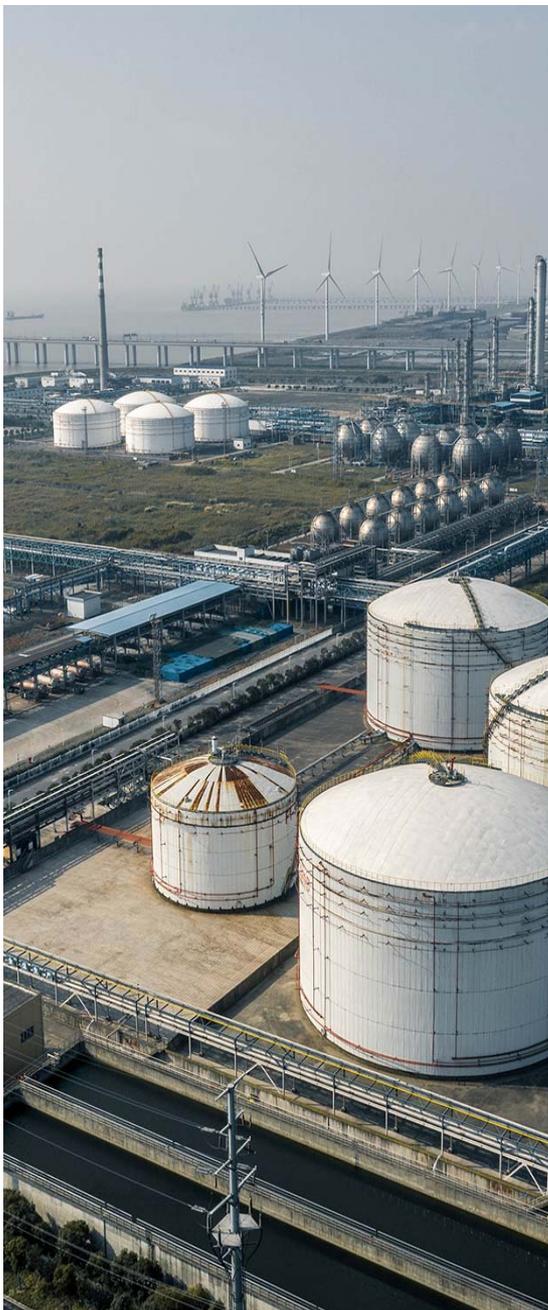


Spain and Portugal approve mechanism to reduce electricity prices

The Official Gazette of the Spanish State has published [Royal Decree-Law 10/2022](#), establishing a temporary mechanism to reduce the price of electricity in the wholesale market

Legal Flash Public Law

May 17, 2022



Key aspects

- Royal Decree-Law 10/2022 (“RDL 10/2022”) introduces measures to mitigate the impact of the gas consumed by combined-cycle power plants on the offers determining electricity prices on the wholesale market (pool).
- It establishes a reference gas price starting at €40/MWh for the first six months and increasing by €5/MWh per month until it reaches €70/MWh in the last month. Thermal power plants will receive an amount proportional to the difference between that reference price and the market price of gas so that they are not required to factor gas prices into electricity prices.
- It imposes obligations on electricity suppliers to report on their fixed-rate and variable-rate contracts.
- The temporary measure will be implemented for 12 months, entering into force from the date the Official Gazette of the Spanish State publishes the ministerial order regulating the authorization of the European Commission.
- It reintroduces the adjustment mechanism for deviations of the market price in the case of certain plants.



How the adjustment mechanism works

- RDL 10/2022 adjusts the production cost of marginal fossil technologies (combined cycle, coal-fired and cogeneration plants, with some exceptions) by setting a maximum price for the production of electricity and obliging the owners of production plants to make offers based on this price. The initial cap is €40/MWh, which will increase by €5/MWh per month after the first six months until it reaches a value of €70€/MWh in the last month. Adjusting the production costs of these plants will reduce the offers, thus also reducing the matching price in the pool.
- Annex I of RDL 10/2022 lays down the specifications for the functioning of the market to apply the adjustment mechanism.

Scope of application

The mechanism for adjusting the costs of electricity production regulated under RDL 10/2022 will apply to the following production facilities in Spain and Portugal that are registered in the market on the day the daily market matching occurs:

- Electricity production plants corresponding to natural gas combined cycle power plants.
- Power plants corresponding to conventional generation technologies that use coal as fuel.
- Electricity production plants included in group a.1 under article 2 of [Royal Decree 413/2014](#), and those governed by the first transitory provision of that Royal Decree that were governed by the second transitory provision of [Royal Decree 661/2007](#), as long as these plants do not have a remuneration framework regulated in article 14 of the [Act on the Electricity Sector](#). It also applies to cogeneration plants that use natural gas as a primary energy and are governed by the general remuneration framework set out under article 4-B of Decree-law 23/2010, of March 25 (*Diário da República*—Official Gazette of Portugal—no. 59/2010, Série I, of March 25, 2010).



Adjustment cost

- The adjustment cost will be shared between purchasers of energy who buy for a price directly index-linked to the wholesale market value, with special rules on the hourly market, and adjustment and balance services. The congestion pricing obtained from selling energy in the interconnection capacity with France (which is not subject to the cap) will also be used to reduce the adjustment cost.
- The adjustment cost will be a component of the final hourly price of the peninsular market for the purposes of [Royal Decree 216/2014](#), on the methodology to calculate voluntary prices for small consumers. It is also expected that this royal decree will be amended to introduce a reference to forward market prices.

Exemption from paying the adjustment cost

The following are exempt from paying the adjustment cost:

- Storage supply units (both battery and pumped storage).
- Supply units for ancillary generation services.
- Energy subject to PPAs signed before April 26, 2022 (with the exception of the settlement of the adjustment mechanism made by the system operator in each hourly period). In contrast, PPAs signed after April 26, as well as extensions, renewals, and price revisions of PPAs entered into before April 26 that occur after that date will not be exempt. Purchasing market participants with a PPA have five business days from the entry into force of RDL10/2022 to submit the information required to the market operator.

Supervision and non-compliance with the mechanism

- The market operator and Spanish electricity system operator, within the scope of their respective functions and with relation to Spanish market participants, will notify the Spanish Markets and Competition Commission if the market participants act in any way that goes against the correct functioning of the mechanism.



Amendment of Royal Decree 413/2014

- RDL 10/2022 amends article 22 of [Royal Decree 413/2014](#) and, for certain plants (mainly, plants with lower capacities), it reintroduces the deviation adjustment mechanism for deviations between market prices and forward prices, as established before the amendment introduced under [RDL 6/2022](#). In the case of other plants, a new adjustment mechanism is also specified, although taking as a reference forward market prices (annual, quarterly and monthly).

Entry into force and term of the mechanism

- **Entry into force:** The adjustment mechanism requires the authorization of the European Commission, which will be published in the Official Gazette of the Spanish State through an Order. This Order will determine the exact date on which the mechanism will start based on the date established in the authorization, which cannot be before the day following its date of publication.
- **Possibility of suspension and term:** The mechanism, which may be suspended temporarily or definitively by Resolution of the Council of Ministers, will be in force for no longer than 12 months and, in any case, until no later than May 31, 2023.

For additional information, please contact our [Knowledge and Innovation Group](#) lawyers or your regular contact person at Cuatrecasas.

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