



THIRD EUROPEAN UNION ENERGY PACKAGE IMPLEMENTATION PROBLEMS: INTERCOURSE BETWEEN FULL OWNERSHIP UNBUNDLING AND FOREIGN INVESTMENT PROTECTION

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ABSTRACT

This topic was chosen considering third European Union energy package and Lithuania's decision to implement the strictest model of energy market liberalisation. The creation of internal energy market remains a priority goal defined in the European Union legislation. European Council emphasised the importance to exclude the existing obstacles in order to create internal energy market by 2014. The main idea of creating European Union internal energy market is to ensure competition, affordable energy supply for households and businesses also to provide possibility for consumers to choose energy supplier and to pay a competitive price for energy sources. Third European Union energy package provides three options for the creation of competitive internal energy market. According to European Commission full ownership unbundling is the most effective way to create energy market however it is the most controversial model. The weaker forms of market liberalisation such as independent transmission operator and independent system operator limit the ability to abuse the dominant position in market although leaves space for certain discriminatory behaviour. It is important to analyse the difference between privately owned companies with foreign investors and publicly owned corporations when Member State decides to implement full ownership unbundling model. Although third energy package had to be implemented by March 2011, not all member states fulfilled such obligation. This work gives an overview of third energy package implementation in Member States. Moreover, this article provides a deeper analysis of market liberalisation models with a relation to arbitral tribunal practice on indirect expropriation of foreign investment in energy field and identifies the intercourse between full ownership unbundling and foreign investment protection under bilateral investment treaties and Energy Charter Treaty in energy market.

Keywords: third energy package, full ownership unbundling, independent system operator, transmission system operator, foreign investment protection, indirect expropriation