

# Case study: The Polish Capacity Market under EU State aid law

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Winter Package Symposium  
Brussels, 1 March 2017



# Polish Capacity Market **project**

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December  
2016

- the Draft Act on the CM and public consultations

2017-18  
(?)

- the Act adopted by the Parliament and first auctions organised

2021  
(?)

- first delivery year

## the Polish CM is largely based on the UK model

- auctions held by Polish TSO for both generation units and DSR  $\geq 2$  MW
- capacity agreements between capacity providers, Polish TSO and accounts manager
- **new capacity charge**: to be paid by consumers
- resources from the capacity charge will be collected by DSO's and TSO's and transferred to accounts manager
- **however**: foreign capacities may not participate in the CM

# Polish CM as State aid

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## Article 107(1) TFEU

- granted to **undertakings** (capacity providers)
- new charge **imposed by the State** on all users
- resources **controlled by the State** (Zarządca Rozliczeń S.A.)
- **selective advantage** to certain energy undertakings (capacity providers  $\geq 2$  MW)
- threatens to **distort competition on the energy market**
- **trade of electricity** between MS may be affected

# Compatibility with **the internal market**

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# 1. Objective of common interest (EEAG 219-221)

- CO<sub>2</sub> emission factors:
  - France < 100 g CO<sub>2</sub>/kWh,
  - UK < 500 g CO<sub>2</sub>/kWh,
  - Poland > 800 g CO<sub>2</sub>/kWh
- CO<sub>2</sub> emission expected for new PL hard coal-fired power plants (Opole, Kozenice, Jaworzno)  
> 700 CO<sub>2</sub>/kWh
- EC may consider the recently proposed 550 g CO<sub>2</sub>/kWh emission factor

CM might be inconsistent with the EEAG



## 2. Avoidance of undue negative effects on competition and trade (EEAG 232-233)

- interconnectors and foreign capacities may not participate in the CM
- a competitive price of capacity might not be ensured in the case of different clearing prices (JR)

CM might be inconsistent with the EEAG

# Conclusions

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(1) Serious doubts re compatibility of Polish CM with the internal market

(2) Polish CM:

- might contradict the objective of phasing out fossil fuel subsidies
- might create undue negative effects on competition and trade

(3) Opening the formal investigation procedure might be necessary

# Thank you

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