Reports of Cases

JUDGMENT OF THE COURT (Fifth Chamber)

6 March 2025 *

(Reference for a preliminary ruling – Internal market for electricity – Directive (EU) 2019/944 – Article 57(4) and (5) – Independence of national regulatory authority in the exercise of its duties and powers – Policy guidelines issued by a Member State – Legislative amendment aimed at reducing electricity distribution prices – Decision concerning methods for monitoring electricity system operation charges taken by the regulatory authority concerned following that amendment – Account taken of the *travaux préparatoires* relating to the law that introduced that amendment)

In Case C-48/23,

REQUEST for a preliminary ruling under Article 267 TFEU from the markkinaoikeus (Market Court, Finland), made by decision of 1 February 2023, received at the Court on 1 February 2023, in the proceedings

Alajärven Sähkö Oy and Others,

Elenia Verkko Oyj

v

Energiavirasto

THE COURT (Fifth Chamber),

composed of I. Jarukaitis (Rapporteur), President of the Fourth Chamber, acting as President of the Fifth Chamber, D. Gratsias and E. Regan, Judges,

Advocate General: A. Rantos,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– Alajärven Sähkö Oy and Others, by E. Ruohoniemi, asianajaja,

– Elenia Verkko Oyj, by M. Alkio, asianajaja,

* Language of the case: Finnish.

– Energiavirasto, by J. Tervo, acting as Agent,

– the Finnish Government, by M. Pere, acting as Agent,

– the Cypriot Government, by E. Symeonidou, acting as Agent,

– the European Commission, by O. Beynet, J. Ringborg and T. Scharf, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 5 September 2024,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 57(4) and (5) and Article 59 of Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (OJ 2019 L 158, p. 125).

2 The request has been made in proceedings brought by Finnish undertakings Alajärven Sähkö Oy and Others and Elenia Verkko Oyj, the system operators, against Energiavirasto (Energy Authority, Finland), concerning the annulment of decisions of the latter to change its methods for monitoring electricity system operation charges.

Legal context

European Union law

Directive 2009/72/EC

3 Article 35 of Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ 2009 L 211, p. 55), entitled ‘Designation and independence of regulatory authorities’, provided as follows in paragraphs 4 and 5:

‘4. Member States shall guarantee the independence of the regulatory authority and shall ensure that it exercises its powers impartially and transparently. For this purpose, Member States shall ensure that, when carrying out the regulatory tasks conferred upon it by this Directive and related legislation, the regulatory authority:

(a) is legally distinct and functionally independent from any other public or private entity;

(b) ensures that its staff and the persons responsible for its management:
(i) act independently from any market interest; and

(ii) do not seek or take direct instructions from any government or other public or private entity when carrying out the regulatory tasks. This requirement is without prejudice to close cooperation, as appropriate, with other relevant national authorities or to general policy guidelines issued by the government not related to the regulatory powers and duties under Article 37.

5. In order to protect the independence of the regulatory authority, Member States shall in particular ensure that:

(a) the regulatory authority can take autonomous decisions, independently from any political body, and has separate annual budget allocations, with autonomy in the implementation of the allocated budget, and adequate human and financial resources to carry out its duties; and

(b) the members of the board of the regulatory authority or, in the absence of a board, the regulatory authority's top management are appointed for a fixed term of five up to seven years, renewable once.

In regard to point (b) of the first subparagraph, Member States shall ensure an appropriate rotation scheme for the board or the top management. The members of the board or, in the absence of a board, members of the top management may be relieved from office during their term only if they no longer fulfil the conditions set out in this Article or have been guilty of misconduct under national law.'

Directive 2019/944

4 According to recitals 80 and 87 of Directive 2019/944:

'(80) Regulatory authorities need to be able to take decisions in relation to all relevant regulatory issues if the internal market for electricity is to function properly, and need to be fully independent from any other public or private interests. …

…

(87) This Directive … [does] not deprive Member States of the possibility of establishing and issuing their national energy policy. It follows that, depending on a Member State's constitutional arrangements, it might be within [a] Member State's competence to determine the policy framework in which the regulatory authorities are to operate, for example concerning security of supply. However, the general energy policy guidelines issued by the Member State should not impinge on the independence or autonomy of the regulatory authorities.'

5 Article 57 of that directive, entitled 'Designation and independence of regulatory authorities', provides, in paragraphs 4 and 5:

'4. Member States shall guarantee the independence of the regulatory authority and shall ensure that it exercises its powers impartially and transparently. For that purpose, Member States shall ensure that, when carrying out the regulatory tasks conferred upon it by this Directive and related legislation, the regulatory authority:

(a) is legally distinct and functionally independent from other public or private entities;

(b) ensures that its staff and the persons responsible for its management:
   (i) act independently from any market interest; and
   (ii) do not seek or take direct instructions from any government or other public or private entity when carrying out the regulatory tasks. That requirement is without prejudice to close cooperation, as appropriate, with other relevant national authorities or to general policy guidelines issued by the government not related to the regulatory powers and duties under Article 59.

5. In order to protect the independence of the regulatory authority, Member States shall in particular ensure that:

(a) the regulatory authority can take autonomous decisions, independently from any political body;

…'

6 Article 59 of that directive, entitled 'Duties and powers of the regulatory authorities', provides, in paragraph 1(a) and (m):

'The regulatory authority shall have the following duties:

(a) fixing or approving, in accordance with transparent criteria, transmission or distribution tariffs or their methodologies, or both;

…

(m) setting or approving standards and requirements for quality of service and quality of supply or contributing thereto together with other competent authorities and monitoring compliance with and reviewing the past performance of network security and reliability rules'.

Finnish law

The Law on Supervision

7 Under Paragraph 10(1), point 1, of the laki sähkö- ja maakaasumarkkinoiden valvonnasta (590/2013) (Law on the supervision of electricity and natural gas markets (590/2013); 'the Law on Supervision'), the Energy Authority must, by means of a decision (determination decision), lay down binding methods for system operators, main system operators responsible for the system and transmission system operators responsible for the system the methodology for determining, during the monitoring period, the return on system operations for system operators and the charges to be levied for transmission services, prior to their introduction.

8 Paragraph 10(2) of that law provides that the decision determining the methods to be applied in pricing may contain orders concerning, inter alia, the principles for the valuation of capital linked to system operations or a service, the manner of determining the permitted return on capital linked to system operations or a service or the permitted return on a service, the manner of determining the performance of system operations or a service and any adjustment to the profit and loss account and balance sheet required thereby, and objectives that incentivise

increasing the efficiency of system operations, promoting market integration, improving system security and promoting related research activities, developing the system and providing system services that promote measures to improve the energy efficiency of system users, and the manner in which those objectives are defined and the methods by which they are applied in pricing.

9 Paragraph 13(1), point 2, of that law provides that the Energy Authority may amend a determination decision by adopting a new decision at the request of the addressee of the determination decision or of its own motion. A determination decision that is valid for a fixed period can be amended on the initiative of the addressee of the decision or of the Energy Authority, and a determination decision that is valid for an indefinite period can be amended by the Energy Authority of its own motion if the amendment is based on a change in legislation.

The Law on the electricity market

10 Under Paragraph 19(1) of the sähkömarkkinalaki (588/2013) (Law on the electricity market (588/2013); 'the Law on the electricity market'), in order to ensure that users of their systems have access to electricity of sufficient quality, system operators must maintain, operate and develop their electricity systems and connections to other systems in accordance with the requirements relating to the operation of electricity systems and with the reasonable needs of system users.

11 Under Paragraph 19(2) of that law, which entered into force following an amendment effected by the laki sähkömarkkinalain muuttamisesta (730/2021) (Law amending the Law on the electricity market (730/2021); 'Law 730/2021'), an electricity system must be designed, constructed and maintained in such a way that it, inter alia, meets the quality requirements for the operation of electricity systems, that the technical quality of the transmission and distribution of electricity is good in all other respects and that the system operator can provide transmission and distribution services to system users in a cost-effective manner.

12 Paragraph 51 of the Law on the electricity market contains more detailed provisions on the quality requirements applicable to the operation of a distribution system.

13 Paragraph 52(1) of that law, as amended by Law 730/2021, provides that the development of an electricity distribution system must be based on transparent development plan which must include, inter alia:

– a plan on the key investments in that system necessary to maintain the transmission capacity of that system and to connect new electricity generation capacities and new loads to that system over the following 10 years, including charging stations for electric cars and shoreside electricity requirements for maritime and inland vessels;

– measures the implementation of which will result in the requirements provided for in Paragraphs 51 and 119 being met and maintained in the distribution system;

– a plan for the possible use of flexible electricity consumption, electricity storage facilities, energy efficiency measures of the distribution system operator and other resources as alternatives to the expansion of the transmission capacity of the distribution system; and

– appropriate comparisons of the cost effectiveness of measures for the development of the distribution system.

14 Paragraph 119 of the Law on the electricity market, as amended by Law 730/2021, contains a transitional provision relating to the operational reliability of distribution systems.

The dispute in the main proceedings and the questions referred for a preliminary ruling

15 By decisions of 30 November 2015, the Energy Authority established monitoring methods for the monitoring periods from 1 January 2016 to 31 December 2019 and from 1 January 2020 to 31 December 2023, respectively, concerning the determination of the return on system operations for system operators and the charges to be levied for transmission services.

16 By decisions of 15 December 2021 ('the contested decisions'), that authority amended its decisions of 30 November 2015. In particular, it amended those monitoring methods for the monitoring period between 1 January 2022 to 31 December 2023. Moreover, in the contested decisions, it stated that it had made that amendment on its own initiative following the entry into force of Law 730/2021.

17 By actions brought on 17 and 19 January 2022 respectively before the markkinaoikeus (Market Court, Finland), which is the referring court, the applicants in the main proceedings are seeking, inter alia, annulment of the contested decisions in so far as they amended those monitoring methods by updating the unit prices to be applied in calculating the return and by removing the alternative calculation method applicable in determining the risk-free interest rate. Those applicants submit, inter alia, that the Energy Authority did not adopt the contested decisions autonomously, as an independent regulatory authority, in the manner required by Article 57 of Directive 2019/944.

18 The Energy Authority requests that the referring court dismiss those actions. It submits, before that court, that the changes to the monitoring methods for the determination of the return for system operators and the charges to be levied for transmission services falls within the scope of the amendments to the Law on the electricity market and the Law on Supervision. It argues that the national legislature concluded that those amendments satisfy the requirements of EU law relating to the independence of the national regulatory authority and that they are merely rules equating to general guidelines.

19 The referring court notes that, in the main proceedings, it must rule on whether, by the contested decisions, the Energy Authority was able to change those monitoring methods during a monitoring period. In the course of that assessment, it must determine whether the amendments to the Law on the electricity market brought about by Law 730/2021 undermine the independence of the national regulatory authority as provided for by Directive 2019/944 as regards the fixing of system tariffs and in other regulatory tasks incumbent on that authority. To that end, it is necessary to interpret Article 57(4) and (5) and Article 59 of that directive.

20 The Energy Authority based the contested decisions essentially on the *travaux préparatoires* relating to Law 730/2021. Those decisions state, inter alia, that, following the amendments to the Law on the electricity market brought about by Law 730/2021 which entered into force on 1 August 2021, that authority started preparations to change the monitoring methods in order to bring them into line with the requirements of the legislation. According to those decisions, the central objective of those amendments was to provide that authority with new tools to influence the evolution of transmission tariffs without jeopardising the development of secure and smart electricity systems.

21 The government bill providing for those amendments, drawn up by the Finnish Government ('the bill'), indicates that the objective of the amendments was to curb an increase in electricity distribution prices by taking measures to reduce cost levels for the distribution system operators and to keep an increase in cost levels under control. That bill addressed amendments to the monitoring methods implemented by the Energy Authority subsequently to the entry into force of the amendments to Law on the electricity market brought about by Law 730/2021. In that bill, it was stated that a review of the calculation methods does not require there to be legislation directly related to the content of the calculation methods. It is further explained therein that, in a framework report drawn up in connection with the *travaux préparatoires* relating to the preparation of the same bill, the Energy Authority stated that, as a result of the proposed amendments to the rules applicable to distribution system operators, it would have to amend already its determination decisions in force concerning the methods used to calculate the tariffs of distribution system operators for the monitoring period in question.

22 According to an assessment by the Ministry of Economic Affairs and Employment referred to in the bill in question, the changes to the calculation have a significant impact on the revenues of distribution system operators and their owners.

23 Furthermore, in a report drawn up as part of the parliamentary debate on the bill, the Finance Committee of the Finnish Parliament stated that it would be appropriate to intervene in the unreasonable returns of the system operators made possible by the existing calculation methods. According to that report, under the monitoring methods in effect at the time of the relevant facts, the system value was set on the basis of component-related unit prices set by the Energy Authority for an eight-year period, from 2016 to 2023, and no longer reflected actual cost levels. The report went on to state that the purpose of the proposed amendments was specifically to allow a change in the monitoring model in the middle of the relevant monitoring period.

24 The referring court further takes the view that it is apparent from the judgments of 11 June 2020, *Prezident Slovenskej republiky* (C-378/19, EU:C:2020:462), and of 2 September 2021, *Commission* v *Germany (Transposition of Directives 2009/72 and 2009/73)* (C-718/18, EU:C:2021:662), that neither the methods for calculating electricity transmission and distribution tariffs in general, nor the various core matters relating thereto, may be fixed by national law in a binding manner for the national regulatory authority. Furthermore, according to that case-law, instructions given by representatives of a ministry concerning the decision-making of the national regulatory authority in the context of its core regulatory duties and powers also constitute interference with the independence of that authority.

25 Directive 2019/944 does not prevent Member States from defining and implementing their own energy policies. However, the general energy policy guidelines adopted by Member States must not restrict the independence or autonomy of the regulatory authorities or interfere with their core regulatory tasks and powers.

26 The referring court notes that the amendments to the Law on the electricity market introduced by Law 730/2021 did not concern per se the monitoring methods for distribution system operators applied by the Energy Authority in determining their reasonable return. Nor did those legislative amendments directly change either the unit prices to be applied in calculating the basis for that return or the risk-free interest rate to be applied in determining the reasonable rate of return. As stated in the *travaux préparatoires* relating to that law, the objective of those amendments was to bring about a reduction in electricity distribution prices. To that end, the regulatory authority was given the means and justifications to change the calculation methods in the middle of the

monitoring period, those changes and the effects thereof having been assessed in advance. Those statements seemed to have played a clear role in the adoption of the contested decisions by the Energy Authority.

27 That court considers that, in order for it to resolve the dispute before it, an interpretation of EU law is necessary on the question whether the objective pursued by national rules consisting in curbing the increase in electricity distribution prices and bringing those prices down, in order to improve the cost effectiveness of system undertakings, can be regarded as not relating to the duties and powers of the national regulatory authority, or whether those duties may constitute general policy guidelines such as those at issue in the main proceedings. That court also seeks to ascertain which criteria are to be taken into account for the purposes of such an assessment. In that context, the Market Court also seeks to ascertain what significance is to be attached in that regard to the fact that the abovementioned statements were set out in the *travaux préparatoires* relating to a law, taking into account, inter alia, the judgment of the Court of 29 April 2004, *Björnekulla Fruktindustrier* (C-371/02, EU:C:2004:275) and the question as to whether those statements may be regarded as 'general policy guidelines' within the meaning of Article 57 of Directive 2019/944.

28 In those circumstances, the markkinaoikeus (Market Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) What factors must be taken into account and considered in assessing what constitutes interference with the core regulatory duties and powers of the national regulatory authority in a way that undermines the independence of the national regulatory authority in accordance with Article 57(4) and (5) of [Directive 2019/944], and what constitutes general guidelines not related to the regulatory duties and powers within the meaning of Article 59 of [that directive]?

(2) Is an amendment to national legislation [such as that at issue in the main proceedings] the purpose of which was to influence electricity distribution prices in the manner set out in the *travaux préparatoires* relating to [the law that brought about that legislative amendment] by making amendments to the national Law on the electricity market which affect the regulatory environment of system operators and which did not, in themselves, directly interfere with transmission or distribution tariffs or with the methods for calculating them, but as a consequence of which the national regulatory authority was forced to change its monitoring methods in the middle of the monitoring period, considered to be compatible with Article 57(4) and (5) of [Directive 2019/944] with regard to the requirement of independence of the regulatory authority?'

Consideration of the questions referred

29 By its two questions, which it is appropriate to examine together, the referring court asks, in essence, whether Article 57(4) and the first paragraph of Article 57(5)(a) of Directive 2019/944, read in conjunction with Article 59 thereof, must be interpreted as precluding legislation of a Member State whose purpose, as indicated in the *travaux préparatoires* relating thereto, is, inter alia, to influence electricity distribution prices without, as such, containing provisions specifically governing electricity transmission or distribution tariffs or the calculation methods thereof, but

the effect of the entry into force of which has been that the national regulatory authority has changed its methods for monitoring electricity system operation before the expiry of the monitoring period ongoing on the date of that entry into force.

30 In that regard, Article 57(4) of that directive provides, in essence, that the Member States are to guarantee the independence of the national regulatory authority and, to that end, are to ensure that, when carrying out the regulatory tasks conferred on them by that directive and related legislation, national regulatory authorities are legally distinct and functionally independent from other public or private entities and that their staff and the persons responsible for their management act independently from any market interest and do not seek or take direct instructions from any government or other public or private entity when carrying out those tasks. However, under Article 57(4)(b)(ii), that latter requirement is without prejudice to close cooperation, as appropriate, with other relevant national authorities or to general policy guidelines issued by the government not related to the regulatory powers and duties under Article 59 of Directive 2019/944, which include the duty, set out in Article 59(1)(a), to fix or approve transmission or distribution tariffs or their methodologies.

31 In addition, the first paragraph of Article 57(5)(a) of that directive provides that, in order to protect the independence of the regulatory authority, Member States are to ensure that that authority can take autonomous decisions, independently of any political body.

32 The provisions of Article 57 of Directive 2019/944 reflect, in essence, the content of recitals 80 and 87 of that directive, which state, first, that regulatory authorities need to be able to take decisions in relation to all relevant regulatory issues if the internal market for electricity is to function properly, and need to be fully independent from any other public or private interests and, second, that that directive does not deprive Member States of the possibility of establishing and issuing their national energy policy.

33 In particular, in that regard, recital 87 states, that, depending on a Member State's constitutional arrangements, it might be within a Member State's competence to determine the policy framework in which the regulatory authorities are to operate, for example concerning security of supply. However, the general energy policy guidelines issued by the Member State should not impinge on the independence or autonomy of those regulatory authorities.

34 First, it should be noted that the concept of 'independence' is not defined by Directive 2019/944. However, it is apparent from the Court's case-law concerning the interpretation of Directive 2009/72, Article 35(4) and (5) of which is, in essence, identical to Article 57(4) and (5) of Directive 2019/944, that, as regards public bodies, the term refers in its usual meaning to a status that ensures that the body in question is able to act completely freely in relation to those bodies in respect of which its independence is to be ensured, shielded from any instructions or external influence. That independence in decision-making implies that, within the sphere of the regulatory duties and powers, national regulatory bodies take their own decisions autonomously and solely in the public interest, so as to ensure compliance with the objectives pursued by Directive 2009/72, without being subject to external instructions from other public or private entities (see, to that effect, judgments of 11 June 2020, *Prezident Slovenskej republiky*, C-378/19, EU:C:2020:462, paragraphs 32, 33 and 54, and of 2 September 2021, *Commission* v *Germany (Transposition of Directives 2009/72 and 2009/73)*, C-718/18, EU:C:2021:662, paragraphs 108 and 109).

35 In that regard, the Court has stated that the complete independence of regulatory authorities from economic actors and public entities, be they administrative bodies or political bodies (and, in the latter case, be they the holders of executive power or of legislative power)is instrumental in ensuring that the decisions taken by those authorities are truly impartial and non-discriminatory, while the possibility of undertakings and economic interests connected with the government, the majority or political power being treated more favourably is excluded and that they are able to coordinate their actions on a long-term basis, which is necessary to meet the objectives of Directive 2009/72. The Court has further held that the independence of national regulatory authorities must be ensured not only in relation to the government, but also in relation to the national legislature (see, to that effect, judgment of 2 September 2021, *Commission* v *Germany (Transposition of Directives 2009/72 and 2009/73)*, C-718/18, EU:C:2021:662, paragraphs 112 and 130).

36 The Court has also held that the representatives of the national ministries must not be able to use their participation in those tariff regulation procedures to put any pressure whatsoever on the regulatory authority or to give it instructions that might influence its decisions within the framework of its duties and powers (see, to that effect, judgment of 11 June 2020, *Prezident Slovenskej republiky*, C-378/19, EU:C:2020:462, paragraph 62).

37 Secondly, as the Court has held, the powers reserved to the regulatory authority are executive powers that are based on the technical and specialist assessment of factual realities and, in the exercise of those powers, that authority is subject to principles and rules established by an equally detailed legislative framework at EU level, which limit its discretion and prevent it from making political choices (see, to that effect, judgment of 2 September 2021, *Commission* v *Germany (Transposition of Directives 2009/72 and 2009/73)*, C-718/18, EU:C:2021:662, paragraph 132).

38 Although, according to the wording of Article 59(1)(m) of Directive 2019/944, it is indeed for the regulatory authorities to ensure compliance with rules governing network security and reliability and to assess past performance, there is nothing in that wording to suggest that it falls within their competence to establish those rules.

39 In that regard, as is apparent from recital 87 of that directive and as provided for by the second paragraph of Article 194(2) TFEU, Member States have the right to determine the conditions for exploiting their energy resources. Hence that directive does not deprive Member States of the possibility of establishing and issuing their national energy policy or determining the policy framework in which the regulatory authorities are to operate, inter alia concerning security of supply. Consequently, Member States are free to adopt their own rules relating to the national electricity market, except as regards the duties and powers of the national regulatory authorities provided for by that same directive.

40 In that perspective, as observed by the Advocate General in points 52 and 53 of his Opinion, the exercise by a Member State of its powers to establish its national energy policy may have repercussions on the costs of operating the electricity system. Moreover, the mere fact that a Member State seeks, through the adoption of rules, to lower electricity distribution prices is not, as such, incompatible with Article 57(4) and (5) of Directive 2019/944.

41 That said, in view of Article 57(4) and (5) of Directive 2019/944, national regulatory measures which include detailed provisions specifically establishing the factors which are at the discretion of the national regulatory authority, such as tariff levels of the electricity system or the specific methods for calculating them, cannot be permitted.

42 In that regard, in order to determine whether a national regulatory measure, such as the one at issue in the main proceedings, is compatible with the principle of independence of regulatory authorities, the national court must assess whether the change in the methods for fixing the tariffs for the electricity system by the national regulatory authority is the consequence of a law relating solely to an aspect that is unrelated to that authority's duties within the meaning of Article 59 of Directive 2019/944, such as security of supply.

43 Furthermore, it must be ensured that the views expressed in the course of the legislative process by the government of a Member State, in particular those regarding the potential impact of that legislation on the fixing of tariffs for the electricity system concerned, contained in the *travaux préparatoires* relating to that law, are in no way binding and cannot in any case be regarded by the regulatory authority as instructions with which it would be required to comply when exercising its duties and its powers (see, to that effect, judgment of 11 June 2020, *Prezident Slovenskej republiky*, C-378/19, EU:C:2020:462, paragraph 63).

44 Moreover, the fact that, before the expiry of the monitoring period ongoing on the date of entry into force of that same legislation, the national legislature amended the requirements relating to security of supply established by that government and that, as a result, those tariffs were modified by the regulatory authority, does not per se call into question the independence of that authority's exercise of its powers.

45 In the present case, as is apparent from the Court's case file and subject to verifications which it is for the referring court to carry out, in order to improve the security of electricity distribution systems, in particular in relation to extreme weather conditions that caused considerable disruptions to the electricity supply in Finland, the national legislature adopted the Law on the electricity market, which placed targets on system operators to improve the security of distribution systems. According to the Finnish Government, that law had provided, to that end, inter alia, for an obligation for those operators to meet the requirements relating to construction and maintenance of those systems, which were to be met in stages by the end of 2028 in their respective areas of responsibility. However, as stated by the Finnish Government and as indicated in the *travaux préparatoires* for Law 730/2021, the legislative amendments to that law introduced by Law 730/2021 were adopted in order to extend the implementation period of those requirements in order to limit, according to the *travaux préparatoires* for Law 730/2021, increases in electricity distribution prices. The referring court notes, in that regard, that those amendments did not per se concern the methods for monitoring return rates for distribution system operators applied by the Energy Authority.

46 In order to ensure predictability in the legislative process at issue in the main proceedings, the Energy Authority tabled a framework report which concerned the methodology for monitoring the setting of tariffs for the operation of the electricity network, equivalent to an independent expert opinion on the potential impact of those changes on those tariffs in terms of security of supply. Moreover, in view of the Court's case file and as maintained by the Energy Authority, it seems, subject to the referring court's assessment, that, in the contested decisions, that authority took it upon itself to examine the issue of those monitoring methods after the date of entry into

force of Law 730/2021, in accordance with Paragraph 13(1), point 2, of the Law on Supervision, which explicitly leaves to the Energy Authority the power to assess the need for and bases of the monitoring methods and changes to them.

47 In the light of the foregoing considerations, the answer to the questions referred is that Article 57(4) and the first paragraph of Article 57(5)(a) of Directive 2019/944, read in conjunction with Article 59 thereof, must be interpreted as not precluding national legislation whose purpose, as indicated in the *travaux préparatoires* relating thereto, is, inter alia, to influence electricity distribution prices without, as such, containing provisions specifically governing electricity transmission or distribution tariffs or the calculation methods thereof, but the effect of the entry into force of which has been that the national regulatory authority has changed its methods for monitoring electricity system operation tariffs before the expiry of the monitoring period ongoing on the date of that entry into force.

Costs

48 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fifth Chamber) hereby rules:

Article 57(4) and the first paragraph of Article 57(5)(a) of Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU, read in conjunction with Article 59 thereof,

must be interpreted as not precluding national legislation whose purpose, as indicated in the *travaux préparatoires* relating thereto, is, inter alia, to influence electricity distribution prices without, as such, containing provisions specifically governing electricity transmission or distribution tariffs or the calculation methods thereof, but the effect of the entry into force of which has been that the national regulatory authority has changed its methods for monitoring electricity system operation tariffs before the expiry of the monitoring period ongoing on the date of that entry into force.

[Signatures]