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National
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Commissioners

FISCAL AUTONOMY AND INSTITUTIONAL CAPACITY OF ENERGY REGULATORS IN 2004 EU NEW MEMBER STATES

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- Regulator of electricity and gas sectors; some authority over district heating
- Staff: cc. 90
- Annual budget: cc. \$ 8m
- Revenues of HEO:
 - Industry fee
 - Administrative charges
 - Penalties
 - Other revenues
- Industry fee: 0,05% of net revenues related to the regulated activities of licensed companies and planned for the coming fiscal year;
 - Ex post clearing of payments related to the difference of planned and actual net revenues

- Administrative charges: linked to individual administrative procedures initiated by the licensees: issuing and modifying licenses, price reviews, etc.
- Rates and payment of administrative charges and penalties are regulated by Economic and Finance ministers
- Revenues - except for fines – are to be used to cover HEO operation expenses. Only the Law on Fiscal Operations can withdraw revenues from HEO (no ministry)
- Withdrawal from the HEO budget other than those indicated in the actual Law on State Budget is not allowed.
- Otherwise full authority of HEO President over budgeting
- Annual Reporting to the Parliament (including finances).

BENCHMARKS ON FINANCIAL INDEPENDENCE AND PRICE SETTING AUTHORITY

BUDGETARY INDEPENDENCE

Table 6 Separate Regulator Budget

Country	Does regulator have a separate budget from state?			
	Regulator	Government	Ministries	State budget (parliament)
Austria	Yes			
Belgium	Yes			
Cyprus	Yes	Yes	Yes	
Czech Republic	No			Yes
Denmark	No		Yes	
Estonia	No			Yes
Finland	No		Yes	Yes
France	No			Yes
Germany	No			Yes
Great Britain	Yes			
Greece	Yes			
Hungary	Yes		(supervision provided)	
Ireland	Yes			
Italy	Yes			
Latvia	Yes			
Lithuania	No			Yes
Malta	Yes			
The Netherlands	Yes			
Poland	No			Yes
Portugal	Yes		(consultation)	
Slovak Republic	No			Yes
Slovenia	Yes			
Spain	Yes			
Sweden	Yes			
Luxembourg	Yes			
Total	(16 Yes; 9 No)	1 Yes	3 Yes	6 Yes

Source: (Data from CEER Regulatory Benchmark Report Dec. 2005: 24-29)

PRICE SETTING AUTHORITY

Table 5 Institutional pricing authority

Country	Which institution(s) has authority in price setting and methodology? (in transmission, distribution network and balancing market)			
	Regulator	Government	Ministries	Parliament
Austria	Yes			
Belgium	Yes			
Cyprus	Yes			
Czech Republic	Yes			
Denmark	Yes			
Estonia	Yes			
Finland	Yes			
France	Y (T&D)		Yes (T&D)	
Germany	Yes			
Great Britain	Yes			
Greece	No		Yes	
Hungary	No		Yes	
Ireland	Yes			
Italy	Yes			
Latvia	Yes			
Lithuania	Yes			
Malta	Yes			
The Netherlands	Yes			
Poland	Yes			
Portugal	Yes			
Slovak Republic	Yes			
Slovenia	NO		Yes	
Spain	Yes			
Sweden	Yes			
Luxembourg	NO		Yes	
Total	(21 Yes; 4 No)		(5 YES)	

Source: (Data from CEER Regulatory Benchmark Report Dec. 2005: pg 117-126)

EXPERIENCE DURING THE 2004 EU ENLARGEMENT

ADMINISTRATIVE CAPACITY OF REGULATORY AGENCIES

- the extent to which the standards of administrative capacities, and notably regulatory bodies, in the new Member States are adequate to ensure the correct implementation and enforcement of the energy *acquis*
- where these standards are inadequate, the efforts which are required to bring them to a sufficient level and whether Member States are prepared and able to make such efforts
- whether administrative bodies that have received technical assistance from the European Commission are generally better suited for their tasks than those that have not

THE PROBLEMS WITH ASSESSING ADMINISTRATIVE CAPACITY

- Administrative capacity is the ability of the regulatory agency to properly perform their duties
- Assessing administrative capacity requires evaluating the “quality” of regulation, but not only ...
- The administrative capacity may be adequate, but hampered by unclear/suboptimal allocation of responsibilities
- Regulatory independence and adequate resourcing promote quality of regulation
- Also, quality of regulation can be assessed on the basis of stakeholders’ experience

- Independence can be promoted/protected by:
 - Legal and statutory provisions
 - Regulatory culture, tradition and practices

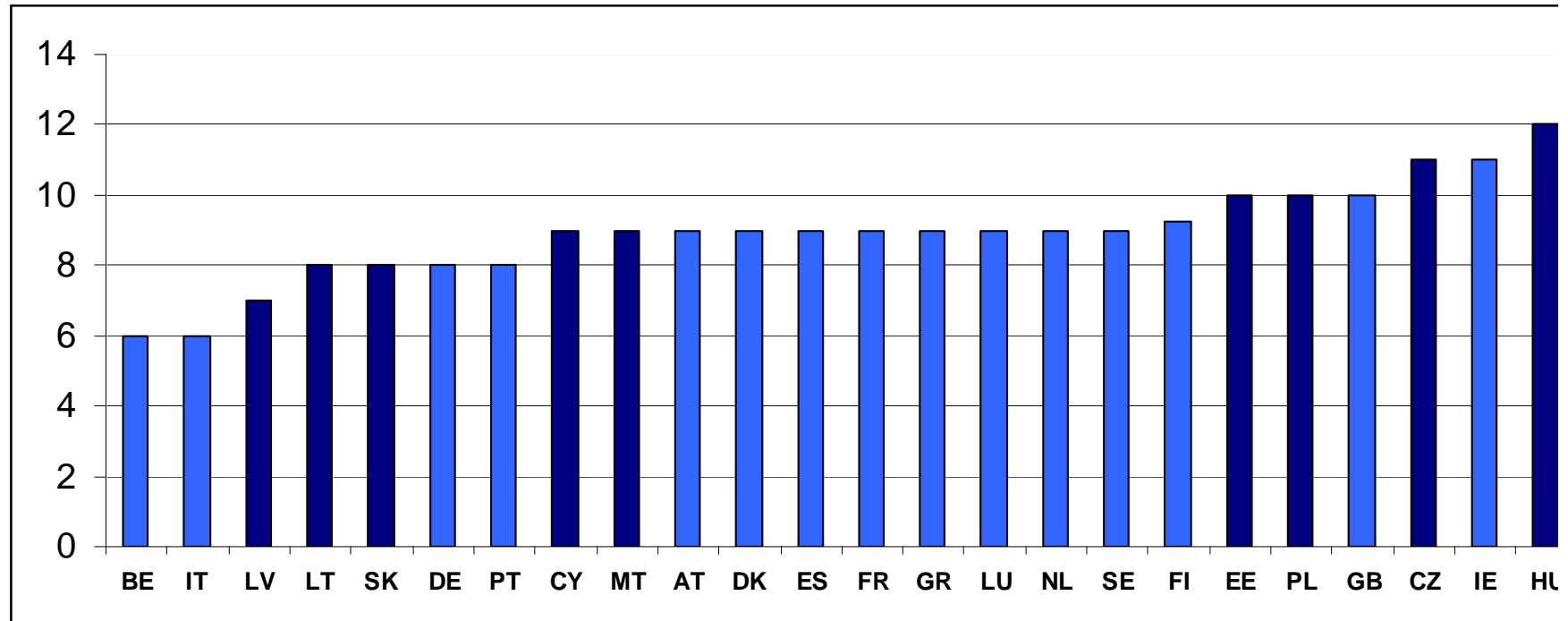
REGULATORY TRADITION

- On average, energy regulators were established two years earlier in OMSs (1997) than in NMSs (1999)
- Some NMSs (Hungary since 1994) have a longer tradition of energy sector regulation than some OMSs

Old Member States	Year regulator legally established	New Member States	Year regulator legally established
Austria	2001	Czech Republic	2001
Belgium	2000	Cyprus	2003
Denmark	2000	Estonia	1998
Finland	1995	Hungary	1994
France	2000	Latvia	2000
Germany	2005	Lithuania	1997
Greece	2000	Malta	2001
Ireland	1999	Poland	1997
Italy	1995	Slovakia	2001
Luxemburg	1997	Slovenia	2000
Netherlands	1999	avg	1999
Portugal	1997		
Spain	1997		
Sweden	1998		
	(Ofgas) 1986		
	(Offer) 1989		
UK	(Ofgem) 2000		
avg	1997		

- Scoring system based on:
 - Power on transmission and distribution tariffs
 - Financial independence
 - Appeals procedures
 - Appointment and removal powers
- The lower the score, the stronger is the legal/statutory protection of independence

LEGAL AND STATUTORY PROVISIONS



■ OMSs (avg = 8.7)

■ NMSs (avg = 9.8)

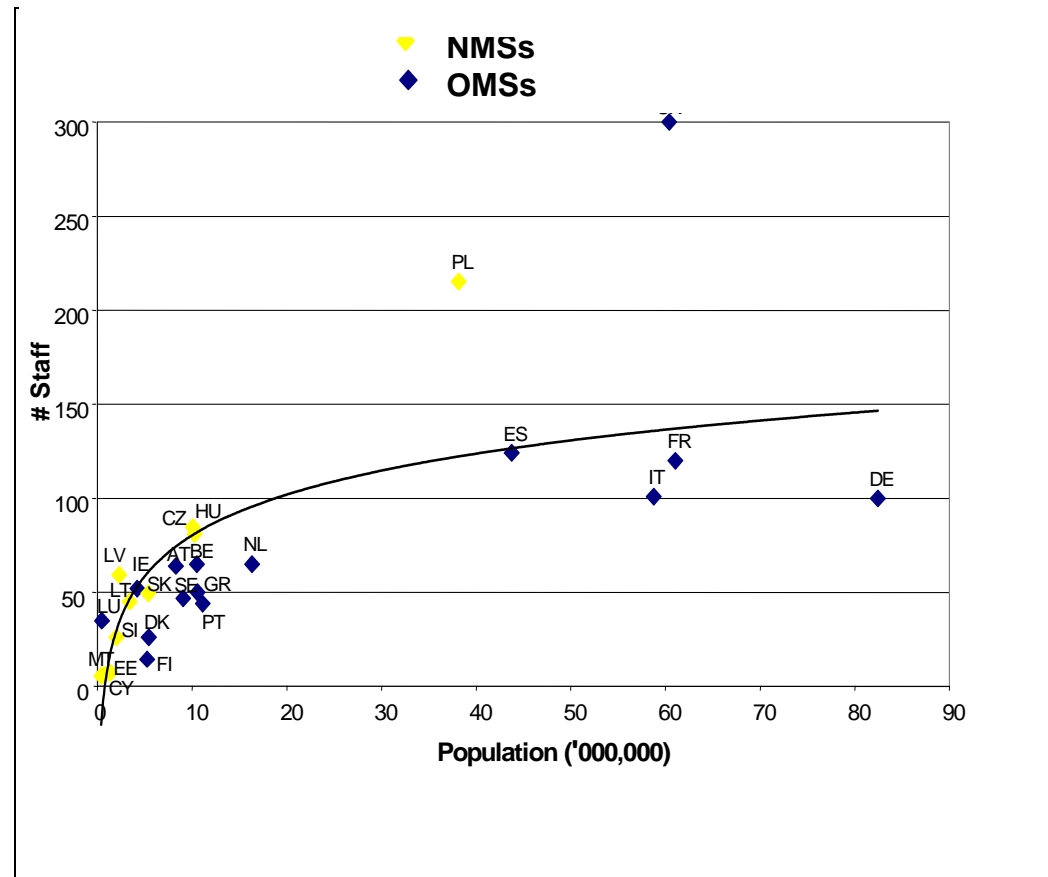
- Legal/statutory protection of regulator's independence is weaker in NMSs than in OMSs

Legal and statutory provisions

- However:
 - The independence of some regulators in NMSs appears to benefit from a high level of legal/statutory protection (e.g. LV, LT, SK)
 - While some regulators in OMSs enjoy a lower level of protection from legal/statutory provisions (e.g. IE, GB)
 - It is clear that sufficient tradition and culture of regulation may (more than) compensate for a low level of protection through legal/statutory provisions
 - However, in the case of accession countries regulatory “tradition” and “culture” should be given for granted and legal/statutory protection is essential

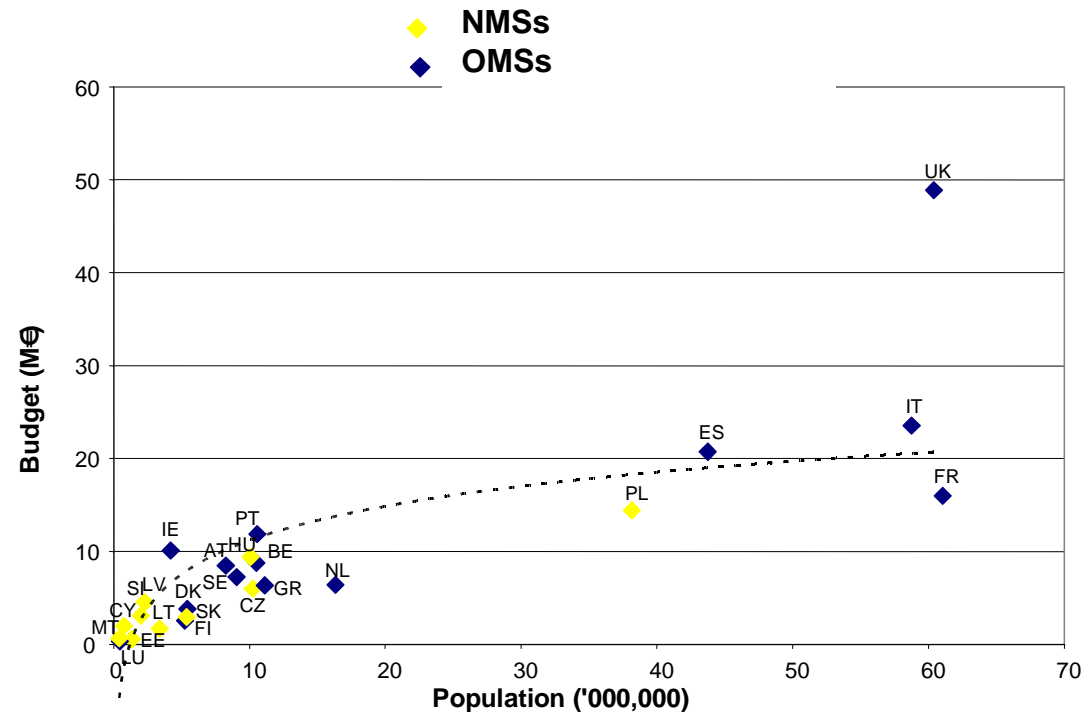
THE RESOURCING OF REGULATORY AUTHORITIES

- Regulators in NMSs appear to employ more staff, once differences in
 - the size of the jurisdiction
 - the responsibilities of the agenciesare taken into account



THE RESOURCING OF REGULATORY AUTHORITIES

- Regulators in NMSs appear to have available a lower level of financial resources (for salaries, training, equipment), even when differences in
 - PPP
 - the responsibilities of the agenciesare taken into account



THE RESOURCING OF REGULATORY AUTHORITIES

- The level of financial resources for unit of staff in regulatory agencies is lower in NMSs than in OMS even when differences in PPP are taken into account

