



Press Release

9 July 2010

Commission for Electricity and Gas Regulation
Rue de l'Industrie 26-38
1040 Brussels
Tel. 02/289.76.11
Fax 02/289.76.09

The Constitutional Court annuls the Act of 10 March 2009 on the transit of natural gas

In its decision, the Court has sided with the CREG, which considers different tariff methodologies for the transit and the transport of natural gas to be in conflict with the principle of non-discrimination.

Firstly, the Court recognises the interest of the CREG in view of its dual mission (as advisor to the government on the one hand, and as the party responsible for supervision and control of the pertinent laws and regulations on the other).

According to the Court, the principle of non-discrimination enshrined in European legislation contains a ban on making access to the natural gas transport network dependent on discriminating conditions. There must therefore not be any differentiation made between the transport of gas for domestic use and transit gas. The Court therefore concludes that national legal provisions whereby different tariffs are established for the transit and the transport of natural gas cannot be justified.

As concerns exceptions for historic transit contracts, the Court considers that they can only potentially be claimed by the contractual parties listed in the 1991 European Transit Directive, in view of the fact that this list is considered to be exhaustive, including the bodies responsible for the import and export of natural gas. Interpreting a legal provision in a manner resulting in conflict with European Union law can thus not reasonably be justified by the Court, and the difference in treatment arising thereout is consequently irreconcilable with the principle of equality.

The CREG welcomes this decision, which contains a confirmation of the natural gas transit tariffs approved by it in late 2009 and which came into effect on 1 January 2010. In that decision, the CREG had indeed applied a uniform, cost based tariff approach both to transport of gas intended for the Belgian market and also to transport from border to border. This decision resulted in a significant lowering of Fluxys' tariffs as compared to those in effect in 2008 and 2009 for the benefit of the network users serving the Belgian natural gas market.

Additional press information:

Tom Maes, Case Manager, Tel.: 02/289.76.48, Mobile/Cell: 0473/56.79.73

The CREG is the federal regulator for the Belgian electricity and natural gas markets. In addition to its government advisory role, the CREG is also, among other tasks, entrusted with the supervision of transparency and competition issues in the electricity and natural gas markets, ensuring that market conditions are aimed at the common interest and that they fulfil the needs of the general energy policy, and also with ensuring that essential consumer interests are met.

CREG

Rue de l'Industrie 26-38

1040 Brussels

Tel. 02/289.76.11

Fax 02/289.76.09