



Project no. CIT1-CT-2004-506392

NEWGOV

New Modes of Governance

Integrated Project
Priority 7 – Citizens and Governance in the Knowledge-based Society

Workshop: The electricity sector in Spain

reference number: 8/D03

Due date of deliverable: December 2005
Actual submission date: 31 December 2005

Start date of project: 1 September 2004

Duration: 48 months

Organisation name of lead contractor for this deliverable:
Granada University, Leonor Moral Soriano

Project co-funded by the European Commission within the Sixth Framework Programme (2002-2006)		
Dissemination Level		
PU	Public	X
PP	Restricted to other programme participants (including the Commission Services)	
RE	Restricted to a group specified by the consortium (including the Commission Services)	
CO	Confidential, only for members of the consortium (including the Commission Services)	

Summary

The first workshop of the EUROSERVICE-Project was entitled “The electricity sector in Spain: Competition and Public Service” and took place on 15 and 16 December at Granada University. It was devoted to the analysis of the liberalization process of the electricity market in Spain, and the way this process affect the traditional legal notion of public service.

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I. Overview of the main issues discussed and results of the workshop

The first workshop was entitled “The electricity sector in Spain: Competition and Public Service”. It was devoted to the analysis of the liberalization process of the electricity market in Spain, and the way this process affect the traditional legal notion of public service.

The first issued discussed was the origin of the liberalization process of the electricity market in Spain, even before the transposition of directives. Initially, electricity companies self-regulated the sector in such an extend that no legislation on the functioning of the market was issued by the Spanish government. The first legislative measures towards liberalization were the outcome of the Chicago School’s theories about the inefficiency of non-liberalized electricity markets. Then, the transposition of the energy directives speeded-up the process.

The result of the transposition of the energy directives and the liberalization process of the electricity sector was discussed when Prof. De la Cuétara explained the functioning of the electricity liberalised market. Here, a difference was made between liberalized activities (production and commercialization) and non-liberalized activities (transport and distribution).

A particular liberalized activity, namely the commercialization of electricity, was examined by Dr. Nebreda, who concluded that there is no real liberalization and, therefore, there is little space for competition, because the electricity price is still determined by the government. The reticence of the Spanish government to lose control over a sector which directly determine macro-economic issues, prevents from gaining competition in the studied sector.

Is it possible to boost the process of liberalization of the electricity market by other means than legislative measures? This is the issue dealt with by Dr. Gutiérrez Alonso. The Spanish government asked to a group of experts the realization of a white book on the electricity market which was issued in June 2005. The conclusion was clear: the reduced number of operators competing in the electricity market hinders the liberalization of the sector. Despite this conclusion, the Spanish government supports the taking-over of an electricity company, namely ENDESA, by a gas company, namely Gas Natural. The outcome of this operation will be the disappearance of an operator (ENDESA) and the reduction to null of competition in certain regions of Spain (Catalonia).

Finally, the workshop dealt with the institutional design of a liberalized market. The functions of the Comisión Nacional de la Energía (the Spanish sector specific regulator), OMEL (the operator of the electricity market in Spain) and REE (the operator of the net of transport of electricity in Spain) were discussed. Whereas OMEL and REE are good models of operators for other countries with liberalized energy markets, the Comisión Nacional de la Energía was criticized by its lack of independence, as it has demonstrated in the taking-over of ENDESA: despite the drawbacks for competition in the sector, the Spanish specific regulator has support the operation.

II. Conclusions of the workshop on the further progress of the project

Two issues will require further study. First of all, the liberalisation process should be evaluated, not only from the point of view of the transposition of the electricity directives, but also from the point of view of real competition in the sector.

Second, the support of the Spanish government to the taking-over of ENDESA, the disappearance of an operator and the reduction of competition should be appraised from the point of view of the intervention of the executive power in a liberalized market by means other than legislation and the imposition of public service obligations.

III. Programme of the Workshop “The electricity sector in Spain: Competition and Public Service”

Date and Location: 15 and 16 December, Granada University

JUEVES 15 DE DICIEMBRE DE 2005

10:00 H.: Primera ponencia: “Reflexiones sobre el mercado eléctrico en España. Referencia al Protocolo de Kyoto”.

Ponente: Gaspar Ariño. Catedrático de Derecho Administrativo en la Universidad Autónoma de Madrid. Abogado en Despacho Ariño & Asociados. Madrid.

11:30 H.: DESCANSO-CAFÉ

12:00 H.: Segunda ponencia: El funcionamiento del mercado eléctrico en un entorno liberalizado.

Ponente: Juan Miguel de la Cuétara. Catedrático de Derecho Administrativo de la Universidad de La Laguna. Abogado-Consultor en Despacho Ariño & Asociados. Madrid.

17:00 H.: Tercera ponencia: “La comercialización de la energía eléctrica. Aspectos jurídicos”.

Ponente: Joaquín M^a Nebreda Pérez. Abogado y miembro del Consejo Asesor de Gómez Acebo & Pombo, Abogados. Profesor de Derecho Administrativo en la Universidad Europea de Madrid.

18:30 H.: DESCANSO-CAFÉ.

19:00 H.: Cuarta Ponencia: “Los intentos de concentración empresarial en el sector energético español.

Ponente: Juan Gutiérrez Alonso, Profesor de la Universidad de Granada

VIERNES 16 DE DICIEMBRE DE 2005

9:30 H.: Quinta Ponencia: La Comisión Nacional de la Energía: Funciones y relación con otras organizaciones que intervienen en el sector eléctrico.

Ponente: Rafael Durbán Romero, Director de Relaciones Externas de la Comisión Nacional de la Energía.

11:00 H.: DESCANSO-CAFÉ

11:30 H.: Sexta Ponencia: Red Eléctrica de España: funciones en el transporte de electricidad.

Ponente: Francisco González Plaza, Jefe del Departamento de Relaciones Institucionales de Red Eléctrica de España.

16:30 H.: Séptima Ponencia: OMEL: funciones en el mercado de generación.

Ponente: Miguel Pérez Zarco, Responsable de Relaciones Externas del Operador del Mercado Eléctrico de España.

18:00 H.: DESCANSO-CAFÉ

18:30 H.: Octava Ponencia: El papel de las energías renovables en el mercado eléctrico español.

Ponente: Enrique Belloso. Gerente de la Agencia Local de la Energía en Sevilla.

20:00 H.: CLAUSURA DE LAS JORNADAS.

IV. List of Participants

In the first workshop organized by the EUROSERVICE project, 60 students from the Faculty of Law and the Faculty of Economic took part. As to the speakers, they are well-known legal scholars with a wide expertise in regulated sectors, and executive directors of institutions related to the energy sector:

- Prof. Dr. Gaspar Ariño, Professor of Administrative Law at the University Autónoma of Madrid.
- Prof. Dr. Juan Miguel de la Cuétara, Professor of Administrative Law at the University of La Laguna.
- Dr. Joaquín María Nebreda Pérez, Legal Consultant at Gómez Acebo & Pombo Law firm.
- Dr. Juan Gutierrez Alonso, Lecture of Administrative Law at the University of Granada.
- Rafael Durbán Romero, Executive Director of External Relations, Spanish Energy Commission.
- Francisco González Plaza, Chief of the Department of Institutional Relations of Red Eléctrica de España.
- Miguel Pérez Zarco, Executive Chief of the Department of External Relations of OMEL.
- Enrique Belloso, Local Agency of Alternative Energy, Autonomous Government of Andalucía.