Energy / Infrastructure – Newsletter

Infrastructure & Energy Europe – Regulatory Compass

Selected regulatory developments in European energy and infrastructure

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This newsletter provides you with timely insights on key regulatory developments across Europe, as well as industry highlights of recent publications from our team. Our goal is to keep you informed of the latest trends, challenges and opportunities in the energy and infrastructure sectors – helping you anticipate changes, navigate complex regulations and make informed decisions for your business.

Recent Energy & Infrastructure regulatory developments at a glance

Germany – Draft Electricity Supply Security and Capacities Act published – The first building block for the German capacity market

In Germany, the introduction of a capacity market (*Kapazitätsmarkt*) has been under discussion for quite some time. Now, the first building block for this capacity market is about to be implemented. On 13 May 2026, the German Federal Government (*Bundesregierung*) approved the draft Electricity Supply Security and Capacities Act (*Strom-Versorgungssicherheits- und Kapazitätengesetz*; "**StromVKG-E**"). The StromVKG-E is intended to implement the so-called power plant strategy (*Kraftwerksstrategie*) by putting power plant capacity (*Kraftwerkskapazitäten*) out to tender as early as September 2026 to ensure security of supply. A more elaborate capacity market is intended to be introduced from 2032 onwards, for which the necessary legal provisions are to be established in 2027.

The StromVKG-E introduces, for the first time, a capacity market as a systematic framework for ensuring security of supply, with a target date of 2031. When approved by the legislator, the StromVKG-E establishes a tender procedure in which plant operators will receive a remuneration not only for electricity fed into the grid, but also for simply for providing capacity in case of need.

In 2026, a total of 9 GW of new long-term capacity is going to be released to tender across two rounds, with bidding dates on 8 September 2026 and 22 December 2026. Long-term capacities are technically capable of operating at full nominal output without interruption for at least 10 consecutive hours. The tender volume for each round is 4.5 GW.

In 2027, a further tender round will follow for 2 GW of new plants, whereby the long-term criterion does not apply. The bidding date is scheduled for 18 May 2027.

Also in 2027, the first technology-neutral tender will be held for all technology classes, meaning power stations, storage facilities and flexible loads in which both new and existing plants may participate. The capacity tender is scheduled for 1 December 2027, followed by a second round on 1 October 2029.

Contracts may be awarded for commitment periods of up to 15 years. All successful bidders will receive an annual capacity payment and are obliged to pay a so-called peak price compensation (*Preisspitzenausgleich*) during periods of high prices. The capacity market is to be financed through a levy. The details of this levy mechanism will be set out in legislation planned for 2027. The framework for this levy still needs to be agreed with the European Commission.

The legislator aims to approve the StomVKG-E by July 2026 as numerous projects, which could partake in the tenders, require planning and implementation periods spanning several years. After approval by the legislator, the StromVKG-E is to come into force on the day following its publication. However, key provisions may only

be applied once they have been approved by the European Commission under state aid law. To date, the German Federal Government and the European Commission have only reached an agreement in principle on the power plant strategy. Once enacted, the StromVKG-E will reshape Germany's electricity market and open up new opportunities for market participants.

EU – Expected Revision of Delegated Act on RFNBOs

The EU Commission announced that it is going to review the requirements of the so-called Delegated Act on RFNBOs. A revised framework could be presented as early as this month.

The European Union ("EU") Directive (EU) 2018/2001 ("RED II"), as amended through Directive (EU) 2023/2413 ("RED III") stipulates sustainability requirements for fuel suppliers. These requirements mainly manifest in certain renewable energy or greenhouse gas reductions quotas to be reached. Due to its character as EU directive, it is not applicable directly but must be transposed into national law by the individual Member States. In doing so, Member States have some discretion. Notwithstanding this, sustainability requirements are largely defined by the RED II and its accompanying delegated acts. These delegated acts supplement the RED II and lay down harmonised rules for the application of the provisions of the RED II. The Delegated Regulation (EU) 2023/1184 sets out detailed rules for the production of renewable (transport) fuels of non-biological origin ("RFNBO"). The Delegated Regulation (EU) 2023/1185 establishes, inter alia, a methodology for assessing greenhouse gas emissions savings from RFNBO. As regulations, these delegated acts are directly applicable in interconnection with the transposed national law. Currently, multiple Member States including Germany push to soften the requirements for the production of RFNBO.

In its AccelerateEU Communication of 22 April 2026 (COM(2026) 370 final), the European Commission announced that it will conduct a targeted review of the renewable hydrogen production criteria in Q2 2026, which is about two years ahead of the original 2028 review date provided for in RED III. A joint communication with the European Parliament and the Council of the European Union ("One Europe, One Market Roadmap", council document 8473/26) indicates a first draft of the revised framework could be published as early as Q3 2026. Already by 30 June 2026, the Commission is set to launch a public consultation on a draft methodology outlining criteria for the potential introduction of alternative approaches for recognising low-carbon electricity from nuclear power plants, potentially also affecting the RED framework.

Driver for this advance is the slower than expected ramp up of the hydrogen market and that the requirements laid out in Delegated Regulation (EU) 2023/1184 are openly considered to be too strict. Back in 2024, former German Minister of Economic Affairs, Robert Habeck, first urged the European Commission to ease the requirements. Since then, representatives of multiple Member States joined Germany in its attempt to persuade the European Commission to reconsider the framework for renewable fuels of non-biological origin, such as hydrogen. Proposals of stakeholders included an extension of the deadline for an exemption regarding the additionality criterion, as well as for the tightening of the temporal correlation criterion, until as late as 2035.

Italy – EU Approved State aid scheme for renewable energy production

At the beginning of June 2026, the EU Commission approved a 23-billion Euro Italian State aid scheme for foster renewable energy production.

The scheme is a large auction based support framework built around two-way Contracts for Difference (CfDs). Pursuant to the scheme, Italy will run competitive tenders for new renewable capacity (mainly solar and wind, with room for other eligible technologies).

Winners receive a two-way CfD with a strike price set by the auction. For a fixed term, approximately 20 years, depending on the specific implementing rules:

- if the market reference price is below the strike, the State (through Gestore dei Servizi Energetici – "GSE" - the State-owned energy services company acting as contractual counterparty for support mechanisms such as CfDs) pays the difference to the producer; and
- if the market price is above the strike, the producer pays back the difference to the State.

This moves Italian support from feed-in tariffs or one-way premia toward a more market-integrated, symmetric revenue stabilisation mechanism guided by EU State aid rules.

The scheme may have several key implications. Under a risk profile, it reduces market price risk, but increases policy and auction risk, in that the question will be whether a project can win an auction at a viable strike and comply with eligibility and timing conditions.

In terms of returns, CfD-backed assets tend to offer lower but more stable IRRs, attractive for infrastructure, pension and insurance investors. It may be viewed as highly bankable.

For diversified energy and infrastructure investors, Italian CfD projects can serve as stable "core" holdings in a wider European portfolio.

Spain – New capacity reservation charge and EU approval of Spain's capacity market

Article 11 of Royal Decree-Law 7/2026 of 20 March introduced a "Capacity Reservation Charge" (*prestación por reserva de capacidad*), applicable to all holders of electricity demand access and connection permits whose connection point voltage is equal to or higher than 1 kV.

The charge is payable from the moment the permits are granted until the relevant activity commences - defined as the point at which a third-party network access contract is signed. The monthly amount is calculated by reference to the power-term values of the CNMC's transport and distribution access tariffs, multiplied by a k factor.

Pending that resolution, transitional k values apply, ranging from 0.4 to 1.5 depending on the tariff segment, and increasing every six months - meaning the longer a promoter sits on unused capacity, the more it pays.

In practice, industry estimates place the initial charge at approximately €160,000 per MW per month, which - given that demand connection requests in Spain exceeded 40 GW in 2025 alone - could channel around €7.5 billion into Redeia if all projects were to proceed.

The amounts paid are not lost: they are treated as an advance payment of access tariffs and will be offset in full against future tariff bills for amounts paid during the first year of the charge, and at up to 80% for amounts paid from the second year onwards.

However, failure to pay carries a severe consequence: automatic lapse of the access and connection permits occurs when non-payment over any three-month period exceeds 10% of the amount due.

The mechanism is deliberately designed to flush out speculative or unrealistic projects - forcing promoters who cannot yet use their allocated capacity to either pay the monthly charge or surrender their permits, thereby freeing up grid capacity for projects that are genuinely ready to proceed.

Separately, on 29 May 2026, the European Commission approved, under EU State aid rules, a €9 billion capacity mechanism for electricity supply in Spain, aimed at ensuring that there is sufficient capacity to produce, store or flexibly consume electricity and that production meets expected demand. The mechanism will run for ten years from May 2026 at an estimated budget of approximately €900 million per year, with Red Eléctrica remunerating the capacity needed to meet the system's reliability standard during periods of scarcity. Crucially, the mechanism is open to all new and existing projects – including electricity generation, demand-side response and, for the first time in Spain, energy storage – with winning projects to be selected through transparent and non-discriminatory auctions.

This is potentially transformative for battery energy storage systems (BESS). A well-designed Spanish system could provide the long-term revenue visibility that many storage projects in Spain currently lack to achieve bankability. The Ministry for Ecological Transition has indicated that the implementing regulation is in advanced drafting and is expected to be approved soon, meaning that the first auctions could take place before the end of 2026.

Poland – Major changes in network regulation

Polish Energy Law reform (so-called “Grid Act”) entered into force on 30 April 2026, fundamentally overhauling how grid connections are processed and financially secured. The reform responds to mounting pressure on network capacity from large-scale demand, introducing hardened financial and delivery obligations for all entities seeking connection above 1 kV, including both generators and consumers.

Key changes in practice:

- **Application fee**. Anyone applying for a grid connection must now pay a non-refundable fee of up to PLN 100,000 (approx. EUR 23,500).
- **Advance payment**. Applicants must also put down an advance of up to PLN 6 million (approx. EUR 1.4 million) towards the final connection fee.
- **Performance security**. Within 14 days of signing the connection agreement, the applicant must post a financial guarantee - in cash, via a bank or insurance guarantee, or through a parent company surety. The security is calculated as PLN 30/kW for connection capacity up to 100 MW, and PLN 60/kW for the portion exceeding 100 MW, overall capped at PLN 12,000,000.
- **Building permit deadline**. Connection seeking entities (both generators and consumers) must secure a building permit within two, three or five years of signing their connection agreement (depends on technology), with a possible one-time extension if additional security is provided.
- **Shorter validity of connection conditions**. The technical conditions issued by the grid operator – giving right to demand signing of the final grid connection agreement – are now valid for one year, half the previous period.

Two transitional deadlines are worth flagging as well: (i) projects that have applied but not yet received their grid connection conditions had to pay the application fee and advance by 29 June 2026, and (ii) while those that have received conditions but not yet signed a connection agreement must top up their advance to PLN 60/kW (approx. EUR 14/kW) by 30 October 2026.

Poland – National Energy and Climate Plan to 2030

Polish Council of Ministers adopted the updated National Energy and Climate Plan to 2030 with a 2040 outlook, fulfilling the country’s EU Energy Union reporting obligations and sets new targets for Polish energy sector.

Total investment needs for the Polish energy transition, spanning renewables deployment, grid modernisation, energy storage and decarbonisation of the power and heating sectors, are estimated at PLN 1,039 - 1,128 billion (approx. EUR 244 - 265 billion) for 2026 – 2030 only.

Renewable energy sources are continuing to lead the energy transformation in Poland, with over 50% stake in the energy generation mix planned by 2030 (including 5.9 GW offshore wind). Gas-fired assets are considered as the transitional solution until nuclear energy is established, with the first large-scale unit planned for post 2035. At the same time significant investments in LNG import capabilities are continued with the new FSRU (6.1bn m3) being developed in the Gulf of Gdansk.

Czech Republic – Reform of the tariff structure applicable at high voltage (HV) and extra-high voltage (EHV) levels

The Czech Energy Regulatory Office (ERÚ) has announced a reform of the tariff structure applicable at high voltage (HV) and extra-high voltage (EHV) levels, with the changes taking effect from January 2027. The primary objective is to improve the efficiency of energy network utilisation, reduce the need for new capital investments and thereby curb the rise of regulated electricity prices.

Key Changes

- **New Basis for Network Charges.** Under the current system, customers pay for reserved capacity and are penalised for exceeding it. From 2027, this will be replaced by payments for reserved input power and maximum consumed power, which more accurately reflect customers' actual needs and the costs incurred by network operators.

- **Release of Blocked Network Capacity**. ERÚ estimates that the reforms will release up to 3,300 MW of blocked input capacity (approximately 15% of total network capacity) which is currently reserved by some consumers but not actually used, to the detriment of other market participants.

- **Cost Savings**. By incentivising more rational use of the network, the reform is expected to avoid unnecessary infrastructure investment, generating savings of CZK 2 to 3 billion per year in regulated charges.

- **Scope of Impact**. The changes will directly affect approximately 25,000 entities connected at higher voltage levels. This includes large industrial and commercial consumers.

- **Phased Rollout**. This first phase focuses exclusively on higher voltage levels. Changes to the low-voltage (LV) tariff structure (affecting households and small businesses) are planned as pilot projects from 2028, with broader rollout from 2030, initially on a voluntary basis.

- **Access to Capacity in Congested Areas**. The release of currently blocked capacity in areas where networks are overloaded due to unused reservations is expected to facilitate new connections and thereby support broader business development.

Relevance for Foreign Investors

The reform is directly relevant to foreign investors with energy-intensive operations in the Czech Republic. Investors operating or planning energy-intensive facilities in Czechia should reassess their contracted grid capacity reservations and factor the new capacity-based charges into their financial models. Those currently holding large reserve capacities that are underutilised will face higher costs in proportion to their actual reservation, while those using the grid efficiently should benefit from a fairer charging regime and more competitive electricity costs. Greenfield investors should pay close attention to network connection agreements and the level of reserved capacity, as over-reservation will carry a higher direct cost under the new regime.

The reform may affect the total cost of electricity distribution and transmission for industrial and commercial consumers at high voltage (HV) and extra-high voltage (EHV) levels, which should be reflected in investment feasibility analyses and project financing assumptions.

Finally, the reform aligns Czech distribution and transmission tariff methodology more closely with European best practices under the EU Electricity Directive and the Electricity Regulation (EU) 2019/943, particularly the principle that tariffs should reflect the actual cost of network services and provide efficient economic signals.

UK – Reformed National Pricing

The Review of Electricity Market Arrangements ("**REMA**") ran from 2022 until last summer (2025) and considered the market reforms which were needed to ensure that the electricity market arrangements in Great Britain could deliver a de-carbonised, cost-effective and secure electricity system. When the final decision was published last year, it came with a new package of reforms entitled "Reformed National Pricing" ("**RNP**") which will address the significant challenges facing the market.

Many of the current issues are locational, in particular the impact of transmission constraints on trading, investment decisions, the balancing markets and the costs arising from inefficiencies caused by those constraints.

NESO was recently created as the body responsible for managing and planning the electricity and gas networks in GB. As part of this function, it will be responsible for developing, and ultimately implementing, a

new Strategic Spatial Energy Plan ("**SSEP**") which will ensure a co-ordinated approach to future network development. The Department for Energy Security and Net Zero ("**DESNZ**") has formally commissioned NESO to develop the first SSEP which will be subject to approval by DESNZ. The SSEP is described by DESNZ as being "at the heart of RNP" and the two will develop in tandem.

RNP will be delivered jointly by the Government (acting through the Department for Energy Security and Net Zero ("**DESNZ**")), the electricity regulator (**Ofgem**) and the System Operator (**NESO**).

NESO published the first of its consultations on RNP earlier in the year asking for industry input on reforms to balancing, settlement and dispatch arrangements. These areas were targeted as the costs of balancing the system (which arise from NESO's balancing actions close to real time) have increased dramatically and there is real concern about the efficiency of these actions, given the current tools which are available to NESO.

The main proposals are:

- Lowering the mandatory balancing mechanism participation threshold, eventually to 1 MW. This would give NESO visibility of and access to balancing resources which are connected at the distribution rather than transmission level.
- Aligning the wholesale market trading deadline with "Gate Closure" (the time at which all positions must be notified to the system operator prior for each settlement period). Currently, market trading may continue after Gate Closure, which means market participants may have a different position to that notified to the system operator by the start of the relevant settlement period.
- The "Final Physical Notification" ("**FPN**") submitted by each market participant must match the traded position of that market participant. Currently this may not always be the case.
- Trading in the wholesale market will be done on an asset level basis, rather than the current portfolio basis. This will allow the system operator to see what is happening at each location and will prevent behaviour that might seek to take advantage of system constraints
- The settlement period, which is currently 30 minutes to be shortened to either 15 or 5 minutes. This will enable a much more granular imbalance signal and improve efficiency.

Ofgem launched its own call for input, in relation to locational charging and regulatory siting levers in March. The call for input explores options for developing locational transmission charges and other possible regulatory levers to incentivise investment in line with the SSEP. These charges would affect generation, demand and storage assets. Options include (in increasing order of change from the status quo:

- Targeted changes to the current Transmission Network Use of System ("**TNUoS**") charges
- A new network utilisation impact charge to reflect scarcity of capacity
- A system and constraints impact charge
- A metric based charge based on SSEP alignment
- Auctioning of capacity based on SSEP aligned available capacity.

Not to be outdone, DESNZ has published its own consultation as part of its RNP Delivery Plan. The RNP Delivery Plan is divided into six different chapters, with Chapter 2 containing consultation questions about siting and investment levers, in areas such as planning, seabed leasing, connection reform and investment support mechanisms.

Dispatch reform is also being considered by all three organisations

The combined effect of SSEP and RNP is likely to be a substantial change in the wholesale market and the transmission system. Further proposals are expected later this year in response to the various consultations and calls for input, and the draft SSEP is due to be issued for consultation early next year.

White & Case insights and publications

(a selection of recent White & Case publications on European Energy & Infrastructure regulation)

Update on future German network tariff regulation and its impact on BESS – 08 June 2026
Authors: Thomas Burmeister, Dr. Petra Karin Iffert (née Kistner), Dr. Karen Sievert

Link to the full Alert

Sweden proposes national action plan for sustainable aviation and maritime fuels – 13 May 2026
Authors: Henrik Wireklint, Alexander Berlin-Jarhamn, Ryan Gawrych, Vilhelm Oxhammar

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Climate litigation in German federal courts: Governmental climate change management under scrutiny while private enforcement is restricted – 24 April 2026
Authors: *Thomas Burmeister, Dr. Sonja Hoffmann, Markus Mette, Dr. Constantin Teetzmann, Anna Burghardt-Kaufmann*

Link to the full Alert

Chain reaction: Dealmakers bet big on Europe's nuclear power revival – 12 June 2026
Authors: *David Lewis, Simon Stuttaford, Ximena Vásquez-Maignan*

Link to the full Alert

Wired for growth: European renewables see BESS and transmission deals surge – 27 May 2026
Authors: *Thomas Burmeister, Ignacio Paz, Marc Petitier*

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