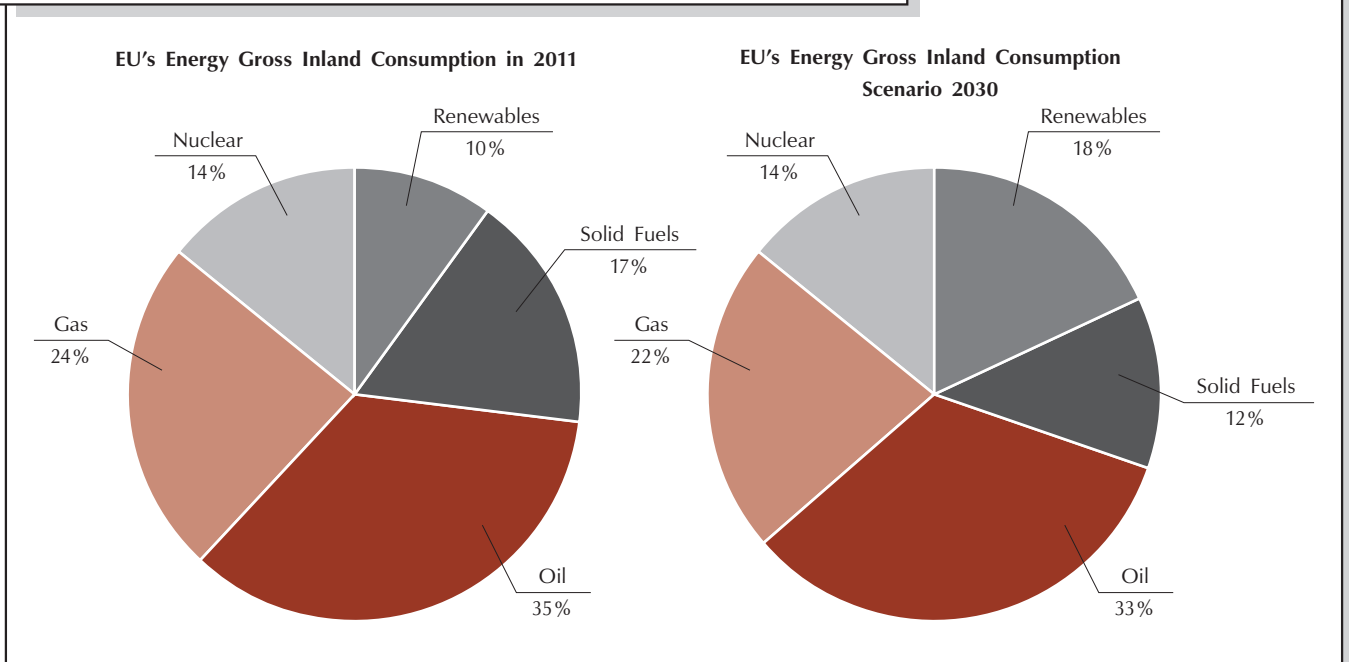


1. STRATEGIC POLICY FRAMEWORK ON EU LEVEL: CHALLENGES AND GOALS

1.1. IMPORTANCE OF THE COMMON FRAMEWORK

The efficiency of common energy policy in the EU is naturally undermined by geographic, economic and political distinctions between countries. EU's energy policy is an area where compliance to common EU rules is particularly challenging for member states (MSs) as energy sector management is directly related to the level of economic competitiveness of each country. MSs have very different energy mixes. On average in 2011, the total energy needs of the EU, in terms of gross inland consumption, were covered by the following sources: 35 % oil, 24 % gas, 17 % solid fuels such as coal, 14 % nuclear power, 10 % renewable sources such as hydropower, solar or wind energy (Figure 1).¹ This mix varies widely across countries and evolves over time as a result of their geographical conditions, such as the

Figure 1. EU's Energy Gross Inland Consumption – Facts and Forecast



Source: European Commission.

¹ European Commission, "Energy challenges and policy", Commission contribution to the European Council of 22 May, 2013.

availability and access to natural resources, national policy choices (e.g. the decision to make use or not of nuclear power, allow shale fracking, participate in different international projects, etc.), changing financial incentives, progress in technologies, decarbonisation requirements and the development of the internal market.

In spite of differences, **EU MSs have three common policy objectives**: reducing energy costs for households and businesses (**“competitiveness”**), ensuring a reliable and uninterrupted supply of energy (**“security of supply”**) and limiting the negative environmental impact of energy production, transport and use (**“sustainability”**).² That is why three headline targets to be achieved by 2020 were agreed by Heads of State or Government (often referred to as “20 20 20 by 2020”): “to reduce CO₂ emissions by 20 % compared to 1990 levels, to raise the share of renewable sources as part of the overall EU energy mix to 20 % and to increase energy efficiency by 20 %”.³ These goals are also at the core of the Europe 2020 strategy for smart, sustainable and inclusive growth.⁴

The 2020 Revision: The 2050 Roadmaps and the 2020 and 2030 Frameworks for Climate and Energy Policies

On January 22, 2014, the Europe 2020 strategy has been revised to extend implementation phases and update goals for competitiveness, security of supply and sustainability. The EC has published its proposals for an energy and climate policy framework for 2030, setting goals for “a competitive, secure and low-carbon EU economy”. They include a 40 % reduction in greenhouse gas (GHG) emissions below the 1990 level, an EU-wide binding target for renewable energy of at least 27 %, and a mechanism to improve the robustness of the EU emissions trading system (ETS). The framework builds on the existing climate and energy package of targets for 2020 as well as the Commission’s 2050 roadmaps for energy and for a low-carbon economy. These documents reflect the EU’s goal of reducing greenhouse gas emissions by 80-95 % below 1990 levels by 2050.

A common legislative framework is also in place to deepen and unify the European energy market through the development of infrastructure interconnections, safeguards to secure supply of gas and electricity, consumer rights and a level-playing field for competition and supervision among energy actors. EU legislation has been put in place to promote the use of renewable energy sources (RES),⁵ to strengthen efforts on energy efficiency⁶ and to ensure the safe exploitation of offshore oil and gas.⁷ A number of these instruments are yet to be implemented by MSs; nevertheless, sufficient progress has been achieved in recent years. Among all, between 1990 and 2011 the total greenhouse gas emissions fell by 16.9 %.⁸

² Ibid.

³ European Commission, Europe 2020 portal, accessed from http://ec.europa.eu/europe2020/index_en.htm

⁴ European Commission, “Europe 2020. A strategy for smart, sustainable and inclusive growth”, accessed from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:2020:FIN:EN:PDF>

⁵ Directive 2009/28/EC on the promotion of the use of energy from renewable sources.

⁶ Directive 2012/27/EU on energy efficiency.

⁷ Directive 2013/30/EU on safety of offshore oil and gas operations.

⁸ European Commission, EU greenhouse gas emissions and targets, http://ec.europa.eu/clima/policies/g-gas/index_en.htm

**Table 1. Implementation of the Renewable Energy Directive
(as per the 2020 target)**

Member State	2005 RES Share	2010 RES Share	1 st Interim Target	2020 RES Target
Austria	23.3 %	30.1 %	25.4 %	34 %
Belgium	2.2 %	5.4 %	4.4 %	13 %
Bulgaria	9.4 %	13.8 %	10.7 %	16 %
Cyprus	2.9 %	5.7 %	4.9 %	13 %
Czech Republic	6.1 %	9.4 %	7.5 %	13 %
Germany	5.8 %	11 %	8.2 %	18 %
Denmark	17 %	22.2 %	19.6 %	30 %
Estonia	18 %	24.3 %	19.4 %	25 %
Greece	6.9 %	9.7 %	9.1 %	18 %
Spain	8.7 %	13.8 %	10.9 %	20 %
Finland	28.5 %	33.0 %	30.4 %	38 %
France	10.3 %	13.5 %	12.8 %	23 %
Hungary	4.3 %	8.8 %	6 %	13 %
Ireland	3.1 %	5.8 %	5.7 %	16 %
Italy	5.2 %	10.4 %	7.6 %	17 %
Lithuania	15 %	19.7 %	16.6 %	23 %
Luxemburg	0.9 %	3 %	2.9 %	11 %
Latvia	32.6 %	32.6 %	34 %	40 %
Malta	0 %	0.4 %	2 %	10 %
Netherlands	2.4 %	3.8 %	4.7 %	14 %
Poland	7.2 %	9.5 %	8.8 %	15 %
Portugal	20.5 %	24.6 %	22.6 %	31 %
Romania	17.8 %	23.6 %	19 %	24 %
Sweden	39.8 %	49.1 %	41.6 %	49 %
Slovenia	16 %	19.9 %	17.8 %	25 %
Slovakia	6.7 %	9.8 %	8.2 %	14 %
UK	1.3 %	3.3 %	4 %	15 %
EU	8.5 %	12.7 %	10.7 %	20 %

**>2 % above
interim target**

**<1 % from or
<2 % above
interim target**

**>1 % below
interim target<**

Source: European Commission.

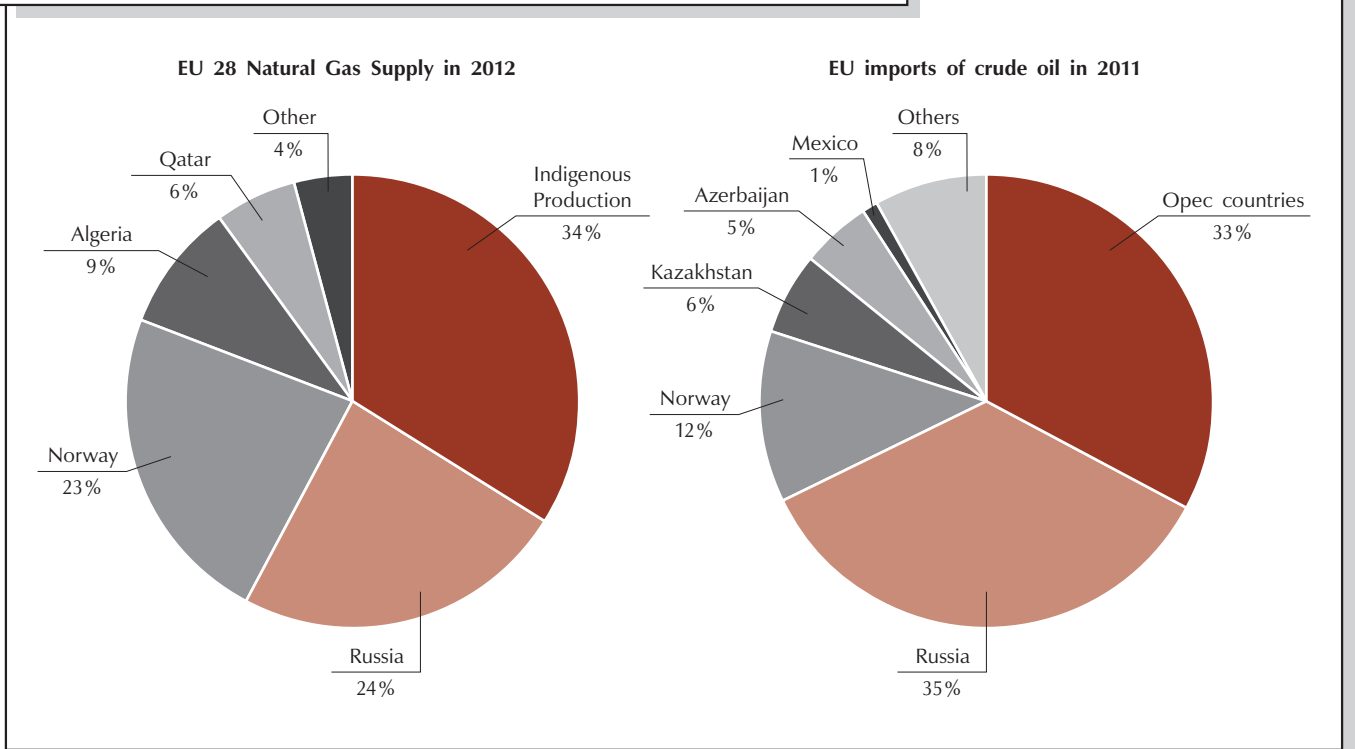
1.2. EU STRATEGIC ENVIRONMENT: MAIN CHALLENGES

1.2.1. Europe is Increasingly Dependent on Importing Energy from Third Countries

Europe's import dependence has increased in the last two decades and is set to grow to more than 80 % in the case of oil and gas by 2035.⁹ Some MSs rely on one single supplier (Russia) and often on one single supply route for 80 % – 100 % of their gas consumption. This creates the exposure risks in a market dominance situation, where price setting may not always follow a market rationale (Figure 2).

MSs with a diversified gas supply portfolio and with well-developed gas markets reap the benefit by paying less for imports. On average the estimated border prices for gas imports to the UK, Germany and Belgium are well below (by about 35 %) the estimated border prices for gas imports to countries that rely on a limited number of suppliers like Bulgaria and Lithuania.¹⁰ Bulgaria is

Figure 2. EU-28 Crude Oil and Natural Gas Supply



Source: Eurogas.

Source: European Commission.

⁹ European Commission, "Europe 2020. A strategy for smart, sustainable and inclusive growth", accessed from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:2020:FIN:EN:PDF>

¹⁰ Ibid.

dependent on imports of natural gas for close to 90 % of its consumption and 100 % of its crude oil demand. At the same time, the government of Bulgaria has done little to nothing to improve the security of its energy supply by fostering diversified sources of gas and by investing in regional interconnectors and gas storage facilities.

1.2.2. Unsystematic Policy Choices on National Level Leading to Higher Utility Prices

Energy bills for consumers are rising and account for a growing share of the average expenditure of households, including personal transport, varying between 7 % and 17 % across MSs.¹¹ According to the EC, poorer parts of the population are faced with energy expenditures of 22 % of total expenditure in some MSs.¹² Household expenditure on energy, taxation and levies included, is expected to rise further even if all possible gains from completing the internal energy market are taken into account.¹³ The striking fact is that retail prices go up when wholesale prices and imports go down – oil has remained in the range of 100 USD per barrel over the last 5 years and gas prices have gone down from 550 USD to 380 on average in the EU per 1000 m³, indicating that **energy bills rise because of imprecise government intervention not because of the markets.** This is in part due to a number of external factors such as the pressures of rising global demand on resources, ageing population, domestic product effects and difficulties in maintaining increasingly sophisticated infrastructure. However, energy prices are also to a large extent the result of MSs' decisions on tariffs, levies (including subsidization fees) and taxes. Taxes, subsidies and levies represent a very substantial (growing) part of the final price for domestic consumers across the continent. In some MSs, such as Denmark, “taxes and levies for some categories of electricity and gas consumers constitute up to 50 % of the final energy bill.”¹⁴

1.2.3. Investments in the Energy Sector at Historical Low: Increasing Risks, Decreasing Returns

According to the EC's 2050 low-carbon and energy roadmaps, the transition to secure, competitive low-carbon energy requires sustained high levels of investment in power equipment, grids, transport technologies, infrastructure and efficient buildings.¹⁵ This increased investment is estimated to be equivalent to 1.5 % of the Gross Domestic Product (GDP) on an annual basis over the period until 2050.¹⁶ **By 2020, an investment of around EUR 1 trillion will be needed**

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ European Commission, DG Energy, “Key Figures”, June 2011, accessed from http://ec.europa.eu/energy/observatory/countries/doc/key_figures.pdf

¹⁶ Ibid.

in the EU to ensure security of supply, diversification of sources, cleaner energies and competitive prices within an integrated energy market.¹⁷ This is particularly important for some MSs such as Bulgaria that still find themselves on an “energy island” as a result of insufficient infrastructure connections with the rest of the EU, as single-source gas import dependence still prevails in parts of Eastern Europe.

1.3. EU ENERGY POLICY LEGISLATION: ISSUES OF COMPLIANCE ON NATIONAL LEVEL

The focus of the EU’s energy legislature in the last few years has been on energy efficiency. The Commission has also introduced rules on the management of spent fuel,¹⁸ securing the supply of energy,¹⁹ including securing stocks of crude oil and petroleum products,²⁰ and some other energy market regulations.²¹ The majority of other regulations (e.g., on renewable energy,²² nuclear energy,²³ the internal energy market,²⁴ etc.) were already developed by 2009 and the deadlines for their transposition into national legislation ran up to 2011.

One of the main policy initiatives by the EU – the *Regulation (EU) No 347/2013* of the European Parliament and of the Council of 17 April 2013 on **guidelines for trans-European energy infrastructure** created guidelines for the timely development and interoperability of priority corridors and areas of trans-European energy infrastructure.²⁵ The main features of this Regulation are setting criteria for the identification of projects of common interest, necessary to implement priority corridors and energy infrastructures,²⁶ and criteria for granting them European

¹⁷ European Commission, “Europe 2020. A strategy for smart, sustainable and inclusive growth”, accessed from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:2020:FIN:EN:PDF>

¹⁸ Council Directive 2011/70/Euratom establishing a Community framework for the responsible and safe management of spent fuel and radio active waste, and COM(2011) 518 Proposal for a Council Regulation of 30 August 2011 establishing a Community system for registration of carriers of radio active materials, (19.07.2011).

¹⁹ COM(2011)539: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on security of energy supply and international cooperation – “The EU Energy Policy: Engaging with Partners beyond Our Borders”, (07.09.2011).

²⁰ To mitigate a possible supply crisis, the EU has revised the oil stock holding system in line with International Energy Agency (IEA) rules – *Council Directive 2009/119/EC* imposing an obligation on MSs to maintain minimum stocks of crude oil and/or petroleum products, (14.09.2009). The deadline for transposition of the revised Directive is the end of 2012.

²¹ *Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency*, (25.10.2011).

²² *Directive 2009/28/EC amended and subsequently repealed Directives 2001/77/EC and 2003/30/EC*.

²³ *Council Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations*.

²⁴ *Directive 2009/72/EC concerning common rules for the internal market in electricity*.

²⁵ Preamble (16), *Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency*, (25.10.2011).

²⁶ *Ibid.*, Articles 3, 4.

funding,²⁷ providing these projects with a priority position with regard to permit granting. **Bulgaria is one of the priority destinations for EU energy infrastructure funding** as its key geographic position predisposes its role of promoter of alternative energy supply in the EU from the Caspian basin and the Middle East. So far the Bulgarian governments have failed to take advantage of the EU funding, and have stalled the strategic interconnector projects with Romania, Turkey and Greece. The result has been that the country remains one of the most dependent countries in the EU on a single source of natural gas and crude oil supply.

Infringement Procedures

Since 2011, the EC has started a number of infringement procedures against separate countries for a failure to fully transpose EU rules into their national legislation (Table 2). In 2013, a number of cases of non-compliance to EU energy guidelines were observed in adopting common European rules on energy performance of buildings, renewable energy, internal market in gas and electricity, and securing stocks of crude oil and petroleum products.²⁸ Court action (court referrals) was taken against Bulgaria, Estonia, the United Kingdom²⁹ and subsequently Poland³⁰ for failing to fully transpose EU rules in internal energy market, while action against Austria was taken for failing to transpose the Renewable Energy Directive³¹ (Table 2).

Table 2. Infringement Procedures for Failure of National Transposition Measures – (as per December 2013)

	INFRINGEMENT PROCEDURE STEP								
	2009/28: renewable energy	2009/125: eco-design requirements	2010/30: labeling standards	2009/71: nuclear safety	2009/72: common rules for the internal market in electricity	2009/73: common rules for the internal market in gas	2010/31: energy performance of buildings	2009/119 (revised): securing stocks of crude oil and/or petroleum products	Total Infringement Procedures 2010 – 2013
LFN	X				X		X		
AT	X				X		X		3
CJEU	X								
BE	X						X	X	
RO	X						X	X	3
CJEU									
LFN	X				X	X	X	X	
BG	X				X	X	X		5
RO					X	X	X		
CJEU					X	X			

²⁷ Ibid., Articles 14-16.

²⁸ Ibid.

²⁹ European Commission, Press Release IP/13/42, Internal energy market: Commission refers Bulgaria, Estonia and the United Kingdom to Court for failing to fully transpose EU rules, accessed from http://europa.eu/rapid/press-release_IP-13-42_en.htm

³⁰ European Commission, Press Release IP/13/580, Internal gas market: the Commission takes Poland to Court over regulated gas prices for business consumers, accessed from http://europa.eu/rapid/press-release_IP-13-580_en.htm

³¹ European Commission, Press Release IP/13/1113, Renewable Energy: Commission refers Austria to Court for failing to transpose EU rules, accessed from http://europa.eu/rapid/press-release_IP-13-1113_en.htm

Table 2. Infringement Procedures for Failure of National Transposition Measures – (as per December 2013) (Continued)

	INFRINGEMENT PROCEDURE STEP								Total Infringement Procedures 2010 – 2013
	2009/28: renewable energy	2009/125: eco-design requirements	2010/30: labeling standards	2009/71: nuclear safety	2009/72: common rules for the internal market in electricity	2009/73: common rules for the internal market in gas	2010/31: energy performance of buildings	2009/119 (revised): securing stocks of crude oil and/or petroleum products	
CY	LFN	X		X		X	X	X	6
	RO	X		X		X	X	X	
	CJEU	X							
CZ	LFN	X		X			X	X	4
	RO	X		X			X	X	
	CJEU								
DE	LFN						X		1
	RO						X		
	CJEU								
EE	LFN	X				X	X	X	4
	RO	X				X	X	X	
	CJEU					X	X		
EL	LFN	X			X		X	X	4
	RO	X			X		X		
	CJEU								
ES	LFN	X				X	X	X	5
	RO	X				X	X	X	
	CJEU								
FI	LFN	X				X	X	X	4
	RO	X				X	X	X	
	CJEU					X	X		
FR	LFN	X					X	X	3
	RO	X					X	X	
	CJEU								
HU	LFN	X					X	X	3
	RO	X					X		
	CJEU								
IE	LFN	X				X	X		3
	RO	X				X	X		
	CJEU								
IT	LFN	X		X		X		X	4
	RO	X		X		X		X	
	CJEU								
LT	LFN					X	X	X	4
	RO					X	X	X	
	CJEU								
LU	LFN	X				X	X	X	5
	RO	X				X	X	X	
	CJEU								
LV	LFN	X					X	X	3
	RO	X					X		
	CJEU								
MT	LFN	X					X	X	3
	RO	X					X		
	CJEU								
NL	LFN	X				X	X	X	5
	RO	X				X	X	X	
	CJEU								

Table 2. Infringement Procedures for Failure of National Transposition Measures – (as per December 2013) (Continued)

	INFRINGEMENT PROCEDURE STEP								Total Infringement Procedures 2010 – 2013
	2009/28: renewable energy	2009/125: eco-design requirements	2010/30: labeling standards	2009/71: nuclear safety	2009/72: common rules for the internal market in electricity	2009/73: common rules for the internal market in gas	2010/31: energy performance of buildings	2009/119 (revised): securing stocks of crude oil and/or petroleum products	
PL	LFN	X		X	X	X	X	X	7
	RO	X	X	X	X	X	X		
	CJEU	X			X	X			
PT	LFN			X		X	X	X	4
	RO			X		X	X	X	
	CJEU						X		
RO	LFN		X		X	X	X	X	5
	RO		X		X	X	X	X	
	CJEU				X	X			
SE	LFN				X	X			2
	RO				X	X			
	CJEU								
SI	LFN	X	X		X	X	X	X	6
	RO	X	X		X	X	X		
	CJEU				X	X			
SK	LFN				X	X	X		3
	RO				X	X			
	CJEU								
UK	LFN				X	X	X	X	4
	RO				X	X	X		
	CJEU				X	X			

LFN – letter of formal notice

RO – reasoned opinion

CJEU – referral to CJEU

Source: European Commission (http://ec.europa.eu/energy/infringements/index_en.htm, accessed on 6 December 2013).***Infringement Procedures against Bulgaria***

Bulgaria is among the countries facing intensified penalizing action from the EU in the area of energy guidelines compliance. At the beginning of 2013, Bulgaria was taken to the Court of Justice of the European Union on the basis of a few referrals: one for a failure to transpose the EU Gas Directive, another one for the Electricity Directive, and one for antitrust proceedings in relation to digital broadcasting. Together with Estonia and the UK, Bulgaria was deemed to have transposed only partially the Union's rules for the internal energy markets in gas and electricity. The aim of these regulations is the creation of a common European market for gas and electricity by 2014, as described in the "third internal energy market package". The package outlines key provisions necessary for the proper functioning of the European markets in energy (incl. unbundling of networks, ensuring the independence of national regulators and delimiting their authority, rules to enable the functioning of retail markets for consumers, etc.). These and other provisions were to be fully integrated into the national legislation of all MSs by March 2011. Failure to do so, as per January 2013, referred Bulgaria, Estonia, and the UK to the Court of Justice and threatens the three countries with a daily

financial penalty in the amount of EUR 5,065. **Bulgaria is mandated to fully comply with the liberalization directives by June 2014.** In addition, Bulgaria was presented with the Commission's reasoned opinions (a step preceding referrals to the Court of Justice) on the country's **persistent record of poor air quality** (especially as regards Sulfur Dioxide and Nitrogen Oxide emissions, as well as dust) and questioned Bulgaria's progress on implementing specific measures to increase the energy efficiency of buildings in the country. Such measures include: establishing and applying requirements for the energy performance of buildings (both new and existing), implementing regular inspections of systems (e.g. heating and cooling), completing a process of energy performance certification of all buildings, and putting in place regulations so as to ensure that by 2021 all new buildings are "nearly zero-energy buildings", etc.

1.4. BULGARIAN ENERGY POLICY LEGISLATION: REACTIVE RATHER THAN PROACTIVE

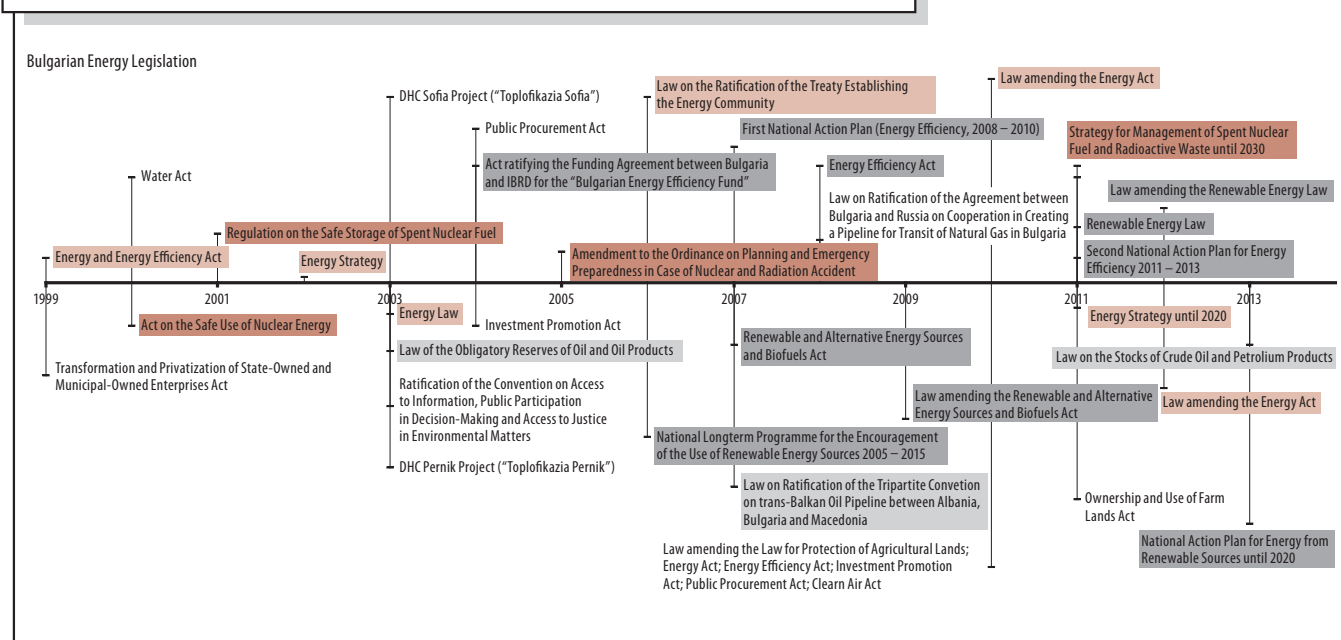
An evident characteristic of Bulgarian energy policymaking is its short-term, and often ad-hoc nature.³² Systematic failure to realize national strategy for development of the sector highlights governance incapacity that has been very often the result of state capture by corporate interests. In addition, with energy affordability issues being a prime social concern, extreme populism has blurred effective policymaking in the energy sector in Bulgaria and a sequence of reversing decisions and previously set goals was observed, especially in 2013 – 2014. As a whole, this has led to subprime policymaking and particularly low levels of predictability and investment security. In terms of EU's energy law compliance, the country retains its traditional position of a follower, rather than a forerunner, of the EU energy policy discourse. The introduction of energy efficiency measures via public programs and schemes was sustained throughout the period, as was the rhetoric on energy efficiency; yet, these schemes remain underutilized due to a number of market and non-market barriers. Main changes came as a reaction to social pressure, following the rising electricity prices during the period.

Particular volatility of legislative activity in the energy sector was witnessed in the 2012 – 2014 period. This has been particularly the case after the energy prices hike at the beginning of 2013 led to anti-government protests and eventually the ousting of the government. In the immediate aftermath, some emergency measures were taken in order to alleviate the social burden of energy poverty on the most vulnerable groups of Bulgaria's population, while a number of ad-hoc changes were also introduced in the course of the year. The main legislative changes for the 2011 – 2014 period in the energy sector include:

- Changes in the *Energy Law* (promulgated on 9 December 2003) in 2012 – 2013 period:
 - 18 May 2012;
 - 17 July 2012;

³² CSD, (2011), "Energy and good governance in Bulgaria. Trends and Policy Options".

Figure 3. Roadmap of the Existing Legal Framework Governing the Energy Sector in Bulgaria



Source: CSD.

- 26 October 2012;
- 15 February 2013;
- 28 February 2013;
- 8 March 2013;
- 5 July 2013;
- 26 July 2013.
- Changes in the *Energy Efficiency Law* (promulgated on 14 November 2011) in 2012 – 2013 period:
 - 18 May 2012;
 - 17 July 2012;
 - 15 February 2013;
 - 12 March 2013;
 - 5 July 2013;
 - 26 July 2013;
 - 4 April 2014 – The Bulgarian parliament passed at first reading an amendment to the *Energy Law* eliminating the validity of the rules of the EU internal gas market for a newly defined “maritime gas pipeline” enabling the construction of the onshore part in Bulgaria of the South Stream Black Sea subsea section.
- Changes in the *Renewable Energy Law* (promulgated on 3 May 2011) in 2012 – 2013 period:
 - 10 April 2012;
 - 17 July 2012;
 - 15 February 2013;
 - 5 July 2013;
 - 2 August 2013;
 - 1 January 2014.

- The parliament voted a new tax of 20 % on the revenue of renewable energy producers from January 1st, 2014. In addition, the SEWRC decided to impose an access fee equal to EUR 1.35 per megawatt (MW) for renewables to the network of the Transmission System Operator (TSO).
- Promulgation of the *Preserving Oil and Oil Products Law* (promulgated on 15 February 2013).

Major U-turns in Energy Sector Legislation

There were eight changes in the main energy law for the 2012 – 2014 period, indicating major shortfalls in strategic policymaking, predictability and sustainable development of Bulgaria's energy sector. Additionally there have been three changes in the electricity price for final consumers for the period. Some of the legal changes constitute legislative U-turns as they directly reverse previously set laws and proclaimed goals. With the changes in the *Energy Law* as of 17 July 2012,³³ EU's Third Liberalization Package requirements for liberalizing the natural gas and electricity markets were adopted as part of national legislation, including increasing the powers of the regulator SEWRC. On 28 February 2013,³⁴ in the aftermath of the social crisis that occurred as a backlash to high electricity bills in January 2013, changes in the *Energy Law* were promulgated, that provided ample opportunities for political influence and in fact **unleashed state regulatory intervention at the expense of SEWRC's independent discretion**. A Public Council supervising the work of SEWRC was created along with a new rule about setting electricity prices for the regulated market more than once per year (practically unlimited), as opposed to the power given with the establishment of SEWRC to set prices only once per year. New emergency measures were introduced during the Caretaker government in the period between March 2013 and May 2013. These measures mainly focused on developing a new approach to energy sector management, including changes in the price formation model and temporary alleviation of electricity price burden through limiting consumption of renewable energy and co-generation production, and reducing "cold reserves" capacity. On 5 July 2013,³⁵ another major redrawing of the main energy law was adopted, formulating another approach change to regulated electricity price formation, leading to a 5 % reduction in prices. The reasoning behind the legislative change could be summarized as follows:

- reviewing the existing rules on feed-in tariffs in order to ensure that they are not economically unjustified, discriminative, and obstructive to electricity export;
- removing 'green' and 'brown' surcharge (feed-in subsidies) on the export price of electricity;
- reviewing the level of "cold reserves" in order to avoid unnecessary redundancy of capacity, obliging the network operator ESO EAD to buy all cold reserve necessary through open and transparent tendering procedures;

³³ Bulgaria, State Gazette, Issue 17, July, 2012.

³⁴ Bulgaria, State Gazette, Issue 28, February, 2013.

³⁵ Bulgaria, State Gazette, Issue 5, July, 2013.

- limiting volumes of electricity production in cases of overproduction;
- introducing efficiency monitoring for electricity production of CHP cogeneration as per energy efficiency criteria in national and EU legislation;
- liberalizing the sale of greenhouse emissions allowances in order to subsidize the electricity producers and increase energy market liquidity.

The legal changes represented the third consecutive price formation model modification and accordingly price update in less than 12 months, following the changes from July 2012 and the changes prepared by the Caretaker government in the spring of 2013. As proclaimed by the government, the July 2013 changes targeted reduction of household prices and an increase in market liquidity through export facilitation; however, it has been severely criticized for failing to address a number of existing issues while creating other problems, including but not limited to:

- assuming unrealistic revenues of BGN 498 m from the sale of CO₂ emissions for 2013, while most optimistic projections show BGN 135 m – BGN 150 m per year;
- wholesale price reduction of Kozloduy NPP power, at the expense of its investment program execution (decapitalization);
- continued subsidization of non-efficient CHP co-generation plants (in particular Brikel Thermal Power Plant (TPP) and Bobov Dol TPP);
- occurrence of two types of revenue streams (one for produced electricity and one for availability) for the electricity produced by TPP AES Galabovo (Maritsa East 1) and Contour Global (Maritsa East 3) TPP; the guidelines allow for the electricity produced by these two plants to be once paid by the state due to a 82 % – 85 % mandatory state purchase quota and then purchased by CHP plants and re-sold through CHP feed-in tariffs.

Box 1. Evolution of the Role of SEWRC According to the Sequence of Legal Changes

Changes in the *Energy Law* (promulgated on 9 December 2003) in 2012 – 2013 period:

18 May 2012 /State Gazette, Issue 38*/:

- Staff and inventory expenditures of the SEWRC are limited.

17 July 2012 /State Gazette, Issue 54/:

- Amendments made in regard to the responsibilities and competences of SEWRC, calling for closer international and EU cooperation, implementation and compliance with EU law and boosting Bulgaria's energy market competitiveness. Additionally, in order to stimulate regulatory independence, change is made according to which the term of SEWRC's chairman would be changed every 2.5 years.** However, clauses allowing for direct government appointments are also introduced.***

Box 1. Evolution of Role of SEWRC According to the Sequence of Legal Changes (Continued)

28 February 2013 /State Gazette Issue 20****/:

- The new Article 31a allows SEWRC to **change the electricity prices** by (1) altering the availability and quantity of electricity regulated by the public supplier, taking into account the energy balance, and aiming at providing maximal protection to the interest of the end consumers, while balancing them with the interest of the energy enterprises, (2) changing the size of technological expenditures of the energy enterprises in production, transport and distribution of energy by determining their target values, and (3) altering other price-formation elements.

5 July 2013 /State Gazette Issue 59*****/

- SEWRC is allowed to determine, for each pricing period, the maximum value of the expenses of the energy network operator for buying availability of cold reserve through a public tender procedure. Additionally, instead of creating and controlling the conditions and rules for electricity, thermal energy and gas supply to consumers, it now accepts and controls the application of the **methodology of price setting** of the last resort distributor. The Commission is also given the power to determine the availability of energy to the producers for production of energy, from whom the public distributor is to buy the energy, as well as the quantity of energy, with which the public distributor to make contracts with the end suppliers. Additionally, guaranteeing **end-consumer protection** and a **balance between production and demand** of energy in the internal market are now guiding principles for the SEWRC. Further amendments **remove the power** of the Commission to control the electricity prices between energy producers and end suppliers and thermal energy prices between producers and heating system utilities and their customers. However it is allowed to control the price (component), through which all customers participate in public expense compensation. The amendments changed the rules on buying renewable energy and prices to be paid – after subtracting all profits from emission trading and gains from contracts for green energy sales. End suppliers are obliged to sell energy to the public distributor at the same prices as it was originally bought at. Issue 59 of State Gazette states that SEWRC should develop methods for the fair distribution among all consumers on the internal market of expenses caused by the obligation to buy renewable energy, while previously only the difference between the preferential and market price had to be allocated among all consumers, including export traders of electricity.***** This amendment is thus beneficial to those obliged to buy renewable electricity, leaving the price of renewable electricity to be distributed only among consumers.

Notes:

- * *Law for the amendment and supplement to the Law for the Civil Servant, Additional Decrees, State Gazette Issue 38 from 18 May 2013, p. 23, para 41.*
- ** *Law for the amendment and supplement of the Energy Law, State Gazette Issue 54 from 17 July 2012, para. 7.*
- *** *Article 11(2) of Energy Law*
- **** *Law for the supplement of the Energy Law, State Gazette Issue 20 of 28 February 2013, p. 20.*
- ***** *Law for the amendment and supplement of the Energy Law, State Gazette Issue 59 of 5 July 2013, para. 1.*
- ***** *Law for the amendment and supplement of the Energy Law, State Gazette Issue 59 of 5 July 2013, para. 19.*