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THE EU GAS REGULATIONS AND THEIR INFLUENCE ON THE LEGISLATION OF THE CZECH REPUBLIC

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Abstract. Recent trends in the European Union with regard to legal regulations in the gas sector, which have an impact on each member state, are directed at the liberalisation of the gas market. Even though the Energy Union was established, the Lisbon Treaty came into force with provisions developed on energy. Known as the Third Energy Package, this increased the competitiveness of the market. However, discussions in this field are still ongoing. The aim of the article is to assess the impact of this particular EU legislation on Czech law. To do this, an examination will be made of how strategic the gas sector is in this member state. Taking into account the country's importance as a gas transit state and a state receiver, the role of the Czech Republic will also be discussed in the process of formation of a competitive gas market following the application of legislative measures in the sector.

Keywords: gas sector, EU gas sector, Czech Republic gas legislation, energy policy, energy law.

Introduction

The auspicious situation in the European Union gas market, because of the participation of different competitors – gas producer states, is not the only consequence of EU external policy and the internal harmonisation of EU legislation. The attempt to harmonise and liberalise the internal market or, in other words, to make the legislation of different EU member states more closely aligned with each other, starts at an EU level and then comes to the states in the form of a directive or regulation, which the state should adopt or apply to its national legislation.

This article analyses whether the existing legislation and regulatory projects of the European Union directed at building the internal gas market are being sufficiently implemented and adopted by the Czech Republic, and whether the Czech national market is functioning with the infrastructure and cross-border interconnections.

The paper is structured as follows: the first part will overview legal trends in EU gas regulations and will discuss the main points involving and reasons for liberalisation in the region's gas market.

The second part will concentrate on the impact of the EU normative basis on the Czech gas sector. National legislation in the sector will be analysed, as will the importance of this natural resource and the formation of a competitive gas market within the EU framework.

It should be mentioned that the limited number of the open published data, which are in contrast with the transparency of some actors in the market, is hardly available.

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With the aim of providing an objective review, the political side of this issue is excluded.

1. European Union in Energy Issues

The common European Union energy policy, which grew into the Energy Union in 2016, has evolved with the European Union itself. Starting in the 1950s with the European Coal and Steel Community, passing through the soft law, as the White Book on Energy, and finally implied in the primary documents by the Lisbon Treaty, it was enshrined in the Treaty on the Functioning of the European Union. Documents governing energy issues contented the provisions not only about the rules of the internal single market, but also energy policy, its three main dimensions, including security of supply, competitiveness and environmental protection. The newly established Energy Union in 2015 extends these dimensions, and offers five mutually supportive ones: energy security, the internal energy market, energy efficiency, decarbonisation of the economy, and research, innovation and competitiveness (European Commission, 2015; European Council, 2018).

The idea of the common energy policy is to harmonise the strategic sector between EU member states, in order to create a single energy market with a competitive environment that has transparent, secure and reliable supplies. Lawmakers see the liberalised market as not only occurring inside a particular EU member state, but also, more importantly, across borders, emphasising equal access to the energy market for natural gas for all states with various infrastructure and different levels of development.

In 2016, the European Commission amended its decision No 994/2012 EU on establishing an information exchange mechanism with regard to intergovernmental agreements between member states and third countries in the field of energy, whereby member states should inform the European Commission about the intergovernmental agreement and require Commission on its ex ante assess and permission. That decision on intergovernmental agreements is enhanced, and in line with articles 194(1)(b) of the Treaty on the Functioning of the European Union (TFEU) – regarding security of energy supply in the Union – and article 3(3) of the TFEU, together with article 194(1) covering the goal of establishing a functioning internal energy market in the spirit of solidarity between member states (European Commission, 2016).

To achieve its stated goals, the European Union started liberalising different areas of the energy market in the 1990s through secondary legal acts. As a result of the gas sector being a sector of the economy in which the law of free competition and trade is limited by public safety considerations, the legal acts were aimed at increasing the market's competitiveness. In that sector, liberalisation attempts started under Gas Directive 98/30/EC, which curtailed the conditions for cooperation between member states in the areas of distribution, transmission and storage of natural gas, including liquefied natural gas. From the undertakings, this directive required accounts for different activities to be separated. The regulation and control of the situation was left to the competence of each member state, but it was stipulated that the member states should take the relevant measures to negotiate access to the system and use it to the undertaking on the basis of voluntary commercial agreements.

The second energy liberalisation package was adopted in 2003 under Directive 2003/55/EC, requiring the operators of transmission and distribution systems to legally separate entities in order to ensure efficient and non-discriminatory network access. This package established national regulatory authorities.

By the Third Energy Package (2009)², long-term liberalisation measures should have been completed, with member states adopting mandatory third-party access for gas transport infrastructure, the segmentation of vertically integrated companies and other instruments till 2014. However, the process is still ongoing and despite the European Union's liberalisation policy, the Third Energy Package still lacks a unified market. Although the single energy

² Regulations 713/2009 and 715/2009

market is still on the way of construction, the national states are left to decide on their best economic interests (Kanter, 2012).

The main terms brought with the energy package were unbundling and untying. Unbundling is the separation of gas producers, distributors and transmission networks, with an aim of ensuring a high level of competitiveness in the area. It was primarily aimed at limiting or eliminating the influence of non-EU companies on the national markets of member states, and also applies to non-EU companies (as Gazprom). The European Commission initially offered full unbundling, stressing the possible increase of investment in new infrastructure and trade brought about by the independence of transmission system operators (TSOs) through separation of the ownership of production, transmission and distribution infrastructure³. However, because of the apparent concerns of some member states about possible threats to energy security, the Commission has had to propose three versions of unbundling (Tichy, 2011). The first of these is the full unbundling already mentioned, involving the separation of production and transmission; the second model comprises the regime of an independent system operator (ISO), to which the companies should pass part of their powers to the benefit of the ISO, which decides on investment and trade activities; and the third model comprises the regime of independent transmission operator (ITO), which is a de facto subsidiary of the vertically integrated company that applies part of its powers through the supervisory board composed of company representatives, third parties and transmission networks (Horak, 2014, p. 76).

Aside from the legislative basis, the European Union has initiated different projects aimed at monitoring and regulating market liberalisation. On this basis, a community of European Energy Regulators was established, with the Agency for the Cooperation of Energy Regulators (ACER) created by the Third Energy Package⁴. The main aim of ACER's gas department is to support the creation of a competitive, efficient, monitored, transparent and sustainable internal market for gas in Europe, with ACER a platform for cooperation and information exchange between national regulatory authorities. The European Commission is in response on the measures to complete the internal energy market, and alongside the ACER, the European Network of Transmission System Operators of Gas (ENTSOG) was created. The ENTSOG is obliged to ensure the application of market rules in accordance with EU technical and market requirements. The Agency should prepare annual reports on the stage of removing internal barriers for the integration of internal gas markets, assessing retail prices and network access.

In addition, regulators initiated regional initiatives to foster the integration of the EU gas market, such as the Visegrad Initiative, the Pentalateral Forum, Nordpool and, in 2014, Central West Europe and the PRISMA platform for the transnational allocation of gas capacity. However, regional initiatives have been disappointing and other regional cooperation frameworks have not been performing to their full extent, with large asymmetries from one region to another (Andoura et al., 2015). Moreover, there is a threat that this initiative could be suspended by a party-state at any time for any reason, since it is build on a voluntary basis.

The liberalisation of the natural gas market, its grid infrastructure in the European Union and the supply of energy are essentially built upon mutual trust among member states. Traditional perceptions of national security and control make a way to cooperation and integration among member states and the industries concerned. Under recently adopted legislation, it is possible that grid infrastructure will be controlled by companies located in another member state, and gas will be equally traded by a company of non-national operators.

Although the legislative regulations of the European Union are directed to cover such energy sectors as electricity and natural gas, they have substantial differences. Gas is a natural resource, an imported product outside of the European Union, that cannot be produced in artificial conditions and also needs adequate storage facilities. Even though the demand for gas is inelastic in the short to medium term, it requires not only a high level of capital and administration, and time-consuming transportation – especially across borders – but also the construction of infrastructure. Natural gas can be imported through pipelines, requiring investments. Moreover, gas can be liquefied

³ Which means full separation: physical, legal and property sales transmission system to a third party (see Černoč and Zapletalova, 2014, p. 69).

⁴ This closely cooperates with the Council of European Energy Regulators (CEER).

and imported in gallons, which is a relatively new dimension. It also requires investments in infrastructure and technology for its storage and unliquefying. The other state of gas is compressed natural gas, which is used as a fuel for transport and also needs financial means on its usage.

Aside from the factors mentioned above, the import of gas brings many risks, depending on the security of supply and reliability of suppliers (as gas exporter/gas producer, as well as transit state), because it may be used as a tool due to unpredictable political situations. In line with this, Directive 2004/67/EC was drafted, covering specific aspects of gas supply security and including an annex that lists various instruments to strengthen such security.

The main priorities of the European Union as a whole may vary, and may even contradict the priorities of each member state. Depending on the geographical position of the member state, its economy, its level of development of gas infrastructure, and the diversified structure of individual national energy companies, European Union regulations can have a varying impact, and the promotion of common European rules and standards might not be easily acceptable across the EU. Energy has always been a strategic field of national state policy, and the state pays heed to new actors operating in the gas sector. Third-party access to the gas market was therefore a reluctant and painful concept for many states. The fact that integration in the gas market brings not only positive, but also negative effects to the economy of each member state is clear.

However, the European Commission has its specific tools to ensure the timely building of the internal market by enforcing the adoption of EU legislation. So, after the second liberalisation package came into force, infringement procedures were initiated against 17 member states by the Commission⁵, including the Czech Republic, and several companies in the gas sector were also investigated for breaching the law, to issue the implementation of EU law⁶. The European Commission claimed insufficient unbundling, a lack of competence by regulatory organs and discrimination of the third parties from accessing the network. However, in a year the European Commission stopped the investigation against the Czech Republic because of the improved situation in the gas market (European Commission, 2006).

2. Implementation of EU gas regulations in the Czech Republic

Although in the last 10 years there has been a trend in the Czech Republic towards a decreasing consumption of natural gas, use is still in the range of 7 to 10 million cubic metres per year (International Energy Agency, 2017). The direct use of natural gas for heating purposes applies to approximately 27% of households. This figure may seem relatively low in comparison with some EU member states, but natural gas plays a large role in the Czech Republic's energy mix⁷. It should be stressed that the decrease in consumption applies mostly to the area of heating. Nonetheless, because of the environmental characteristics of gas and its use, there are several areas of application, as for the joint production of electricity and heat. As a result of its high efficiency, the natural gas sector remains important, and according to the Czech Republic's Ministry of Industry and Trade, the total share of gas in the energy mix should rise (Ministry of Industry and Trade, 2015).

Taking into account the diverse forms of gas, it was proven that the records of compressed natural gas (CNG) are growing, and from 2014 it increased by up to 10 per cent. Support provided by the Czech Ministry of the Environment for the procurement of CNG buses in three Czech regions contributed substantially to the increase (The Natural & bio Gas Vehicle Association, 2015).

⁵ Belgium, Sweden, Germany, Austria, France, Spain, Italy, Poland, Slovenia, Czech Republic, Estonia, Lithuania, Latvia, Greece, United Kingdom and Ireland (ANDOURA et al., 2010)

⁶ Based on article 258 of the Treaty on the Functioning of the European Union, former article 226 of the Treaty establishing the European Community.

⁷ Aside from natural gas, the energy mix of the Czech Republic includes coal, oil, electricity, nuclear sources and renewable sources, more on State Energy Conception (Ministry of Industry and Trade, 2015).

The State Energy Concept emphasises the main objectives of security of supply, competitiveness and sustainability. The Czech Republic is almost fully dependent on the import of the natural gas. Its largest volume of natural gas, representing about 65% of annual demand, is imported from Russia through the transit territories of Ukraine and Slovakia. The remaining 34% is imported from the EU, and 1% from Norway (World Energy Outlook 2016, Key World Energy Statistics).

The importance of the gas sector in the Czech Republic is also a result of the fact that the country is not just a final recipient of this natural resource, but also a transit state through which gas is transported further to the western EU states. And for the Czech Republic, it is important to remain a major natural gas transit state in the future, not only in an east-to-west direction, but also from north to south of the EU.

At a European Council meeting in early 2016, the Czech Republic's expectations with regard to the Energy Union were discussed. The greater security and reliability of energy supplies, and the more extensive interconnection and better capacity of energy networks were also discussed, with an emphasis on the responsibility for decisions on energy at a national and cross-border level (Government of the Czech Republic, 2015). The Czech Republic's main priority – energy security – was also stressed, in contrast with the main EU preferences of sustainability and competitiveness. This EU member state was concerned about adequate diversification of suppliers and transport routes, therefore desiring the limitation of new entrants.

The Czech Republic's natural gas sector has generally been legislatively well-groomed, because it has been responsive to the legislative framework and conceptual materials, and aligning with the legislation of the European Union. The country adopted and implemented all EU directives into its national legislature (Černoch et al., 2010, pp. 26-28).

Since its entry into the European Union in 2004, the Czech Republic has been transforming its national law in accordance with EU legislation. Faced with the liberalisation of the gas sector, which started in EU territory in 1998, the country has to amend its national energy legislation, as the so-called Energy Act (No 458/2000 Coll) and Act No 406/2000 Sb. on energy management, to follow long-term strategy in energy policy.

The Energy Act – the official title of which is the law on conditions on entrepreneurship and on execution of public administration in energy sectors as amended – is the legal norm that forms the basis of the energy sector in the Czech Republic, and came into force in 2001. Since then, it has been amended in accordance with energy trends and the obligations of the Czech Republic as a member state to implement EU regulation. The Energy Act defines conditions in the gas sector as a particular area of energy⁸.

In 2015 (under amendment No 135/2015 Coll), the Energy Act was amended in line with the directives and regulations of the European Union. This was primarily for the transposition and implementation of directive 2012/27/EU on energy efficiency, regulation 1227/2011 on the transparency and integrity of the wholesale energy market (REMIT), regulation 347/2013 on establishing guidelines for European energy networks, and directive 2011/83/EU on consumer rights, based on the support system for renewable energy sources.

Amendment No 135/2015, alongside the other regulations, is aimed at bringing greater consumer protection and property rights in relation to entrepreneurs, and transparency in the regulatory process in the energy field. It also seeks to improve the availability of information for the promotion of energy efficiency and conditions for testing and verifying the operation of power plants and lengthening the validity of licenses, reduce administrative requirements for entrepreneurs in the energy sector, in the registration of new devices that expand the current scope of licensed facilities. However, this is not the final amendment as of today, because new amendments are expected on issues of administrative punishment and price regulation in the energy sector (Cez group, 2016). Implementing

⁸ The Energy Act structures the natural gas fields as follows: at the start of the section about natural gas are revised the rights and obligations of the participants in the gas market, namely gas producers (par. 57), transmission system operators (TSO, par. 58-58n), distributor system operators (DSOs, par. 59), operators of gas storage facilities (par. 60), gas traders (par. 61), customers (par. 62), and the market operator (par. 20a), for more (Boušova, 2002).

of European Commission Regulation (EU) No 984/2013, by which is aimed at establishing a network code for capacity allocation mechanisms in gas transmission systems, is still in the queue (Energy Regulation Office, 2015).

Not only was the Energy Act amended, but also related to it acts, as the State Energy Conception of the Czech Republic (provided under act No 406/2000 Coll), which defines the country's priorities and objectives in the area of energy policy, with a view to the year 2050. The State Energy Conception, besides others, stresses the importance of cooperation between the Czech Republic and international and intergovernmental organisations, as Charter on Energy Treaty.

The Energy Act also provides what are the responsible authorities in the energy sector. State administration is entrusted to the Ministry of Industry and Trade, the Energy Regulatory Office and the State Energy Inspectorate, with each having its own individual powers.

The Ministry of Industry and Trade acts as a central government body for energy. It is obliged, based on an instrument defined in the State Energy Conception of the Czech Republic, to process and publish annual reports on the development of energy in individual areas⁹.

The Energy Regulatory Office (ERO) is the national regulatory authority in the Czech Republic, and is a member of the Council of European Energy Regulators (CEER) and the Agency for the Cooperation of Energy Regulators (ACER). Along with the activities of CEER and ACER, ERO cooperates in the area of regional development – Visegrad initiative (Czech Republic, Slovakia, Poland and Hungary), in which negotiations are held at multiple levels, consisting of regulatory authority managers, specialists and experts in particular fields from various countries (Energy Regulation Office, 2015).

The implementation of EU norms is not only carried out within the territory of the particular state, but is also directed towards cross-border cooperation between neighbouring states. As a regional initiative, the Visegrad initiative is one example of EU interstate cooperation. In 2016, the gas solidarity project was launched, with the aim of regulating the security of gas supplies¹⁰. The Czech Republic is in this case included in the central-eastern region, along with Germany, Poland and Slovakia (Ekonomicky denik, 2016). Another example is the bidirectional Czech-Austrian interconnection in accordance with EU regulation No 347/2013, which also introduced a new status for projects – projects of common interest. That would be the first direct connection of Czech and Austrian gas markets between compressor stations. The aim of this project is to ensure efficient transport capacity between the states and enable further market integration¹¹.

The Energy Regulatory Office's principal activities include price regulation in the energy sector, the monitoring of particular energy sectors, the granting and taking of licenses in entrepreneurship in the energy sector. This body also communicates with the European Commission by passing the national reports on the state gas sector¹². In addition, it sets prices for gas supply to the end consumer and it content of two parts: the regulated price and the non-regulated price. Regulated prices are set only for the gas market operator, transmission system operator and distribution system operator.

Gas market operator is a joint stock company founded and owned at least by 67% of the state. The company is engaged in organising the gas market between gas traders, as well as data processing, which is necessary for the functioning of the transmission system, and carrying out other activities related to the functioning of the gas market

⁹ The gas and electricity sector is covered by the document “Expected long-term balance between supply and demand of electricity and gas”, which is processed and communicated to the Ministry by the market operator and joint stock company OTE, under the provisions of the Energy Act.

¹⁰ Based on Regulation (EU) 2017/1938 of the European Parliament and of the Council of 25 October 2017 concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010 (Text with EEA relevance.)

¹¹ Which are also realising in the framework of the EU programme Trans-European Energy Networks (TEN-E) (European Commission, 2018; Energy Regulation Office, 2016; NET4GAS, 2017).

¹² Accordingly to par. 17 of the Energy Act of the Czech Republic.

(Energy Regulation Office, 2018). The gas market operator is a joint stock company, OTE, with a sole shareholder – the Czech Republic (OTE, 2018).

Gas transmission system operator is involved in transporting gas from the border of the Czech Republic to the entry points of the various distribution networks, and in transporting gas from the border to the trays and from the trays to the distribution networks. To fulfil the requirements of the Third Energy Package, the Czech Republic applied the independent transmission operator (ITO) model of unbundling. This is due to the fact that in the Czech Republic at the start of the liberalisation process was the one dominant player in the gas sector¹³. The transmission system operator is the limited liability company NET4GAS, which since 2013 has been owned by two foreign companies – Luxembourg's Allianz Infrastructure Czech HoldCo II S.a.r.l., and the Netherlands' Borealis Novus Parent B.V. Before that, from 2001 till 2013, NET4GAS belonged to the German company RWE (now – Innogy (E15.CZ, 2015)).

With regard to the application of the liberalisation packages in the Czech Republic, as have been mentioned above, this was not initially satisfying for the European Union. Moreover, an investigation was even initiated into member-state fulfilment of obligations from the side of the Czech Republic. Some academics stress that even the “implementation of the directive (itself) does not mean that the market is indeed fully liberalized. In many states are not fully met the provisions of the directive properly” (Brabcova, 2009, p. 35)¹⁴.

To the company Innogy also belong several companies – gas distribution system operators, which constitute the major share of the Czech gas market (Gasnet, 2018). Gas distribution system operators are the gas transport at various pressure levels via the pipeline system to customer supply points. Aside from (RWE) GasNet, which operates in the western, eastern, central and northern Czech, north and south Moravia region, the distribution market includes E.ON Distribuce (in the southern Czech Republic) and Pražská plynárenská Distribuce (in Prague) (Dodovat Elektriny, 2018); in recent years, there was also the company Vemex (Černocho, 2011, pp. 32-33).

Innogy also owns the limited liability company Innogy Gas Storage, which operates six underground gas storage areas¹⁵ of the eight storage areas in the territory of the Czech Republic. Other two gas storage companies are the joint stock companies Moravian MND Gas Storage and SPP Bohemia.

As is clear from the information above, the dominant actor in the Czech gas market is the group Innogy (formerly RWE), which has privatised several state enterprises since 2001¹⁶. However, responding to the liberalising European Union gas market and the requirements of EU legislation to separate distribution and trade activities, the group RWE-Innogy has reorganised internally and registered new companies under its wings. The Czech state was supporting a privatised gas sector, due to a possible Russian invasion in this field. With a concern about having Russian-owned companies in the territory of the European Union, the Third Energy Package brought in a so-called “clause Gazprom”, which contented the provisions on resolving relations with non-EU states with non-liberalised energy sector. The main principle of this was to prevent non-EU companies from acquiring strategic distribution networks in the EU (Binhack and Tichy, 2011).

An issue arises that the strategic state natural gas sector is being owned by private companies, which, besides others, may have an impact on the security of the whole sector. Moreover, the government of the Czech Republic has limited opportunities to make decisions and inquire about the status of pipelines and underground gas storage facilities owned by Innogy (RWE-Transgas) (Černocho et al., 2010). Taking into account the way of communication

¹³ Now – joint stock company Innogy.

¹⁴ “Implementace směrnice (...) neznamená, že trh je skutečně plně liberalizován. V řadě států nebyly směrnice naplněny zcela řádně, a to např. v oblasti regulačního dohledu. Stále přetrvávají také rozdíly v cenách. I když se přeshraniční obchodování rozvíjí stále rychleji, je zde problém v nedostatečných kapacitách sítí, a to platí jak pro elektrinu, tak pro plyn.” (Brabcova, 2009, p. 35).

¹⁵ Four gas deposits, one aquifer and one rock cavern, which are combined into a single virtual storage area (Innology, 2018).

¹⁶ Including the companies Transgas, Západočeská plynárenská, Středočeská plynárenská, Severočeská plynárenská, Východočeská plynárenská, Severomoravská plynárenská and Jihomoravská plynárenská.

of the CEO of the former RWE-Transgas, Martin Herrmann, in 2009 (*Energetická politika*, 2009), commenting on EU regulation and directive commands about storage areas on strategic reserves, he called it short-sighted and counterproductive, emphasising that the energy situation in the Czech Republic was safe and all political help needed by RWE was received (*Energetická politika*, 2009). Despite this, infringement processes were initiated against RWE not only European Union competition law in 2009¹⁷, but also the national law of the Czech Republic on the abuse of dominant position (Office for the Protection of Competition, 2012).

Former vice-minister of foreign affairs Jiří Schneider had concerns about the consequences of privatisation of such a strategic sector, pointing out that it may lead to a loss of control over basic parameters of energy security by state security organs (Schneider, 2007, p. 48).

However, the energy sector is widely regulated by national law, based on the EU legislation. State organisations closely cooperate and, as has been shown, the national authorities are monitoring the situation on the gas market.

As has been discussed, the situation in the Czech gas market is balanced. The high level of diversification of actors in the gas sector can be seen, as state organs and private companies. The system of checks and balances makes the situation auspicious, and beneficial for the future development and implementation of European Union programmes and projects. The Czech Republic is not only adopting EU regulations in the gas sector, but is also establishing regulatory organs and actively participating in regional initiatives in accordance with them.

Conclusions

This article has aimed to analyse the impact of the EU regulation basis on the gas sector of the Czech Republic. In the first part, the situation in the European Union energy sector, legal trends and the stage of liberalisation in the gas market were examined. It was mentioned as one of the main aims of establishing the Energy Union.

The second part of the paper focused on national legislation in the Czech Republic's gas sector and the situation its gas market. It was analysed how strategic and important the gas sector is in the country, and the threats involved in its privatisation. The role of the Czech Republic in the formation of a competitive gas market after the application of EU norms was specified, taking into account the importance of its position as a transit state.

It was concluded that the Czech Republic is not just implementing and adopting the norms of EU energy legislation, but performing them in a sufficient way. Investigations initiated by the European Commission in 2006 with regard to the Czech Republic were stopped in 2007, due to the efforts of this member state. It is clear that the Czech national market has a functioning infrastructure and cross-border interconnections, taking into account the Visegrad initiative, gas solidarity and the Czech-Austrian bidirectional gas market interconnection.

¹⁷ Abuse of RWE AG's dominant position in the German transmission markets, under article 82 of the TEU, namely refusal to supply, margin squeeze, the European Commission adopted a commitment decision. See more: (Koch et al., 2009). The RWE gas foreclosure case: another energy network divestiture to address foreclosure concerns, *Antitrust*, 2/2009.

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