
Iberian mechanism for reducing electricity prices

Decree Law 33/2022 of May 14 has been published, establishing a temporary mechanism to reduce the cost of generating electricity in the Iberian Electricity Market

Energy Legal Flash
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Key aspects

- Decree Law 33/2022 of May 14 (“Decree Law 33/2022”) establishes a temporary mechanism for setting prices in the Iberian Electricity Market (“MIBEL”), by setting a benchmark price for the natural gas consumed when generating electricity traded on the market, to reduce the respective prices.
- The temporary mechanism establishes an initial benchmark price of €40/MWh for the first six months, after which it will increase by €5/MWh per month.
- There are administrative penalties for failing to comply with some of the obligations established in this decree law.
- The decree law entered into force on May 15, 2022, and it will remain in force until May 31, 2023.



How the adjustment mechanism works

This temporary adjustment mechanism adjusts the production cost of electricity in the wholesale market, to guarantee fair compensation among producers of electricity from natural gas in light of the difference between the benchmark and market price of natural gas.

The adjustment applies to thermoelectric power plants corresponding to natural gas combined-cycle plants and cogeneration plants that are within the scope of article 4-B of Decree Law 23/2010 of March 25 (“Decree Law 23/2010”), and it sets an initial cap of €40/MWh for the first six months, after which it will increase by €5/MWh per month until it reaches €70/MWh in the last month.

The adjustment cost applies exclusively to electricity consumers in the wholesale electricity market.

Scope

Decree Law 33/2022 applies to:

- thermoelectric power plants corresponding to natural gas combined-cycle plants;
- cogeneration plants that are within the scope of article 4-B of Decree Law 23/2010; and
- electricity suppliers, market agents, and consumers in the wholesale electricity market.

However, the production of thermoelectric power plants or cogeneration plants carried out under physical bilateral contracts is not included.

Adjustment cost

The appointed electricity market operator calculates and sets the adjustment cost for the Portuguese price area of the MIBEL, including the daily market and various intraday market benchmarks, according to the operating rules of the daily market in force at the time.

When setting the price, the supply units located in the Portuguese price area of the MIBEL corresponding to the thermoelectric power plants and cogeneration plants within the scope



of Decree Law 33/2022 make their offers on the market, internalizing the adjustment calculated under the terms of the adjustment mechanism established in this law.

The appointed electricity market operator adjusts the electricity production costs for the thermoelectric power plants and cogeneration plants that are within the scope of Decree Law 33/2022.

Exemption from paying the adjustment cost

The following types of consumption are exempt from paying the adjustment cost:

- Pumping of hydraulic power plants
- Ancillary services in other power plants
- Storage supply units (namely batteries)
- Energy subject to fixed power purchase agreements (“PPAs”) entered into before April 26, 2022, including fixed PPAs under regulatory instruments approved before that date

Guarantees

Suppliers and market agents acting with the appointed electricity market operator must provide guarantees to comply with the obligations arising from paying the adjustment cost, under penalty of not being able to participate.

The guarantees are calculated by valuing the maximum daily energy purchases of the suppliers and market agents' acquisition units.

If the obligation to pay the adjustment cost is not complied with, the appointed electricity market operator will enforce the guarantee provided. If a supplier or market agent fails to comply with the above obligation, and that supplier or market agent also fails to provide or maintain the guarantee, the appointed electricity market operator will suspend that supplier or market agent's participation in the markets.



Regulation by the Energy Services Regulatory Authority

Decree Law 33/2022 establishes a number of points to be regulated by the Energy Services Regulatory Authority (“ERSE”); namely, (i) the impact of the adjustment mechanism; (ii) the payment of the adjustment; (iii) exemptions; (iv) the registration or alteration of supply and scheduling units; and (v) information on supply contracts. This regulation will also include validating and monitoring the information of the agents relating to contractual instruments, maturity, and the respective associated volumes, as well as approving the formats to be adopted in communications with the appointed electricity market operator, the SEN global manager and ERSE.

ERSE's board of directors approved Directive 11/2022 of May 14, 2022, establishing the reporting obligations of fixed-price contractual instruments under article 7 of Decree Law 33/2022. A set of reporting tables, adapted to the contractual instrument in question, are approved as an annex to this directive.

Making false declarations, in addition to the correction required under Decree Law 33/2022, is subject to the consequences established by law, including those arising from the implementation of Regulation (EU) 1227/2011 of the European Parliament and of the Council of October 25, 2011, on wholesale energy market integrity and transparency (“Regulation (EU) 1227/2011”).

Supervision and sanctioning mechanisms

ERSE is in charge of supervising and monitoring the adjustment mechanism established in Decree Law 33/2022 in accordance with the terms of the respective framework of competences under Regulation (EU) 1227/2011.

Breaching any of the obligations under Decree Law 33/2022 constitutes an administrative offense, to which the Energy Sector Sanctions Regime applies. Very serious and minor offenses are established, in accordance with the type of obligation breached.



Entry into force and duration

Decree Law 33/2022 entered into force on May 15, 2022, and it will remain in force until May 31, 2023.

The decree law also establishes that the Portuguese Government, after hearing ERSE and with the agreement of the Spanish Government, may suspend the adjustment mechanism for reasons of public interest arising from exceptional circumstances.

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