2022

THE GREEK OMBUDSMAN
INDEPENDENT AUTHORITY

ENERGY CRISIS

CAUSES, CONSEQUENCES, PROPOSALS

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REPORT 2022

THE GREEK OMBUDSMAN
INDEPENDENT AUTHORITY

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Foreword

Foreword

– The Greek economy is going through another crisis. After many years of fiscal adjustment that led to a recession, a massive and unprecedented rise in unemployment and a dramatic loss of income, and before a full recovery of the economic activity after the pandemic is achieved, the explosion in international energy prices poses a challenge with horizontal effects on the economy and society of the country.

Inflation is at its highest level since decades, and in addition to shrinking household income, the branches of transport, supply chain, industry, artisanship, technology, and primary production are being tested by high energy prices. The operating cost of production, processing, and standardisation units endangers their very operation. The increased cost of energy burdens even the cost of drinking water supply.

The highly unstable environment in the energy market continues during 2022, making the energy crisis and the rise in energy prices (namely the events that marked 2021) a real threat to economic growth and social cohesion.

In the last two years, with the explosion of energy prices, there has been a significant increase in complaints submitted to the Greek Ombudsman that highlight the issue of energy poverty. Typical cases among them are the inability to pay high overdue debts to the Public Power Corporation (PPC), the inability to be included in the Social Residential Tariff, the escalation of the electricity theft phenomenon as well as the failure to comply with the debt settlement agreements.

This report records European policies for market integration and energy liberalisation as well as for the fight against climate change. In addition, it presents national legislation adopted in order to align domestic law with EU policies. Assessing, at the same time, the citizens' complaints, this report attempts to shed light on the causes of the electricity crisis, the main factors creating and intensifying the phenomenon of energy poverty –which is the most intense of the last decades– and proposes measures to limit and deal with it.

The liberalisation and creation of a single competitive electricity market has been one of the main pillars of the European Union, in the context of the wider changes in the energy sector since the 1990s.

The Hellenic Energy Exchange (HEnEx), created in 2018, currently manages most of the target model, as the electricity market is now known, which was officially launched on November 1, 2020 and started its operation in March 2021. Its aim, among other things, is to interconnect the markets by strengthening the imports and exports of electricity by facilitating the access of producers outside each country to the daily market and tending –according to the European Commission– to equalize the prices between the interconnected countries.

Since the summer of 2021, there has been a rapid increase in energy prices, which has doubled since June 2021 and continued its upward trend, now ranging more than four times and sometimes more than five times the cost it had before the arrival of the target model. Because of this, the adjustment clause was activated in August 2021, leading to a particularly severe increase in tariffs for the final consumer. For the acquisition of a good necessary for their living (which will become more and more necessary in the course of decarbonisation), without substitutes and without the possibility of storage, buyers/consumers depend on the operation of a stock market without the possibility to intervene, because they can neither postpone the purchase when prices are high, nor store electricity when prices are low. On the other hand, the passing on of high wholesale prices to retail consumption does not provide an incentive to contain prices in the wholesale market. There is also no incentive for suppliers/providers to enter into long-term supply contracts outside the stock market to ensure a better risk spreading and the smoothing of prices.

The existence and application of the adjustment clause does not directly contradict any provision of the law, but the overall way in which it is being managed results in ambiguity and incomplete information for consumers, making the market behaviour that is being exhibited contrary to the general principles of good faith and fair dealing. In fact, it leads to distortions that also have consequences in the field of competition, since the consumer does not have the possibility to compare the proposed tariffs, as the final charge is the product of a process that they are unable to understand. However, both Directive 2019/944 and the Electricity Supply Code to Customers stipulate consumers' right of access to objective and transparent data regarding consumption and a full and detailed description of the pricing process.

In March 2022, EU leaders agreed at the European Council to phase Europe out of fossil fuels and in May 2022 the REPowerEU plan was published. The REPowerEU plan concerns the rapid reduction of de-

pendence on fossil fuels by speeding up the green transition and by joining forces to achieve a more resilient energy system and a true Energy Union. Among the measures to curb the worst consequences of the current energy crisis, REPpowerEU proposed that a part of the profits of the wholesale electricity market should be returned to the market through a special levy, not because they were generated due to illegal or "unethical" business strategy, but because of the imperative need to further support final consumers, who continue to experience an extremely difficult situation due to prolonged very high prices.

Following the decisions at EU level, and in order to contain the wholesale price, as it is formed on the stock exchange, the Parliament voted the Temporary Mechanism to Return Part of the Day-Ahead Market Revenue (Electricity). This mechanism is a temporary solution and it is expected to be determined in practice whether there will be a positive impact on the energy supply charge paid by the consumer.

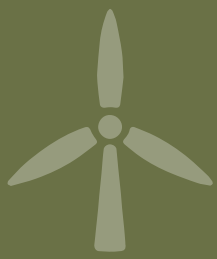
What is becoming clear from the current energy crisis is that a wide array of measures is required that will not only focus on supporting consumers but also production, an array of measures that will cover the entire economy, in order to mitigate the effects of the energy crisis. It does not seem feasible that the fiscal cost of the interventions that will be required, in order to effectively support both production and consumption, could be adequately supported by each EU member state separately. Particularly vulnerable are states, like our country, which are in marginal fiscal balance. Decisive measures, tools and financial support resources should be considered and applied by the EU as well, on the lines of measures taken to manage the financial impact of the pandemic.

Otherwise, the energy poverty indicators will continue their upward trend, unrestrained, directly resulting in the inability of more and more households to meet the increased energy prices and, therefore, the violent deterioration of their living standards, while the prospects of achieving the growth indicators that are necessary for fiscal stability will also appear extremely optimistic.

The Greek Ombudsman, consistent with its institutional and constitutional mission, will continue with the same intensity and persistence to mediate for the individual problems that arise in households and businesses due to the country's energy system, and to contribute with its proposals to the removal of injustices, the addressing of distortions and the implementation of the most effective policies.

Andreas I. Pottakis

The Greek Ombudsman



Introduction

Introduction

– The highly volatile environment in the energy market continues during 2022, making the energy crisis and the increase in energy prices, events that marked 2021, one of the biggest issues for governments and households "threatening" growth as well as many businesses. It is not an exaggeration to talk about energy poverty/destitution, which has multiplied and now touches broad groups of the population. It would be a mistake, however, to believe that the problem of energy poverty only appeared in 2021.

Already in 2015, part of a survey conducted by the Greek Ombudsman on the problems of daily life in the municipalities of Athens, Nikaia, Perama and Agios Ioannis Rentis, had found that the overwhelming majority of participants declared that they were unable to cover their cooling/heating needs and cope with the bills due to financial difficulty[1].

The situation of a household that is unable to access adequate electricity services at home (especially space heating, cooling, lighting, and household appliances) defines the context of energy poverty[2] and beyond. The limitation of household expenses for energy - mainly electricity - entails the deterioration of the quality of life and is an indicator of the prosperity of a country.

It is pointed out that the need for decarbonisation in order to deal with climate change led to the progressive replacement of lignite in the production of electricity and heating oil by natural gas with the expansion of its network. However, the introduction of natural gas in the stock exchange and the gradual increase in its price led directly to serious increases in heating costs, but also indirectly to an increase in the cost of electricity. This happened because the increase in the price of oil and natural gas pushed consumers to use electricity as an alternative

1 See Press Release *The Greek Ombudsman in the neighborhoods of the city*, 05/02/2015.

2 See Annual report 2021 The Greek Ombudsman, p. 114 et. seq. https://www.synigoros.gr/en/category/ethsies-ek8eseis/post/h-ethsia-ek8esh-toy-synhgoroy-toy-polith-gia-to-2021

way of cooling/heating, resulting in an increase of the phenomenon of energy scarcity.

The energy crisis was underestimated. It was considered that it would be transitory and of short duration and therefore emergency measures aimed at containing the passing on of costs to consumers would be sufficient to limit it. But the sharp and dramatic increase in energy prices and their apparent prolonged persistence at record high levels has already had wider economic and market consequences.

Inflation is at its highest level since decades and in addition to shrinking household income, the branches of transport, supply chain, industry, artisanship, technology, and primary production are being tested by high energy prices. The operating cost of production, processing and standardisation units endangers for example their very operation.

In the last year, the Greek Ombudsman has received a large number of complaints highlighting the issue of energy poverty, such as the inability to pay high overdue debts to the PPC, the inability to be included in the Social Residential Tariff because of not meeting the conditions, and even the inability to cope with settling their debts. For this reason, the Authority has already formulated proposals demonstrating the need to take immediate measures aimed at relieving the affected consumers.

This report records European policies for market integration and energy liberalisation as well as for the fight against climate change. In addition, it presents national legislation adopted in order to align domestic law with EU policies. At the same time assessing the citizens' complaints, this report attempts to shed light on the causes of the electricity crisis, the main factors creating and intensifying the phenomenon of energy poverty (which is the most intense of the last decades) and proposes measures to limit and deal with it.

1. The institutional role of the Greek Ombudsman

1. The institutional role of the Greek Ombudsman

– **The Greek Ombudsman in its founding law (Law 2477/1997, article** 3 par. 1, subparagraph d') had, among other things, competence, *"... for matters relating to the services of: ... d) public utility companies engaged in: ...ii) the distribution of electricity and fuel gas..."* In other words, in the founding law of the institution, the public service in the operational sense had been included in its competence, i.e. the activity of legal entities with the object of providing goods or services to the governed population, for satisfying certain basic needs determined each time by the legal order.

Subsequently, with Law 3094/2003, the original wording of article 3 par. 1 d' was amended as follows: *"... d) state legal entities under private law, public enterprises ... and enterprises whose management is directly or indirectly defined by the State through an administrative act or as a shareholder..."*. In this way, the legal persons governed by private law that belong to the state or are subsidised by it by a percentage of at least 51% were also added.

Consequently, the Greek Ombudsman has the competence to mediate in complaints concerning the PPC S.A. and the NATURAL GAS - HELLENIC ENERGY COMPANY S.A. The rest of the energy providers that are active in the Greek market escape the scope of control of the Greek Ombudsman as they are considered private companies. However, as the object, the regulatory framework and the way of operation of all energy providers are similar; the observations, conclusions, and proposals of this report concern all energy providers.

The mission of the Greek Ombudsman is to mediate in order to protect citizens' rights, fight maladministration and uphold legality. The Authority is the only mediating institution that has constitutional recognition. In this context, the legislator has provided the necessary institutional tools to the Authority for the exercise of substantial supervision over the aforementioned enterprises that are active in the energy sector.

In particular, Law 3094/2003[3] and the Presidential Decree 273/1999[4], as amended and in force, describe the network of means available to the Greek Ombudsman in order to eliminate as far as possible the phenomena of inefficiency, maladministration and low quality of services provided to citizens.

3 *The Greek Ombudsman and other provisions*
4 *Regulation of Operation of the Greek Ombudsman*

2. Energy: Social service or market commodity?

2. Energy: Social service or market commodity?

– An old question, sometimes formulated in the form of a dilemma, that is crucial for the evaluation of applied policies but also for the search for optimal solutions, has returned to the fore. On the occasion of the global energy crisis and the rapid increase in energy prices: is energy (primarily) a basic social service, which allows and mandates the taking of special protection measures, or a (primarily) market commodity, which can be purely governed by the rules of a free economy.

Electricity was provided for the first time in Greece in 1889 by a private company. Electricity sold to households was treated as a luxury good and was most often provided based on a schedule, with frequent and sudden outages being the norm. It was therefore an expensive, selectively supplied, and functionally inadequate good[5].

In 1950, PPC was founded with the aim of promoting the public interest by drawing up and implementing a national energy policy. The central philosophy of this policy, through the exploitation of domestic resources, was to provide electricity throughout the country, treating it as a necessary social service as well as a development tool.

Electricity was considered a social service necessary for the smooth development and cohesion of society, regardless of whether individuals or social groups can bear the marginal cost of its production in order to consume it. The use of electricity, in addition to development, was deemed necessary for social welfare and the decent living of citizens. That is why its uninterrupted supply, universality, and low price should be guaranteed. This condition can hardly be achieved without the necessary state supervision.

However, in the context of the privatisation of the electricity market, the Presidential Decree 333/2000[6] defined in article 3a the purpose of

5 N. Astroulakis, PPC: from the historical necessity of development to the liberal counter-revolution and privatisation, Study, ENA Institute for Alternative Policies.

6 Official Government Gazette of the Hellenic Republic 278/20.12.2000 / Isuse A *"Conversion of the Public Power Corporation (PPC) into an Anonymous*

PPC as the exercise of commercial and industrial activity in the field of electricity in Greece and abroad.

Treating energy as a market commodity, which can operate purely according to the rules of the private economy, naturally leads to distortions. This was also made clear by the decision 1972/2012 of the Council of State Plenary, by which it was judged that the discontinuation of electricity supply due to non-payment of the extraordinary special fee for electrified built-up surfaces (EETHDE) is contrary to the Constitution. The sanction of discontinuing the supply of electricity in case of non-payment of the disputed "fee" is contrary to article 5 par. 1 of the Constitution and the principle of proportionality, but also to article 2 par. 1 of the Constitution, because it entails the deprivation of a social service of vital importance, essential for the dignified living of the human.

The Council of State has developed a well-established case-law towards this direction[7], expressing the opinion that vital goods for the community as a whole as well as any public services related to the provision and the assurance of such goods may not be automatically assigned to private corporations. Instead, the State should exercise a substantial supervision over such goods and services and guarantee their smooth organisation and operation.

Therefore, energy has been explicitly characterised jurisprudentially as one of the social services in need of protection[8]. Energy is considered a social service that needs special protection, as it is an essential characteristic and condition for a decent living and therefore the relevant regulations on the part of the state should not interfere with its fundamental obligation to protect human value. Electricity, as a necessary commodity (= inelastic demand), without substitutes and without the possibility of storage, cannot be a fully traded item like coffee, steel, etc.

Company and approval of its articles of association".

7 CoS Judgement No. 3818/1997, 1934/1998, 1999/2000, 866, 1512, 2166/2002, 1212/2012.

8 In February 2022, the Council of State with two decisions (190, 191/2022) judged as unconstitutional the transfer of the majority of the shares of EYDAP S.A. (Athens Water Supply and Sewerage Company) and EYATH S.A. (Thessaloniki Water Supply and Sewerage Company) to the HCAP, expressing the position that for a public good, such as water, the control of the company that ensures its provision to consumers by the Greek State constitutionally mandated, not only by exercising supervision over it but also through its share capital.

3. European energy policy

3. European energy policy

3.1 Energy liberalisation

– **The liberalisation and creation of a single competitive electricity** market has been one of the main pillars of the European Union, in the context of the wider changes in the energy sector since the 1990s.

In the European Union, the revised Treaty of Lisbon, signed on 13 December 2007 and entered into force on 1 December 2009, places particular emphasis on the energy sector, calling on member states to work closely and in a spirit of solidarity to achieve the goals of energy policy. The creation of the liberalised electricity market is an important step for the integration of the internal energy market, the more efficient production of electricity, the transmission and distribution of electricity, the strengthening of the security of supply, and the promotion of the competitiveness of the European economy in combination with the protection of the environment. The Treaty of Lisbon introduces for the first time in the Treaty on the Functioning of the EU (TFEU) a special chapter on energy policy, adding another objective of promoting the interconnection of the energy networks of the Member States.

The provision of Article 194 of the Treaty on the Functioning of the European Union[9] states that the EU aims to develop electricity generation from new and renewable sources and at the same time promote energy efficiency and energy saving. **However, it is expressly stipulated that the member states retain the right to determine the conditions of the exploitation of their energy resources, the choice between different energy sources and the general structure of their energy supply**.

9 The provision of Article 194 of the TFEU is as follows: *"1. In the context of the establishment or operation of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim, in a spirit of solidarity between Member States, to: a) ensure the functioning of the energy market, b) ensure security of energy supply in the Union, and c) promote energy efficiency and energy saving and the development of new and renewable forms of energy, and d) promote the interconnection of energy networks. 2. (...) Such measures shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply, (...)".*

The incorporation of Directive 96/92/EC was decisive for the liberalisation of the Greek electricity market, as it is the reference point for the transition from the state monopoly PPC to the privatisation of the system[10].

Directive 96/92/EC set the common rules for the internal electricity market and introduced the process of liberalisation of the electricity markets of member states. The developments in the individual electricity markets of the member states led to the issuance of Directive 2003/54/EC, while the third package of measures for the liberalisation of the market includes Directive 2009/72/EC.

The institutional framework was created at the level of the European Union in order to overcome the obstacles of individual national priorities. It was estimated that reducing energy costs through price convergence could be achieved by infrastructure projects and interconnections between EU states for the unrestricted flow of electricity from low-price areas to higher-price areas.

The development of electricity interconnections between countries is one of the most important priorities of Transmission System Operators in Europe, given that:

- it contributes drastically to the security of power supply
- it is a key factor for the unification of national electricity markets through the implementation of the Target Model, as the electricity market is now known

10 Directive 96/92/EC Article 7 3. *" ... The system operator shall be responsible for managing energy flows on the system, taking into account exchanges with other interconnected systems. To that end, the system operator shall be responsible for ensuring a secure, reliable and efficient electricity system and, in that context, for ensuring the availability of all necessary ancillary services. 4. The system operator shall provide to the operator of any other system with which its system is interconnected sufficient information to ensure the secure and efficient operation, coordinated development and interoperability of the interconnected system. 5. The system operator shall not discriminate between system users or classes of system users, particularly in favour of its subsidiaries or shareholders...."* Article 23 *"...In the event of a sudden crisis in the energy market and where the physical safety or security of persons, apparatus or installations or system integrity is threatened, a Member State may temporarily take the necessary safeguard measures. Such measures must cause the least possible disturbance in the functioning of the internal market and must not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen. The Member State concerned shall without delay notify these measures to the other Member States, and to the Commission, which may decide that the Member State concerned must amend or abolish such measures, insofar as they distort competition and adversely affect trade in a manner which is at variance with the common interest...."*

- it generally allows the sharing of various resources (generation capacity, flexibility, reserves, etc.) between electricity systems, which can lead to a reduction in the overall cost of electricity

- it will allow the desired large penetration of RES in Europe, as this will require the ability to transfer significant amounts of electricity over long distances, while the replacement of conventional Stations by RES units will lead to the need for a significant transmission capacity between the Systems for regulation reasons.

3.2 Climate change and energy

The fight against climate change caused by anthropogenic activities is a priority, and for this reason the EU proceeded with a drastic change in energy policy aiming to significantly reduce carbon dioxide emissions. In this context, it considered it necessary to strengthen energy efficiency and the use of renewable energy sources.

As a result, the energy sector is once again at the centre of the economy, innovation, and everyday life. The goal-challenge of this trend is to secure energy sources that will meet the needs of the market and achieve the environmental goals for dealing with climate change.

The EU and its member states had already committed to reducing emissions by 8% over the period 2008-2012 compared to base year (1990) emissions, under the Kyoto Protocol (1997). With the Kyoto Protocol as a roadmap for the long-term response to climate change, EU leaders have since (2009) set a target that a 20% share of EU energy consumption should come from renewable sources by 2020. In the course of the joint implementation of the imperatives to tackle climate change, the EU adopted Directives 2001/77/EC of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market and 2018/2001/EU of 11 December 2018 on the promotion of the use of energy from renewable sources.

The 2015 EU Energy Strategy, combining energy and climate action, takes a holistic approach by identifying five integrated and mutually reinforcing dimensions of the Energy Union. These dimensions are:

- energy safety,

- integration of the energy market,

- energy efficiency,

- decarbonisation and
- research, innovation, and competitiveness in the Energy sector.

In the context of decarbonisation and the cheap price of natural gas, it was decided to use it as an intermediate fuel until a sufficient penetration of RES is achieved.

In 2018, the 20% target was extended and a 32% share of EU energy consumption was agreed to come from renewable sources by 2030. In July 2021[11], in view of the EU's new goal of climate neutrality by 2050, the following were proposed at the level of the European Union and not individual states:

- The reduction of greenhouse gas emissions by at least 55% compared to 1990.
- The minimum improvement of energy efficiency by 32%.
- The increase of the share of renewable energy sources to at least 40% of the energy consumed, taking measures to accelerate investments in RES.
- The achievement of a level of interconnection of at least 15% regarding the member states' energy systems.

Recent geopolitical developments have disrupted the global energy system. They have caused serious difficulties, due to high energy prices and growing concern about energy security, highlighting the EU's over-reliance on gas, oil, and coal imports. In March 2022, EU leaders agreed at the European Council to phase Europe out of fossil fuels and in May 2022 the REPowerEU plan was published[12]. The REPowerEU plan aims to rapidly reduce dependence on fossil fuels by expeditiously promoting the green transition and by joining forces to achieve a more resilient energy system and a true Energy Union and proposes an additional set of actions aiming at:

- saving energy;
- the diversification of energy supply;

11 https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal/delivering-european-green-deal_en

12 COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS - REPowerEU Plan, COM(2022) 230 final, Brussels, 18.5.2022.

- the rapid substitution of fossil fuels by accelerating Europe's transition to clean forms of energy;

- the smart combination of investments and reforms.

REPpowerEU suggested that a part of the profits of the wholesale electricity market should be returned to the market through a special levy, not because they were generated due to illegal or "unethical" business strategy, but because of the imperative need to further support final consumers, who continue to experience an extremely difficult situation due to the prolonged very high prices.

4. National energy policy

4. National energy policy

4.1 Implementation of the European energy policy and the course of energy privatization in Greece

– PPC had a monopoly on the sector of electricity in Greece until 2001. PPC was founded as a Public Power Corporation[13] with Law 1468/1950 and it was converted into an anonymous company (S.A.), in which the Greek State was the sole shareholder, on 1st January 2001, after Law 2773/1999 on the liberalisation of the electricity market came into force (transposition of the Directive 96/92/EC).

Law 4001/2011[14], which now constitutes the main institutional statute organising the energy market, fully liberalised the activities of energy production and supply in the country, without prejudice to licencing or previous declaration, if applicable. Furthermore, PPC S.A.'s two main subsidiaries, namely the Hellenic Electricity Distribution Network Operator S.A. (HEDNO S.A.) and the Independent Power Transmission Operator S.A. (IPTO S.A.), were founded with the purpose to assume responsibility of the Hellenic Electricity Distribution Network and the Hellenic Power Transmission System respectively. Apart from the operation of the transmission system, IPTO is also responsible for the security of energy supply as well as the operation of mechanisms providing for a flexible response to an increase or decrease in demand. Moreover, IPTO manages the electricity flow into the system by taking into account any exchanges with other connected transmission systems and cooperates with the Hellenic Energy Exchange[15]. HEDNO is responsible for the operation of the distri-

13 According to article 2, par. 1 of Law 1468/1950, PPC had *"... the exclusive privilege to a) construct, operate and exploit any production units as well as the national transmission system, b) distribute electricity for sale to consumers..."*.

14 Law 4001/11 (Official Government Gazette of the Hellenic Republic 179/22-8-2011 / Issue A): on the operation of the Electricity and Natural Gas Energy Markets, for Exploration, Production and Transmission Networks of Hydrocarbons. Transposition into Greek national law of the provisions of the Directive 2009/72/EC of the European Parliament *"concerning common rules for the internal market in electricity"* as well as the Directive 2009/73/EC of the European Parliament *"concerning common rules for the internal market in natural gas"*.

15 Law 4512/2018, article 77, par. b): *"... The operation of the Day-Ahead Market,*

bution network, manages all energy infrastructure facilities, operates the relevant market in Non-Interconnected Islands, and clears the accounts which are related to Utility Services in the whole country[16].

By the time this report was drawn up[17], the Greek State was holding 51% of PPC S.A.'s share capital, while PPC S.A. itself was holding 51% of HEDNO S.A.'s share capital. Public Holding Company ADMIE (IPTO), which is also under public control, holds directly or indirectly 51% of IPTO S.A.'s share capital. The Greek State has a marginal state control over the biggest electricity producer and supplier of our country and there is a tendency to gradually privatise it even more. Law 4389/2016 established the "Hellenic Corporation of Assets and Participations", which is provisioned to operate in favour of the public interest or to serve a public purpose, although it will not belong to the public or broader public sector. In a recent announcement made on 23rd September 2021, HCAP (Hellenic Corporation of Assets and Participations S.A.) seemed to be proceeding with further selling 17% of the share capital owned by the Greek State. The execution of such a sale will lead to the loss of the Company's public character based on the current majority percentage over the share capital.

The reorganisation of the Greek energy market as a market of wholesale energy products, in line with the legislation on the integration of a single European electricity market, the Regulation 714/2009/EC and the Regulation 2015/1222/EU**, led to the adoption of Law 4512/2018, which establishes another two independent operators, namely the Hellenic Energy Exchange S.A.[18] (HEnEx S.A.)** and the Administrator of Renewable Energy Sources and Guarantees of Origin S.A. (ARESGO S.A.), arising from the splitting of the Hellenic Electricity Market Operator S.A. (HEMO S.A.). These companies constitute legal monopolies and they have been assigned a crucial role for the smooth operation of the electricity market, namely the duty to conclude contracts with bodies participating in the market, clear transactions, manage state aids addressing, in particular, Renewable Energy Sources (RES) producers, and provide protection against transaction deficits.

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in the context of a single connection of European electricity markets, is done by the Energy Exchange in cooperation with the Hellenic Electricity Transmission System (HETS) Operator and other bodies in charge, in accordance with the provisions of the Energy Exchange Regulation regarding the Day-Ahead Market…".

16 Article 58B of Law 4001/2011.

17 March 2022.

18 Article 80 of Law 4512/2018 *"The purpose of the Energy Exchange is to organise and manage the Day-Ahead and Intraday Electricity Markets, Natural Gas Markets, Environmental Markets etc. […] In the context of its responsibilities, the Energy Exchange cooperates with the HETS Operator, …".*

The Regulatory Authority for Energy (RAE), established with Law 2773/1999, plays a particularly important role for the operation of the energy sector. RAE operates as an independent authority and issues individual administrative acts of both a licencing and sanctioning nature. However, the main purpose of its activity is to introduce regulations for the smooth operation of the market.

In line with article 3 of Law 4001/2011, the exercise of energy related activities shall be done under the supervision of the State. Such supervision duties shall be assumed by the Minister of Environment, Energy and Climate Change as well as the Regulatory Authority for Energy (RAE), within the context of their responsibilities and the long-term energy planning of the country. **Long-term energy planning takes into account any existing and speculative energy reserves in national, regional, and international level. The intercommunal development programme for Natural Gas and electricity networks, as well as the trends of the international energy market and aims to achieve a balanced development in the country, address climate change and protect the environment**[19]. RAE collaborates with the Capital Market Commission in order to effectively exercise its supervisory responsibilities[20].

Apart from the electricity market, the natural gas market was liberalised as well. Natural Gas – Hellenic Energy Company S.A. is a subsidiary company of DEPA (Public Gas Corporation of Greece) Commercial, which holds 100% of Natural Gas' share capital. DEPA Commercial is one of the companies that arose following the split-up of the initial DEPA (year of establishment 1988). The other companies are DEPA Infrastructure and DEPA International Projects. DEPA Infrastructure (65% of whose shares was owned by HCAP and another 35% of its shares was owned by Hellenic Petroleum) was sold on 10.12.2021 to the Italian company ITALGAS. As far as DEPA Commercial is concerned, its sale to interested investors is also announced, as it is in any case also provisioned in Law 4643/2019.

19 Article 3 of Law 4001/11: *"The long-term energy planning is done on a ten-year rolling basis and takes the form of a decision issued by the Minister of Environment, Energy and Climate Change, which is communicated to the Standing Committee of the Hellenic Parliament in charge. Before the pertinent decision is issued, the Minister of Environment, Energy and Climate Change asks for the opinion of RAE as well as the opinion of the Economic and Social Committee, whereas he/she may also ask for the opinion of producers' organisations and scientific experts…"*.

20 Par. 4 of Article 75 of Law 4512/18 *"…7. RAE collaborates with the Capital Market Commission in order to assure the effective exercise of its supervisory responsibilities, as provisioned in paragraphs 1 and 2 of this article, as well as to apply, in the context of its responsibilities, the provisions of the legislation in force pertaining to the operation, the integrity and the transparency of the energy market, based on the provisions of EU law…"*

A gradual privatisation course in the field of energy is concluded from the above, whereby representatives of the private sector are constantly assigned actions, which until now belonged to the state and the bodies of the broader public sector. This process has to be implemented according to the rules laid down in the pertinent provisions of the Constitution. The core of the institutional ideology of the so called "reasonable state interventionism" is concluded by the combination of the provisions of article 2 (par. 1) (respect and protection of the value of the human), article 23 (par. 2), article 29 (par. 3) and article 106 (par. 3) of the Constitution, which establish a special protection regime for enterprises of public nature or public utility enterprises whose operation is of vital importance for the accommodation of basic needs of the community as a whole.

The Council of State has developed a well-established case-law towards this direction[21], expressing the opinion that vital goods for the community as a whole as well as any public services related to the provision and the assurance of such goods may not be automatically assigned to private corporations. Instead, the State should exercise a substantial supervision over such goods and services and guarantee their smooth organisation and operation.

4.2 Energy mix - National action plan on the climate

The need to address climate change and the pertinent EU policies that are hence followed have shaped our country's policy with regard to the energy mix.

The *production mix* of a country is the allocation of electricity produced in that country, during a calendar year, from primary energy sources that are consumed or used for electricity production.

The provisions of article 106 of the Constitution highlight that the exercise of a national energy policy should be primarily based on the use of domestic production sources, emphasizing the obligation of the state to take measures in order to capitalise on the national wealth that is to be found in the atmosphere, as well as in underground or underwater reserves. Of course, the state should take into account modern data and developments as they progress at any time.

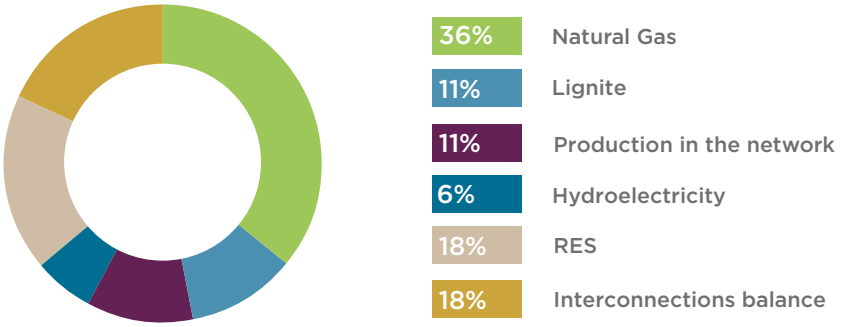
Hydrocarbons, oil, and hydroelectricity have constituted the main source of primary energy supply in Greece during the last century. Oil

21 CoS Judgement No. 3818/1997, 1934/1998, 1999/2000, 866, 1512, 2166/2002, 1212/2012.

was mainly used for transport and heating, but also for the production of electricity in many islands, especially in big ones (ex. Crete, Rhodes, Lesvos, Limnos, Chios etc.).

As far as the use of natural gas is concerned, the latter was introduced for the first time in the energy mix of our country in 1996 and gradually replaced lignite in the production of electricity. As urban networks continue to grow, natural gas is gradually replacing heating oil.

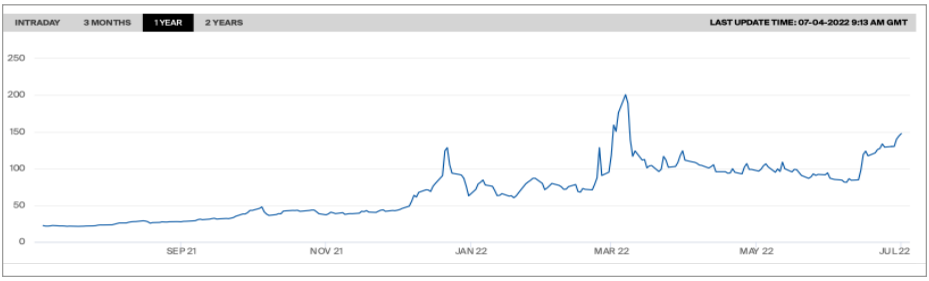
The production of electricity from natural gas is allowed during this transitional phase in the course of decarbonisation and it actually plays a particularly important role in covering demand needs due to the stochasticity (= random changes) of RES until other energy storage methods (batteries, pump storage projects, etc.) are sufficiently developed. The participation of natural gas units in the Greek electricity market amounts approximately to 38%, replacing thus to a large extent the use of lignite, which has been limited to approximately 11% (IPTO data 2020, see graph).



GRAPH 1: PRODUCTION ASSESSMENT AND INTERCONNECTIONS BALANCE (GWH) (THE DEMAND IN NON-INTERCONNECTED ISLANDS IS NOT INCLUDED) (SOURCE IPTO - 2020).

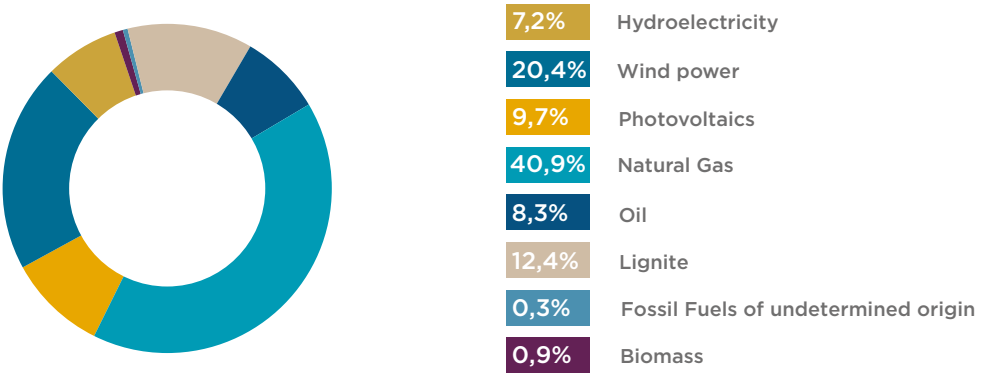
In the case of natural gas, the Energy Exchange (the negotiation hub that dominated Europe and more precisely the Dutch trading point - Title Transfer Facility, TTF) decisively contributed to the creation of free market and competition conditions due to the big transaction volume. The prices, as shaped in this Energy Exchange, turned into a reference point for all natural gas transactions in the end. Consequently, natural gas became a stock market commodity, just like oil.

However, prices in stock markets do not usually represent the real cost of goods, but they are rather shaped based on the supply and demand, while they are also affected by prevalent circumstances (geopolitical, psychology etc.). For this reason, the listing of natural gas in the energy exchange led to a gradual increase of its price. The latter remains in a high level until today and no de-escalation seems to be possible, at least promptly. These serious increases passed on to the domestic market and led directly to a serious increase in heating costs, but also to an increase in electricity costs indirectly.



GRAPH 2: NATURAL GAS PRICES (TTF) IN THE EXCHANGE OF NETHERLANDS (LAST UPDATED ON 4.7.2022).

The domestic energy mix also comprises RES (mainly wind turbines and Photovoltaics), hydroelectric power plants and some interconnections with neighbouring countries (Albania, the Republic of North Macedonia, Bulgaria, Italy, Turkey).



GRAPH 3: THE COUNTRY'S ENERGY PRODUCTION MIX FOR 2020 (SOURCE: ARESGO)

Law 2773/99 set the framework of Renewable Energy Sources, defining them as power coming from the exploitation of wind or solar energy, from the exploitation of biomass, biogas, geothermal energy, ocean energy, or from the exploitation of water potential with small hydroelectric power plants of up to 10 MW. Law 3468/2006 (Official Government Gazette of the Hellenic Republic 129 / Issue A), as amended by Law 3851/2010 (Official Government Gazette of the Hellenic Republic 85 / Issue A), which transposed the Directive 2009/28/EC into the Greek legislation, accelerated the penetration of RES in energy consumption.

Two fundamental regulatory measures stand out in the context of regulatory interventions that contributed to the penetration of RES in the electricity production mix of the country: on the one hand the priority given to the integration of energy produced by RES to the (Electricity Transmission) System and the (Electricity Distribution) Network[22] and on the other hand the administrative determination of the purchase price for electricity that is produced by RES (feed-in-tariff)[23].

The national policy, which has also incorporated the prerequisites for dealing with climate change, has been reflected in the National Energy and Climate Plan (NECP), which incorporated the target of full delignitization of the country until 2028, following a specific time schedule, in order to achieve the stability of the electric power system as well as the safety of the country's energy supply. Meanwhile, it has been decided to conduct an integrated Just Transition Development Plan (SDAM) aiming at the total transformational development of lignite areas in the country through the creation of strategic possibilities, with the purpose to maintain and strengthen their social tissue.

As specified by the Ministry of Environment and Energy[24], the actions addressing climate change should include a change of the existing development model towards a sustainable, green economy of low or zero carbon dioxide emissions through the use of modern technology.

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22 Priority access, article 9 and 10 of Law 3468/2006. Article 9 of Law 3468/2006 on the Inclusion of RES and CHP stations in the System or the Interconnected Grid *"…. 1.A For electricity production stations through the use of RES and CHP that are connected to the System or the Network, apart from the Network of Non-Interconnected Islands, provided that the System or Network safety is not put at risk, the System or Network Operator in charge is obligated, during the electric charge allocation, to give priority to: a) available production installations, where electricity is produced from RES, irrespective of their Installed Power, as well as to hydroelectric power units with an Installed Power of up to fifteen (15) MWe…."*.

23 Article 13 of Law 3468/2006)

24 Source in Greek: https://ypen.gov.gr/perivallon/klimatiki-allagi/

The development of such a model should be based on the horizontal coordination of mitigation and adaptation policies in energy, industry, agricultural production, and many other sectors.

Furthermore, the new National Climate Law was published recently[25]. This law includes measures pertaining to the gradual abolition of the use of fossil fuels in transport and buildings (for example actions related to the withdrawal and replacement of electric home appliances through alternative management and recycling systems from certified bodies), as well as to electricity production, whereas the renewable liquid fuels enter into the "equation" of fighting climate change for the first time. To achieve climate neutrality, the legislation sets interim climate targets for 2030 and 2040 to cut net anthropogenic greenhouse gas emissions by at least fifty-five percent (55%) and eighty percent (80%) respectively, in comparison with 1990 levels, taking into account the provisions of the National Energy and Climate Plan (NECP).

4.3 Obstacles in RES development

The issue of positioning RES projects proves to be crucial, as RES projects do not have zero effects on the environment, although they can be in principle characterised as environmentally friendly activities. Their environmental impact varies depending on the type of RES technology used on each occasion (wind, hydroelectric, geothermal, solar energy, etc.), while it can extend both to the anthropogenic (cities, settlements, and residential areas in general) and natural environment (landscape, flora and fauna, etc.) of the areas, where these projects are installed, as well as to neighbouring production activities (tourism, agriculture etc.).

The "Special framework for spatial planning and sustainable development for Renewable Energy Sources and its strategic environmental impact study" (Official Government Gazette of the Hellenic Republic 2464 / Issue B) was approved with the Decision No. 49828/12-11-2008 of the Government Policy Coordination Committee in the field of spatial planning and sustainable development. However, the Greek Ombudsman has received and continues receiving complaints[26] raising issues with regard to an adequate handling of the impact caused by the accumulation of many RES units on mountaintops, which normally constitute forest areas and accommodate more than 95% of wind farms in continental Greece. Issues were also raised with regard to the protection of a mild develop-

25 Law 4936 Official Government Gazette of the Hellenic Republic 105/27-05-2022 / Issue A - *Transition to climate neutrality and adaptation to climate change, emergency provisions to address energy crisis and to protect the environment*

26 Case File No. 151371 Municipality of Levadia, 167949 Municipality of Evrotas, 26294 Municipality of Leonidion

ment in island ecosystems, concerning not only the maximum number of wind turbines that are allowed to be developed on an island, but also the maximum density of wind power installations that is permitted on an island, as well as issues related to electricity production through RES in island systems[27]. According to Council of State Judgment No. 2805/1997 and Council of State Plenary Judgement No. 2940/2000, small islands can only tolerate a mild energy system, in the sense that the transmission system should not use high-voltage lines and local production systems should apply electricity production methods, such as those based on solar and wind energy. However, circumstances have changed, as the interconnection of independent island systems, which are able to utilize their wind potential as well as their energy potential in general, is now promoted. The production capacity of this potential exceeds local energy needs.

As far as photovoltaics are concerned, there are only some general provisions in the special framework for spatial planning. Issues pertaining to visual nuisance, landscape protection, and bearing capacity are not adequately addressed and in the end the framework provides for their installation in high-productivity lands.

Such issues continue causing friction with local communities and delays in the implementation of projects due to litigation before the courts. Therefore, considering also the provisions of the new climate law regarding the increase of the renewable energy sources' share in the country's consumed energy at least to 40%, the above-mentioned problems should be addressed in the context of revising the special framework for spatial planning. The revision should be completed until the end of 2023.

Problems continue also during the environmental licensing procedure, due to shortcomings and non-correct documentation of Environmental Impact Assessment Studies, which in many cases do not include accompanying works (road opening works, port facilities, etc.) and are not submitted along with suitable supporting studies (for example ornithological studies etc.), thus resulting in the invalidation of the relevant DAECs (Decisions Approving Environmental Conditions) by the Council of State[28]. Furthermore, the issue of space restoration after the end of

27 Case File No. 202929 South Evia, 149033 Corfu

28 Council of State Judgement No. 1938/2019 determined that the contested Decision Approving Environmental Conditions was inadequately justified, as it was based on an ornithological study, which has deficiencies pertaining to the presentation of the bird fauna regime in the wider area (Laconia). The latter has been characterised as an Important Bird Area. This conclusion was reached since it turns out that no field research was conducted and as a result the consequences of the project for the protected species of the bird fauna were insufficiently documented and not addressed through preventive actions. The "ornithological study" that was submitted by the company which develops

the life cycle as well as the problem of managing waste products (for example demolition materials, impellers etc.), for which there should be specific provisions in the DAEC, remain crucial.

Delays with regard to the penetration of RES are noticed in other European countries as well. As noted by the European Commission President during the presentation of the REPowerEU plan, 8 to 9 years are required on average for the licencing procedure to be completed. Therefore, she suggested the establishment of reception areas for RES, in which the duration of the licencing procedure shall not exceed one year[29].

Due to the incentives that were provided, the penetration of photovoltaics into the domestic energy mix during 2010-2012 was particularly significant, involving a high cost for the supporting system. However, an incorrect pricing policy in combination with a rapid and unscheduled penetration of photovoltaics as well as the non-readiness of the system (lack of studies on the condition of networks, non-timely procurement of electric meters)[30] quickly resulted in important liquidity problems of the special account, default on payments to producers and finally extra financial burdens for consumers due to the continuous increase of the Special Duty of Greenhouse Gas Emissions Reduction (ETMEAR). The situation was gradually normalised, following the entry into force of Law 4254/2014 and the rationalisation of guaranteed compensation prices. Producers should now take part in a competitive tender procedure, so that they can be subsequently included in a support scheme in the form of functional aid[31].

However, the lack of space in electricity distribution networks continues to be the most important obstacle with regard to the expansion of photovoltaics. Therefore, it is necessary to redesign and upgrade the networks given that such actions are deemed necessary in order to meet the goals of the energy transition policy, and to facilitate the

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the project was drawn up without having conducted any field research. On the contrary, the study was only based on bibliographic references. This is the reason why the relevant ground for invalidation is well founded.

29 A Commission Recommendation to tackle slow and complex permitting for major RES projects, and a targeted amendment to the Renewable Energy Directive to recognise renewable energy sources as an overriding public interest. Dedicated "go-to" areas for renewables should be put in place by Member States with shortened and simplified permitting processes in areas with lower environmental risks. To help quickly identify such 'go-to' areas, the Commission is making available datasets on environmentally sensitive areas as part of its digital mapping tool for geographic data related to energy, industry and infrastructure.

30 See Special Report on "Business Activities and Environmental Protection", The Greek Ombudsman, 2016.

31 Article 160 of Law 4759/2020.

connection of small energy self-generators as well as to cover, at least in part, the cost of the energy they consume in a difficult financial period.

Furthermore, issues emerged with regard to the installation of rooftop photovoltaic systems in the context of a special rooftop PV programme, given that it is permitted to install them in common areas of the building. Eligible for the programme are owners of horizontal property, represented by the building administrator or by one of the horizontal property owners, following the concession of the use of common areas to them by the owners[32]. A condition for this is that all co-owners should agree. This element creates obvious difficulties for urban residential consumers, preventing them from joining such a programme. Moreover, duplexes, triplexes and apartment buildings in general are confronted with the problem of lacking sufficient free space on the roof /terrace to install the required PV system, so that this option cannot be considered interesting and sustainable from a financial perspective. Finally, it is noted that the costs for the system's construction and inclusion to such a programme constitute a limiting factor, in particular for small or/and vulnerable consumers who have great difficulties not only with making such an investment, but also with covering electricity bills. In order to facilitate consumers, especially those not possessing the required space in their rooftop, the use of the virtual net metering scheme is promoted, so that a significant part of the total consumption taken place under that roof is covered.[33]

The virtual net metering scheme in combination with the legislation on non-profit energy communities (EnCom) that is already in force in our country could provide a solution for decreasing the burden of electricity bills of consumers in residential complexes.

Finally, as far as hydroelectric power plants are concerned, hydraulic energy is also considered to be a renewable energy source, in line with the provisions of Directive 2001/77/EC[34], without differentiating the

32 No. ΥΠΕΝ/ΔΑΠΕΕΚ/121501/5015/21 (Official Government Gazette of the Hellenic Republic 6351/30-12-2021 / Issue B): Special Photovoltaic Development Programme for low power systems in residences connected to a respective electricity supply of domestic use. Article 2, par. 2 *"In the case of a photovoltaic system in jointly used or jointly owned building spaces, it is allowed to install one or even more systems, provided that all other co-owners have previously expressed their consent in writing, in line with the relevant Civil Code provisions..."*.

33 The process which offsets energy inserted in the Network from an electricity production station (for example from photovoltaic systems in buildings or plots) against absorbed energy by one or more consumption facilities (for example the apartments of a building).

34 Directive 2001/77/EC For the purposes of this Directive, the following definitions shall apply: (a) *"renewable energy sources" shall mean renewable non-fossil energy sources (wind, solar, geothermal, wave, tidal, hydropower, biomass,*

exploitation of water potential based on the electricity production potential. Law 3468/06, article 2, par. 2 defines Renewable Energy Sources as: *"... the energy from renewable, non-fossil sources, namely wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydroelectric energy, energy from biomass, landfill gases, gas emissions from sewage treatment plants and biogases..."*, namely the definition includes Hydroelectric Projects. However, the same Law (article 27, par. 2) excludes hydroelectric projects with a total installed capacity greater than fifteen (15) MW from the application of any favourable provisions included herein[35]. As a result, hydroelectricity production remained stagnant and was not prioritised in the context of the delignitization course in the country. The energy of big hydroelectric projects is of course renewable. This is at least concluded from an older official letter of the European Commission[36], dated 16th December 2004, which explicitly states that hydroelectric projects are considered to be RES, regardless of their installed capacity. The reason of separating them is based on the fact that big hydroelectric projects are accompanied by a dam, a reservoir, namely large constructions that have an environmental impact, and for this reason they are considered as renewable, but not green energy. Furthermore, most dams are also used to cover irrigation needs. It is now obvious that dams (and water reservoirs) need to be constructed so that the energy mix percentage of wind projects can be increased through the creation of hybrid projects (a combination of wind and hydroelectric projects to regulate the produced energy through its storage) in the form of pump storage works[37].

4.4 Electricity pricing

Law 4425/2016 reformed the electricity market in Greece taking into account the Day-Ahead Scheduling (DAS). Each producer and importer was submitting to the system operator, namely IPTO, offers in the form of power and price pairs, apart from energy coming from RES, which was prioritised using a guaranteed unit price. IPTO was collecting the offers

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landfill gas, sewage treatment plant gas and biogases)...".

35 Law 3468/06, as amended and in force *"... The provisions ... pertaining to the establishment and operation of electricity production stations through RES as well as to the issuance procedure of the relevant licences... are equally applied to the cases of hydroelectric stations with an installed capacity above 15 MW, regardless of the construction and operation organisation. Any provisions herein pertaining to the prioritisation granted for the inclusion in the System or the Network (electric charge allocation), the assurance of a guaranteed sale price for the produced electricity,... shall not apply to the above-mentioned stations."*

36 Directorate General for Energy and Transport, Directorate D, D (2004) 24043/16.12.2004.

37 Article 227 of Law 4920/22 on the *"Establishment and operation of PSH electricity storage stations"*

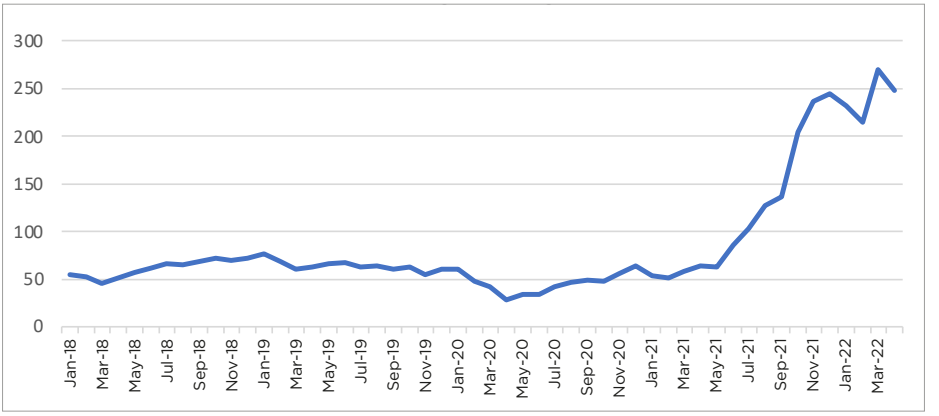
concerning the day ahead and the demand per hour and was calculating the Pool System Marginal Price (PSMP). All producers taking part in the energy market were finally paid the same price, namely the PSMP, regardless of the injection offer they initially submitted.

Law 4512/2018 established the Hellenic Energy Exchange (HEnEx), which replaced the previous system. The HEnEx currently manages most of the target model, as the electricity market is now known, which was officially launched on November 1, 2020 and started its operation in March 2021. Its aim, among other things, is to interconnect the markets by strengthening the imports and exports of electricity by facilitating the access of producers outside each country to the daily market and tending - according to the European Commission - to equalize the prices between the interconnected countries.

In accordance with European standards, four wholesale markets, namely energy "exchanges", are provisioned, in which the transactions executed pertain to big electricity amounts that are sold by the energy producers to the system and the system sells them later to the suppliers. System participants are compensated at the Market Clearing Price (MCP) and not at the price each one of them had initially offered[38]. On their turn, suppliers sell the energy they bought from the system in retail, namely to the consumers. **Therefore, apart from natural gas, electricity became a stock market commodity as well**.

As results from IPTO's data (see graph), since the introduction of the target model, there has been an increase in the average monthly Market Clearing Price (MCP), which has doubled since June 2021 and continued its upward trend, now ranging in values more than four times and sometimes more than five times the cost it had before the arrival of the target model. More precisely, from 50-60 €/MWh at the beginning of 2021, it reached 235-245 €/MWh at the end of 2021 and it remains in this high level during 2022 as well.

38 See RAE, BRIEFING NOTE ABOUT THE PROFITABILITY OF VERTICALLY INTEGRATED COMPANIES IN THE ELECTRICITY AND NATURAL GAS MARKETS, 2022 page 14. Furthermore, *"... Almost concurrently, the European Regulator (ACER), in its first official report about the issue [2], raised, among others, the question to what extent the operation model of the wholesale electricity market (Target Model), where all participants are compensated at the marginal market clearing price on a per-hour basis ("pay-as-clear") and not at the price each one of them had initially offered ("pay-as-bid"), is optimal especially in conditions of extremely high prices..."*.



GRAPH 4: MARKET CLEARING PRICE (€/MWH), IPTO DATA

Although the MCP increase started as soon as the target model was implemented, its exponential increase by the end of 2021 coincides with a large increase in natural gas (NG) prices (fivefold) on the Dutch Title Transfer Facility (TTF), where from 20 €/MWh approximately during the years 2010-2020, they reached 100 €/MWh at the end of 2021. The share of natural gas units in the Greek electricity market is about 38%, while the remaining needs are covered by RES, including hydroelectric power plants, with a percentage of 37% approximately, and lignite-fired plants, whose share has been limited to 10% due to the energy transition plan. The rest which amounts approximately to 15% is covered by imports[39]. Taking into account that electricity produced through RES (mainly wind, photovoltaic and hydroelectric facilities) has a stable production cost, similarly to the production of lignite-fired plants, it shall be observed that the fluctuation of natural gas prices in the stock market (TTF) is also transferred to the clearing prices of electricity in the Hellenic energy exchange (as if all the electricity was produced by natural gas units). **It is therefore ascertained, that due to the function of the Hellenic Energy Exchange, where the Market Clearing Price (MCP) is shaped based on the higher offer prices, the clearing price ends up in a value that does not represent the real mix of electricity production.**

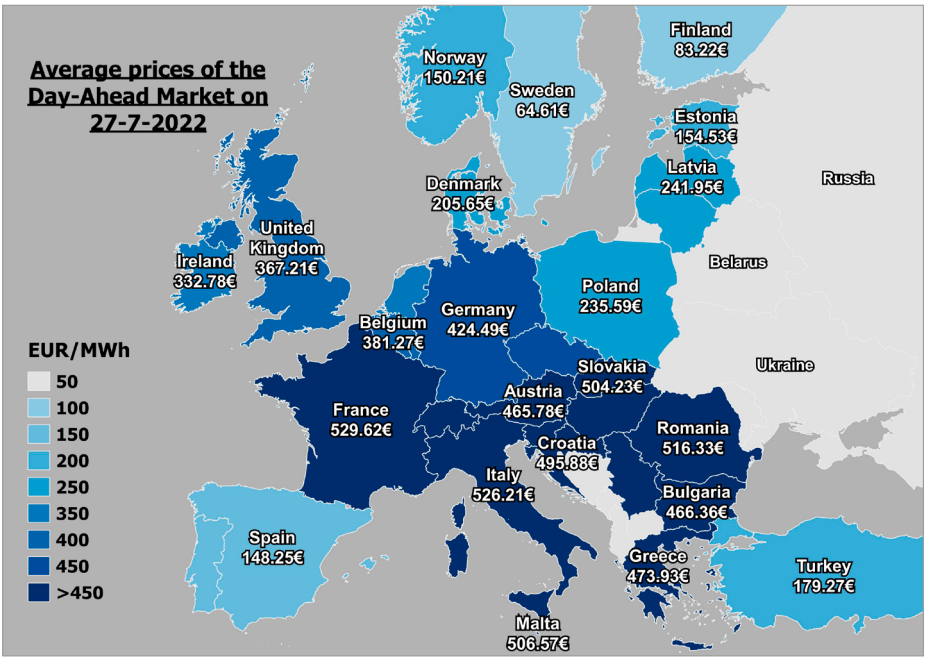
The same high values are typically observed in the neighbouring energy exchanges of the Balkan states and Italy as well. As a result, imported electricity is equally expensive. Therefore, even if the current energy crisis is over, it is likely to see a comeback of high electricity prices during the energy transition due to the volatility of natural gas prices and despite the cost stability of RES units.

39 Greek: https://www.admie.gr/agora/enimerotika-deltia/miniaia-deltia-energeias, English: https://www.admie.gr/en/market/reports/monthly-energy-balance

However, contrary to other countries, the Greek energy market has no turbulence reduction mechanism, while consumers are also threatened by usual retail practices, namely practices included in the electricity contracts they sign for homes and businesses.

The map below presents the average daily prices of the Day-Ahead Market (here for the date 24.06.2022), whose value changes every day through the functioning of the Energy Exchanges in European states.

AVERAGE PRICES OF THE DAY-AHEAD MARKET



SOURCE: HELLENIC REGULATORY AUTHORITY FOR ENERGY (RAE), FED BY DIEM; SOURCES: ENTSOE, GME; LAST UPDATE: 2022-07-27.

The **Electricity Supply Charges Adjustment Clause** is an adjustment mechanism for supply charges[40] and reflects the fluctuations of the electricity procurement cost. The supply invoice indicates each time how the Electricity Supply Charges Adjustment Clause applies.

40 Greek: https://www.dei.gr/el/gia-to-spiti/ypostiriksi-epikoinonia/logarias-moi-xreoseis-revma/, English: https://www.dei.gr/en/home/contact-support/electricity-billing-charges/

For each calendar month, the corresponding Credit/Adjustment Charge, that results from the calculation formula, is calculated and multiplied by the kWh of consumption of each calendar month. If the bill includes the consumption of several months, the allocation per month is done in proportion to the days. It applies to Γ1 and Γ1N household tariffs (and to Social Residential Tariff beneficiaries).

As long as the procurement cost (wholesale price) ranges between an upper (Upper cost price) and a lower (Lower cost price) reference limit, which is 0.50 €/MWh and 0.40 €/MWh for PPC respectively, the charges remain unchanged and the Adjustment Clause is not activated. The reference limits in the case of Natural Gas are 0.40 €/MWh (upper reference limit) and 0.30 €/MWh (lower reference limit) respectively.

As long as the MCP did not greatly exceed the upper reference limit, PPC absorbed the fluctuations of electricity procurement cost. Since the MCP doubled, the adjustment clause was activated since June 2021, leading to a particularly severe increase in tariffs for the final consumer.

It should be noted that the calculation formula is particularly hard to understand for the average consumer, who is required to pay a significantly high amount based on it, without being able to easily cross-check whether it is correct.

Consequently, for the acquisition of a good that is necessary for their living (and will become more and more necessary in the course of decarbonisation), without any substitutes and without the possibility of storage, buyers/consumers depend on the operation of a stock market without being able to intervene, because they can neither postpone the purchase when prices are high, nor store electricity when prices are low. On the other hand, the passing of high wholesale prices on to the retail consumption does not provide an incentive to contain prices in the wholesale market. Furthermore, there is no incentive for suppliers/providers to enter into long-term supply contracts outside the exchange market, in order to ensure a better spreading of risks and the smoothing of prices.

Aiming to subsidize electricity and natural gas bills of consumers, a Special Account called "Energy Transition Fund" was established by Law 4839/2021 (article 61)[41].

41 *"...2. The special account provisioned in par.1, apart from the revenues specified in sub-indent (f) of indentA.2.1 of par. A.2. of article 25 of Law 3468/2006 (Official Government Gazette of the Hellenic Republic 129 / Issue A), may also be financed by the State Budget, as well as by the Special Account for Renewable Energy Sources (RES) and Cogeneration of High Performance Heat and Power (CHP) provisioned in article 143 of Law4001/2011 (Official Government Gazette of the Hellenic Republic 179 / Issue A), following a decision of the Minister for the Environment and Energy..."*

In an effort to contain the wholesale price as shaped at the stock market, the Hellenic Parliament voted Law 4951/2022[42], which provides for a **Temporary Mechanism to Return Part of the Day-Ahead Market Revenue (for Electricity)** in article 122. According to this article, *"A Temporary Mechanism to Return Part of the Day-Ahead Market Revenue shall be established and shall apply from 1st July 2022 until 1st June 2023. The validity period of the Temporary Mechanism may end before 1st June 2023 by decision of the Minister of the Environment and Energy. The thermal units which are installed in the Small Connected System (SCS) of Crete shall not fall into the scope of the Temporary Mechanism. 2. Under the Temporary Mechanism, part of the revenues, which Participants in the Day-Ahead Market are entitled to, based on their participation, shall be deducted by the Day-Ahead Market Clearance Body provisioned in article 7..."*. More specifically, in order to finance the reduction of energy bills, the difference between the upper production prices and those shaped in the energy exchange shall be transferred to the Energy Transition Fund. This mechanism is a temporary solution and it is expected to be determined in practice whether there will be a positive impact on the energy supply charge paid by the consumer. Furthermore, article 138 of the above-mentioned law stipulates that the adjustment clause charge, which relates to the fluctuation of prices in the wholesale market, will not be applied in variable electricity supply tariffs from 1.8.2022 to 1.7.2023. Furthermore, it is provisioned that "... electricity suppliers shall announce, on a monthly basis and in a prominent place on their websites, the fixed charges as well as the electricity supply charges, until the end of the second month before the month in which those charges will apply..."..

42 *Modernisation of the licencing procedure for Renewable Energy Sources - Phase B, Licencing process for the production and storage of electricity, development framework for Offshore Pilot Floating Photovoltaic Stations and more specific provisions for the energy and the protection of the environment,* (Official Government Gazette of the Hellenic Republic 129/04-07-2022 / Issue A).

5. Energy poverty and consumers

5. Energy poverty and consumers

– **Energy poverty is characterized as a "golden threat", as it is linked** to economic growth, human development, and environmental sustainability (IEA, 2017)[43]. That is why addressing energy poverty is among the targets of the 7th Sustainable Development Goal (SDGS - "Affordable and Clean Energy") of the UN and is - as already noted - an important area of action as regards European energy policy. Achieving "Energy for All" by 2030, which is included in the 7th goal, is related to climate change and focuses on ensuring access to affordable, reliable, sustainable, and modern energy.

Despite the ambitious targets set, energy poverty is now universally recognized as a major social problem with serious health implications for millions of citizens. The phenomenon of energy poverty has been worsening in recent years even in the economically robust countries of Europe, while in Greece it is becoming a chronic social challenge[44]. The effects of the phenomenon on the environment and the health of Europeans are becoming noticeable.

The identification of energy uses that are deeply affected by energy poverty is a key factor in addressing the phenomenon. The main energy use as regards households is heating and it is directly related and affected by the intensity of energy poverty. In particular, the amount of energy that is currently required for space heating accounts for more than 50% of the total energy consumed by households in Greece and the same applies to the majority of other European countries[45].

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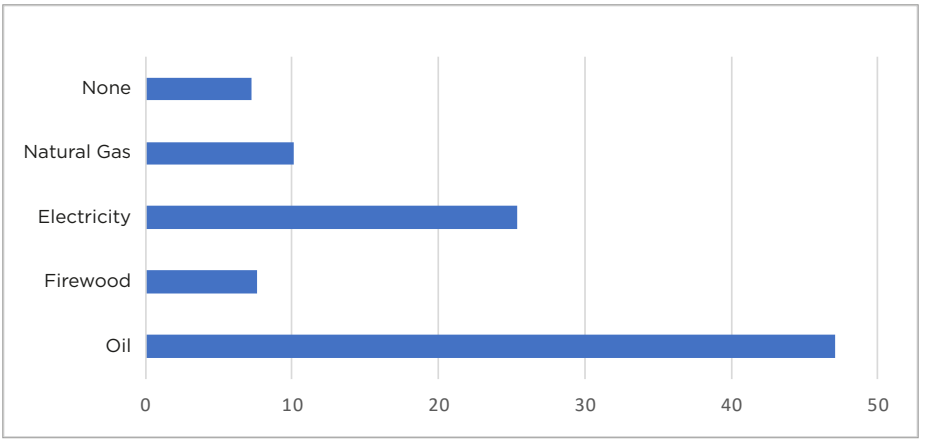
43 International Energy Agency (IEA), 2017. Energy Access Outlook 2017. From poverty to prosperity, https://www.iea.org/publications/freepublications/publication/WEO2017SpecialReport_EnergyAccessOutlook.pdf

44 ENERGY POVERTY IN GREECE. CITIZENS' AWARENESS AND ADDRESSING THE PHENOMENON, HEINRICH BÖLL FOUNDATION, INZEB - INSTITUTE OF ZERO ENERGY BUILDINGS, THESSALONIKI 2017.

45 Ministerial Decision number ΥΠΕΝ/ΓΔΕ/89335/5599 on the Approval of the National Action Plan for combatting Energy Poverty, pursuant to par.1, article 25 of Law 4342/2015, Official Government Gazette of the Hellenic Republic Issue 4447/28.09.2021 / Issue B.

A survey conducted in 2017 in Greece, revealed that for 47.1% of the respondents the main energy source used for heating during the winter season is heating oil. Electricity comes in second place, with 25.4% of the respondents. Only 10.1% of the respondents answered that they use natural gas as their main energy source for heating. As regards firewood/pellets, 7.6% of the respondents said that they use this particular form of fuel for heating, mainly in fireplaces. Finally, it is worth noting that 7.2% of the respondents said that they are unable to adequately heat their residencies, a fact which highlights the remnants of the economic crisis that has affected Greece in the last decade[46] (SEE GRAPH 5). In 2015, a survey conducted by the Greek Ombudsman on the problems of everyday life, through the use of questionnaires in the municipalities of Athens, Nikaia, Perama, and Agios Ioannis Rentis, revealed that the overwhelming majority of respondents were not able to meet their cooling/heating needs due to financial hardship and inability to pay the bills[47].



GRAPH 5: MAIN ENERGY SOURCE USED FOR HEATING (SOURCE: HEINRICH BÖLL FOUNDATION, INZEB - INSTITUTE OF ZERO ENERGY BUILDINGS)

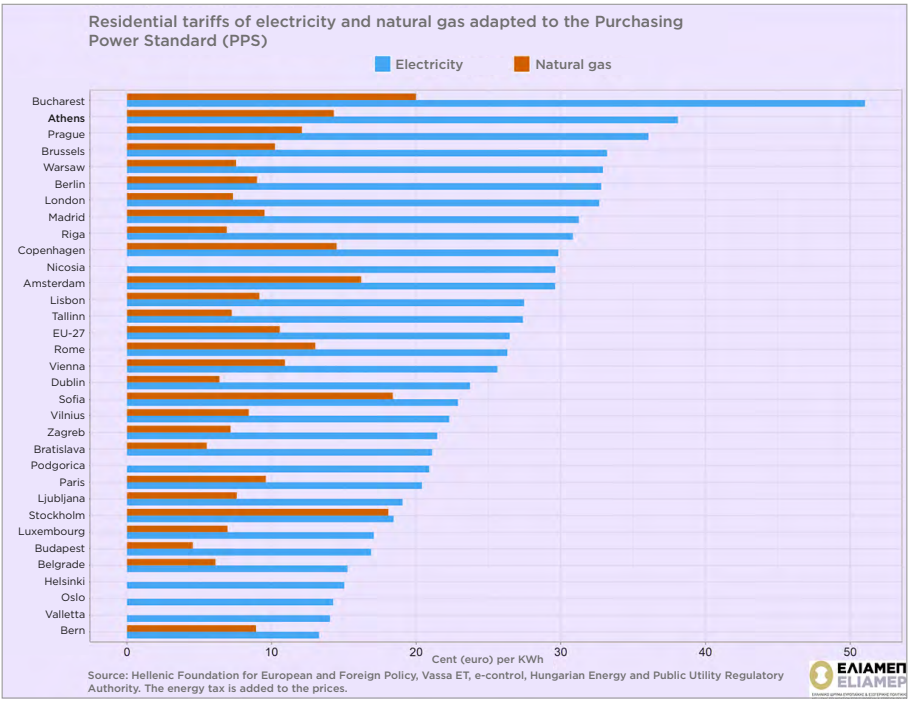
The need for decarbonization in order to combat climate change has led to the progressive replacement of lignite in the production of electricity and heating oil by natural gas and was combined with an expansion of the latter's network. However, the introduction of natural gas to the Hellenic Energy Exchange and the gradual increase in its price directly resulted in high increases in heating costs, and indirectly in an increase in the cost of electricity. The increase in the price of oil and natural gas led consumers to use electricity as an alternative means of cooling/heating, which in turn resulted in the increase of energy poverty.

46 As in footnote 33.

47 See Press Release The Greek Ombudsman in the neighborhoods of the city, 05/02/2015.

In Greece, the number of households unable to adequately heat their home is at least six times higher than in Sweden. This fact is a strong indication that energy poverty has taken root in Greek society[48].

As it is clearly shown by the following graph by the Hellenic Foundation for European & Foreign Policy, the comparison of residential electricity and natural gas prices between European and Balkan capitals adjusted to purchasing power standards (PPS) in each country reveals that -ultimately- Greek households are heavily affected by increased residential electricity and gas prices. This fact renders necessary the continuation and deepening of measures to relieve household budgets.



RESIDENTIAL TARIFFS OF ELECTRICITY AND NATURAL GAS ADAPTED TO THE PURCHASING POWER STANDARD (PPS)

Energy transition has a cost related to the modernization and creation of new infrastructures. There has been growing concern as regards the passing of the cost of energy transition on to end consumers. The Directive 2019/944[49] correctly states that *"...(59) Energy services are*

48 See Environment Climate Crisis Ecology, Towards a new round of rising energy poverty: reflections on a societal approach to energy issues, Nicos Poulantzas Institute.

49 DIRECTIVE (EU) 2019/944 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU, L 158/14.06.2019.

fundamental to safeguarding the well-being of the Union citizens. Adequate warmth, cooling and lighting, and energy to power appliances are essential services to guarantee a decent standard of living and citizens' health. Furthermore, access to those energy services enables Union citizens to fulfil their potential and enhances social inclusion. Energy poor households are unable to afford those energy services due to a combination of low income, high expenditure on energy and poor energy efficiency of their homes. Member States should collect the right information to monitor the number of households in energy poverty. Accurate measurement should assist Member States in identifying households that are affected by energy poverty in order to provide targeted support. The Commission should actively support the implementation of the provisions of this Directive on energy poverty by facilitating the sharing of good practices between Member States…"

Inflation is at its highest level since decades and in addition to shrinking household income, the branches of transport, supply chain, industry, artisanship, technology, and primary production are being tested by high energy prices. The cost of operating production, processing and standardization units endangers their very operation. **The situation of a household unable to access adequate electricity services at home (especially space heating and cooling, lighting and household appliances) defines the context of energy poverty[50] and more. The limitation of household expenses for electricity - mainly - entails the deterioration of the quality of life and is a prosperity indicator of a country.**

The Greek Ombudsman is the reflection of the state of the Greek society. **This Independent Authority has always received complaints from citizens as regards issues of maladministration in their cooperation with PPC. In the last two years, however, the Authority has been overwhelmed with complaints, which reveal a real inability of citizens to respond to the burden they have been shouldered because of the passing on to them of the cost of energy and energy services and the adjustment clause.**

Recent complaints that were sent to the Greek Ombudsman and focus on the **30% rise on the water supply rates** by the Municipality Water supply and Wastewater treatment company of Chios Island are **indicative of the energy *pyramid*** that collapsed dragging end consumers into a vortex. In its proposal as regards the rate adjustment, the Municipal company states that an important factor in this decision was the fact that only the activation of the adjustment clause, resulted in an increase of the municipal company's debt to PPC S.A. by 600,000 euros for the year

50 See Annual report 2021 The Greek Ombudsman, p. 114 et. seq. https://www.synigoros.gr/en/category/ethsies-ek8eseis/post/h-ethsia-ek8esh-toy-synhgoroy-toy-polith-gia-to-2021

2021. Similarly, the Municipal Water Supply and Sewerage Company of Heraklion Crete, taking into account, among other things, the 30-35% increase in energy costs, increased its rates[51]

In the context of commenting on the National Strategy for Social Inclusion and Combatting Poverty and in view of the update of the National Action Plan for Combating Energy Poverty, the Greek Ombudsman, taking into account his long-term experience, has already submitted a proposal to combat energy poverty setting the essential prerequisites for the successful development and implementation of the relevant national strategy. The Greek Ombudsman focused - among others - on one of the planned actions of the National Action Plan for Combating Energy Poverty, which concerns financial support programs for the coordinated energy upgrading of residential buildings of affected households, and for the promotion of the use of renewable energy sources, in order to meet their energy needs. With this action, which is also in line with the general national and European goal of a green and socially equitable energy transition, the Authority pointed out the need to strengthen and safeguard the institution of energy communities in order to support vulnerable consumers and to combat energy poverty[52]. At the European level, Energy Communities are included in the package of measures "Clean Energy for all Europeans"[53], while in our country they were institutionalized by Law 4513/2018.

However, because of the known deficiencies of the institutional framework, it has become imperative to proceed to an overall assessment of the identified institutional obstacles and practical problems, and to the institutionalization of the necessary supporting framework. Also important is to give a legal status to the prior commitment that a significant percentage of the total installed capacity, when granting renewable energy sources licenses following the competitive procedures of Law 4759/20, will be directed to public interest/non-profit Energy Communities. Equally important is to establish an independent special licensing framework for renewable energy source projects which will relate exclusively to public interest/non-profit energy communities.

It is pointed out that despite the fact that the Greek Ombudsman had proposed the inclusion of the energy weak in non-competitive procedures, the latest provisions of Law 4796/2021 insist on the participation

51 Cases number 318324/2022, 318707/2022 & 318892/2022, 321291/2022.

52 Energy communities are a new cooperative model that exploits the virtual net metering of energy production and consumption for 20 years, achieving economies of scale.

53 https://energy.ec.europa.eu/topics/energy-strategy/clean-energy-all-europeans-package_en

in a competitive tendering procedure[54]. Competitive tendering procedures lead to inequalities between different market players. The adoption of competitive procedures for all market players tends to result in the disappearance of energy communities from the energy market. The inability of the latter to compete against big market players is proven by the fact that in countries where the same competitive procedure model was applied, such as Germany and France, energy communities were unable to keep up and were gradually excluded from the competitive procedures.

The operation of the E.Com. presents difficulties as they differ from other traditional commercial corporate structures because they follow their own independence and governance principles. Moreover, cooperative schemes lack the expertise to operate in a competitive energy environment and to provide training to their members on how to take on roles such as those of producer-consumer, supplier, or co-owner. Another key problem is funding. It is difficult for small energy communities to secure loans because banks won't assume the risk. Thus, the State has to fill the gap in order to enable these non-profit initiatives, which aim at self-generation and self-consumption of energy, to move forward.

In short, this new form of self-management and self-generation that was introduced by European policies, the independent governance structures, has not yet managed to become part of the Greek culture, while the difficulties of cooperation faced by similar communities in Greece are often reflected in the complex coexistence *"within the Greek apartment block"*.

Furthermore, economically vulnerable groups/households, as they are unable to manage a twenty-year perspective, expect immediate financial return from the measures related to the energy upgrading of buildings. Many households are plagued by energy poverty and cannot afford to invest in an energy system. Also, the limited available space, tight urban fabric, age and structure of the buildings and open spaces, as well as issues related to ownership, etc., play a key role. The National Action Plan for combatting Energy Poverty (Official Government Gazette of the Hellenic Republic 4447/2021/Issue B) recognizes the need to identify affected households and proposes to do so based on easily accessible data sources. It comprises measures that add to the

54 Law4796/2021, Article 92, par.2.The period laid down in par. 3d of article 7 of L. 4414/2016 is extended from its expiration (1/7/2021) until 1/1/2022 and par. 3d is worded as follows: *"...3d. Especially as regards photovoltaic power plants developed by an Energy Community (E. Com.), excluding those cases specified in par. 3e, and in addition to those defined in par. 3b, the same E. Com. may not, after 1/1/2022, enter into operating aid contracts for photovoltaic power plants without prior participation in a competitive tendering procedure..."*

social policies and concern the improvement of the energy efficiency of buildings. Moreover, making good use of energy communities is of vital importance. The recent National Climate Law (Law 4936/2022) refers to the anticipation and monitoring of the risks and the impact of climate change on the environment, the society and the economy, with particular attention to those sectors that are most vulnerable to climate change. In addition, the REPowerEU European plan stresses that the increase in fossil fuel prices particularly affects energy-poor or vulnerable household consumers, who spend a high percentage of their total income on energy bills[55], and accentuates discrepancies and inequalities in the EU. The European plan proposes, among other things, the installation of heat pumps in households, a procedure whose cost is not negligible. Meanwhile, the rise in energy prices makes this investment disincentivized. The REPowerEU European plan proposes to facilitate access to funding aimed at saving energy, diversifying energy supply, and rapidly substituting fossil fuels by accelerating Europe's clean energy transition, combined with an increase in energy efficiency.

What has become apparent from the current energy crisis is that the State is required, on the one hand, to ensure better energy efficiency and upgrading of homes, and on the other hand, to strengthen self-generation and self-consumption, by providing for the necessary interventions in the network and by making full use of European funding and state resources, in line with international practice (such as, for instance, the taxes on real estate property).

It is clear, therefore, that a wide array of measures is required that will focus on providing support to consumers as well as to production. An array of measures that will cover the entire economy, in order to mitigate the effects of the energy crisis. It looks difficult for each State to adequately assume the budgetary cost of the interventions that will be required in order to effectively support production and consumption. States in marginal fiscal balance, like Greece, are particularly vulnerable. The EU should consider the adoption of decisive measures, and the use of tools and financial support resources, modelled on the measures that were adopted in order to manage the financial impact of the pandemic.

It follows from the above that, in all cases, **the State must play an essential role in dealing with energy issues, as it is its duty to ensure the unimpeded supply of electricity. Therefore, the passing of the State's responsibility on to the citizens and the financial burden entailed by**

55 See the report of the workshop on Energy Poverty organised on 9 November 2016 for the European Parliament Committee on Industry, Research and Energy (ITRE), Gender perspective on access to energy in the EU, Gender and energy | European Institute for Gender Equality (europa.eu) and GFE-Gender-Issues-Note-Session-6.2.pdf (oecd.org).

the implementation of these policies (e.g. the adoption of energy efficiency measures such as the energy upgrading of buildings and self-generation) cannot be the only way to solve the problem.

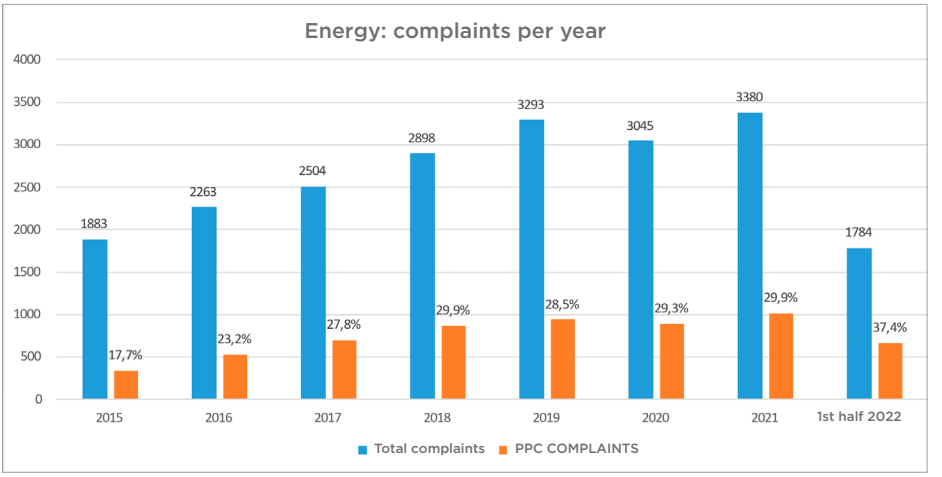
6. PPC S.A. and consumers - the Greek Ombudsman experience

6. PPC S.A. and consumers - the Greek Ombudsman experience

- **Since the very beginning, the Greek Ombudsman has received com-**plaints on issues concerning PPC S.A. and now also its subsidiaries, especially HEDNO S.A. (Hellenic Electricity Distribution Network Operator S.A.), which is responsible for the operation and maintenance of the network. The recent explosion in the charges for the supply of electricity, attributed to the implementation by PPC S.A. (on 05/08/2021) of the electricity supply charges adjustment clause, resulted in numerous complaints being submitted to the Greek Ombudsman. The main problems are summarized as follows:

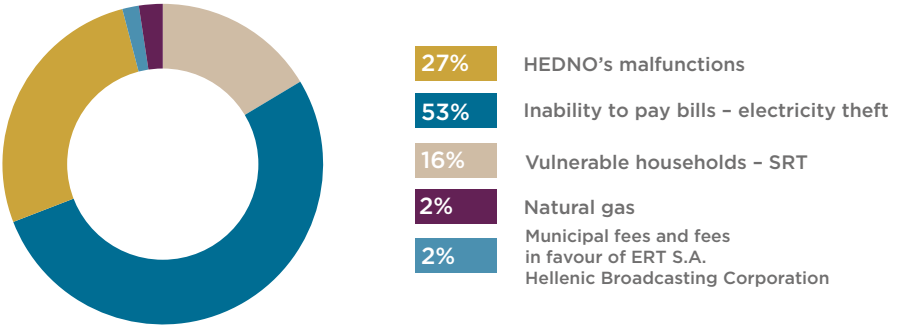
- Excessive charges - Electricity supply charges adjustment clause
- Collection of fees and other charges that are not related to the consumption of electricity through PPC S.A. bills
- Difficulty paying bills
- Electricity theft
- Inclusion of vulnerable consumers in the Social Residential Tariff (SRT) and the Vulnerable Customers Registry (VCR)
- Limitation period (Debt cancellation).

The following graph provides an overview of the citizens' problems regarding energy issues (PPC, HEDNO, Natural Gas) through the complaints submitted to the Greek Ombudsman from 2015 until today.



GRAPH 6: COMPLAINTS PER YEAR

The above graph (Graph 6) clearly shows that the complaints on energy issues, which are mainly related to PPC, that have been submitted over the last seven (7) years [from 2015 onwards] show a gradual upwards trend. The long-term effects of the financial crisis are reflected in years 2016-2020 with a gradual increase in complaints against PPC. For the 2017-2021 period, complaints related to PPC make up approximately 1/3 of the total complaints submitted to the Ombudsman's Quality of Life Department (see Graph 6).

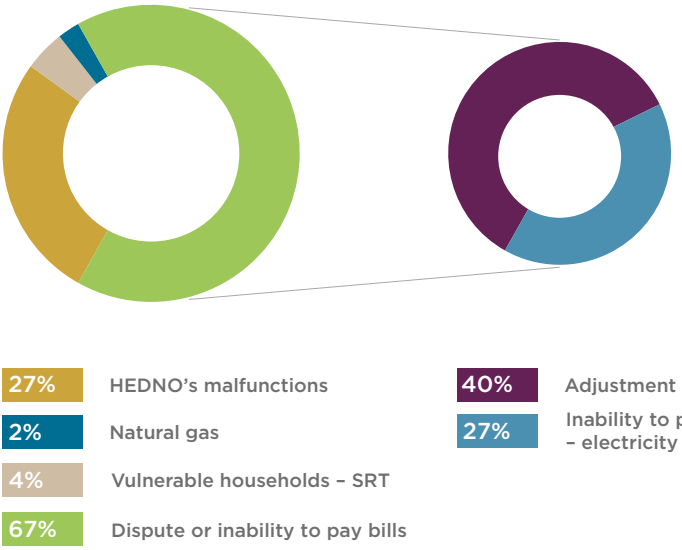


GRAPH 7: COMPLAINTS ON ENERGY ISSUES 2015-2021

In 2022, a year which is illustrated by the activity taken place so far, namely the middle of the year, the number of complaints against PPC has increased when compared to the previous year and exceeds 1/3 of the

total number. The increase (7.5%) in the number of complaints against PPC that have been submitted so far within 2022, when compared to the previous year 2021 as well as the last five years, confirms the strong upwards trend that has been recorded regarding the submission of complaints. The majority of those complaints (53%) concern the inability to pay bills, which includes electricity theft, disconnection due to debts, disputes over Utility Services charges and regulated charges, complaints against the passing of electricity supply debts from tenants on to owners, excessive bills and inability to pay them, requests for more favourable arrangements, and incorrect pricing (fixed and variable tariff). A second category of maladministration recorded through the complaints concerns HEDNO's malfunctions (27%), which include: delays in initial electrification and reconnection due to disconnection or after debt settlements, metering delays, excessive delay in responding to meter replacement requests, and non-response to claims for compensation of electrical appliances due to breakdown (see Graph 7). 16% of the reports concern vulnerable households and the Social Residential Tariff (S.R.T.), 2% concern Municipal and other fees included in the electricity tariffs, while 2% of the reports which were recorded until the end of 2021 and concerned Natural Gas had to do with technical issues.

This sudden increase is primarily the result of the adjustment clause in electricity tariffs which was imposed in August 2021, as seen in the following graph. In the first half of 2022, 67% of the complaints related to PPC concern dispute or inability to pay bills. Of these, 40% concern excessive charges due to the adjustment clause and 27% concern inability to pay bills and electricity theft (see Graph 8).



GRAPH 8: COMPLAINTS ON ENERGY ISSUES FIRST HALF OF 2022

6.1 Adjustment clause

A large number of citizens have made complaints to the Greek Ombudsman against the increase in their electricity bills and have declared that they are unable to pay them. It is a fact that the application of the adjustment clause has resulted in a fivefold increase in charges without a corresponding increase in consumption. Paying the electricity bill has become untenable for consumers to the extent that it jeopardizes their very livelihood, especially considering the decreased income of the majority of Greeks because of the effects of the pandemic. Most citizens question the legality of the adjustment clause by asking to receive information about the statutory provision that provides for its implementation.

It is worth noting that **the use of the term "clause" is unfortunate, because in legal terminology "clause" means a condition used in an agreement/contract and failing to comply with this clause results either to the cancellation of the contract or to the imposition of sanctions against the person who failed to comply with the clause**. Furthermore, this term creates the reasonable impression on consumers, especially the most vulnerable ones, that it is a quantity that is being added to the bill without having specified this addition in the contract signed with the Energy Supplier, in this case with PPC S.A. Also, given that it is included in the electricity bill as a variable amount, in addition to the supply

charge - which until now consumers used to see on the bill - it creates the false impression that it is a different charge and not a charge that is included in the cost for the supply of the electricity consumed. However, as mentioned above, the Electricity Supply Charges Adjustment Clause is a supply charges adjustment mechanism and reflects the fluctuations in the wholesale price of energy in the stock market and, by extension, in the cost of electricity supply. Therefore, it becomes clear that **it is not included in a specific provision, as it is a variable tariff, in addition to the guaranteed price**. The problem lies in the fact that the Electricity Supply Charges Adjustment Clause, which is activated whenever the wholesale price of energy on the stock market reaches levels incompatible with the guaranteed price, is calculated using a complicated and difficult to understand formula approved by the Regulatory Authority for Energy (RAE). Moreover, it is not illustrated in the respective supply tariff in a complete, detailed, clear and easily understandable manner, as a fluctuating price by which the consumption of electricity is multiplied.

The Electricity Supply Code stipulates that the Supply Offer includes "clear, reasonable and transparent criteria on the basis of which the adjustment of the Supply Charges takes place" (article 28 par. 3c Electricity Supply Code). It also stipulates that, during the establishment and evolution of the Supplier-Customer contractual relationship, the principle of transparency shall be applied as regards invoicing and adjustment of supply charges, while any tariff adjustment mechanism shall be transparent and shall have a clearly defined way of activation and calculation which shall be made known to the Customer in advance. However, in 2020, the Regulatory Authority for Energy (RAE) found a lack of transparency as regards electricity tariffs and issued the Decision no. 409/2020 (Official Government Gazette of the Hellenic Republic 1364/2020 / Issue B) in which it pointed out that *"..., the conditions of the provision of an essential "public good", namely electricity, are not meant to contain ambiguities and vagueness. In particular, as regards household consumers, who present a high degree of sensitivity to fluctuations in electricity prices, given the increased percentage of household costs for the supply of the good in question, it should be made clear to them if and how the tariff they accept includes variable parts"*. And it concluded by stating that:

a) the suppliers have the obligation to provide at least one fixed tariff per customer category, in order to protect the rights of consumers who belong to the category of Small Customers and do not wish to assume any risk,

b) it is recommended to standardize the name of the Supply Charges Adjustment Mechanisms as "Adjustment x" according to the size x of the market, which will be recognizable and will result from the operation of stock markets,

c) a range of variation of the values of this quantity must be set for which the activation of the adjustment mechanism (safety zone) will not apply, and which must be reasonably compatible with the variation of the values of the quantity. Therefore, the need to activate the mechanism will arise as a special case, whenever the values of the quantity reach levels that are difficult to predict, based on the data that was available to the Supplier when drawing up the supply contract or when setting the tariffs and their parameters.

In this case, for each calendar month, the corresponding Credit/Adjustment Charge is calculated, that results from the calculation formula approved by the Regulatory Authority for Energy (RAE) and is multiplied by the kWh of consumption of each calendar month. It applies to Γ1 and Γ1N household tariffs (and to Social Residential Tariff beneficiaries). As long as the wholesale prices did not greatly exceed the safety area, PPC absorbed the fluctuations, the charges remained unchanged and the Adjustment Clause was not activated.

However, the unit price increased so much that the safety zone no longer corresponded to the current situation of the energy market and as a result, the adjustment clause was activated. Therefore, the essential problem is not the imposition of the adjustment clause, or of a clause of any other name, but the explosion in wholesale prices which is now taking place in the stock markets.

Of course, each provider also provides products with fixed tariffs, to which the adjustment clause does not apply. PPC, for instance, offers the products “My home enter” and “My home enter+”. However, the fact that flat-rate tariffs are offered only slightly affects the widespread problem of the explosion in charges. Flat-rate products have a one year duration, so those who purchased them before the activation of the adjustment clause will enjoy, at best, a few more months the old, lower charges. Henceforth, the new products offered to consumers will have a higher price per kWh and thus they will essentially include the adjustment clause.

From all of the above, **it has become clear that the existence and application of the adjustment clause does not directly contradict any provision of the law, but the overall way in which it is being managed results in ambiguity and incomplete information for consumers, making the market behaviour that is being exhibited contrary to the general principles of good faith and fair dealing (article 288 of the Civil Code)**. In fact, it results in distortions that also have a negative effect on competition, since consumers do not have the opportunity to compare the proposed tariffs, as the final charge is the outcome of a process that they are unable to comprehend.

Consumers must be properly and clearly informed that the increase in their variable tariff is due to an increase in the supply price of energy and they must be able to easily perceive it through a single charge for the kWh they consume in exactly the same way as they perceive the increase in the price of gasoline when they go to a gas station.

The Directive (EU) 2019/944 and the Electricity Supply Code to Clients (Articles 16, 17 and 18 of Annex III) provide for the right of consumers to have access to objective and transparent data concerning consumption and to a full and detailed description of the pricing process. Therefore, for the sake of transparency and understanding by consumers, it is required that the variable tariff does not have two separate entries, namely, a fixed charge and a clause added to the fixed charge, but directly a variable charge. As mentioned above, **the recent amendment that provides for the abolition of the adjustment clause from 1/8/22 to 1/7/23 in variable electricity supply tariffs on the one hand is of a temporary nature, and on the other hand does not bring about a substantial effect since the most important factor is to be able to constrain wholesale price**. Besides, as the legislation also mentions, electricity suppliers announce the electricity supply charges, on a monthly basis and in a prominent place on their websites, before the month in which those charges will apply.

6.2 Collection of fees and other charges that are not related to the consumption of electricity through PPC S.A. bills

The Greek Ombudsman has already pointed out in its annual report for the year 2021 that energy services are not affordable because the electricity bill includes other charges that are collected in favour of third parties. These include a) regulated charges imposed to all consumers who make use of the national electricity system (namely the electricity transmission and distribution networks, Public Utility Services and the Special Duty of Greenhouse Gas Emissions Reduction, b) the Special Consumption Tax, the 5‰ excise duty, local charges and taxes, the real estate fee (RET), and the State fee in favour of ERT S.A. HELLENIC BROADCASTING CORPORATION. These costs, however, are mentioned in the contract that consumers sign with the supply companies and the citizens are aware from the beginning that their collection takes place through the energy bill.

These additional charges result in an excessive increase of the total bill and make even more difficult not only for vulnerable consumers but also for all residential tariff consumers to be consistent in the payment of their bills. It would therefore be appropriate to look for a different way of collecting the aforementioned fees, so that they are no longer

included in the already increased electricity bills[56].

6.2.1 Regulated charges

More specifically, and as regards regulated charges, the charges for the operation, maintenance, and development of the transmission and distribution networks are costs. The Regulatory Authority for Energy (RAE) approves the charges based on the current methodology and following the recommendation of the Operators.

Suppliers collect the revenue from the charges for the use of the Distribution Network and the Transmission System and assign them to the Network Operator and respectively to the System Operator, with the ultimate aim of the proper operation, maintenance, and expansion of the Distribution Network and respectively of the Transmission System. The amount of the charges depends on the electric power and electricity consumption of consumers' installations. Specific tariffs such as agricultural tariffs or night tariffs are excluded. Since 2011, for the sake of transparency and consumer information, they have been included in the bills in compliance with the relevant EU directives.

The Special Duty of Greenhouse Gas Emissions Reduction (ETMEAR) is imposed in order to cover part of the Renewable Energy Sources (RES) and Cogeneration of High Performance Heat and Power (CHP) production. Its amount is determined by ministerial decisions. However, it should be pointed out that a petition for annulment by residential electricity consumers before the Council of State in which they challenged a decision of the Energy Regulatory Authority (RAE) regarding ETMEAR was rejected on the grounds that the obligation to pay the Special Duty of Greenhouse Gas Emissions Reduction is linked to the cost of electricity production from RES, which constitutes part of the price of the energy used by the final consumer (CoS 3366/2015).

The Utility Services aim to provide electricity either at a low price to vulnerable groups of the population (large families, economically weak) or at a price equal to that of the rest of the country to residents of isolated areas (e.g. border islands) where the cost of power generation is high. The state care in order not to exclude the aforementioned groups from the supply of energy is provided for by article 3 of Directive 2003/54/EC and the imposition of the corresponding charges through electricity bills by legislative provisions (articles 55 and 56 of Law 4001/2011, article 36 of Law 4067/2012).

56 Annual report of the Greek Ombudsman for the year 2021, p. 118, See ee2021-p04-49-121-thematikes.pdf (synigoros.gr)

Law 4936/2022 (National Climate Law), that was recently passed, provides (article 38) for the revenues from the Utility Services to be used to finance the Energy Transition Fund whose resources serve to subsidize residential and non-residential consumptions, with the clear intention to absorb part of the huge increase in electricity bills that has taken place in 2021 and 2022.

The care of the State extends to other parameters such as the provision (Article 21 Electricity Supply Code to Customers, Official Government Gazette of the Hellenic Republic 832/2013 / Issue B) for an extension of thirty (30) days for consumers to ensure the remedy of the breach of a condition of the contract with the supplier before the latter terminates the contract or the provision (Article 34 of the Electricity Supply Code to Customers) that no disconnection of electricity supply to vulnerable consumers shall take place from November to March and from July to August of each year.

However, it is difficult to explain in the context of a solidarity policy, especially in the current period when almost all consumers find it difficult or are even unable to cope with consumption charges, the fact that the cost of the care of the State for this vulnerable population is passed on to other consumers, through its collection from electricity bills. The care of the State is a government obligation and its source of funding are the State's revenues, to which the citizens contribute through taxation. In this case, citizens contribute to the strengthening of the specific State policy both through general taxation and through the charge on each electricity bill.

6.2.2 Local Taxes

According to the provisions of article 43, par. 1 of Law 3979/2011 the municipal cleaning and lighting charges, the tax on electrified areas, and the real estate tax are borne by the person on whose name the electricity bill is issued and are collected by PPC or the alternative electricity supplier. The collections made by PPC or the respective alternative supplier are transferred to the respective municipality, on the basis of a relevant clearance statement, in the second month from the end of the month to which the bills are accounted for.

Failure to pay the aforementioned charges entails the disconnection of electricity supply, a particularly burdensome measure for electricity consumers.

These charges are, in principle, borne by the person on whose name the electricity bill is issued, and if PPC has not been notified of a change in the use of the property, then he/she may be a person other than the one using the property[57].

According to the well-established case-law, when PPC collects charges and taxes, it does not act as an independent authority, but as a simple collection instrument in the name and on behalf of the Municipalities[58]. Consumers may appeal against the relevant inclusion of the aforementioned charges in the PPC bills, which is notified to them with the first PPC electricity bill, for the year to which the certificate relates[59].

The inscription of the consumer in the registry of PPC consumers (with which the definitive inclusion of the local taxes in the bill takes place without the need to draw up a financial list) does not constitute in this case an act of debt determination in the strict sense of consumers' debt for local taxes for the year in question. Namely, an act of forced execution, by which consumers are called upon to pay their debts, even under the threat of disconnection of electricity supply - as provided for in the relevant provisions - does constitute the legal title in a broad sense for the determination and subsequent collection of the above claims of the Municipality[60].

There is, however, the possibility of exemption from local taxes for properties that are not electrified and are not in use (article 3, subparagraph b, Law 25/1975). Exemption from the payment of these charges is provided for by article 5 of Law 3345/2005, which requires that the following conditions must be met cumulatively: a) no electricity supply and b) non-use of the property. In order to prove that these conditions are met, the above provision stipulates as exclusive evidence the relevant certificate of no electricity supply from PPC. However, if the use of the property is detected, the entire charge which corresponds to each category of property together with the relevant fine is imposed, retroactively from the date of exemption.

As regards the cleaning and lighting charges, the charge for electrified premises, and the Real Estate Tax (which are revenues of local government authorities and are collected by the electricity providers) the Authority takes the position that they should be collected directly by local government authorities in view of their administrative and financial independence. Subsequently, the Real Estate Tax could either be

57 Council of State 3049/2017, 1323/2013, 585/2011, Athens Administrative Court of First Instance 9500/2020.

58 Council of State 4037/1987, Supreme Court 508-509/2011.

59 Athens Administrative Court of Appeal 1691/2015.

60 Athens Administrative Court of Appeal 1691/2015.

integrated into the Unified Real Estate Property Tax (UREPT) and then distributed accordingly (to the State or to local government authorities), or collected directly by local government authorities[61].

The current way of calculating cleaning charges based on the area of "covered or non-covered spaces, per electricity meter" which are borne by the user of the property, "to whom the electricity bill is issued" does not meet modern requirements. The specific revenue, since it is also intended for waste management, it would be appropriate to incorporate the actual or expected volume of waste. A major issue according to the Greek Ombudsman is the lack of financial incentives that promote prevention and participation in the separate collection of waste[62].It has, consequently, been proposed by the Authority the cleaning charges of the municipalities in accordance with article 185 of Law4555/2018 to incorporate the *"polluter pays" principle*[63] and to be collected directly from local government authorities[64].

At this point, it is worth mentioning the case of a citizen who appealed to the Greek Ombudsman[65], although he/she had requested the disconnection of the electricity supply to his/her property since 2016, this was not carried out due to the negligence of HEDNO. Despite the fact that the property had zero charges for four years and its non-use was confirmed by PPC, the Municipality of Athens refused to write off the debt of the local taxes, considering that in order to do so, it is necessary for PPC to revoke the debt and not to just issue a simple certificate of non-use of the property. PPC refused to do so stating that the claim for local taxes is the responsibility of the Municipalities and the Municipality of Athens is obliged to write off the debt of the non-electrified property. The formalistic opinion of the Municipality of Athens that it is not enough to inform about the non-electrification and non-use of the property but there must also be a revocation of the debt by PPC, which, as mentioned above, is a simple collection instrument on behalf of the Municipalities, is a further argument in favour of the opinion that the collection of local taxes must be excluded from electricity bills.

61 Annual report of the Greek Ombudsman for the year 2021, p. 118, See ee2021-p04-49-121-thematikes.pdf (synigoros.gr)

62 See "Special Report 2020: Waste Management".

63 See "Special Report 2020: Waste Management".

64 Annual report of the Greek Ombudsman for the year 2021, p. 119, See ee2021-p04-49-121-thematikes.pdf (synigoros.gr)

65 Case File number 281884

6.2.3 Difficulty paying bills

Paying their bills and debts has always been a difficult task for Greek citizens. The economically weak have always been unable to participate even in the settlement programs that PPC S.A. announces from time to time in an effort to help them settle outstanding debts. The proposed settlements have two components: a lump-sum advance payment equal to a percentage ranging from 10% (for debts up to 1,000 euros) to 30% (for debts over 3,000 euros) of the total debt and a number of instalments ranging from five (for debts up to 500 euros) to 24 (for debts over 3,000 euros).

From the complaints submitted to the Greek Ombudsman, however, it appears that there are quite a few households that have not paid their bills for more than a year. This has resulted in a debt of several thousand euros, which, in turn, makes it impossible for the unemployed, low-paid pensioners and low-income citizens to make the advance payment or to pay the proposed instalment.

In case of fruitless debt settlement, the consumer switches to the universal service provided for by article 58 of Law 4001/2011. The universal service applies to consumers who either do not proceed in finding another electricity supplier or are unable to find one. Small customers are automatically placed under the universal service supplier following the termination of the representation by the last supplier, as long as there is no representation order from a new supplier and no request for termination of the connection has been submitted by the consumer (Article 44 par. 2 of the Electricity Supply Code). However, the universal service tariff is the reference tariff[66] increased by twelve percentage points (12%). Because of this, the settlement of debts from electricity consumption, becomes even more difficult, or even practically impossible. Citizens who are unable to participate in the settlement programs offered by the providers (including PPC S.A.), will rarely manage to pay off their debts after being placed under the universal service and the increase by 12% of the charge of electricity consumption.

Article 36 of Law 4508/2017 provides for the creation of a special account for the reconnection to the electricity supply grid, with the submission of relevant applications by the interested parties to the local Municipalities and their subsequent evaluation by special Committees. During the evaluation process, financial data is taken into account as well as information about the family situation of the applicants and disability

66 The reference tariff is the tariff with the highest price per customer category, from all the universal service providers' tariffs (article 5 of the decision ΥΠΕΝ/ΓΔΕ/57469/2612 by the Minister of Environment and Energy – Official Government Gazette of the Hellenic Republic 2400/2020 / Issue B).

percentages among the family members. The relevant criteria are set by the Joint Ministerial Decision ΥΠΕΝ/ΔΗΕ/70697/861/2020 (Official Government Gazette of the Hellenic Republic 3088/2020 / Issue B).

The fact that, according to the Joint Ministerial Decision ΥΠΕΝ/ΔΗΕ/124788/2150/2021 (Official Government Gazette of the Hellenic Republic 6302/2021 / Issue B), the special account for the reconnection to the electricity supply grid is financed with 9,000,000 euros, and according to the Joint Ministerial Decision ΥΠΕΝ/ΔΗΕ/52001/1821/2022 (Official Government Gazette of the Hellenic Republic 2567/2022 / Issue B) currently in force, with approximately 15,000,000 euros, reveals the magnitude of the problem and the number of households that are not connected to the electricity supply grid due to unpaid debts.

6.2.4 Electricity theft

The issue of electricity theft is regularly at the heart of the concerns of the Greek Ombudsman. One of the reasons for which consumers resort to the Greek Ombudsman is their growing inability to pay their debts, because after the disconnection from the electricity supply grid due to unpaid debts, they illegally connect to the electricity supply grid.

When this electricity theft is detected, the offenders face even less favourable debt settlement conditions because the administrative costs of HEDNO S.A. are added to the amount due, namely the compensation of HEDNO for the costs related to the electricity theft detection and the handling of the case, including the costs of replacing the meter and its subsequent laboratory control where required. These administrative costs range from 300 euros (in case of single-phase supply without meter replacement) to 750 euros (in case of medium-voltage supply with meter replacement). The proposed instalments for debt settlement are less than in other settlements (lump-sum payment for amounts up to 600 euros and up to 12 instalments for amounts over 4,800 euros).

However, the main reason for which citizens resort to the Greek Ombudsman in cases of alleged electricity theft is that they question the fact itself. HEDNO considers any indication of tampering of the meter (even of its box) as sufficient evidence of electricity theft if it is combined with reduced consumption without taking into account claims by consumers that quite often meter boxes are old, with damages from repairs by electricians (breaking the security seal is a common practice), and that the reduced consumption is due to occasional use of these houses or even no use at all as they live in another house. The declaration of a house as uninhabited and the simultaneous disconnection from the electricity supply grid is not always a desirable solution for consumers, as many of them wish to keep their properties electrified

to avoid inconveniences during their occasional visits.

In extreme cases, electricity theft was imputed, with the sole proof being the broken security seal of the meter, even though the minimal to zero consumption could easily be explained by the consumer's permanent residence abroad (an E9 form was presented as proof that the consumer was living abroad and that the house was uninhabited, as well as a photocopy of the consumer's passport showing the periods and the duration of the consumer's stay in Greece during the time period in question) or even if there was an increase rather than a decrease in consumption.

Furthermore, it has been observed during the handling of complaints, that HEDNO interprets the regulatory framework of cases of electricity theft in a quite rigid fashion. It is noted that the detection of electricity theft by HEDNO constitutes a criminal offence, which is prosecuted ex officio. In particular, in an investigation of a relevant complaint[67], in which the citizen accused of electricity theft was acquitted in court, HEDNO refused to re-examine the consumer's debt in the light of the acquittal decision, putting forward the argument of the separation of criminal and civil proceedings and reserved its right to claim the amount due.

It is worth noting that electricity theft is yet another factor contributing to the increase of charges, as part of the financial loss of the suppliers is passed on to the consumers.

Energy losses in distribution networks are an important component of the total energy cost for the final consumer. To describe the energy losses related to the inherent characteristics of the electricity supply networks (losses due to technical reasons, e.g. network age) the term "technical losses" has been widely used. For other types of energy loss, the term "non-technical losses" is used. On-technical losses are largely related to electricity theft.

Under the current market design, suppliers bear the cost of purchasing energy from the market and incorporate it into their retail tariffs. For the operation needs of the electricity market, distribution loss factors are used in accordance with the expected energy losses in the distribution networks, which are calculated by the Network Operators and approved by the Regulatory Authority for Energy (RAE).Thus, the amounts not collected due to electricity theft ("non-technical network losses") are passed through regulated charges on to the price of the Distribution Network according to a rate set by the Regulatory Authority for Energy (RAE) and the cost is passed on to consumers, in order to cover the cost of the losses (technical and non-technical ones).

67 Case File number 307987

It is noted that, as it appears from the decision no. 248 by the Regulatory Authority for Energy (RAE) on the "Approval of Distribution Loss Factors" (Official Government Gazette of the Hellenic Republic 2086/20-5-2021 / Issue B), according to the updated study of the Network Operator, the total losses of the network are estimated at approximately 10% of the total incoming energy, 4.7% of which are non-technical losses.

Indicatively, it is stated that in 2021, households and businesses paid 592 million euros for network losses, of which 209 million euros were linked to losses caused by electricity theft. Provided that electricity theft remains at the same level in 2022 as the last three years, the value of the electricity losses could run up to a considerable 1.2 billion euros, while almost two thirds of that – an estimated 798 million euros – would concern electricity theft.[68]

Therefore, it is deemed necessary to replace old meters to avoid incorrect charges. As the Regulatory Authority for Energy (RAE) has pointed out, "the large-scale replacement of end-use electricity meters with smart electricity meters is expected to have a direct positive impact on the detection and avoidance of electricity theft that takes place through meter and active connection tampering ". According to the Regulatory Authority for Energy (RAE), on the basis of the electricity meter replacement program proposed by HEDNO (essentially starting in 2022 with estimated completion in 2030) it is predicted that **electricity theft will have been significantly reduced to the levels of 2003-2004** (0.2%) by the year 2031.

6.2.5 Inclusion in the Social Residential Tariff (S.R.T.) and the Vulnerable Customers Registry (V.C.R.)

According to the decision no. Δ5-ΗΛ/Β/Φ29/16027/2010 by the Deputy Minister of Environment, Energy and Climate Change - as amended and currently in force - eligible consumers, upon their request, are included for a full year in the Social Residential Tariff. Subsequently, in order to remain in the specific special tariff regime, consumers are required to submit a new application within two (2) months from the end of the specified or extended deadline for submitting personal income tax returns. It is also required to proceed to a control whether or not the

68 Chryssa Liaggou, *Power theft costs millions. Meter tampering is estimated to have cost those who foot the bill almost €210 mln in 2021*, article published in KATHIMERINI, 31.03.2022, https://www.kathimerini.gr/economy/561784801/600-ekat-eyro-gia-klemmeno-kai-chameno-reyma/ (ENGLISH ONLINE VERSION: https://www.ekathimerini.com/economy/1180953/power-theft-costs-millions/)

conditions required by the legislation are met. Similar arrangements also apply to the renewal of the inclusion of vulnerable consumers in the Vulnerable Customers Registry (V.C.R.), the only difference being if it is decided that they will remain in the Social Residential Tariff, they are also automatically re-included in the Vulnerable Customers Registry (V.C.R.).

The Greek Ombudsman has received a significant number of complaints regarding the aforementioned administrative procedure. In particular, vulnerable consumers, who had been included in Social Residential Tariff complained that they were temporarily excluded from the aforementioned regime, even though they met all legal conditions regarding their inclusion in it, due to the late submission of the required application for the renewal of their inclusion.

Following the above - and given that it has been foreseen, by the decision no. 424/2019 by the Minister of State, to proceed to the interconnection of the information systems and applications of the Independent Authority for Public Revenue (IAPR) and of the Electronic Governance of Social Security S.A. (IDIKA S.A.), with the aim of extracting and cross-referencing data and information for the evaluation of submitted applications as regards the inclusion in the Social Residential Tariff - the Greek Ombudsman proposed (by means of a letter (ref. no. 23709/23.04.21) addressed to the Minister of Environment and Energy and to the Minister of Digital Governance) the establishment of the one-time submission of an application for inclusion in the Social Residential Tariff and in the Vulnerable Consumers Registry as well as the ex officio carrying out of an annual administrative control regarding the legal conditions that should be met in order for consumers to stay in the relevant regime and also in order to avoid the temporary loss of their lawful rights.

Also, under the decision no. Δ5-ΗΛ/Β/Φ29/16027/2010 by the Deputy Minister of Environment, Energy and Climate Change - as amended and currently in force - the verification of the status of Person with Disabilities or the change in the family situation (birth of a child) is carried out exclusively according to the last cleared income statement, which concerns the previous (fiscal) year of the one in which the citizen was included in the Social Residential Tariff.

Following the above regulation, vulnerable households whose child were born or had members certified as Persons with Disabilities during a specific fiscal year cannot enjoy the relevant benefit immediately after the relevant changes took place and are obliged to wait for the tax return of the next fiscal year in order to declare the new information regarding the disability or the family situation, and must subsequently apply for their inclusion in the Social Residential Tariff.

Taking into account that the relevant benefit is not, pursuant to the current regulatory framework, retroactively applied - that is, it is granted to eligible vulnerable consumers from the date on which their relevant application is approved onwards and not from the date on which the above changes take place - it becomes apparent that in such cases, the deficiencies in the legislation have result in the intolerable (in terms of the rule of law) loss of granted rights.

In view of the above, the Authority proposed - by means of a letter (ref. no. 23709/23.04.21) addressed to the Minister of Environment and Energy and to the Minister of Digital Governance - the amendment of the regulatory framework in order for the above adverse condition to be eliminated and the interconnection of the information systems and applications of the Electronic Governance of Social Security S.A. (IDIKA S.A.) and of the electronic support system of Disability Certification Centres and of the information system of Municipal Registries-Civil Registries for the extraction and updating of the essential relevant data and information.

Furthermore, it is worth noting that the system of customer inclusion in the Social Residential Tariff needs further improvement as individual cases that meet the set conditions in fact, rather than in form, cannot be included in the Social Residential Tariff under the provisions currently in force. The Greek Ombudsman, for instance, received a complaint from a citizen who had the bare ownership of an immovable property whose objective value resulted in the citizen's failure to meet the conditions for inclusion in the Social Residential Tariff. Although the citizen was able to prove that in the relevant time period the house was inhabited by the usufructuary and consequently the citizen had no enjoyment of the said property (either as owner-occupant or through renting/leasing), the bare ownership declared in the E9 form deprived him of the opportunity to be included in the Social Residential Tariff.

6.2.6 Limitation Period (Debt cancellation)

The examination of relevant complaints that have been submitted to the Greek Ombudsman, revealed (in some cases) a lengthy inaction on behalf of PPC as regards the collection of overdue electricity bills. In a significant number of cases, the bill was still issued to the previous lessee of the property, who at least in the past, believed that following the termination of the lease the lessor had arranged for the change of the name on the PPC electricity bill.

In extreme cases, it has been observed that PPC allows time periods of more than five or ten years to elapse, without seeking payment of overdue bills from consumers. Then it becomes critical to clarify

whether PPC's claims fall under the five-year limitation period (which would result in debt cancellation) provision of article 250 of the Greek Civil Code or the general twenty-year limitation period (which would result in debt cancellation) provision of article 249 of the Greek Civil Code. State claims fall under the general twenty-year limitation period. Claims of merchants, industrialists, artisans, freelancers, and in general any claim related to the exercise of a professional/commercial activity fall under the five-year limitation period. The legislator's intention to subject professional and commercial activity to short limitation periods in order to allow for faster and more flexible transactions is firm and clear.

PPC cites relevant case-law[69] which argues that it falls under the twenty-year limitation period provision of article 249 of the Greek Civil Code and not the five-year limitation period provision of article 250 of the Greek Civil Code because it is a public benefit organization and not a merchant[70]. This, however, no longer reflects the current status of PPC as a privatized company, given that PPC is a public limited company (Article 43 of Law 2773/1999) whose object, as it is expressly provided for by the presidential decree (article 3 of the presidential decree 333/2000) setting the conditions for its conversion into a public limited company, is the exercise of commercial and industrial activity. The marginal state control that is still maintained in PPC SA through the holding of a marginal majority of its share capital is also expected to be lost in the immediate future.

More recent examples of case-law seem to understand this change in the legal status of PPC SA. In particular, although the Supreme Court, by its decision no. 4/2001, accepted that the Company enjoys the procedural privileges of the State, it also clarified that PPC does not enjoy the substantive privileges of the State, which certainly include the limitation period for its claims.

It is worth underlining that the Athens Water Supply and Sewerage Company (EYDAP S.A.) which argues, as well, that its claims fall under the twenty-year limitation period provision, retains by means of a special provision (article 11 par. 4 Law 1068/1980) the privilege to collect its claims according to the provisions of the Public Revenue Code. This does not apply to PPC SA. Moreover, the Legal Council of the Hellenic State in its opinion no. 4/2018 regarding the collection of revenues of the municipal water supply and sewerage companies, it states that even if the administrative confirmatory procedure (Public Revenue Collection Code) is provided for by law, this does not change the nature of the claims from private to public. At this point, it is worth noting that

69 e.g. Larissa Court of Appeal 426/2017, Trikala multi-member Court of First Instance 551/1992.

70 Case File number 284229

PPC SA, like the rest of the electricity supply companies, entrusts the management of their claims to claims management companies (Article 1 par. 1 Law 4354/2015), which is not the case of the Athens Water Supply and Sewerage Company (EYDAP S.A.) and the rest of the water supply companies of Greece which manage the collection of their claims by making use of their own resources.

According to the Greek Ombudsman, it has become clear that PPC meets all the criteria regarding the five-year limitation period for claims of Article 250 of the Greek Civil Code and invoking the twenty-year limitation period of article 249 of the Greek Civil Code cannot be considered tolerable anymore in terms of good faith and fair dealing, and can be interpreted as an abusive exercise of a right pursuant to the provisions of article 281 of the Greek Civil Code.

In an extreme case handled by the Greek Ombudsman, PPC sought debts from its original customer for a period of time of more than twenty years, even though the customer (the then lessee of the property) had abandoned it years ago, had moved to a different city and had even passed away. PPC passed its claim on to the deceased person's heirs who had been made aware that the deceased had informed PPC he was leaving the lease property. His heirs, however, were unable to find evidence of that.

7. Conclusions / Proposals

Conclusions

Despite the fact that energy is considered a social good under the protection of the State and is a prerequisite for a decent living, one of the current main and essential problems of the everyday life of citizens is the issue of energy poverty, namely the fact that there are households which are deprived of the social service of energy and related services (especially space heating and cooling, lighting, and use of household appliances).

During the 1990s, the liberalisation and creation of a single competitive electricity market was one of the main pillars of the European Union. The subsequent climate crisis resulted in the radical change of the EU energy policy which set as its priority to achieve the significant reduction of carbon dioxide emissions, through the enhancement of the energy efficiency and the promotion of the use of renewable energy sources (RES).

The liberalisation of the electricity market and the integration of the single European energy market terminated the Greek State's monopoly in the electricity sector by converting PPC into a public limited company. The gradual liberalisation of the country's energy production and supply led to the transition of the Greek energy market to a stock exchange market of wholesale energy products. However, energy-related activities have remained under the supervision of the State, which must maintain effective supervision over them and guarantee their orderly organization and operation.

The resources used for energy production play a critical role in energy price formation and shape the country's energy mix. The national policy, which has also incorporated the prerequisites for dealing with climate change, has resulted in the significant transformation of electricity production. At present, the participation percentage of natural gas-fired plants in the energy mix is approximately 40% and natural gas-fired plants have largely replaced lignite-fired plants (their current participation percentage being approximately 11%). The domestic energy mix also comprises RES (mainly wind turbines and Photovoltaics) with a participation percentage of approximately 30%, hydroelectric power plants and some interconnections with neighbouring countries (Albania, the Republic of North Macedonia, Bulgaria, Italy, Turkey).

So far RES, which have a fixed price, and in view of the EU new goal of achieving climate neutrality by 2050, are the only way forward, have not lived up to our expectations, on the one hand due to positioning

and environmental licensing issues, and on the other hand due to their stochastic nature as they need to be combined with appropriate energy storage methods.

Natural gas, which was considered less polluting and therefore is included in the decarbonization process in a transitory way, became a commodity. As such, it is affected by the prevailing circumstances (geopolitical, psychological, etc.). This has resulted in the gradual significant increase of its price.

In addition to natural gas, electricity also became a commodity. This led to a direct increase in the average monthly MCP (Market Clearing Price), which was doubled in June 2021 and since then it has continued its upward trend. At present, its price is more than four times and sometimes more than five times higher than the one before its inclusion in the Hellenic energy exchange.

Its exponential increase at the end of 2021, coincided with the large increase (fivefold) of Natural Gas (NG) prices on the Dutch Title Transfer Facility (TTF). The explosion in the wholesale price of energy was passed on to consumers through the adjustment clause and resulted in an excessive increase of the amounts charged for electricity supply to consumers. Therefore, buyers/consumers, in order to acquire a good which is necessary for their living, the demand for which is, therefore, inelastic, depend on the operation of a stock market without being able to intervene, because they cannot postpone the purchase when prices are high, nor store electricity when prices are low. It is also possible that the significant increase in prices is owed to the recent commencement of the Hellenic energy exchange which has not matured sufficiently yet. Nothing, however, prejudges that energy prices will decrease in the immediate future, in view of the current critical geopolitical circumstances. Therefore, treating electricity as a commodity that operates strictly according to the rules of the private economy seems to be de facto leading to distortions.

The application of the adjustment clause does not directly contradict any provision of the law, but the overall way in which it is being managed results in ambiguity and incomplete information for consumers, making the market behaviour that is being exhibited contrary to the general principles of good faith and fair dealing (article 288 of the Civil Code). The variable electricity supply tariff has two entries which are linked to the cost of electricity: the electricity supply charge which is calculated on the basis of a fixed price (retail) and the critical charge, that of the adjustment clause, which is presented as a separate variable amount added to the electricity supply charge. However, the adjustment clause, which is applied for a given period of consumption, does not concern a different quantity of the contract, but the electricity supply charge

itself. In fact, it results in distortions that also have a negative effect on competition since consumers do not have the opportunity to compare the proposed tariffs, as the final charge is the outcome of a process that they are unable to comprehend.

High energy prices, apart from causing the immediate contraction of household income, are putting transports, the supply chain, the industry, the artisans, and the technological and primary production to the test. For instance, the high operational cost of production, processing, and standardization units jeopardizes their very operation. The increased cost of energy even burdens the cost of drinking water supply.

What has become apparent from the current energy crisis is that the State is required, on the one hand, to ensure better energy efficiency and upgrading of homes, and on the other hand, to strengthen self-generation and self-consumption, by providing for the necessary interventions in the network and by making full use of European funding and state resources, in line with international practice (such as, for instance, the taxes on real estate property).

A wide array of measures is required that will focus on providing support to consumers as well as to production. An array of measures that will cover the entire economy, in order to mitigate the effects of the energy crisis. It looks difficult for each State to adequately assume the budgetary cost of the interventions that will be required in order to effectively support production and consumption. States in marginal fiscal balance, like Greece, are particularly vulnerable. The EU should consider the adoption of decisive measures, and the use of tools and financial support resources, modelled on the measures that were adopted in order to manage the financial impact of the pandemic.

The State must play an essential role in dealing with energy issues, as it is its duty to ensure the unimpeded supply of electricity. Therefore, the passing of the State's responsibility on to the citizens and the financial burden entailed by the implementation of these policies (e.g. the adoption of energy efficiency measures such as the energy upgrading of buildings and self-generation) cannot be the only way to solve the problem.

To a significant extent, consumers were those who had to face the economic burden of the country's energy transition, namely decarbonization and liberalisation of the energy market. And this took place in the midst of the economic crisis that had severely reduced their income. In addition to the recent explosion in energy prices, consumers have been burdened with:

- The Special Duty of Greenhouse Gas Emissions Reduction (ETMEAR), imposed as part of the regulatory interventions to facilitate the penetration of RES in the country's energy mix, which was significantly increased in order to cover the deficits of the RES Special Account (ELAPE),

- the Utility Services to help achieving the interconnection of islands, the cost of setting a common energy price for all consumers, the cost of the funding of the Special Residential Tariff (SRT),

- the shift towards the use of natural gas and other technologies for heating, such as heat pumps and the resulting financial burden for the necessary investments which, with the increase in natural gas and electricity prices, led to an exponential increase in costs.

Energy services are not affordable, because the electricity bill includes other charges that are collected in favour of third parties, such as a) regulated charges imposed to all consumers who make use of the national electricity system (namely the electricity transmission and distribution networks, Public Utility Services and the Special Duty of Greenhouse Gas Emissions Reduction, b) the Special Consumption Tax, the 5‰ excise duty, local charges and taxes, the real estate fee (RET) and the State fee in favour of ERT S.A. HELLENIC BROADCASTING CORPORATION. These additional charges result in an excessive increase of the total bill and make even more difficult, especially for vulnerable consumers, to be consistent in the payment of their bills.

The Greek Ombudsman has always received complaints from citizens as regards issues of maladministration in their cooperation with PPC. In the last two years, however, the Authority has been overwhelmed with complaints, which reveal a real inability of citizens to respond to the cost of energy. Citizens are requesting the intervention of the Greek Ombudsman as regards their inability to pay considerable overdue debts, their inability to benefit from their inclusion in the Social Residential Tariff, as they do not meet the conditions, and also as regards the difficulties they face in participating in the debt settlement programs.

The phenomenon of energy poverty has been worsening in recent years in Greece and has resulted in the problem of electricity theft. Consumers are affected by a growing inability to pay their debts because after the disconnection from the electricity supply grid due to unpaid debts, they illegally connected to the electricity supply grid. When this electricity theft is detected, the offenders face even less favourable debt settlement conditions. It is worth noting that electricity theft is yet another factor as regards the increase of charges, as part of the financial loss of the suppliers is passed on to the consumers. However, the main reason for which citizens resort to the Greek Ombudsman in cases of alleged

electricity theft is that they question the fact itself. HEDNO considers any indication of tampering of the meter (even of its box) as sufficient evidence of electricity theft.

Finally, important procedural issues have also been identified. Firstly, the inability on behalf of energy poverty-struck citizens to benefit from the inclusion in the Social Residential Tariff (SRT) because they do not meet the conditions. Also, the exclusion of beneficiaries from the Social Residential Tariff (SRT) for bureaucratic reasons. The issue of PPC's lengthy inaction in collecting overdue electricity bills and the fact that PPC argues that these debts fall under the twenty-year limitation period provision, is also serious.

Proposals

- **The common European energy policy** led to the adoption of rules regarding the privatization of energy services in the Member States. This procedure, however, must be carried out in accordance with the rules laid down in the relevant constitutional provisions, which establish a special regime for the protection of enterprises of a public nature or of general benefit, whose operation is of vital importance as regards the basic needs of society in the context of a "reasoned State interventionism". Therefore, it is necessary to strengthen State supervision through the cooperation of the Capital Market Commission with the Regulatory Authority for Energy (RAE) as regards the supervisory control of the Hellenic Energy Exchange (HEnEx)[71].

- **One of the issues of vital importance** is the containment of energy prices in the HEnEx, under the supervision of the State. In this context, it is necessary for the long-term energy planning of the country to take into account the existing and probable energy reserves at national, regional, and international level.

- **The development of renewable energy sources** - taking into account the obstacles that arise - and the enhanced use of hydroelectric power plants, with strict compliance with the prescribed provisions both in terms of positioning and in environmental licensing, are deemed necessary. It has also become necessary to review the "Special framework for spatial planning and sustainable development for renewable energy sources and its strategic environmental impact study" - which expires at the end of 2023 - in order to solve pending issues and to provide additional security to the relevant investments. In this context, the issues of bearing capacity, visual nuisance and landscape protection, which cause friction with local communities and delays in the implementation of projects due to litigation before the courts, should be addressed. Similarly, the establishment of reception areas for RES should be examined.

- **In a period of crisis during which it is practically impossible** to use other resources for energy production, as is the case with natural gas due to the recent geopolitical developments, Article 106 of the Constitution requires the prioritization of domestic energy sources. Lignite is Greece's national fossil fuel and its use is deemed necessary at least until such time as the political and

71 See footnote number 14.

technical difficulties for hydrocarbon exploration and extraction have been overcome.

- **It is deemed necessary to shift the focus of the welfare state** from short-term passive interventions of a piecemeal nature and temporary mitigation of the problem (such as the granting of a lump-sum aid for the reconnection to the electricity supply grid to support low-income consumers, subsidy policies such as the "power pass") to active and far-reaching policies for tackling the root causes of the phenomenon and for providing substantial support to economically vulnerable citizens with the ultimate goal of gradually restoring their self-reliance and self-respect.

- **Tackling the problem of energy poverty** requires significant funding from national and EU resources to ensure a coordinated energy upgrade of residential buildings of affected households, and to promote the use of RES in order to meet their energy needs.

- **It is deemed necessary to strengthen and safeguard** the institution of energy communities by creating the necessary supporting framework, setting a specific quantitative target, establishing a fast and simple process for the release of resources, and establishing the relevant legislation regarding the prior commitment that a significant percentage of the total installed capacity (during the licensing of RES according to the competition procedures of Law4759/20) will be directed to Energy Community schemes of a public benefit/non-profit nature.

- **It is necessary to redesign and upgrade** the electricity transmission networks, given that such actions are deemed necessary in order to meet the goals of the energy transition policy and to facilitate the connection of small energy self-generators and to cover, at least in part, the cost of the energy they consume in a difficult financial period.

- **It is also imperative to speed up the replacement** of old electricity meters with smart electricity meters. This will have a direct positive impact on the detection and avoidance of electricity theft and will also reduce the amounts of the extra charges passed on to consumers.

- **In any case, the State must play an essential role** in dealing with energy issues, as it is its duty to ensure the unimpeded supply of electricity. Therefore, the passing of the State's responsibility on to the citizens and the financial burden entailed by the implementation of these policies (e.g. the adoption of energy efficiency measures such as the energy upgrading of buildings and self-generation) cannot be the only way to solve the problem.

- **The variable tariff should not have two entries,** namely a fixed charge and a variable "adjustment clause" added to the fixed charge, but should directly have a variable charge. In this way, consumers will be able to know the proposed charges on the basis of the wholesale price set in the energy exchange, and thus, they will have the opportunity to compare the proposed tariffs.

- **Given that energy is a commodity** subject to the rules of the free market, but at the same time a good that is of vital importance to society, consumers should not be burdened with charges disproportionate to the type of energy supply. Even more so, when the failure to pay electricity bills, through which these charges are collected, results in the onerous measure of disconnection from the energy supply network. In particular, these additional charges should essentially be collected either by the first-degree local government authorities or the broader public sector and should not be passed on to consumers through energy bills.

- **Regarding regulated charges**, the charges for the operation, maintenance, and development of the transmission and distribution networks and the Special Duty of Greenhouse Gas Emissions Reduction (ETMEAR) (according to the decision number 3366/2015 of the Plenary of the Council of State) constitute costs. The other charges, which essentially result from the implementation of economic support policies, should be included in the general taxation or in financial instruments and should not burden consumers. By analogy, a different way of collecting the State fee in favour of ERT S.A. HELLENIC BROADCASTING CORPORATION could be examined.

- **Regarding the cleaning and lighting charges,** the charge for electrified premises and the Real Estate Tax, which are revenues of local government authorities and are collected by the electricity providers, they should be collected directly by local government authorities in view of their independent nature. Also, the Real Estate Tax could either be integrated into the Unified Real Estate Property Tax (UREPT) and then distributed accordingly (to the State or to local government authorities), or collected directly by local government authorities.

- **Establishment of the one-time submission of an application for inclusion in the Social Residential Tariff and in the Vulnerable Consumers Registry** as well as the ex officio carrying out of an annual administrative control regarding the legal conditions that should be met in order for consumers to stay in the relevant regime and,

- **Interconnection of the information systems and applications** of the Electronic Governance of Social Security S.A. (IDIKA S.A.) and

of the electronic support system of Disability Certification Centres and of the information system of Municipal Registries-Civil Registries for the extraction and updating of the essential relevant data and information.

Acronyms

ARESGO Administrator of Renewable Energy Sources and Guarantees of Origin S.A. (S.A.)
CHP Cogeneration of High-Performance Heat and Power
CoS Hellenic Council of State
DAEC Decision Approving Environmental Conditions
DEPA Public Gas Corporation of Greece
EETHDE Extraordinary Tax on the Electrified for Residential or Commercial Use Structured Surfaces
ESC Electricity Supply Code
ETMEAR Special Duty of Greenhouse Gas Emissions Reduction EU European Union
HCAP Hellenic Corporation of Assets and Participations S.A.
HEDNO Hellenic Electricity Distribution Network Operator
HEMO Hellenic Electricity Market Operator
HEnEx Hellenic Energy Exchange
IAPR Independent Authority for Public Revenue
IDIKA Electronic Governance of Social Security
IPTO Independent Power Transmission Operator
MCP Market Clearing Price
NECP National Energy and Climate Plan
NG Natural Gas
OTA Local Government Authorities
PPC Public Power Corporation
PSMP Pool System Marginal Price
RAE Regulatory Authority for Energy
RES Renewable Energy Sources
RET Real Estate Tax
SDAM Just Transition Development Plan
SDGs Sustainable Development Goals
SRT Social Residential Tariff
TFEU Treaty on the Functioning of the European Union
UN United Nations
UREPT Unified Real Estate Property Tax
VCR Vulnerable Customers Registry

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