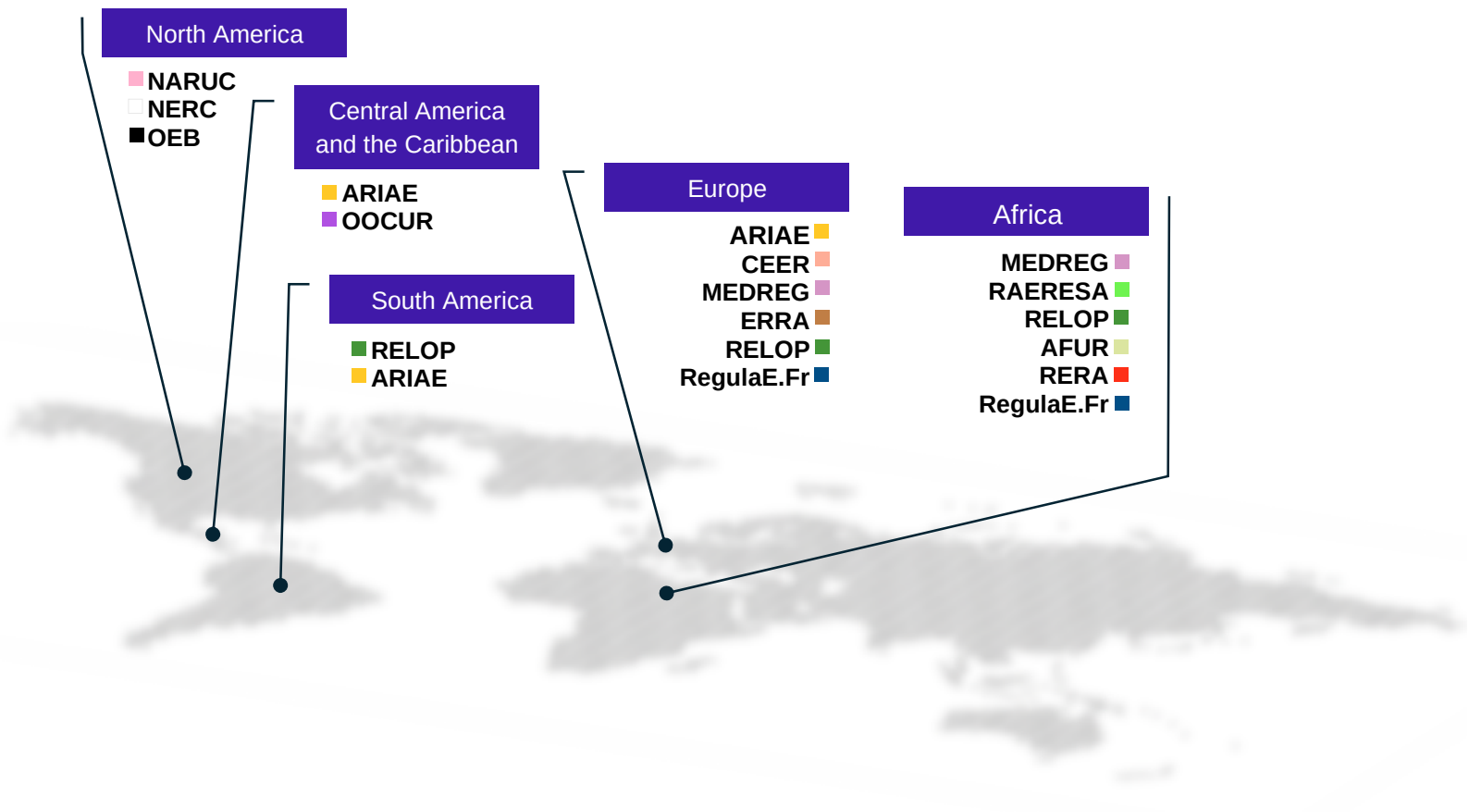
ICER Report on NRAs' independence

Results of the questionnaire among ICER members

March 2026

Content



ICER Report on NRAs' Independence | Factsheet

Key Findings

10/12*	9/12*	7/12*
Organisations Confirm Independent NRAs	Have Legal Basis in National Law	Report Sufficient Resources

Regulatory Framework & Evolution

Legal Foundation

- Independence is typically enshrined in national legal provisions and regulatory constitutive acts, with alignment to international standards (e.g. EU Directives).

De Jure and De Facto: Both formal safeguards and operational autonomy matter

Regulatory Scope

- Trend towards multi-sector regulators beyond energy sectors, a.o. renewables, water and waste management, telecommunications and cybersecurity.

Expanding competencies across sectors

Primary Functions

- NRAs exercise executive functions (tariff-setting, grid acces regulations etc.) combined with advisory roles to government.

Binding regulatory authority + advisory capacity

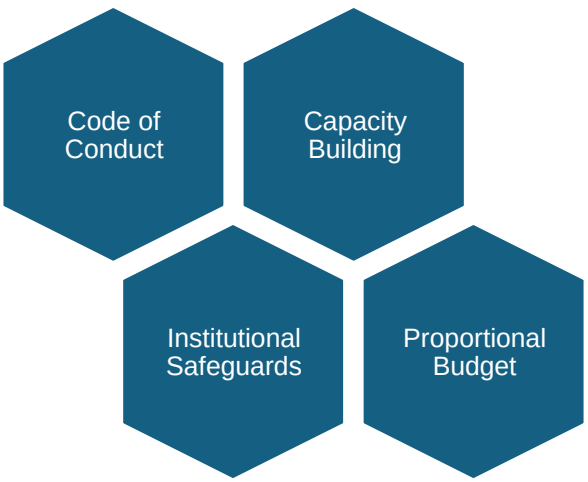
Funding Models

- Mixed funding sources: government budgets, regulatory fees and license charges. Heavy dependence on state budget creates vulnerability to political leverage.

Annual vs. multiyear budgeting affects long-term planning

Independence Challenges

Independence Safeguarding Mechanisms



Data Source: Questionnaire responses from ICER member organisations (End of 2025)

*1 N/A

1 Introduction and background

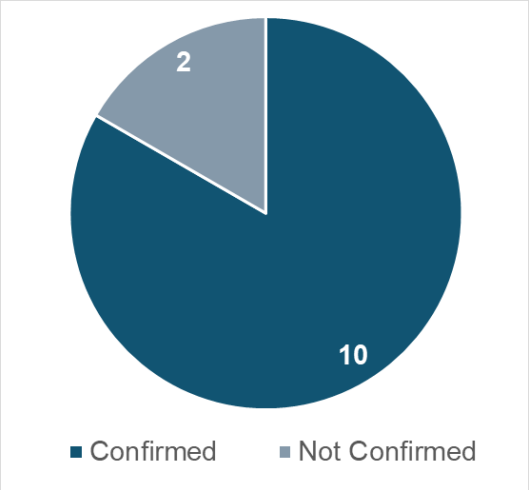
Independence is one of the core principles for reliable and predictable regulatory decisions in the energy sector. However, the approach and the depth of regulatory independence varies across countries and regions. While some national regulatory authorities (NRAs) have detailed independence provisions, institutionalised in national law, other follow more loose or general approaches. What is in common, is that NRAs are facing increasing threats or pressures that may endanger their independent decision making. This short report aims to summarize the different approaches to regulatory independence across ICER member organisations with some spotlights on single NRAs.

The report was prepared by the ICER Working Group on Regulatory Independence, following a concise questionnaire that was sent to ICER members end of 2025. Thirteen regional organisations and four individual NRAs shared their views.[1]

2 Independence of regulators

In general, most regional regulatory organisations confirmed that their **members are independent regulators** (see Figure 1). Some highlighted that this is a key criterion to be admitted as a member (e.g., CEER and ERRA).

Figure 1: Regional Organisations confirming NRAs' Independence



Source: Questionnaire

However, the degree of independence varies across organisations. Some organisations pointed out that they are constantly working to improve their members' independence through different means, e.g.:

- **ARIAE's** Institutional Working Group: Creating opinion to reinforce independence from an international institutional perspective through a peer-learning approach
- **RELOP**: Comprehensive study on members' independence in 2026
- **ERRA** Mapping Project: assessment of formal independence profile (ongoing)
- **CEER**: Regular reports assessing independence and providing tools to members

Additionally, independence is **usually enshrined in (national) legal provisions** (9 out of 12). Again, this legal basis may cover

[1] A full list of respondents is included at the end of the report.

different aspects of independence or is influenced by the legal background of the region.

For instance, **CEER** members' independence is enshrined by national legal provisions that transpose the relevant provisions of the EU legislative framework. Similarly, **ERRA** members have their independence usually enshrined in regulatory constitutive acts, primary energy laws or sector-specific regulatory frameworks and, if a member is based in an EU accession candidate or neighbouring country, have aligned their legal frameworks with EU directives (incorporating provisions similar to those found in the EU directives). At **NARUC** there is a differentiation between federal regulatory commissions and state commissions. While the first are established in national law and their independence is a function of the enabling statutes, the latter are generally considered independent as established under state constitutions and/or state legislation that outlines their roles, funding, and operational mandates. **OEB** pointed out that there are prohibitions on the board of directors (which is appointed by the government) and the CEO (appointed by the board of directors) interfering with or influencing the hearing and determination of matters. While in general, the independence of members of **ARIAE** is enshrined in legal provisions enacted by national parliaments, there are also some examples where independence is not formally established even though those institutions may act with a certain degree of organisational autonomy.

One interesting and important distinction was made by ERRA's contribution to the questionnaire: the differentiation between **de jure** (formal legal provisions) **and de facto independence** (actual operational autonomy) as a critical issue. It was highlighted that even robust legal safeguards can prove insufficient during politically sensitive crises.

Box 1: Independence through the Electricity Business Act in Japan

For the Electricity and Gas Market Surveillance Commission (EGC), Japan, independence is enshrined in the Electricity Business Act under which EGC is required to remain independent of any other organizations. The Act defines a clear scope of business and the system is structured so that the scope of business cannot be changed by the Minister and policy authorities. It is clearly stipulated in the Act that Commission's judgments and measures shall be conducted without receiving orders or intervention from any other organizations, including the METI minister and entities being monitored. Once appointed, the chairperson and committee members cannot be dismissed without justifiable cause, and their term of office is three years.

Independence is ensured in that decision-making is conducted via a collegial decision-making system, forming a structure where decisions are less susceptible to the will of a single individual. The Committee members are experts in the fields of economics, law, engineering, finance and accounting and are appointed by the Minister of Economy, Trade and Industry as the Commissioners of EGC.

EGC is designed as an independent regulatory body that conducts its own investigations and reaches its own decisions, rather than serving as a subsidiary organ that merely performs research for policy authorities. Although EGC formally issues "Recommendations", they serve as de-facto binding triggers. Non-compliance leads to stricter Ministerial Orders initiated by EGC's proposal.

2.1 Type of regulator

Concerning the type of regulator, almost all organisations report that **both single- and multi-sector regulators** are members. Only **OEB** represents energy regulators only (electricity and natural gas) and **NARUC** multi-sector regulators only (electricity, natural gas and telecommunications, and, to some extent, water and/or wastewater). There is a trend observable towards multi-sector regulators, as reported by ERRA and CEER.

Box 2: Type of regulators at ERRA

ERRA members include both single-sector and multi-sector regulators. While historically many of ERRA's members were established as energy regulators focusing on electricity and/or gas, there has been a clear trend toward multi-sector regulation. Currently, an increasing number of member organisations regulate both electricity and gas sectors, and some have expanded responsibilities to include district heating, water services and other public services (including waste management, and in a very limited number of cases, even rail, telecom, mail services).

Moreover, new tasks are now assigned by law to regulators, from cybersecurity to some administrative functions for renewable development (e.g. auctions for support schemes, and/or Guarantees of Origin issuing). This evolution reflects the growing complexity of independent regulation in energy markets and more in general among public services (especially when privatised).

At **ARIAE**, both types of regulators exist but sometimes they have only regulatory power in a sector but no supervisory role. For instance, in Chile, CNC (Comisión Nacional de Energía – National Energy Commission) only regulates the sector, while the SEC (Superintendencia de Electricidad y Combustibles – Superintendency of Electricity and Fuels) is the institution with supervisory powers in the national energy framework.

Typically, there is the trend of having a **combined regulator** for the gas and electricity sector. However, as the number of multi-sector regulators keep expanding, the number of sectors expands as well. Often sectors such as telecommunication, water and wastewater are covered by the regulatory powers as well.

Concerning the **role of the regulator**, most NRAs of the reporting organisations have executive and often also advisory functions. Among the executive functions most prominently named are the regulation of access to the grid, and setting tariffs and methodologies. However, advisory functions are also often among the regulators' tasks, e.g.:

- **CEER**: Main responsibility is regulation access to the grid, setting tariffs etc. More and more regulators get additional responsibilities (e.g. auctioning of renewables, security of supply, see box below for more info). A further task is to advise the government.
- **ARIAE**: Most NRA members of ARIAE have an executive role in regulatory and supervisory matters such as regulating access to the grid, setting tariffs and methodologies, monitoring the energy market, investigating and sanctioning infringements where appropriate, etc., and their decisions are usually binding. Generally, in these cases regulators also perform advisory tasks in parallel. However, in some cases, certain agencies do not have individually regulatory and supervisory powers but rather are involved in joint regulatory procedures (i.e. in tariff setting where the NRA submit an advisory report or a non-binding recommendation and the Ministry fixes the tariff) recommendations.

- **OOCUR**: Members generally determine the codes, regulations standards for the sector. Most members have the autonomy to determine the methodology to be used in rate setting, and rate making itself. They oversee service quality and grid access. Many also have responsibility for licensing. A few make recommendations to the responsible minister, who makes final determinations on matters such as tariffs.
- **AFUR**: The main responsibilities of NRAs within the energy sector include, amongst others, licensing for energy undertakings, regulating tariffs, prices and charges, regulating quality of supply and services, handling consumer complaints and resolving disputes and playing an advisory role to the government.
- **NARUC**: The key roles of state public utility commissions are to set utility rates/tariffs, approve investments and resource plans, enforce rules and safety standards, and handle consumer complaints. It is important to note that commissions are implementing laws set by state legislatures (for example with respect to environmental goals, network planning, etc.) and not establishing policy directly.

Box 3: Additional competences for NRAs in Spain, Austria and Germany

An increase in competences and regulated/ monitored sectors for European NRAs in the past ten years often came from extended EU legislation.

CNMC, Spain, particularly highlighted the competences in approving the methodology, parameters and regulatory asset base for the remuneration of electricity transmission and distribution facilities, of natural gas transport and distribution facilities and liquefied natural gas plant, the methodology for calculating the remuneration of the electricity system operator and the technical manager of the gas system, based on the services they provide, the values for access tariffs to the electricity and gas networks, as well as the amounts of annual remuneration for gas and electricity transmission and distribution activities liquefied natural gas plants. In addition, it was granted the power to oversee the investment plans of transmission system operators and to determine the rules governing organised markets in terms of their regulatory component, in those aspects whose approval falls within the remit of the national regulatory authority in accordance with EU law.

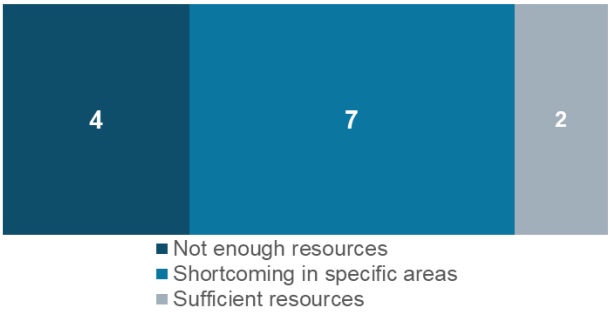
At **e-control, Austria**, there have been many expansions of their competences, but three of the larger ones were as follows: they were named an official alternative dispute settlement body, they received full competence for monitoring the implementation of the Austrian energy efficiency act, and they were tasked with developing a petrol price comparison calculator and a calculator and full register of charging points for electric vehicles.

BNetzA, Germany, received new competences within the gas crises, namely the appointment of trustee of Russian-owned gas companies (namely Gazprom Germania GmbH, Rosneft Deutschland GmbH and RN Refining & Marketing GmbH) in 2022 based on security of supply considerations.

2.2 Resources and task definition

Seven out of 12 organisations reported that, in general, their member NRAs have **enough budget, resources and a clear definition of their tasks**. However, four organisations mentioned to have not enough resources and seven organisations mentioned some shortcomings in specific areas. Only two organisations reported that they have sufficient resources without pointing to specific limitations (visualized in Figure 2).

Figure 2: Resource Availability



Source: Questionnaire

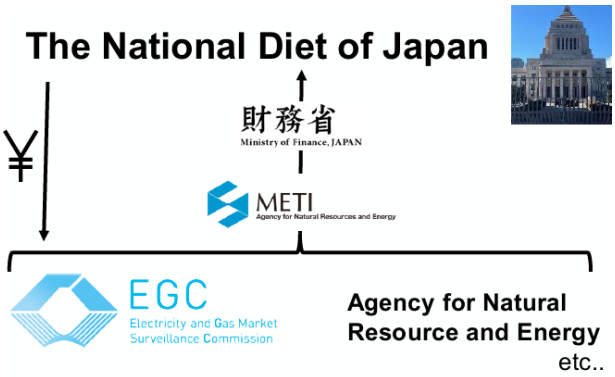
Regarding the **budget**, there are usually two types of funding sources: either coming from state budget (usually developed by the NRA and approved by the government) or via external funding sources or fees from regulatory/supervisory activities (e.g. tariff revenues, license fees, etc.). A mix of both funding types is also not uncommon.

In case respondents reported on shortcomings of the budget this can take several forms. Some organisations mentioned the struggle of increasing responsibilities (i.e. new tasks) and budget that is not reflecting this increase (e.g. reported by CEER, ARIAE, ERRA, RERA). In addition, the financial dependence on the state budget was pointed out by ERRA as challenging when this is the main source of income. This can potentially create a leverage point for political influence. For younger regulators, the launching phase might be difficult due to the challenge of the right funding (as reported by MEDREG). RegulaE.FR similarly supports this view, and extends it to a broader issue: the delineation of competences in an already complex landscape.

Box 4: Budget at EGC, Japan

While regulators in many other countries are funded through direct levies on regulated operators, the EGC's budget is secured through the national budget process and approved by the Japanese Diet. This system ensures both independence from regulated entities and the acquisition of necessary funding. There are no direct financial ties between regulators and regulated entities.

Figure 3: Budget of EGC



Source: Presentation of EGC, February 2026

The budget is used to collect raw data, access logs, and system design information from T&D companies and to analyse them to effectively identify potential misconduct. Personnel expenses are covered separately through METI's centralized human resources system.

Apart from the budget (which can be considered as a main limit to the resources available), **staffing and expertise** was mentioned as well as a potential challenge. For instance, ERRA reported that technical expertise requirements are sometimes faster increasing than NRAs can build their capacity due to new emerging aspects like flexibility markets or complex market monitoring activities like

REMIT in the EU. NARUC also reported on the difficulty to find the right expertise to cover new emerging technologies and to keep up with the needed training and retention. Additionally, public sector salaries can be significant less than those by the regulated utilities, increasing the pressure on staff retention.

2.3 Challenges

Two main, significant challenges to NRAs' independence become evident with the answers to the questionnaire: **financial issues** (dependence) and **political influence**.

The responding organisations reported major concerns when it comes to the relation of regulatory independence and the **financial situation** of NRAs. Often, the **dependence on government funding** was mentioned as a central concern for independence as it might compromise the ability to independently exercise central regulatory activities like tariff setting (RERA, AFUR, MEDREG). Moreover, as pointed out by ERRA, governments' control might even stretch to more aspects than the budget approval like, e.g., fee-setting mechanisms or staff salaries which creates further channels for potential influence. OOCUR pointed to another issue: in case government allocations are done on an annual basis and not multiyear, this could constrain the regulator's ability to plan long term and may actually impact the types of programmes that can be implemented as they are open to scrutiny by the government office at the time of budgetary approvals.

On the political sphere major concerns were reported as well. Organisations highlighted **direct and indirect attempts to influence NRAs' discretions**. For instance, CEER and ARIAE reported on indirect governments' interference through detailed guidelines for NRAs. NARUC also pointed to political pressure and stakeholder influence as main concerns that must be managed carefully to avoid perceptions of undue influence or regulatory capture. ERRA highlighted two specific circumstances under which political pressure might be heightened: during crises incidents like blackouts or price spikes where independence is most fragile and regarding the new scope due to increasing regulatory responsibilities (renewables, flexibility markets, prosumers etc.) which leads to more "pressure points" where technical decisions intersect with politically sensitive outcomes. CEER also reported on direct interferences in case of increasing tariffs where governments directly opposed. MEDREG mentioned the possibility of political affiliation of board members in case board members are appointed by governments or parliaments. ERRA mentioned one interesting aspect regarding gaps in international cooperation: cooperation has increased but collective defence mechanisms of regulatory independence remain underdeveloped. What is missing is a systematic framework for regional peer support when NRAs face acute political pressure.

Other challenges were also mentioned and include, for instance, talent recruitment, access to qualified staff and skills retention (reported by RegulaE.FR). RELOP reported that for new regulators in Africa it is difficult to face resistance from the sector (as unbundling is ongoing) and historic data is lacking which could support decisions. MEDREG also highlighted a significant constraint: The lack of enforcement powers on regulatory decisions which could lead to a loss of powers and credibility. The box below shows some approaches to ensure that regulatory independence is safeguarded.

Box 5: Approaches to ensure regulatory independence in Spain, Austria, Japan and Germany

To ensure that the independence of NRAs is safeguarded, NRAs follow different models. Several NRAs mention that they have code of conducts for the staff. **CNMC, Spain**, mentions that they have a Code of Conduct that expressly establishes the obligation of the Board members, Directors and staff to comply with the principles of independence from any commercial or business interest with respect to any person or entity, and ensure objectivity.
Moreover, CNMC Internal Functioning Regulation establishes as a principle of action for the Board members and management staff, independence from any commercial or business interests or those of any public or private entity, and abstention from involvement in matters in which there are causes that affect their objectivity.
There also exists a compliance department in charge of ensuring that CNMC's duties and powers are exercised in accordance with the principles of impartiality, objectivity and independence. Additionally, it exists a disciplinary regime for breaches of the Code of Conduct.

At **e-control, Austria**, there is a strong culture of independence in the company. Together with the behaviour of the executive directors, this supports employees' ability to act on expertise alone. At EGC, Japan, to ensure smooth execution of duties, EGC regularly reviews and disseminates its Mission, Vision, and Values (MVV), including its code of conduct. In addition, the Commission conducts regular training sessions to enhance the expertise of individual staff members.

At **BNetzA, Germany**, there are instructions for employees on the contact with political officials and ministries and trainings for executives on independence matters. A code of conduct is in preparation.

Other approaches focus on how to ensure that **political influence** is not exerted on the decisions of NRAs. In the case of e-control (Austria), the ministry for energy and the parliament have a right to information but no instruction can be given. EGC (Japan) stressed that all decisions are made through a collegial system involving commissioners with high expertise, and the Commission is generally not subject to instructions or political influence. However, in cases, such as revisions to regulated tariffs, which have significant impacts on citizens' lives, the Commission is expected to provide thorough explanations to stakeholders, including members of the diet. BNetzA (Germany) is not required to follow instructions from any authority or person regarding its regulatory decision-making. This ensures its regulatory independence as mandated by EU legislation. While BNetzA acts within the scope of business of the Federal Ministry for Economic Affairs and Energy (BMWE), it is functionally independent when it comes to regulatory decisions. In case the BMWE wants to issue general instructions to BNetzA for the issuance or omission of orders, these instructions shall be published in the Federal Gazette together with the reasons for them.

3 Conclusion

In general, the member regulators of the responding organisations are independent regulators with legal provisions in national law that ensure their independence. On the type of regulator, no clear picture emerged and both types (single- and multi-sector) exist. However, there is a small trend towards multi-sector regulators, at least in Europe, that goes along with increasing regulatory (or even non-regulatory) competences for NRAs. In general, NRAs possess executive functions (that includes “standard” regulatory tasks like tariff setting etc.) but often, an advisory role is also foreseen for NRAs at the same time. Regarding the resources to execute those tasks, there are sufficient resources available for most organisations. However, significant challenges were often mentioned when it comes to the budgetary situation, also affecting staffing and skills, which are additional shortcomings that are often named. Unsurprisingly, budgetary concerns are amongst the main challenges for NRAs’ independence. This is often exacerbated by heavy dependence on government funding, which opens up opportunities for political actors to exert pressure on regulatory authorities. Direct and indirect political influence is a general strong concern that can have a major influence on regulatory independence.

To conclude, the questionnaire resulted in a quite positive picture on regulatory independence across ICER’s members with some major drawbacks or concerns when it comes to financial resources and political pressure.

Meet the Contributors

We extend our gratitude to all organisations that contributed to this report through completion of the questionnaire.

Regional Organisations

	African Forum for Utility Regulators (AFUR)
	Association of the Portuguese-Speaking Energy Regulators (RELOP)
	Council of European Energy Regulators (CEER)
	Energy Regulators Regional Association (ERRA)
	Ibero-American Association of Energy Regulators (ARIAE)
	Le réseau des régulateurs francophones de l'énergie (RegulaE.FR)
	Mediterranean Energy Regulators (MEDREG)
	National Association of Regulatory Utility Commissioners (NARUC)
	North American Electric Reliability Corporation (NERC)
	Ontario Energy Board (OEB)

	Organisation of Caribbean Utility Regulators (OOCUR)
	Regional Association of Energy Regulators for Eastern and Southern Africa (RAERESA)
	Regional Energy Regulators Association of Southern Africa (RERA)

Individual NRAs	**Country**
BNetzA	Germany
CNMC	Spain
e-control	Austria
EGC	Japan

This report was prepared in March 2026 as an outcome of the ICER Working Group on Regulatory Independence, chaired by Nadia Horstmann. The report was drafted by Vera Fuhs, member of the WG, with the support of the group's members.