



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR ENERGY

The Director-General

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Mr Hinko ŠOLINC  
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**Subject: Independence of the Slovenian regulatory authority for energy**

Dear Director General Šolinc,

I am writing to you to express my concern related to the situation of the Council of the Energy Agency, the Slovenian regulatory authority for energy. I understand that some of the members of the Council followed the Slovenian government's call to resign which led to the absence of quorum and the decision-making paralysis of the regulatory authority. Furthermore, I was made aware that plans were announced to initiate the legal proceedings for the dismissal of the remaining Council members based on the incompliance of their decisions with the EU and the national legislation.

Independent regulatory authorities are fundamental for the governance of the internal energy market. Article 57 of Directive (EU) 2019/944 on common rules for the internal market for electricity and Article 76 of Directive (EU) 2024/1788 on common rules for the internal markets for renewable gas, natural gas and hydrogen therefore lay down strict rules in order to ensure the independence of regulatory authorities from governments or other public or private entities when carrying out their regulatory tasks.

Pursuant to Article 57(5) of Directive EU) 2019/944 and to Article 76(5) of Directive (EU) 2024/1788 "the members of the board [of the regulatory authority for energy] or, in the absence of a board, members of the top management may be relieved from office during their term only if they no longer fulfil the conditions set out in this Article [on the independence of the regulatory authority] or have been guilty of misconduct under national law." In its judgment of 11 June 2020 in case C-378/19 Prezident Slovenske republike, the Court of Justice of the European Union has stated that "the power to nominate and dismiss the board of the national regulatory authority or, in the absence of a board, its top

management must be framed strictly in legislation and exercised on the basis of objective criteria which are clearly and exhaustively set out and verifiable”. Furthermore, the “power of nomination and dismissal must ... be exercised in such a way that the independence of that authority is guaranteed [...]”.

According to my information, the dispute between the Slovenian government and the Energy Agency relates to the methodology for the calculation of the electricity network tariffs. According to EU legislation, deciding on network tariffs is an exclusive competence of independent regulatory authorities which cannot be restricted by national governments or legislators. This principle was confirmed by the judgment of the Court of Justice of the European Union in case C-718/18 Commission v Germany, which fully endorsed the grievances brought by the Commission in an infringement procedure against Germany. I am therefore concerned whether the conditions mentioned in the provisions of the European legislation quoted above have indeed been fulfilled.

This does not mean that regulatory authorities can act on network tariffs without any checks and balances: any decision on network tariffs can be contested in court or another independent body of appeal, as explicitly provided for in Article 60(8) of Directive (EU) 2019/944 and Article 79(8) of Directive (EU) 2024/1788. If the Slovenian government is of the opinion that the decision of the Slovenian regulatory authority is not in compliance with EU legislation, I would encourage to discuss in detail this alleged lack of compliance with my services, ideally before any decisions are taken on this basis.

I am fully aware that high energy costs are affecting households and businesses alike and also risk eroding political support for the energy transition. The Commission is preparing an Action Plan for Affordable Energy and is ready to work closely together with all Member States both to implement the electricity market design reforms adopted last year and to identify, if necessary, further measures to achieve the required in-depth transformation of our energy system, but also more short-term impacts.

Yours sincerely,

**Ditte Juul Jørgensen**