

**RECOMMENDATION No 02/2026
OF THE EUROPEAN UNION AGENCY
FOR THE COOPERATION OF ENERGY REGULATORS**

of 27 March 2026

**on reasoned proposals for the improvement of the regulatory
framework to ensure robust implementation of the internal electricity
market rules**

THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY
REGULATORS,

Having regard to Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators¹, and, in particular, Article 3(1) thereof,

Having regard to the outcome of the consultations with national regulatory authorities,

Having regard to the outcome of the consultation with ACER's Electricity Working Group,

Having regard to the favourable opinion of the Board of Regulators of 11 March 2026, delivered pursuant to Article 22(5)(a) of Regulation (EU) 2019/942,

Whereas:

I. INTRODUCTION

- (1) The European electricity sector is undergoing a profound transformation to become more efficient, secure, affordable and sustainable. Since the adoption of the Third Energy Package and the Clean Energy Package², the EU has progressively established a detailed set of rules through Network Codes (NC) and Guidelines (GL) and under Regulation (EU) 2019/943. Their implementation, via the adoption of Terms and Conditions or

¹ OJ L158, 14.6.2019, p. 22.

² In the Clean Energy Package approved in late 2018 the recast of Regulation (EC) 714/2009, i.e. Regulation (EU) 2019/943, proposed by the European Commission, includes provisions that modified the operation of several NC and GL, as well as additional areas for NC and GL to be developed (e.g. demand response, cybersecurity).

Methodologies (TCMs), is critical to achieving the full benefits of the Internal Electricity Market. The TCMs are approved by either the regulatory authorities or ACER and may be Union-wide or regional in scope.

- (2) NCs, GLs and TCMs, as well as the Regulation (EU) 2019/943, set out obligations for Transmission System Operators (TSOs) and Nominated Electricity Market Operators (NEMOs). These rules also include obligations for the ENTSO for Electricity (ENTSO-E) and regional coordination centres (RCCs), which carry out important tasks for the implementation of the Internal Electricity Market. ENTSO-E is responsible for several tasks across regulations and TCMs, for example, ensuring the functioning of the Transparency platform, the TYNDP³ or the ERAA⁴. RCCs perform important tasks to support TSOs in contributing to the efficient and secure operation of the electricity system across borders within defined regions, including for example capacity calculation, security analysis, and outage planning⁵.
- (3) While important achievements have been reached in recent years, implementation delays continue to hinder the full realisation of the Union's electricity market integration policy objective. As of 2024⁶, over a quarter of the TCMs under review experienced substantial setbacks, frequently causing cascading effects on related projects. There are also persistent delays in the implementation of Regulation (EU) 2019/943 obligations.
- (4) Slowdowns in the implementation of these rules technically impact the improvement of the functioning of the system and can generate economic costs, with different levels of potential welfare loss.⁷
- (5) A credible and resilient enforcement framework is necessary and important to ensure the implementation of the rules. The legal framework must support the resilience and operational security of the electricity system and ensure that the Internal Electricity Market rules achieve their intended aims. This means that legal actions (regulatory interventions) should be taken when the supervised entities fail to comply with legal obligations under the applicable legal framework. In this case, enforcement actions could determine sanctions or penalties in specified circumstances.⁸
- (6) To address the concerns about implementation delays, in May 2024, in the framework of the European Electricity Forum, the European Commission requested ACER and

³ 'TYNDP' stands for Ten-Year Network Development Plan, cf. Article 30(1) of Regulation (EU) 2019/943 and Regulation 2022/869.

⁴ 'ERAA' is the European Resource Adequacy Assessment, cf. Article 30(1) of Regulation (EU) 2019/943

⁵ See Article 37(1) of Regulation (EU) 2019/943.

⁶ ACER Market Integration Report 2024

(https://www.acer.europa.eu/sites/default/files/documents/Publications/ACER_2024_MMR_Market_Integration.pdf)

⁷ In the Nordic region alone, a three-month delay in flow-based coupling was estimated to negatively affect social welfare by over €60 million – See p.24 of the [External parallel run evaluation report - For assessment by the NRAs of the Nordic CCR, as required by the Nordic DA/ID CCM](#)

⁸ With enforcement this document refers to the process leading into a non-compliance decision and in some cases issuing appropriate sanctions.

regulatory authorities ‘to make a recommendation on how to strengthen the regulatory framework to reduce implementation delays, looking into enforcement, incentives as well as governance’.⁹

II. PROCEDURE

- (7) ACER carried out extensive discussions among regulatory authorities during 2024 and 2025. The discussions focused on the implementation delays and on identifying gaps and proposing solutions with the aim to improving the current framework to support a timely, effective and robust implementation of the Internal Electricity Market rules.
- (8) Dedicated discussions took place on monitoring, investigation and enforcement aspects regarding Union-wide and regional entities (focusing on ENTSO-E and regional coordination centres (RCCs)), as well as regarding the obligations imposed on all TSOs or all NEMOs and the potential design of incentive schemes.
- (9) In parallel, regulatory authorities discussed and coordinated actions on a few cases of identified delay, to ensure an efficient implementation of those TCMs through the enforcement process.
- (10) ACER’s Electricity Working Group (AEWG) was consulted between 12 November and 20 November 2025 and provided its advice on 25 November 2025.
- (11) In its advice, the AEWG generally supported the draft ACER Recommendation, while noting the concerns by some regulatory authorities on key areas. The expressed concerns were mainly on shifted responsibilities and stressing the importance of a proper legal assessment.
- (12) On 10 December 2025, a first discussion on the draft ACER Recommendation took place at ACER’s Board of Regulators, which was followed by another discussion on 28 January 2026 with a BoR proposal for amendments. In response to this proposal for amendments, the Director submitted a revised draft ACER Recommendation. During the meeting of 11 March 2026, a further BoR proposal for amendments was adopted and integrated into the final version of this Recommendation.
- (13) This Recommendation reflects the comments put forward by regulatory authorities during the AEWG consultation, namely concerning the proposals for amendments presented in Chapter V, and reflects the revisions that took place following the BoR discussions.
- (14) On 11 March 2026, ACER’s Board of Regulators issued a favourable opinion to this Recommendation pursuant to Article 22(5)(a) of Regulation (EU) 2019/942.

⁹ 39th European Electricity Regulatory Forum conclusions (see https://energy.ec.europa.eu/events/39th-european-electricity-regulatory-forum-2024-05-27_en)

III. LEGAL GROUNDS FOR THE PRESENT RECOMMENDATION

- (15) Pursuant to Article 3(1) of Regulation (EU) 2019/942, ACER may, upon a request of the European Parliament, the Council or the Commission, or on its own initiative, provide an opinion or a recommendation to the European Parliament, the Council and the Commission on any of the issues relating to the purpose for which it has been established.
- (16) In accordance with Article 1(2) of Regulation (EU) 2019/942, the purpose of ACER is to assist the regulatory authorities in exercising, at Union level, the regulatory tasks performed in the Member States and, where necessary, to coordinate their action and to mediate and settle disagreements between them. ACER also contributes to the establishment of high-quality common regulatory and supervisory practices, thus contributing to the consistent, efficient and effective application of Union law to achieve the Union's climate and energy goals.
- (17) ACER is tasked with monitoring and contributing to the implementation of the network codes and guidelines as provided in Article 5(1)d) of Regulation (EU) 2019/942 and Article 32 of Regulation (EU) 2019/943. Furthermore, ACER monitors regional cooperation between transmission system operators in the electricity sector as well as the execution of the tasks of ENTSO-E and other entities with regulated functions of Union-wide dimension as provided in Article 4(2) of Regulation (EU) 2019/942.

IV. MAIN FINDINGS

i Implementation Monitoring

- (18) The national regulatory authorities are entrusted with ensuring the compliance of electricity undertakings with their obligations under EU law. This is being done by organising coordinated compliance monitoring projects of different TCMs. Monitoring is at the core of a robust compliance procedure and the most impactful phase for safeguarding the implementation of high-quality projects in due time. Monitoring activities are necessary to guarantee, among other aspects, the systematic identification of the root causes of the delays.
- (19) It follows from the discussions that it is necessary to continuously follow closely and actively the implementation of TCMs and the performance of TSOs/NEMOs' obligations as well as Union-wide organisations' or RCCs' tasks to be able to detect at an early stage any potential delay and potentially react to it, following up directly to prevent or shorten the delay. ACER and regulatory authorities indicate their continued commitment to dedicating more resources, where available, to the monitoring of all relevant entities.
- (20) Additionally, it was identified that TCM implementation timelines are not always sufficiently detailed or justified in the documents submitted for regulatory approval. A justification for the set deadline is important to understand its potential challenges and any impact on related projects.

ii ENTSO-E and RCCs

- (21) If a potential circumstance of non-compliance arises regarding the obligations of ENTSO-E or RCCs, it is necessary to ensure a swift and adequate response through an effective framework. It is recognised from the discussions that the current framework concerning EU-wide and regional entities as reflected in Article 4(7) and (8) of Regulation (EU) 2019/942 could be improved to some extent in terms of streamlining the decision-making process.
- (22) In simple terms, the current legal framework splits the process into two steps. The first one is related to the identification of a non-compliance situation and, where applicable, the determination of measures to be taken by the concerned entity to remedy the non-compliance. Under the current framework, this first step may be referred to ACER for a decision. The second step refers to the potential sanctioning decision to ensure compliance (namely to impose effective, proportionate and dissuasive penalties in the context of the rules provided in Directive (EU) 2019/944).
- (23) Three key challenges have been identified. The first lies on the necessity for these entities to have the suitable governance structure, the means to fulfil their tasks and to be held accountable for the non-compliance.
- (24) The second key challenge comes from the current wording of the Regulation itself, which specifies that the relevant regulatory authorities must coordinate in order to jointly identify a non-compliance of a regional or Union-wide entity with its obligations and must take, unanimously, coordinated decisions within a period of four months establishing whether there is non-compliance with the relevant obligations and, where applicable, determining the measures to be taken by those entities to remedy that non-compliance.
- (25) The third key challenge lies with the framework for the carrying out of the second step. This step may lead to an imbalanced distribution of administrative and financial burdens among regulatory authorities, as it is reliant on the single regulatory authority of the Member State where the entity is located to carry out the proceedings to impose penalties, (whereas the case is of Union or regional dimension).

iii Projects entailing a collective responsibility of TSOs and NEMOs

- (26) In 2021, ACER and regulatory authorities agreed on a process for coordination on enforcement. Particularly since 2024, there has been significant concerted effort by the regulatory authorities and ACER to coordinate monitoring, investigation and enforcement actions towards their national TSOs or NEMOs for failure to comply. Indeed, the analysis of the outcome of a few identified cases indicates better enforcement cooperation, showing improved awareness raising and a better understanding of the causes of implementation delays. Conversely, the experience from national actions taken regarding the cases to date also shows that regulatory authorities may, in accordance with their national law, act differently when it comes to national procedures concerning the same case.

- (27) The enforcement of individual obligations of TSOs and NEMOs poses no problem to regulatory authorities, with the process relying on the application of national rules and the competence of each individual regulatory authority. At the same time, the current enforcement process could be falling short when tackling delayed implementation or failure to comply cases where, across Union obligations, all TSOs or all NEMOs¹⁰ are tasked with jointly carrying out an obligation and collectively fail.
- (28) The first key challenge is that there is no detailed allocation of responsibility between the different TSOs and/or NEMOs involved in the implementation. In a situation of proven collective failure to deliver joint obligations, the responsibility of each TSO or NEMO needs to be assessed individually by each regulatory authority at national level.
- (29) The second key challenge is that national sanctioning procedures vary significantly in terms of measures, timelines and processes.¹¹ Despite following a coordinated approach, regulatory authorities may face different conclusions to their national investigations. This effect is particularly evident when TSOs/NEMOs are dependent on their peers in neighbouring Member States to achieve compliance and especially when actions must be taken collectively¹².

V. LEGISLATIVE AMENDMENTS

- (30) It follows from the previous section that ACER and regulatory authorities have concluded on the need for legislative amendment proposals to be developed concerning subsections i and ii of Section IV. The proposals should be consistent with the objectives of the Clean Energy Package and ensure the respect for the principles of proportionality and subsidiarity. The Commission should conduct an in-depth assessment against Union law and its general principles to ensure legal feasibility. Furthermore, the Commission should conduct a complete impact assessment including an assessment of the proposals' effectiveness in ensuring timely implementation.
- (31) Concerning subsection iii of Section IV, no legislative amendments are proposed at this stage. ACER recommends that further assessment is conducted by the Commission to further improve effective and credible enforcement of the obligations put collectively on all TSOs and all NEMOs.

¹⁰ For clarity, when referring to 'All TSOs' obligations, we are referring to the provisions that are assigned to TSOs as a collective and not including any obligations that are assigned to ENTSO-E; when referring to 'All NEMOs' obligations we are referring to the provisions that are assigned to NEMOs as a collective.

¹¹ ACER ran a survey in 2024 among 19 national regulators, to compare national enforcement processes.

¹² Such as in the 15' MTU, LTFB and CGM cases.

i Implementation monitoring

- (32) ACER proposes the introduction of new provisions (in the Regulation (EU) 2019/943 or in the relevant NC and/or GL) ensuring that TCMs include more details and justifications about their implementation timeline, including details on the distribution of the relevant tasks, the expected net benefits of the TCM and the potential impact in case of implementation delay. When the TSOs and/or NEMOs draft TCMs, they must in the future include better justifications of the implementation deadlines, and the potential interrelations among the involved processes, and must be required to regularly report on the implementation.

ii ENTSO-E and RCCs

- (33) ACER proposes the revision of Article 4(7) and (8) of Regulation (EU) 2019/942 for the improvement of the enforcement framework in case of non-compliance of ENTSO-E and RCCs. The amendment of Articles 2 and 3 of the Regulation (EU) 2019/942, as well as Article 59 of the Directive (EU) 2019/944 would also be required.¹³
- (34) Throughout the discussions, regulatory authorities generally supported a swifter procedure and the attribution of some sanctioning competences to ACER. This includes the possibility for ACER to impose sanctions or penalties if requested by the regulatory authority where ENTSO-E or the RCC has its seat. ACER's competences should be defined in clearly delineated and precise terms in Regulation (EU) 2019/942. Such decision-making by ACER must be in line with the jurisprudence of the European Court of Justice¹⁴ and with the principles of subsidiarity and proportionality.
- (35) The involvement and cooperation of the regulatory authorities in the ACER decisions must be guaranteed throughout the decision-making process, from the assessment of the non-compliance to the definition of the enforcement measures, via the discussion in the task forces and ACER's Electricity Working Group as well as, finally, per the obtainment of the necessary favourable opinion by the ACER's Board of Regulators.
- (36) Any appeal procedures of an ACER decision would take place at Union level, and any resulting judicial costs would be incurred by ACER. ACER would apply the penalties/sanctions that would be defined in the ACER Regulation. This would require amendments to Regulation (EU) 2019/942,

HAS ADOPTED THIS RECOMMENDATION:

¹³ Changes to Article 4(7) may also need to be reflected in Article 6(10) of Regulation (EU) 2019/942.

¹⁴ In particular, the 'Meroni-doctrine' and the ensuing case-law (C-270/12 ESMA), relating to questions concerning EU agencies' powers.

ACER recommends

- amendments to improve TCM implementation deadlines as well as the introduction of reporting obligations to mitigate implementation delays of all entities that are addressed by TCMs,
- amendments to further improve effective and credible enforcement of compliance of ENTSO-E's and RCCs' obligations, notably as regards Article 4(7) and (8) of Regulation (EU) 2019/942 and
- that further assessment is conducted by the Commission to ensure effective and credible enforcement of all TSOs and all NEMOs obligations.

This Recommendation is addressed to the European Commission.

Done at Ljubljana, on 27 March 2026.

- SIGNED -

*For the Agency
The Director ad interim*

V. ZULEGER