



The right to energy in the EU in times of pandemic

An assessment of the capacity of member states to guarantee it,
according to the basic services management model.

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We are on the verge of a milestone, or rather a nightmare. In March 2021 it will be one year since European Union (EU) member states initiated policies and plans to address the COVID-19 crisis. Fulfilling the right to energy and securing basic supplies was already a major challenge in the EU, with 1 in 4 households - at least 50 million people - living in energy poverty. Households that were to be confined for a long period of time, with no end date in sight, could not be lacking light water or gas. The states couldn't afford not to do it, citizens were clamouring for a minimum coverage, a minimum cushion to appease the damage. The measures promoted over the last year are many and varied, and although they some were welcome, they are insufficient. They are insufficient because in many countries a minimum level of real protection has not been achieved. And they are insufficient especially because most of them have an expiry date.



It is often the very way in which water and energy management systems and models are conceived that makes it impossible to push for real rescue measures for people and not for markets. Privatisation, liberalisation of the sector, commodification and financialisation of these resources and of the large companies that manage them, the potential generation of more social inequality, ecological destruction, etc. have led to the [loss of sovereignty and democracy in the management of basic services.](#)

The objective of civil society, no doubt, and hopefully that of policy makers, is to assess what has been achieved with these measures and to demand that they be modified or extended to include those who have been left out. In most cases, too, it will be necessary to overturn the limitations that have not allowed for more guaranteeing measures, or that do not make it possible for these measures to be here to stay. Three decades after the term “energy precariousness” was first included in a legal text in the EU -Loi 90-449 in France- it has become, now more urgent than ever, time to find the right recipes, but also a joint political strategy of the different actors involved to take responsibility and guarantee the right to energy for all.

COVID-19 has changed our relationships with our homes and our consumption of energy. Beyond the obvious impact (the increase in consumption as the home becomes a 24/7 school, office, administration office, gymnasium, leisure space...), what has changed is the way we relate to our homes and our energy consumption.) The awareness of what this supply represents in our lives has been transformed. We urgently need binding legislation to protect people in vulnerable situations, binding measures driven by a rights-based approach, starting with a **ban on supply cuts**. So what happened to this kind of measure during the State of Alarm?

The winter lull¹ was already in place in countries such as Belgium, the UK (for retired people living alone and for households with children under 16) or France (for electricity and gas, as water cuts are banned all year round) but they have extended the measure until the end of the State of Alarm, or in some cases until the end of the following winter. In contrast, countries such as Finland, which also have such a ban on water cuts during the coldest months of the year, have not implemented extraordinary protection measures. In the Netherlands, which also has a winter lull, a voluntary agreement was reached by the companies in the sector not to cut off supplies during the pandemic.

Germany, Ireland, Italy, Poland and Portugal have also legislated to prohibit cuts during the State of Alarm. In Austria, Slovakia, Hungary and the Czech Republic, on the other hand, voluntary agreements have been reached by companies. As far as the former are concerned, these are measures which, although welcome, cover an insufficient period of time. In the second case, in addition to covering hopefully two or three months, these are measures that are at the expense of the goodwill of the private sector. Most worryingly, none of them address the issue of the debt that accumulates during these periods.

As regards the prohibition of binding cuts throughout the year, there is the benchmark of Llei 24/2015 of the Catalan Parliament, which in 2017 had already prevented more than 40,000 cuts. In the rest of Spain, on the other hand, there was no legislation in this regard (except for households with a social voucher that have a child under 16 years of age or people with disabilities or dependency). In this regard, during the State of Alarm, the Spanish government approved a moratorium on cuts for all domestic consumers from April to September 2020. Subsequently, and thanks to social pressure, a new period of protection has been achieved from 23 December 2020 to 9 May 2021. However, this time only the beneficiaries of the bono social eléctrico are eligible, leaving many affected people out of this protection, as you can only access it if your contract is within the regulated market. Social groups continue to demand the implementation of a precautionary principle before the cut-off, which the Ministry of

1 The winter truce is a measure that establishes a period during the coldest months, normally coinciding with winter, in which it is forbidden to cut off the energy supply to households, in some cases through binding legislation of the states and in others through agreements of the supply companies. The scope of the population covered by this measure also varies, in some cases being applicable to all domestic consumers and in other cases depending on income criteria or other vulnerability requirements.

Ecological Transition has not implemented. Precisely the precautionary principle is a tool introduced by the aforementioned law 24/2015 in Catalonia, which represents a very important paradigm shift on the path towards a rights-based perspective. This principle allows the presumption of innocence of families with unpaid bills (under the understanding that they do not pay because they cannot, not because they do not want to) and obliges supply companies to contact Social Services before any cut-off to find out whether the household in question is inhabited by people in a situation of vulnerability. This ensures that no undue cut-offs take place and obliges companies to provide information on cut-offs to the administration, data that is essential for dealing with this vulnerability, but which for a long time private companies have refused to provide. This legislation also proposes that the accumulated debt be resolved in agreements between the administration and the companies, based on co-responsibility.

Taking into account the debt problem, it seems obvious that beyond the issue of cuts, we must tackle another factor of energy poverty, which is the **price of energy**. In Spain, for example, it is common practice to try to take consumers out of the regulated market - where they pay a lower price and have access to the bono social - and move them to the free market, where they are charged for unnecessary items, where it is impossible to access the bono social and where the large companies that control the market really make the bulk of their profits. These practices must end immediately, while price controls are established and production costs are audited. Some countries such as Austria, Slovenia, Greece, Portugal or Romania have offered discounts or caps on their regulated prices or tariffs; a decision that is left to governments or regulators themselves but is not applicable for private companies or in liberalisation frameworks (unless they decide to do so on their own initiative).

Vouchers and social tariffs, in addition to price controls, can be a good tool, but they also have to be adapted to the needs of the people concerned, and not to the market. Administrative obstacles, lack of information, and often overly restrictive requirements mean that those who need them cannot take advantage of them, and this is even more serious in times of crisis and pandemics. In this regard, it is useful to look at cases such as Portugal, where families can benefit from social tariffs for electricity and natural gas, through an automatic mechanism carried out by the General Directorate of Energy and Geology, the Tax Authority and the Social Security. The attributions are verified jointly by delivering the data for the TA and SS to verify the income, social benefits, subsidies or pensions received by these people. From 2016 there was a substantial increase in the beneficiaries of social vouchers (283% more), precisely thanks to the automatic procedure applied. In 2018, electricity social tariffs across

Portugal accounted for some 83.7 million euros, and 1.6 million corresponding to natural gas social tariffs, benefiting in total some 835,000 families. This was financed by the energy companies, with EDP absorbing 74.8% of the total for the electricity social tariff, and in gas also assumed mainly by GALP power, EDP and Endesa.

Finally, and without really considering it a measure, in different EU countries private companies have offered payment facilities or deferrals during the pandemic. Or in the case of measures in relation to pre-payment meters, credit advancement or emergency credits. In most of these cases, cuts (or self-cuts, where it is the household itself that stops charging its pre-payment meter to pay for other essential needs) may still occur.

In view of the measures outlined above, and bearing in mind that there are many levels of policy generation and protection measures - national, regional, local - this article is not intended to be exhaustive in analysing them, but rather to put them in perspective and understand their progress or limitations. The table below presents a summary of the most relevant measures in relation to the right to energy and the guarantee of basic supplies that have been implemented in EU member states during and after the COVID-19² State of Alarm:

2 It has taken into account analyses of previous ESF reports, consultations with various institutions, entities, grassroots groups at EU member state level, as well as information published on <http://www.engager-energy.net/covid19/> and <https://www.assist2gether.eu>.

COUNTRY	CUT-OFF BAN	OTHER MEASURES
Germany	Ban on cuts in water, electricity, gas and telecommunications that cannot pay as a result of the crisis.	<p>Deferral of payment of energy bills until 30/05/2020 for household and self-employed - for household consumers and self-employed persons/small businesses.</p> <p>Abolition of interest on late payments.</p> <p>Deferral of recovery of accumulated debts.</p>
Austria	Voluntary agreement not to cut off supply (26/03/20 - 01/05/20) - for household consumers and self-employed persons/small businesses.	<p>Overdue payments to be settled in subsequent agreements or contracts.</p> <p>In April 2020, the electricity price adjustment index announced for May 2020 is suspended until August, with savings for households and small businesses of EUR 2 million.</p>
Belgium		From December 2020 it is approved to extend the social tariff for electricity and gas until the end of 2021 to low-income households with "BIM" status (household income < €20,000 per year) on request.
Belgium - Brussels	Winter truce extended until 30/06/20. Subsequently cut-off ban extended until 31/03/2021.	
Belgium - Flanders	Ban on water, electricity or gas cut-off (from 08/04/20 for the duration of the emergency period)	<p>Government coverage of water and energy bills for 1 month (202,68 €) - for households where at least one person has lost their job between 20/03/20 -17/07/20 for COVID-19.</p> <p>Payments of Energiehuis energy credits are automatically deferred for 3 months from 20 April.</p>
Belgium - Wallonia	Cut-off ban and ban on installation of pre-payment meters during the period of confinement.	<p>Financial support for people with pre-payment meters for electricity or gas (100 euros for electricity and 75 euros for gas, at a cost of 9.4 million euros.</p> <p>Establishment of the category of protected consumers in electricity and gas during the COVID-19 crisis, offering them support for the payment of their bills until March 2021, benefiting 40,000 households, at a cost of €12 million</p>
Bulgaria		The period during which consumers can pay their bills is extended from 10 to 20 days.

COUNTRY	CUT-OFF BAN	OTHER MEASURES
Cyprus	The Electricity Authority is willing not to interrupt supply, but cannot guarantee it in case of non-payment	Cyprus 10% discount on bills during March and April in 2020.
Croatia		Private company GEN-I applies 15% discount for households within the standard tariff (until 30/06/20).
Slovakia	Voluntary moratorium on cuts by ELGAS (01/04/20 - 30/06/20)	Recommendation to suppliers to delay payment of energy bills. Voluntary abolition of interest on late payments by ELGAS company.
Slovenia		Abolition of levies on renewable energy production and reduction of other regulated costs on the bill (01/03/20 - 31/05/20), resulting in a reduction of between 20 and 30% of the bill. Voluntary energy price reduction by some companies (between 5 and 30% depending on the case) during the months of the State of Alarm.
Spain	Spain Moratorium on cuts for all domestic consumers (31/03/20 - 30/09/20) and moratorium on cuts only for vulnerable consumers (23/12/20 - 09/05/21)	Extension of the period for renewing the bono social eléctrico until 15 September for those who had to do so during the State of Alarm. Extension of the beneficiaries of the bono social eléctrico, including self-employed workers who have reduced their activity by 75%. Regulated LPG and natural gas prices have to be reduced or maintained for 6 months from the start of the State of Alarm.
Finland	Already had a winter lull, which remains unchanged without extensions or extraordinary protections.	
France	Winter truce (November to March) is extended until 31/05/20 and thereafter until 01/09/20.	Suspension of bills until 30/04/20 for small businesses (<10 employees).
Greece		Greece Possibility for all consumers to access the fixed electricity tariffs. 8% discount on bills for people in vulnerable situations.

COUNTRY	CUT-OFF BAN	OTHER MEASURES
The Netherlands	<p>Voluntary agreement not to cut supply.</p> <p>The Netherlands had already a winter truce.</p>	
Hungría	<p>NKM (state trading company) applies a moratorium on cuts to indebted consumers.</p> <p>Eon and ELMŰ-ÉMÁSZ establish voluntary agreements in this sense.</p>	
Ireland	<p>Cut-off moratorium (16/03/20 – 16/06/20 y 24/10/20 - 01/12/2020)</p>	<p>For pre-payment gas meters, an extension of the emergency credit from €10 to €100 is available, as they can only be topped up in specific shops involving social contact which was to be avoided.</p>
Italy	<p>Ban on water, electricity and gas cuts (10/03/20 - 17/05/20) - for domestic consumers and self-employed persons/small businesses.</p>	<p>Expansion of the state fund for energy and environmental services to 1.5 billion euros.</p> <p>Reduction of the standard tariff (18.3% for electricity and 13.5% for gas).</p> <p>Suspension of bills until 30/04/20 (11 municipalities in the red zone of Lombardy and Veneto).</p> <p>Abolition of interest for late payments.</p> <p>Two-month extension for renewal of social vouchers.</p>
Lithuania		<p>Voluntary agreement of the Lithuanian Association of Heating Producers for late payments on certain profiles.</p> <p>Voluntary agreement of the supplier IGNITIS to delay payments of invoices by 1 month, or maximum 2 months. Possibility to repay this delay during the following year.</p>
Poland	<p>Ban on cuts (from 31/03/20 for the duration of the emergency period)</p>	<p>Recommendation to suppliers to delay payment of energy bills.</p>

COUNTRY	CUT-OFF BAN	OTHER MEASURES
Portugal	Moratorium on cuts during the State of Emergency and the month following the end of the State of Emergency.	<p>Extension by an additional 30 days of the already existing 20 days' notice for cut-off (until 30/09/20).</p> <p>Delays incurred during the emergency period will be paid without interest. Bills can be paid in 12 months (13 March - 30 June).</p> <p>Freezing of the price of the gas cylinder during the emergency period.</p> <p>Revision of the regulated tariff downwards and recommendation to free market suppliers to do the same.</p>
Romania		Electricity and gas price freeze during the 30-day state of emergency.
Czech Republic	Voluntary agreement not to cut off supply by CEZ company	Voluntary agreement for consumers to defer energy bill payments for up to 3 months.
United Kingdom ³	<p>Ban on disconnection of pre-payment meters (although self-disconnection is common practice).</p> <p>Already had winter lull for retired people living alone and households with children under 16.</p>	<p>Acuerdo voluntario para el apoyo de los consumidores de contadores pre-pago (4 millones de personas) que no puedan recargar su contador, para ofrecerles créditos y otras fórmulas de aplazamiento en el pago.</p> <p>Voluntary agreement to support consumers with pre-payment meters (4 million people) who are unable to recharge their meter, to offer them credits and other payment deferment formulas.</p> <p>As of 15/12/20, OFGEM requires utilities to offer emergency credit or extra credit for vulnerable households.</p>

3 The experience of the UK - although not currently a member of the EU - is included because of the history and importance of its work on fuel poverty.

In short, surprisingly, and despite the fact that this is a crisis situation that cannot be easily solved, measures have been adopted to tackle one of the factors that causes energy poverty: household income. Through the moratorium on cuts due to non-payment, or the postponement of debts, short-term solutions have been proposed, when these are measures that are necessary all year round. Given that income will not return immediately, it seems that it is being tacitly proposed that when this income arrives, it will be used to pay off debts incurred during the pandemic. How long, then, will the situation of vulnerability of these families be perpetuated? How much longer must we wait for the right to energy to be guaranteed for all?

Private companies have offered protection measures, but in most cases these have been in relation to providing “facilities” for payment. Deferral of charges, renegotiation of deadlines, extension of payment periods, or in the best of cases, elimination of interest for late payment. Companies expect consumers to pay what they owe. But household incomes are not going to return as soon as the lock-in or semi-confinement ends. Even the measures imposed by some governments on the companies included a “without prejudice to the interest that it may generate for the energy companies”, as for example in Spain, where it is planned to compensate the electricity companies for the facilities to lower the contracted power or for the flexibility in the conditions of the contracts. The helplessness of the population has become evident: the system does not protect people, but big business and companies.

Thus, the quick conclusion would be that in times of pandemic, guaranteeing coverage of the essential need for energy is more difficult than ever, but from the perspective of energy democracy, the truth is that **in these times of emergency, the different countries and governments have had to find formulas and recipes to do so**, some with more success and more guarantees than others. Because in many cases, it is the management model of basic services such as energy or water that limits and even makes this guarantee impossible. Privatisations in particular, and the liberalisation of the sector as a dynamic and mandate of EU directives, are meaning a loss of sovereignty of states to protect families in vulnerable situations. And yet, in many cases, it is not a question of a lack of capacity and competence, but of the imperative need for political courage to promote binding legislative instruments that do not leave this guarantee to the will of private actors. If policy makers do not understand this moment as an opportunity, European citizens will be eternally pushed towards measures that aim at mere recommendation, at the mercy of voluntary agreements or the existence of funds, or at the condition that these measures do not affect the profits of large companies in the sector.

It has been assumed that in times of pandemic protection was more necessary than ever because of the longer hours spent in our homes, and the obvious reduction in income for many families. Precisely for this reason the measures have to be maintained but, in addition, they have to be further extended. In the light of the measures analysed, we can see that the binding cut-off ban measures are a good guarantee of protection, but that it is equally necessary to accompany them with mechanisms that tackle prices to adjust them to the families' ability to pay, so as not to leave them with an energy mortgage in the future, and so that they have a second chance to move on when their income recovers.

The [study of the management models of basic services and their relationship with the measures that make these same structures and systems possible \(or not\)](#) is key. The passing of the years and, in particular, the passage through a situation of economic and socio-sanitary crisis such as the one that COVID-19 is going through, should help us to take stock and avoid approaches and policies that may become patches, or even perpetuators of situations of inequality. Precious public money for recovery cannot be wasted on models that take away our ability to make decisions and protect those who need it most. If measures to tackle energy poverty have already been tried and tested and we know their positive or negative impact, it is only right that policy makers clarify which actors or management models hinder social and environmental justice, such as the orientation of essential services towards profit as opposed to the desire for public service. The pandemic has shown us that it is possible to promote guaranteeing measures, but it is not easy to do so in an EU that continues to promote the liberalisation of the energy sector. It is now imperative to start from the most guaranteeing measures that already exist, to draw red lines for private actors who put profit before life, and to build a model for the management of basic services that has the capacity to tackle energy poverty and to guarantee - without exclusions, without excuses - the right to energy.





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