from market participants, which the Market Operator employs to perform its functions in the electricity market and which constitutes commercial secret pursuant to the legal requirements, as well as ensure confidentiality of information concerning the Market Operator's activities, disclosure of which may create commercial advantages of market participants; 10') perform the functions of the Nominated Market Operator; 11) perform other functions provided for by this Law and other laws and regulations.</p>	<p>Please see comments above – this provision is not compliant with the acquis because a NEMO has to be designated in accordance with the criteria defined in Article 6 of CACM by the competent authority (NRA for Ukraine). Therefore, the EML has to define the NEMO's role/tasks and provide a legal basis for its designation in a procedure in accordance with the criteria of the CACM.</p> <p>In addition, see comment above that the CACM provisions related to NEMOs monitoring by the Regulator and the revocation of designation in case of non-compliance have to be included.</p>
<p><i>None.</i></p>	<p>Article 51¹. Market Operator and Transmission System Operator</p>	<p>This Article reflects Article 7 of the Electricity Regulation. This</p>

	<p>throughout coupling of the Day-Ahead Markets and the Intraday Markets</p> <p>1. The Market Operator and the Transmission System Operator shall jointly organize the management of the coupled Day-Ahead Market and Intraday Markets in order to ensure that the markets:</p> <ol style="list-style-type: none"> 1) are not discriminatory; 2) maximize the participants' capacity to manage their respective imbalances; 3) maximize the opportunities for all market participants to take part in the cross-zonal trade in a mode as close to real-time as possible within all bidding zones; 4) ensure that the prices reflect the market fundamentals, including the real-time cost of power, to which the market participants can refer when concluding long-term contracts for power supply; 5) ensure the safe functioning of the Integrated Power System of Ukraine allowing the most efficient employment of the capacities allocated at the cross-border interconnectors; 6) are transparent yet effectively ensure the confidentiality of commercially sensitive information and anonymity of power trade; 7) do not differentiate between in-zone contracts and contracts between zones; 8) are organized in a manner guaranteeing all market participants 	<p>provision shall transpose also the missing elements of this article and in particular, it is necessary, to link this Article (as done in the Electricity Regulation) with the subsequent and more detailed CACM Regulation.</p>
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	<p>equal access to the market, independently or through aggregation.</p>	
<p>None.</p>	<p>Article 51². Functions of Market Operator throughout coupling of Day-Ahead Markets and Intraday Markets</p> <p>1. Throughout the coupling of the Day-Ahead Markets and the Intraday Markets, the Market Operator shall:</p> <p>1) perform the functions of an operator of the market coupling pursuant to Part Two of this Article, including in coordination with other Transmission System Operators;</p> <p>2) accommodate the resources required to ensure a general, well-coordinated, and proper coupling of the Day-Ahead Markets and/or the Intraday Markets, including financial resources, information technologies, technical infrastructure, and operational methods;</p> <p>3) guarantee that all market participants have open access to the information on the functions of the Nominated Market Operator associated with the power market coupling;</p> <p>4) be economically efficient with regard to the functioning of the coupled Day-Ahead Markets and/or Intraday Markets and account for the activities associated with the market coupling separately from the accounting associated with other activities in order to prevent cross-subsidization;</p> <p>5) maintain a due separation of business activities against other market participants;</p>	<p>This draft article needs substantial revision in order to be brought in line with the CACM. In particular:</p> <ul style="list-style-type: none"> - it shall be called NEMO's tasks (not MO); - only Section II. Shall be kept and extended to cover all NEMO's tasks from Article 7 of CACM and NEMO shall be obliged to apply all pan-EU TCMs (without changes) subject to all EU NEMOs' proposal (and ACER approval) as listed in Article 9(6) CACM. - on 2(1), the Secretariat would like to clarify that it is not necessary for a NEMO to own the algorithms of the coupling. In the EU, some NEMOs do while others are so-called 'serviced NEMOs' acquiring this service from others. It should be clear that both options are possible for the NEMO in Ukraine as otherwise this might hinder the future integration; - the issues listed in Section I. 1-11 are not NEMO tasks and need to be removed from here. Those are designation criteria as set out in Article 6 of CACM. They need to be fulfilled even before the designation and are a precondition to it. See the comment above on designation

	<p>6) not use the revenues associated with prices (tariffs) of/for the services of the Market Operator to finance the Market Operator’s activities associated with the organization of tenders in the Day-Ahead Markets and the Intraday Markets in other jurisdictions;</p> <p>7) treat all market participants in a non-discriminatory manner;</p> <p>8) establish appropriate mechanisms of market supervision (surveillance);</p> <p>9) enter into agreements required to ensure due transparency and confidentiality in the relations with market participants and Transmission System Operators;</p> <p>10) act as the central counterpart and ensure settlements throughout the market coupling;</p> <p>11) have/establish the communication systems and methods required to coordinate activities with the Transmission System Operator;</p> <p>12) have agreements with Market Operators, Transmission System Operators, and – when necessary – third parties required to ensure an effective coupling of the Day-Ahead Markets and the Intraday Markets;</p> <p>13) perform other functions and have other powers to ensure the coupling of the Day-Ahead Markets and the Intraday Markets.</p> <p>2. Throughout the coupling of the Day-Ahead Markets and the Intraday Markets, the Market Operator shall act as</p>	<p>- the EML has to contain a legal basis for a secondary legal act to be adopted with details on the criteria for and the procedure for NEMO designation.</p>
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a Nominated Market Operator jointly with other Nominated Market Operators and ensure compliance with the following requirements:

- 1) have the ability to use an algorithm ensuring coupling of the Day-Ahead Markets and the Intraday Markets, including through the systematization and alignment of bids and implicit allocation of available capacities at cross-border interconnectors;**
- 2) apply maximum and minimum prices as set by the Nominated Market Operators in the European Union;**
- 3) ensure the anonymity of the bids submitted by market participants and their submission by Market Operators, Transmission System Operators, and other actors in other jurisdictions involved in the coupling of the Day Ahead Markets and the Intraday Markets;**
- 4) ensure checking and verification of trading results, distribute bids based on the final trading results, and communicate the trading results to the Transmission System Operator;**
- 5) ensure due backup procedures to sustain the power market at the regional or national levels and implement these procedures jointly with the respective Market Operators, Transmission System Operators, and other participants in other jurisdictions involved in the coupling of the Day-Ahead Markets and the Intraday Markets.**

<p><i>None.</i></p>	<p>Article 51³. Commercial Agent 1. The Commercial Agent shall ensure the purchase, sale, export, and import of electricity in order to ensure the due functioning of the coupled Day-Ahead Markets and Intraday Markets. 2. Throughout the coupling of the Day-Ahead Markets and the Intraday Markets of Ukraine with the respective markets of adjacent countries, the Commercial Agent shall provide services free of charge. 3. The Commercial Agent shall be appointed for the term of six months by the central executive body responsible for the public policy in the electricity sector. 4. Throughout the coupling of the Day-Ahead Markets and the Intraday Markets of Ukraine with the respective markets of adjacent countries, the Day-Ahead Market Rules and the Intraday Market Rules shall guide the functioning of the Commercial Agent.</p>	<p>See the comment on the definitions above, this provision is unclear and not compliant. Also, if the service is free of charge, it is not clear how does this agent recover its cost.</p>
<p><i>None.</i></p>	<p>Article 51⁴. Functions of Transmission System Operator throughout Coupling of Day-Ahead Markets and Intraday Markets 1. Throughout the coupling of the Day-Ahead Markets and the Intraday Markets, the Transmission System Operator shall: 1) calculate and establish the allocated capacity at cross-border interconnectors pursuant to the set requirements;</p>	<p>Please see the detailed comments to Article 33 above on TSO's tasks and what is missing. Without updates related to TCMs, respective ACER's opinions and decisions – the transposition will not be complete and Ukraine could not join any market coupling project.</p> <p>In addition, the EML shall include a provision that the Ukrainian TSO need to contribute to the NEMOs' costs in relation to the SDAC and</p>

	<p>2) ensure the conclusion of agreements required to sustain the functioning of the coupled Day-Ahead and the Intraday Markets with the adjacent System Operators and – when necessary – third parties;</p> <p>3) calculate and submit to the Market Operator the total volume of the capacity at cross-border interconnectors that may be allocated through implicit auctions, as well as periods, during which the allocated capacity will be reduced or inaccessible, under procedures as set by the Day Ahead Market Rules and the Intraday Market Rules;</p> <p>4) verify the trading results for compliance with the capacity volumes at the cross-border interconnectors to be allocated through an implicit auction – as communicated to the Market Operator;</p> <p>5) take into consideration the trading results as provided by the Market Operator when calculating the imbalances of market participants;</p> <p>6) accommodate due backup procedures to sustain the power market at the regional and national levels and implement these procedures jointly with the respective Market Operators, Transmission System Operators, and other participants in other jurisdictions involved in the coupling of the Day-Ahead Markets and the Intraday Markets;</p> <p>7) distribute the revenues from allocation of capacity at cross-border</p>	<p>SIDC (Article 76(2) CACM). Furthermore, TSOs shall bear their share of costs related to the European SDAC and SIDC in accordance with Article 80 CACM.</p> <p>Specific comments on items:</p> <p>1) It is unclear what the ‘set requirements’ are.</p> <p>6) TSOs need to establish on a regional level TCMs on fallback procedures in accordance with Article 44 of CACM.</p> <p>9) This provision is unclear and potentially not compliant with the acquis because the TSO cannot purchase and sell electricity (from NEMOs as NEMOs are not traders).</p>
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	<p>interconnectors to be conducted pursuant to the law and agreements with the adjacent system operators and third parties;</p> <p>8) apply corrective re-dispatching and/or countertrade when necessary;</p> <p>9) throughout the coupling of the Day-Ahead Markets and the Intraday Markets – when necessary – purchase and/or sell (incl. export and/or import) power from the Nominated Market Operator, Market Operators in other jurisdictions, Transmission System Operators, and third parties;</p> <p>10) provide services to adjacent System Operators and – when necessary – third parties required to ensure the due functioning of the coupled Day Ahead Markets and Intraday Markets;</p> <p>11) perform other functions and exercise other powers in order to ensure due coupling of the Day-Ahead Markets and the Intraday Markets.</p>	
Article 67. Day-Ahead Market and Intraday Market		
<p>1. Ukraine has a single Day-Ahead Market and Intraday Market.</p> <p>...</p>	<p>1. Ukraine has a single Day-Ahead Market and Intraday Market, the functioning of which shall be ensured by the Market Operator.</p> <p>...</p>	<p>The draft amendments are not compliant with the <i>acquis</i>. See comments above on the designation of a NEMO based on criteria and procedure developed in advance in accordance with the CACM. Appointing NEMO directly through the EML is not compliant.</p>

Article 69. Ancillary Service Market		
<p>1. Ukraine has a single Ancillary Service Market. <i>The Transmission System Operator shall enter the Ancillary Service Market to purchase ancillary services in a market-based and transparent manner to facilitate the sustainable and reliable operation of the Integrated Power System of Ukraine and ensure proper quality of electricity.</i></p>	<p>1. Ukraine has a single Ancillary Service Market. The Transmission System Operator shall enter the Ancillary Service Market, including within the countries – parties of the European Union and/or Energy Community, in order to purchase ancillary services in a market-based and transparent manner to facilitate the sustainable and reliable operation of the Integrated Power System of Ukraine, and ensure proper quality of electricity and a reliable operation of the European Network for Transmission System Operators for Electricity (ENTSO-E).</p>	<p>See above the comment on “ancillary services”. Moreover, since ancillary services shall also be procured by the DSOs in accordance with the Directive 2019/944, this article shall be amended accordingly.</p>
<p>2. Participants in Ancillary Service Market shall be: 1) Transmission System Operator purchasing and/or using ancillary services; 2) suppliers of ancillary services offering and/or providing ancillary services.</p>	<p>2. Participants in Ancillary Service Market shall be: 1) Transmission System Operator; 2) suppliers of ancillary services.</p>	<p>The balancing market is defined in EB GL. To add that DSOs also may procure AS in accordance with transparent, non-discriminatory and market-based procedures, unless the regulatory authority has assessed that the market-based provision of non-frequency ancillary services is economically not efficient and has granted a derogation.</p>
<p>3. Ancillary services may be <i>purchased/provided</i> in the Ancillary Service Market to facilitate: ...</p>	<p>3. Ancillary services may be purchased/provided/delivered in the Ancillary Service Market to facilitate: ...</p>	

Article 76. Complaint Review and Dispute Resolution Procedure		
<p>Article 76. Complaint Review and Dispute Resolution Procedure</p> <p>...</p> <p>5. Complaints of household and small non-household customers on actions or omissions of electricity suppliers and distribution system operators shall be considered, and disputes between them shall be resolved by an energy ombudsman.</p> <p>The legal status, terms, and conditions of the energy ombudsman shall be determined by law.</p>	<p>Article 76. Complaint Review and Dispute Resolution Procedure</p> <p>...</p> <p>Deleted.</p>	<p>If the Ombudsman is deleted, access to out-of-court settlement shall nonetheless be ensured in line with Article 26 of the Directive 2019/944.</p>
Section XVII. Final and Transitional Clauses		
<p>1. This Law shall come into effect as from the day following the date of publication thereof, except for:</p> <p>...</p> <p><i>The auctions for the allocation of available interconnectors' transmission capacity using provisions of Articles 38-41, 42 hereof shall be held beginning from the date defined by the Regulator but no later than the interconnectors' available transmission capacity allocation auctions for 2019. Until the mentioned date the interconnectors' available transmission capacity allocation auctions shall be held in accordance with the procedure as approved by the Regulator.</i></p> <p><i>When there are constraints, access to transmission capacity shall be provided based on the principle where the access to the capacity is given to market participants that offer the highest price. In case there are no transmission capacity constraints, the transmission system operator shall accept all commercial exchanges on electricity export/import to</i></p>	<p>1. This Law shall come into effect as from the day following the date of publication thereof, except for:</p> <p>...</p> <p>The auctions for the allocation of offered interconnectors' transmission capacity using provisions of Articles 38-41, 42 of this Law shall be held under the common coordinated transmission capacity allocation procedure.</p> <p>For interconnectors, on which the common coordinated transmission capacity allocation procedure is not introduced, the auctions for allocation of the offered transmission capacity shall be held following the procedure as adopted by the Regulator.</p> <p>When there are constraints, access to transmission capacity shall be provided based on the principle where the access to the capacity is given to market</p>	<p>The unilateral auctions should be temporary until initiation of joint auctions. The Secretariat's comments in Observatory assessments 4/23, 6/23 and 7/23 remain valid.</p> <p>The general principles of congestion management that capacity is allocated for free in case of no congestions, shall be removed from final provisions as those should be part of the main body of the EML.</p> <p>The final and transitional provisions shall be covering the period until full implementation of the FCA Guidelines, for which see comments above – the complete transposition is missing in these amendments to the EML.</p>

<p><i>the full extent and shall provide an access to interconnectors' transmission capacity on a free-of-charge basis.</i></p> <p><i>In case of long-term repeated constraints, the transmission system operator shall apply the pre-determined and pre-approved congestion management measures. Congestion management shall be addressed using non-discriminatory market-based solutions which give efficient economic signals to market participants and the transmission system operator and facilitate the cross-border electricity trade.</i></p> <p>The congestion management procedure and allocation of electricity import/export transmission capacity shall be applied irrespective of the operation of the wholesale electricity market in Ukraine.</p> <p>Congestion management measures shall ensure that electricity flows associated with all allocated transmission capacity comply with operational safety standards. Congestion management measures shall not in any case lead to discrimination of commercial exchanges.</p> <p><i>The transmission system operator may refuse the access of the market participant to the interconnectors' transmission capacity in case the following conditions occurred at the same time:</i></p> <ol style="list-style-type: none"> 1) the increase in electricity flows following the results of such access leads to the violation of operational safety; 2) the price offered by the market participant for access to transmission capacity is lower than all other 	<p>participants that offer the highest price. In case there are no transmission capacity constraints, the auction office shall accept all commercial exchanges on electricity export/import to the full extent and shall provide an access to interconnectors' transmission capacity on a free-of-charge basis.</p> <p>In case of long-term repeated constraints, the auction office shall apply the pre-determined and pre-approved congestion management measures. Congestion management shall be addressed using non-discriminatory market-based solutions which give efficient economic signals to market participants and facilitate the cross-border electricity trade.</p> <p>Deleted</p> <p>Congestion management measures shall ensure that electricity flows associated with all allocated transmission capacity comply with operational safety standards. Congestion management measures shall not in any case lead to discrimination of commercial exchanges.</p> <p>The auction office may refuse the access of the market participant to the interconnectors' transmission capacity in case the following conditions occurred at the same time:</p>	
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<p>prices offered by market participants, for whom access to transmission capacity will be granted.</p> <p>The transmission system operator can limit the interstate transmission capacity to avoid the violation of operational safety of the IPS of Ukraine. The transmission system operator shall notify market participants of the transmission capacity constraints and reasons of such constraints. When balancing the IPS of Ukraine using operational measures and re-dispatching, the transmission system operator should take into account the effect of those measures on the energy systems of adjacent countries.</p> <p>Constraints of commercial exchanges should be non-discriminatory. Except as in the events of force majeure, the market participants who have been granted access to transmission capacity shall be compensated for constraints of obtained rights for transmission capacity by the transmission system operator. The sum of money to be returned shall be estimated according to the interconnectors' transmission capacity allocation procedure.</p> <p>All available interconnectors' transmission capacity should be proposed to market participants in the course of allocation, subject to compliance with operational safety standards.</p> <p>The transmission system operator shall determine the available transmission capacity for all directions under <i>the methodology that is developed by the transmission system operator, in accordance with ENTSO-E experience (practices) and adopted by the Regulator.</i></p> <p>Before this methodology is adopted the TSO should use the methodology for the calculation of available transmission capacity that is valid on the day when this Law comes into force.</p>	<p>1) the increase in electricity flows following the results of such access leads to the violation of operational safety;</p> <p>2) the price offered by the market participant for access to transmission capacity is lower than all other prices offered by market participants, for whom access to transmission capacity will be granted.</p> <p>The transmission system operator can limit the interstate transmission capacity to avoid the violation of operational safety of the IPS of Ukraine. The transmission system operator shall notify market participants of the transmission capacity constraints and reasons of such constraints. When balancing the IPS of Ukraine using operational measures and re-dispatching, the transmission system operator should take into account the effect of those measures on the energy systems of adjacent countries.</p> <p>Constraints of commercial exchanges should be non-discriminatory. The market participants who have been granted access to transmission capacity shall be compensated for constraints of obtained rights for transmission capacity by the transmission system operator. The sum of money to be returned shall be estimated according to the interconnectors' transmission capacity allocation procedure.</p> <p>All available interconnectors' transmission capacity should be offered to market participants in the course of allocation, subject to compliance with operational safety standards.</p>	
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<p>Available transmission capacity of interconnectors should be allocated at the explicit <i>and/or implicit auctions to be held</i> under the procedure of e-auction using an electronic document flow and electronic digital signature. Both auctions may be held for the same interconnector.</p> <p>Congestion management mechanisms should apply to long-, medium- and short-term transmission capacity allocation periods.</p> <p>Temporarily, until December 31, 2020, the Regulator shall have the powers to limit the available transmission capacity allocated at the daily and monthly auctions for 2021, in terms of interconnectors between Ukraine and non-Energy Community countries.</p> <p>The regulator shall have the right to cancel the results of the annual auction allocating the transmission capacity for 2020 and 2021 in terms of interconnectors between Ukraine and non-Energy Community countries. In this case, the funds paid for the allocated transmission capacity shall be reimbursed.</p> <p>During the allocation of transmission capacity, discrimination between market participants who wish to access transmission capacity in any direction shall not be allowed. All market participants shall be permitted to participate in the capacity allocation process provided that they are registered in accordance with the interconnector transmission capacity allocation procedure.</p> <p>Setting the price constraints during capacity allocation procedures shall not be allowed, except for cases of</p>	<p>The transmission system operator shall determine the value of available transmission capacity for all directions under the Methodology of determining the interconnectors' (interstate power networks of Ukraine) available transmission capacity as adopted by the Regulator.</p> <p>Deleted</p> <p>The offered transmission capacity of interconnectors for long- and/or mid-term period should be allocated at the explicit auction that is held under the procedure of e-auction using an electronic document flow and electronic digital signature.</p> <p>Congestion management mechanisms should apply to long-, medium- and short-term transmission capacity allocation periods.</p> <p>Deleted</p> <p>Deleted</p>	
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<p>new interconnectors which are subject to an exemption under Article 24 of this Law.</p> <p>At each auction, a portion of available transmission capacity designated for allocation at such auction plus transmission capacity not previously allocated, and unused value of transmission capacity allocated at previous auctions shall be allocated.</p> <p>Market participants, who gained access to transmission capacity at annual and monthly auctions, shall have the right to transfer or sell to other electricity market participants access to capacity by notifying the transmission system operator in due course. In the event of refusal in transfer or <i>sale of transmission capacity by one market participant to another one, the transmission system operator</i> should explicitly and transparently explain the reasons for such refusal to relevant market participants and the Regulator. The list of the reasons for which the <i>transmission system operator may refuse the transfer or sale of transmission capacity by one market participant to another one</i> shall be defined by the procedure on interconnectors' transmission capacity allocation procedure.</p> <p>Prior to each transmission capacity allocation, <i>the transmission system operator</i> shall make public the <i>amount of transmission capacity to be allocated</i>, and the time periods during which the capacity will be reduced or not available in accordance with the applicable procedure on interconnectors' capacity allocation.</p> <p>Market participants shall, within the established period, notify the transmission system operator of the use of the acquired transmission capacity in</p>	<p>During the allocation of transmission capacity, discrimination between market participants that wish to get access to transmission capacity in any direction shall not be allowed. All market participants shall be permitted to participate in the capacity allocation process provided that they are registered in accordance with the interconnector transmission capacity allocation procedure.</p> <p>Setting the price constraints during capacity allocation procedures shall not be allowed, except for cases of new interconnectors which are subject to an exemption under Article 24 of this Law.</p> <p>Deleted</p> <p>Market participants, who gained access to transmission capacity at annual and monthly auctions, shall have the right to transfer or sell to other electricity market participants access to capacity by notifying the transmission system operator in due course or to return it to the transmission system operator (auction office). In the event of refusal in transfer or in return of the transmission capacity the auction office should explicitly and transparently explain the reasons for such refusal to relevant market participants and the Regulator. The list of the reasons for which the auction office may refuse the transfer</p>	
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<p>accordance with the interconnectors' transmission capacity allocation procedure.</p> <p><i>The transmission system operator shall allocate unused transmission capacity at the auctions for the next allocation periods. The transmission system operator shall define a structure of transmission capacity allocation for different timeframes, which may include redundancy of the transmission capacity portion for the day-ahead allocation. Such an allocation structure shall be approved by the Regulator. When drawing up the structure of transmission capacity allocation, the transmission system operator should take into account the operational conditions and the level of harmonization of transmission capacity portions and timeframes as defined for different capacity allocation mechanisms.</i></p> <p>The transmission system operator shall make public the following information, specifically:</p> <ol style="list-style-type: none"> 1) data related to network operability, network access and network use, including information on available transmission capacity constraints, congestion management methods, and plans for removal thereof in the future; 2) data on interconnectors' transmission capacity and energy system operation, specifically: <ol style="list-style-type: none"> a) annually: information on the long-term development prospects of the transmission system infrastructure and the impact of such development on interconnectors' transmission capacity; b) weekly: forecast of the interconnectors' <i>available</i> transmission capacity in the electricity market for the following week, taking into account all information available; c) information on the allocated interconnectors' transmission capacity for each settlement period and 	<p>or return access to transmission capacity, shall be defined by the interconnectors' transmission capacity allocation procedure.</p> <p>Prior to each transmission capacity allocation, the auction office shall make public the offered transmission capacity, and the time periods during which the capacity will be reduced or not available in accordance with the applicable procedure on interconnectors' capacity allocation.</p> <p>Market participants shall, within the established period, notify the transmission system operator of the use of the acquired transmission capacity in accordance with the interconnectors' transmission capacity allocation procedure.</p> <p>The auction office shall allocate unused transmission capacity at the auctions for the next allocation periods. The transmission system operator shall define a structure of transmission capacity allocation for different timeframes, which may include redundancy of the transmission capacity portion for the day-ahead allocation. Such an allocation structure for interconnectors, on which the common coordinated transmission capacity allocation procedure is not introduced, shall be approved by the Regulator. When drawing up the structure of transmission capacity allocation, the transmission system operator should take into account the operational conditions and the level of harmonization of transmission</p>	
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<p>relevant conditions of use of the transmission capacity so as to determine the volumes of available transmission capacity;</p> <p>d) information on allocated interconnectors' transmission capacity after each allocation, as well as its price;</p> <p>e) information on the total interconnectors' transmission capacity used for each settlement period - immediately upon receipt of notices of use thereof;</p> <p>f) real description of measures to limit the interconnectors' transmission capacity approved by the transmission system operator to solve the network and/or system operation problems;</p> <p>g) information on planned and actual outages on the interconnectors;</p> <p>h) unplanned and/or emergency outages of generation units, the installed capacity of which exceeds 100 MW;</p> <p>3) data on aggregated forecasted and actual demand, availability, and actual use of generating capacities and consumption electrical installations capable of regulation, availability, and use of network and interconnectors, balancing electricity and capacity reserves;</p> <p>4) procedures for congestion management and transmission capacity allocation applied by the transmission system operator.</p> <p>The transmission system operator should make public the relevant actual data.</p> <p>All information published by the transmission system operator shall be made publicly available. All data should contain information for the past two years.</p> <p>The transmission system operator should put in place the coordination and information exchange mechanisms to ensure the safety of the network in</p>	<p>capacity portions and timeframes as defined for different capacity allocation mechanisms.</p> <p>The transmission system operator shall make public the following information, specifically:</p> <p>1) data related to network operability, network access and network use, including information on available transmission capacity constraints, congestion management methods, and plans for removal thereof in the future;</p> <p>2) data on interconnectors' transmission capacity and energy system operation, specifically:</p> <p>a) annually: information on the long-term development prospects of the transmission system infrastructure and the impact of such development on interconnectors' transmission capacity;</p> <p>b) weekly: forecast of the interconnectors' offered transmission capacity in the electricity market for the following week, taking into account all information available;</p> <p>c) information on the allocated interconnectors' transmission capacity for each settlement period and relevant conditions of use of the transmission capacity so as to determine the volumes of available transmission capacity;</p> <p>d) information on allocated interconnectors' transmission capacity after each allocation, as well as its price;</p> <p>e) information on the total interconnectors' transmission capacity used for each settlement period - immediately upon receipt of notices of use thereof;</p>	
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<p>terms of congestion management. The transmission system operator should regularly exchange data on network parameters with the transmission system operators of neighboring countries. Upon the relevant request, those data shall be submitted to the Regulator. When preparing for the day-ahead network operation, the transmission system operator shall exchange information with the transmission system operators of neighboring countries, particularly concerning their forecasted network topology, available and forecasted loads of generation units and energy flows to optimize network operation.</p> <p>Electricity market participants shall provide the transmission system operator with data needed for the exchange of information on the interconnectors' transmission capacity as required by this Law, the Market Rules, and other regulations governing the operation of the electricity market. The electricity market participants shall have no obligations to inform the transmission system operator of their commercial electricity purchase and sale contracts.</p> <p>Interconnectors' transmission capacity shall be allocated in coordination with the transmission system operator of the relevant interconnector. Coordination of transmission capacity allocation should include, in particular, the verification of flows for compliance with the requirements of network safety in operational planning and implementing the real-time mode, procedure for information exchange between the transmission system operators.</p> <p><i>To export the electricity, its required volume shall be purchased in the wholesale electricity market of Ukraine that operates following the Law of Ukraine "On Electricity Sector", at the wholesale market price</i></p>	<p>f) real description of measures to limit the interconnectors' transmission capacity approved by the transmission system operator to solve the network and/or system operation problems;</p> <p>g) information on planned and actual outages on the interconnectors;</p> <p>h) unplanned and/or emergency outages of generation units, the installed capacity of which exceeds 100 MW;</p> <p>3) data on aggregated forecasted and actual demand, availability and actual use of generating capacities and consumption electrical installations capable of regulation, availability, and use of network and interconnectors, balancing electricity and capacity reserves;</p> <p>4) procedures for congestion management and transmission capacity allocation applied by the transmission system operator.</p> <p>The transmission system operator should make public the relevant actual data.</p> <p>All information published by the transmission system operator shall be made publicly available. All data should contain information for the past two years.</p> <p>The transmission system operator should put in place the coordination and information exchange mechanisms to ensure the safety of the network in terms of congestion management. The transmission system operator should regularly exchange data on network parameters with the</p>	
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<p>determined by the rules of the wholesale electricity market of Ukraine.</p> <p>The electricity shall be transmitted on the basis of a contract concluded with the transmission system operator. The transmission system operator shall enter into a contract with the auction winner to access the transmission capacity of interstate power networks of Ukraine, including technical specifications to ensure electricity export and import. The model format of a contract on access to the transmission capacity of interstate power networks of Ukraine shall be approved by the Regulator.</p>	<p>transmission system operators of neighboring countries. Upon the relevant request, those data shall be submitted to the Regulator. When preparing for the day-ahead network operation, the transmission system operator shall exchange information with the transmission system operators of neighboring countries, particularly concerning their forecasted network topology, available and forecasted loads of generation units and energy flows to optimize network operation.</p> <p>Electricity market participants shall provide the transmission system operator with data needed for the exchange of information on the interconnectors' transmission capacity as required by this Law, the Market Rules, and other regulations governing the operation of the electricity market. The electricity market participants shall have no obligations to inform the transmission system operator of their commercial electricity purchase and sale contracts.</p> <p>Interconnectors' transmission capacity shall be allocated in coordination with the transmission system operator of the relevant interconnector. Coordination of transmission capacity allocation should include, in particular, the verification of flows for compliance with the requirements of network safety in operational planning and implementing the real-time mode, procedure for information exchange between the transmission system operators.</p>	
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	<p>The explicit transmission capacity allocation auctions shall be held for intraday transmission capacity allocation and day-ahead transmission capacity allocation before the day-ahead and intraday market coupling under the procedure as specified by the Regulator.</p> <p>Deleted</p>	
<p>9. From the first day of operation of the day-ahead market through and including December 31, 2019, the marginal lower limit of compulsory sale of electricity by generators in the day-ahead market (other than generators engaged in the generation of electricity from alternative energy sources) may not be less than ten percent of their monthly amount of electricity sale, according to the Market Rules.</p> <p>...</p> <p><i>None</i></p>	<p>9. From the first day of operation of the day-ahead market through and including December 31, 2019, the marginal lower limit of compulsory sale of electricity by generators in the day-ahead market (other than generators engaged in the generation of electricity from alternative energy sources) may not be less than ten percent of their monthly amount of electricity sale, according to the Market Rules.</p> <p>...</p> <p>The Regulator shall take a decision on the first assignment of the market operator by the nominated market operator for the period of four years from the day when such decision was taken after the market operator confirmed that the requirements were met to the nominated market operator, which is possible to be met before the status of</p>	<p>See the comments on NEMO designation above - the proposed draft amendment is not compliant with CACM because the NEMO shall be designated on the basis of criteria and procedure developed in advance in accordance with the CACM, and its appointment directly by the EML is not compliant.</p>

	the nominated market operator is acquired.	
17. Regulator: Adopt the following documents: ... <i>None</i>	17. Regulator: Adopt the following documents: ... Before 30 April 2023 adopt the following: Procedure for assignment of the nominated electricity market operator; Methodology for calculation and validation of available transmission capacity; Methodology for application of re-dispatching and/or counter-trade actions;	The Contracting Parties are obliged to designate a NEMO by 15 June 2023 (Article 4 CACM). This deadline shall be reflected in the provisions (currently only the adoption of the procedure for designation has a deadline). Deadlines for alignment of existing acts (if need be) with TCMs shall also be envisaged.
<i>None</i>	19¹. The Market Operator should, before 30 April 2023, ensure the submission to the Regulator on assignment as a nominated operator.	The deadlines shall be reconsidered because the EML amendments will not be adopted by 30 April 2023. In any case, it cannot be the same date by which the Regulator adopts the procedure for designation of NEMO and without the procedure in place yet, the MO to apply for designation by submitting request to the Regulator. First there shall be a procedure and criteria to be fulfilled in place, then submission of application (once criteria are fulfilled), assessment by the Regulator and then designation if criteria are fulfilled. The procedure shall also include the right of the Regulator for monitoring of

		compliance and revocation in case of failure thereof
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