

## ANNUAL IMPLEMENTATION REPORT

ENERGY COMMUNITY SECRETARIAT

1 SEPTEMBER 2016



The cover images of the IR 2016 feature solar panel installations, a dam and a reservoir for a hydropower plant and an open pit coal mine, the three fundamental energy sources for security of energy supply in Bosnia and Herzegovina. The waterwheel on the Trebisnjica river is an ancient device to harness hydropower for irrigation. Nowadays these waters are used to produce electricity in four power plants operated by three different economic operators (*Elektroprivreda Republike Srpske, Elektroprivreda Hrvatske Željke Željke Herceg Bosna and Hrvatska elektroprivreda*), located in two different countries (Bosnia and Herzegovina and Croatia), and supply drinking water to a third country (Montenegro).

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ANNUAL IMPLEMENTATION REPORT  
2015/2016

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1 SEPTEMBER 2016

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# Preface

## Transposition is not enough – Singing along with the Energy Community

“Transposition - it’s not enough, not enough, not enough”: the chorus of a song written by our colleague Peter Vajda on a tune by Manic Street Preachers for the Secretariat’s occasional camp fire retreats in the hills outside Vienna sums up nicely the Secretariat’s work as well as this year’s reporting period.

Transposition was very much in the focus of last year. 2015 was determined by the race among Contracting Parties for transposing the Third Energy Package by the deadline of 1 January. This race was won by Serbia, Albania and Ukraine (for gas), victories which we celebrated already in last year’s Implementation Report. In the meantime, Montenegro, Moldova and Kosovo\*<sup>1</sup> crossed the finishing line as well. Congratulations to those who made it possible. But then Bosnia and Herzegovina as well as former Yugoslav Republic of Macedonia seem to have dropped out of the race or even walk backwards. This is an issue of serious concern for the Energy Community and unfortunately, a general indicator for the lack of capability and/or willingness in those countries to follow European rules.

Transposition may not be enough but it should not be underrated either. In those countries where the respect for the law as the only acceptable guidance for relations among economic and political actors exists, codified norms make all the difference. Without them there is no further elaboration of secondary legislation, no independent and proactive institutions and no enforcement by private actors in front of authorities and courts. Albania, for example, realized that it needed a Third Package-compliant Gas Law as a prerequisite for the certification of the *Trans Adriatic Pipeline (TAP)*, a project clearly in the national interest. In Serbia, the creation of a national power exchange boosted the adoption of a new Energy Law, and in Ukraine the international arbitration between *Naftogaz* and *Gazprom* is motivating the country to strive for the highest standards of compliance.

While transposition is thus *sine qua non* for changing the realities in our countries in line with the internal energy market’s visions and values, changing those realities requires additional action and commitment. Once the sprint for transposition is over the implementation marathon only starts. Unlike transposition, which describes the rather technical process of “translating” European law in a country’s domestic legal order, the notion of implementation is fuzzy. Its success cannot be measured by simple correlation tables. It is thanks to the efforts of two colleagues at the Secretariat, Andreas Pointvogel and Borko Raicevic, that this Implementation Report for the first time undertakes a systematic and structured approach to break

down the assessment into individual factors, and to compare the relative success of our Contracting Parties in that respect. The beautiful spider web (radar) on page 12 shows that implementation reporting has its aesthetical side as well.

During this reporting period, the Secretariat continued going deeper below the surface of transposition, towards the inner fabric of Contracting Parties’ energy sectors. This quest is reflected also in many of our practical initiatives. Enforcement, for instance, is an ongoing attempt to fully understand implementation problems, to encourage countries to address them and at the same time to grant individuals, associations and companies the access to justice which international organisations often deny them. Under the Third Energy Package’s unbundling provisions, the Secretariat gets involved in the restructuring of the incumbent utilities and system operators in each Contracting Party, in many of which the energy sectors and the incumbents are still synonymous to a large extent. In-depth audits of the governance, independence and performance of energy regulatory authorities, impartial arbiters and staunch promoters of liberalized energy markets in an ideal world, reveal a wide gap between law on the books and reality. In the first of these reviews concerning Moldova’s regulator ANRE, the Secretariat used novel techniques such as stakeholder interviews and media analysis. Finally, the Secretariat used its involvement in the Berlin Process and the CESEC initiative (more about those immediately) also as instruments to get a truer and fairer view of the energy sectors in the region, including the motivation and interests driving their actors and the challenges they face.

At the same time, the Secretariat’s role in implementing the *acquis* goes far beyond that of a passive and distant observer. Implementation requires expertise and creativity in drafting legislation which neither copy-pastes the *acquis* nor betrays its key principles. The primary and secondary legislation drafted by working groups involving the Secretariat are legion, many of them at our premises in Vienna. But promoting implementation does not stop here. Projects need to be designed and realized, be it infrastructure projects such as the pipeline connecting Romania and Moldova, or market projects such as the creation of a power exchange in Albania, to name only two of several flagship projects. And implementation may require the resolution of disputes which often block further energy reform. The Secretariat’s facilitation of an amicable settlement of an investment dispute between *Gas Natural Fenosa* of Spain and the Government of Moldova in July this year was of paramount importance for rebuilding the sector through better legislation, infrastructure and financial support. Implementation in all its facets is at least as political as it is technical, and it is no surprise that in recent years the Secretariat became an actor in its own right in the energy sector of many Contracting Parties.

\* Throughout this Implementation Report, this designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence.

<sup>1</sup> Following an agreement between the Serbian and Kosovo\* Governments reached under EU facilitation, Kosovo\* is the only denomination to be used within the framework of regional cooperation.



## Transposition is not enough, but neither is implementation

The Energy Community's third dimension is integration. Integration of energy markets on a regional level but also with the wider European energy market may be the Energy Community's most noble objective as integrated markets translate into prosperity, peace and stability. Integration must go hand in hand with domestic reform. The experience in South East Europe shows that the creation of a regional wholesale market depends on liquid national markets and *vice versa*. It also shows that often the only true challenge to monopolistic national energy markets will come from enlarging those markets and getting foreign players in, which in turn depends on the creation of supporting conditions for new market entrants on the national level. This predicament is difficult to be overcome with the limited means of the Energy Community. And integration has even less friends than domestic reform. More than ten years after the Community's coming into existence, regional and pan-European market integration is still in its infancy.

The past year has seen increased efforts to remove this thorn in the side of the Energy Community. The Infrastructure Regulation (EU) 347/2013 incorporated last year by the Ministerial Council triggered an intense process of project prioritization in the electricity, gas and oil sectors. The Berlin or Western Balkan 6 Process reinvigorated the work on creating regional energy markets while making sure that this happens within the framework of the Energy Community. The triangle of Member States (political impetus), European Commission (financing infrastructure conditioned on the completion of a list of so-called soft measures) and the Secretariat (designing the soft measures, helping to see them through and monitoring progress) proved to be effective. So successful in fact that CESEC, a regional gas infrastructure initiative, would like to copy it and extend

Janez Kopač  
Director

its activities beyond gas, infrastructure and its currently limited constituency. This will only work if a link with the Energy Community governance is established, preferably under Title III of the Energy Community Treaty, the underused legal basis for the creation of regionally integrated energy markets.

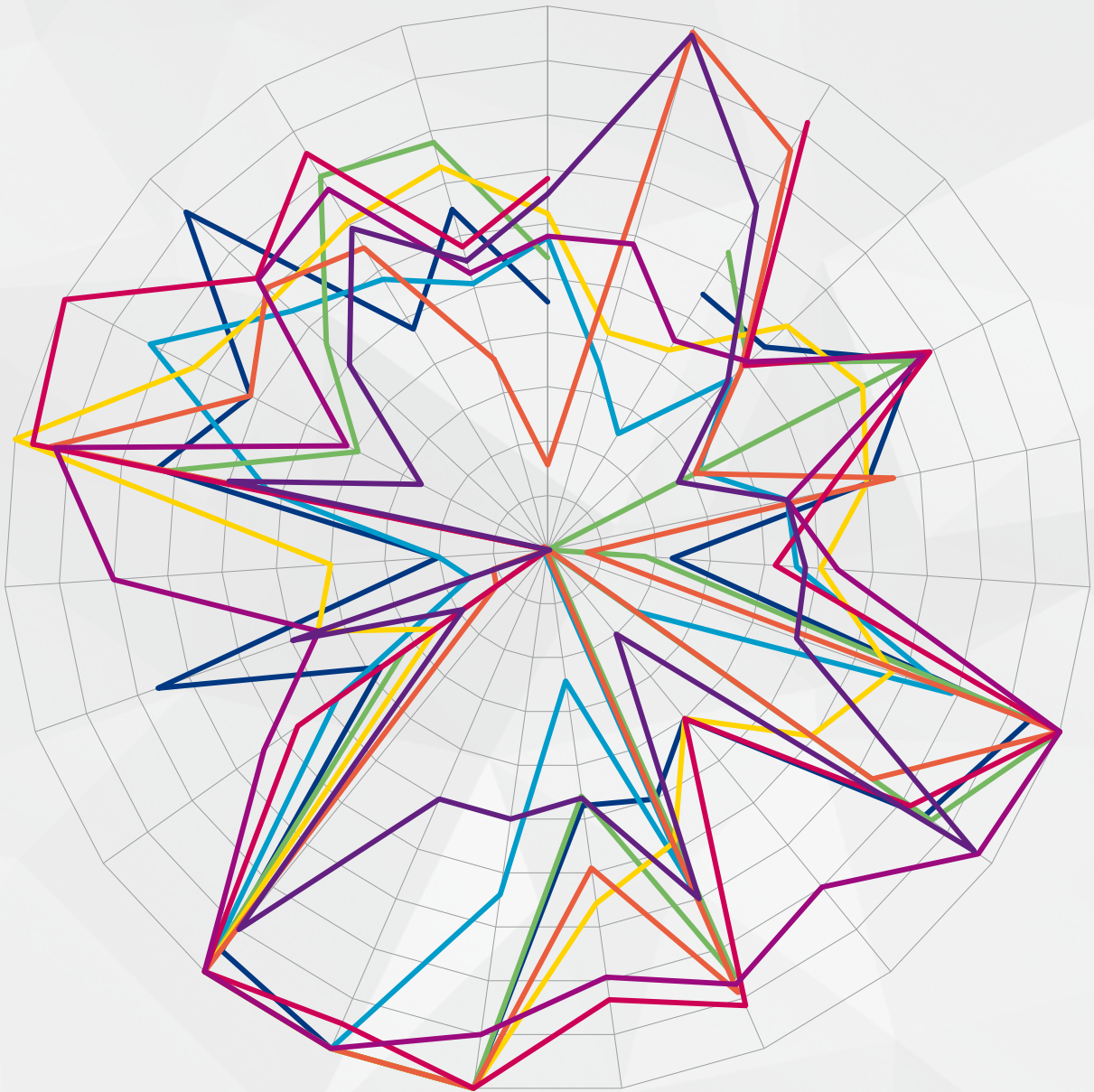
Energy in that sense goes beyond electricity, gas and oil. At the Paris summit in July this year, the third annual summit under the Berlin Process, the Western Balkan countries agreed on a Regional Sustainability Charter, thus closing the gap between energy market reforms and the efforts to increase energy efficiency, renewable energy production and the reduction of greenhouse gas emissions. These latter areas may have been neglected in the Energy Community's first ten years. But as the catching-up of our markets with those of the EU is well underway, they rightly demand the central place they deserve in the regional and national energy policy. Another Paris summit, the COP21 meeting in December 2015, saw our Contracting Parties joining the rest of the world in its ambitious commitment to reduce greenhouse gas emissions. This heralds an era also for the Energy Community in which energy sector reform and integration will have to serve the fight against climate change just as well as improving the efficiency and transparency of market operation. We are deeply convinced that in this dawning era, an Energy Community without a strong focus on sustainability is an anachronism.

The Secretariat will strive to remain in the vanguard of these developments, and to set the course for this inevitable change. Its core strength is and remains the team of dedicated colleagues working hard on the reform chain from transposition to implementation and integration. They wrote the texts which you are now about to read but which would not have been consolidated into this great Implementation Report 2015 – 2016 without the tireless work of Barbora Poyner and Heli Lesjak.

Dirk Buschle  
Deputy Director





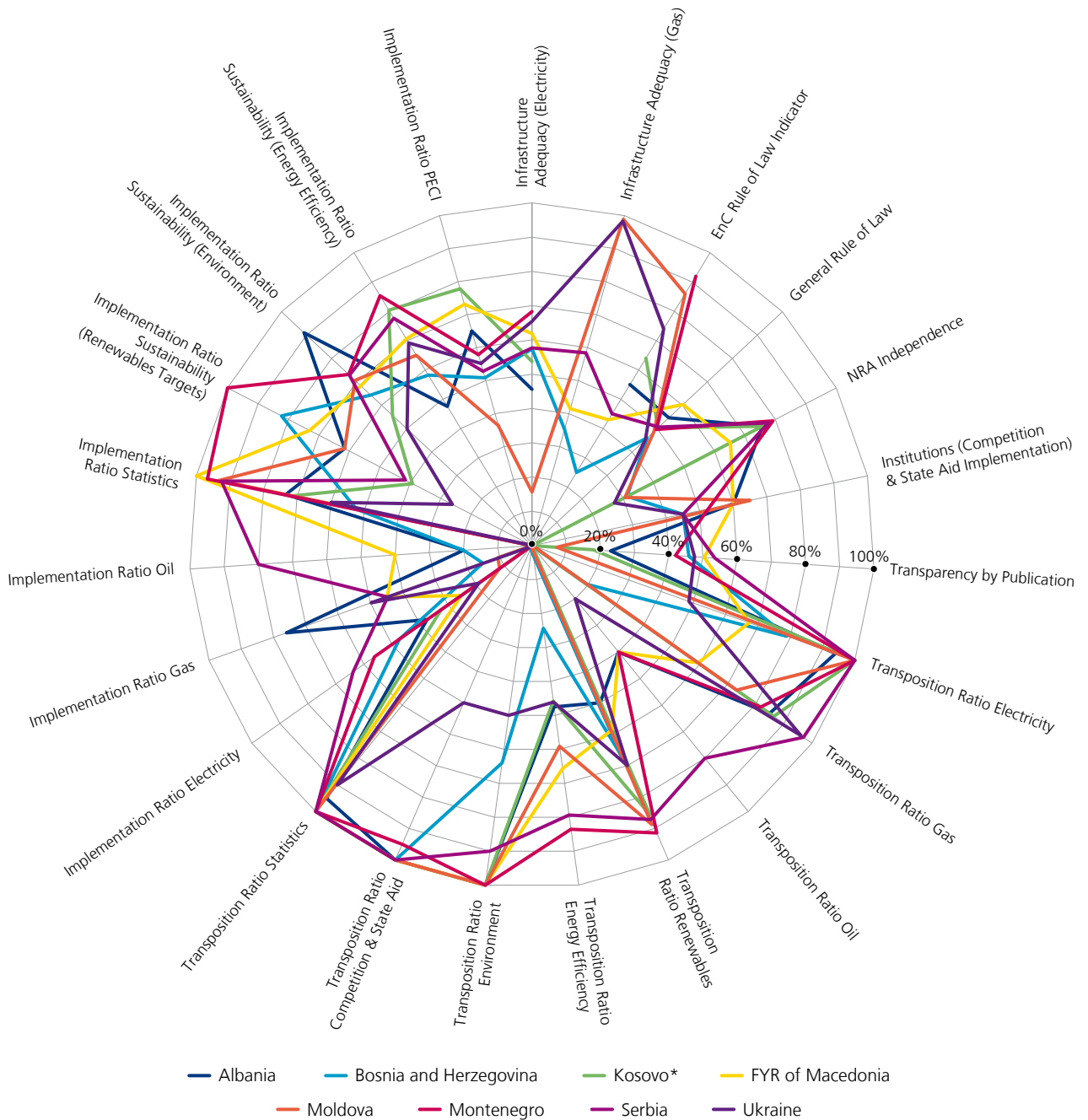


**01** | State of Implementation  
**02** | Introduction



# 1 State of Implementation

## Contracting Parties' Implementation Indicators Radar



Source: Compiled by the Energy Community Secretariat

The radar chart provides a snapshot of the Contracting Parties' performance in the implementation and transposition of the Energy Community *acquis* as well as an overview of key factors

influencing their capability to do so such as the rule of law and transparency. A high-level description of the methodology used for the implementation indicators is available on page 184.



The state of implementation in 2016 is marked by six of the eight Contracting Parties having transposed the Third Energy Package (albeit Ukraine still only in the gas sector). These countries are currently in various stages of its implementation. Bosnia and Herzegovina and former Yugoslav Republic of Macedonia continue to fail, more than one and a half years after the transposition deadline set by the Ministerial Council. All Contracting Parties with the exception of Serbia are yet to take steps towards meeting the requirements of the Oil Stocks Directive.

Serbia and Montenegro are the leaders in transposition of the sustainability *acquis* comprising energy efficiency, environment and renewables. Transposition is the weakest in the sphere of energy efficiency, where several Contracting Parties are yet to transpose the Energy Performance of Buildings Directive (Albania, Kosovo\* and Ukraine) and Energy Services Directive (Albania and Ukraine). Transposition and implementation of the statistics *acquis* is fairly high in all Energy Community Contracting Parties.

The radar chart's 23 indicators allow the identification of trends like the very heterogeneous results in all dimensions of *Sustainability*, poor *Transparency* ratings, or a general room for improvement in institutional capacity (indicators in North-eastern corner) for all countries. The radar also shows that in some areas there are two speeds of implementation with clear frontrunners, for example in promoting the *Independence of NRAs*, like Montenegro, Serbia, Albania, or Kosovo\*, or in the *Transposition of Electricity* laws, with Ukraine, former Yugoslav Republic of Macedonia and Bosnia and Herzegovina lagging behind.

A closer look into the relative performance of countries reveals that the newest members of the Energy Community, Ukraine and Moldova, are lagging behind in nearly all implementation-related dimensions, but are on average not worse than the Balkan members of the Energy Community in terms of transpo-

sition. The indicators also suggest that performance is poorer where implementation gets more difficult (see the scorings in the spheres of *Transparency* and *General Rule of Law*, where all Contracting Parties underperform as compared to *Statistics* with good results in both transposition and implementation), or that successful implementation naturally follows from compliant transposition (compare for example the *Transposition Ratios* with the *Implementation Ratios* for *Competition & State Aid, Electricity, or Gas*).

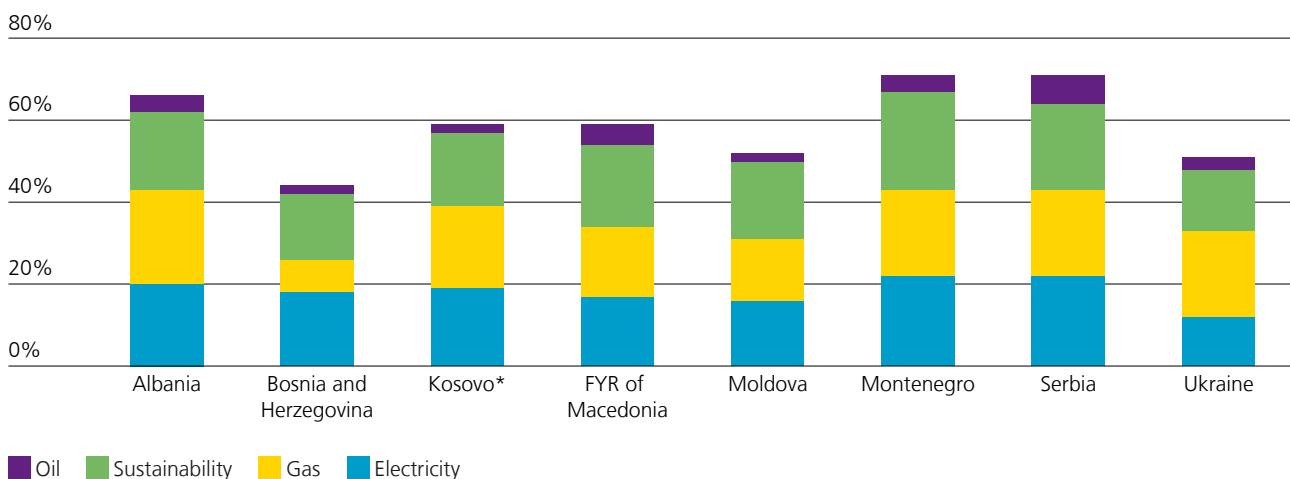
There are also big variances in many different indicators. The scorings indicate that one cannot conclude that complying in hard (*i.e.* costly) factors like *Infrastructure Adequacy (Gas)* or the building of oil stocks (*Implementation Ratio Oil*) is structurally more difficult than for those that can be considered softer, like market development (*Implementation Ratios Electricity and Gas*) and overall compliance with the Energy Community laws (see the *EnC rule of law indicator*, or the heterogeneity in *Transposition of Energy Efficiency* measures).

The 'Overview of Implementation Performance by Contracting Parties' graph below provides a less granular view of the progress achieved by the Contracting Parties. There it becomes clear who the overall frontrunners are and which sectors are problematic. It also shows why the winners are doing well (*e.g.* Montenegro in *Sustainability*, Albania in *Electricity*, Serbia above average in all dimensions). Still, this overview also shows that there is still a significant way to go in terms of implementation, even for the leaders.

More details on each Contracting Party's performance can be discovered in the national implementation graphs in the respective country chapters. The graphs bring into view structural deficits or qualities that hamper or promote the overall performance of a Contracting Party in complying with its obligations under the Energy Community Treaty.



## Overview of Implementation Performance by Contracting Parties



Source: Compiled by the Energy Community Secretariat



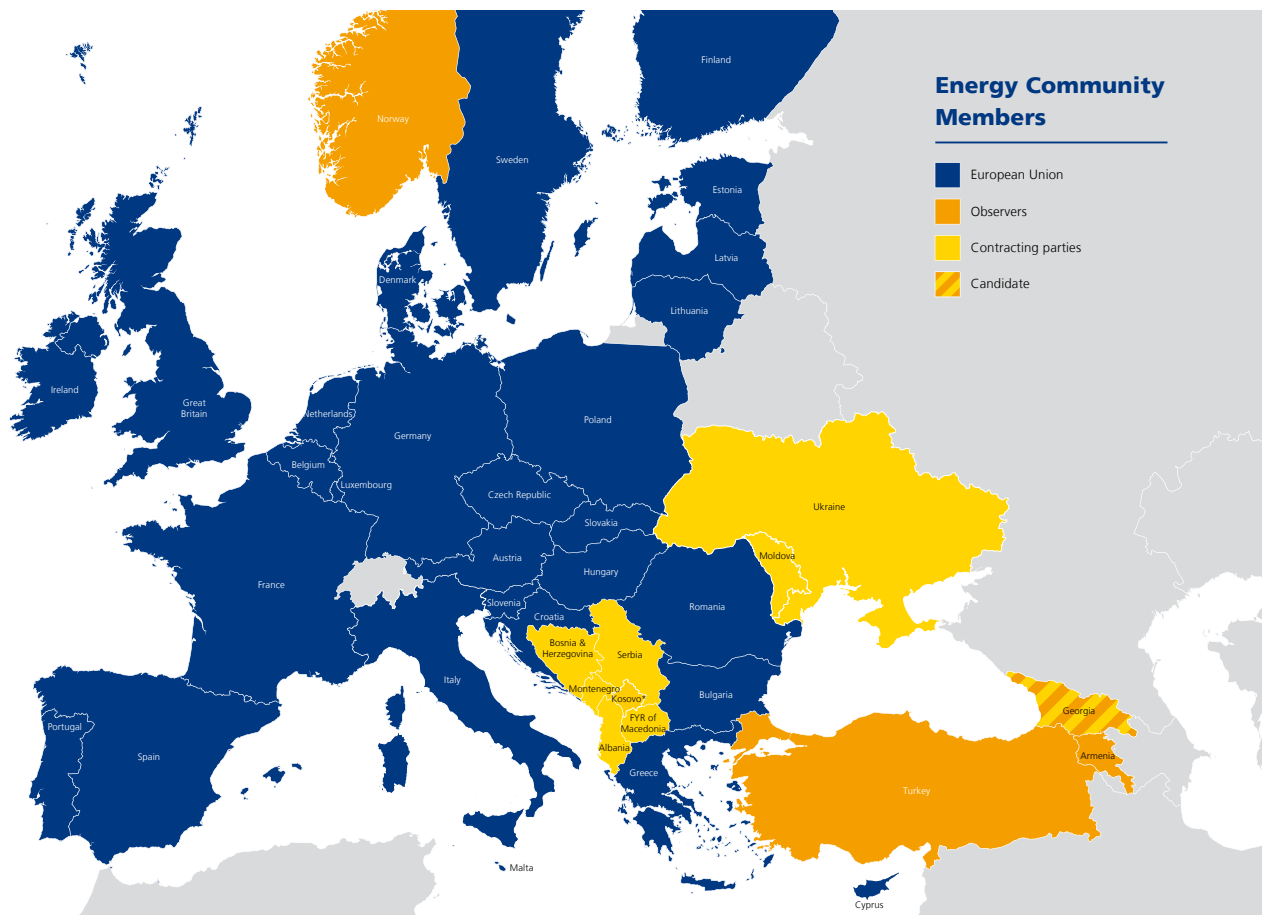
## 2 Introduction

### a. The Energy Community

The Energy Community extends the European Union (EU) internal energy market to its neighbouring countries. The principle objectives of the Energy Community are to create a regulatory and market framework which is capable of attracting investments for a stable and continuous energy supply. This paves the way for an integrated energy market, allowing for cross-border trade and integration with the EU market. The Energy Community strives to enhance security of supply and

competition, and to improve the environmental situation in its Contracting Parties.

The Treaty establishing the Energy Community was signed in October 2005 in Athens. Following ratification by all Parties, the Treaty entered into force on 1 July 2006. As of 1 September 2016, the Parties to the Treaty are the European Union, and eight Contracting Parties, namely Albania, Bosnia and Herzegovina, Kosovo\*, former Yugoslav Republic of Macedonia, Moldova, Montenegro, Serbia and Ukraine.



\*\* 20 of the 28 EU Member States hold a Participant status according to Article 95 of the Energy Community Treaty.  
Source: Energy Community Secretariat

Pursuant to Article 95 of the Energy Community Treaty, the European Union Member States can obtain the status of a Participant to the Treaty. Currently 20 of the 28 EU Member States are Participants to the Treaty, namely Austria, Bulgaria, Croatia, Czech Republic, Cyprus, France, Finland, Germany, Greece, Hungary, Italy, Latvia, Lithuania, the Netherlands, Poland, Romania, Slovakia, Slovenia, Sweden and the United Kingdom. Lithuania was the last to acquire the status of a Participant on 16 October 2015.

Armenia, Georgia, Norway and Turkey are Observers under Article 96 of the Treaty. Georgia has applied to join the Energy Community as a full member.

## b. The Institutions

The implementation of the *acquis* is backed up by a strong institutional setting. This includes the Ministerial Council, as the supreme decision-making body, and the Permanent High Level Group (PHLG), which prepares the work of the Ministerial Council. The Energy Community Regulatory Board (ECRB) and the Fora for electricity, gas, and oil have an advisory role towards the decision-making bodies.

The necessity to further strengthen the role of the institutions to better support the achievements of the Energy Community Treaty's objectives was one of the key findings of the Energy Community High Level Reflection Group Report in 2014. A process is currently under way to implement some of the Group's proposals.

## Energy Community Institutional Setting



Source: Energy Community Secretariat

## c. The Secretariat

With its seat in Vienna, the Secretariat of the Energy Community is the only permanent and independent institution under the Treaty. In its threefold role, the Secretariat assists the Parties and institutions of the Treaty, enforces the implementation of the Treaty's *acquis* and monitors the state of implementation.

In accordance with Article 67(b) of the Treaty, the Secretariat is to review the proper implementation by the Contracting Parties of their Treaty obligations and submit Annual Implementation Reports to the Ministerial Council of the Energy Community.

## d. Dispute Settlement

The Energy Community Treaty envisages a dispute settlement mechanism to enforce the *acquis* obligations assumed by the Parties. The Ministerial Council adopted more detailed rules on dispute settlement on 27 June 2008, which structure the procedure and further define the roles of all participants. The Dispute Settlement Rules were revised by the 13th Ministerial Council in October 2015. Both sets of Dispute Settlement Rules are applicable in parallel. Cases initiated before 16 October 2015 are dealt with in accordance with the 2008 rules, whereas cases initiated after that date are dealt in line with the rules as amended in 2015.

The rules provide for a preliminary procedure preceding the submission of a case of non-compliance to the Ministerial Council. This preliminary procedure is carried out by the Secretariat as an independent institution being in a position to clarify the factual and legal circumstances of each case. Under such circumstances, the Secretariat initiates a case by way of an Opening Letter to be followed, as the case may be, by a Reasoned Opinion and a Reasoned Request to the Ministerial Council.

A new fast-track procedure was introduced via the 2015 amendments for non-transposition and non-notification cases, where the Secretariat shall submit a Reasoned Request to the Ministerial Council directly without preliminary procedure.

The new Dispute Settlement Rules also introduce provisions for the communication between national administrative authorities and courts, on the one hand, and the Secretariat, on the other hand. This option was used for the first time by the Antimonopoly Committee of Ukraine in 2016.


## e. Acquis

The Energy Community *acquis communautaire* under Title II of the Treaty comprises the core EU legislation in network energy, environment, competition, renewable energy, energy efficiency, oil and statistics. In the Energy Community context, network energy consists of electricity, gas and oil.

As a response to the evolution of EU energy law, the Treaty envisages the swift incorporation of new EU legislation to the Energy Community upon proposal by the European Commis-

sion. After entry into force of the Treaty, the Energy Community *acquis* has been extended several times. At the 2015 Tirana Ministerial Council a new area of *acquis*, infrastructure, was added to the Contracting Parties' obligations.


The tables below display the Energy Community *acquis communautaire* presently in force. The implementation deadlines have been set by respective Ministerial Council decisions. Due to their later accession, the implementation deadlines may differ for Moldova and Ukraine.

 <b>Acquis on Electricity</b>		
Title of Document	General Implementation Deadline	Implementation Deadline Moldova / Ukraine
Directive 2009/72/EC concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC	1 Jan 2015	1 Jan 2015
Regulation (EC) 714/2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) 1228/2003	1 Jan 2015	1 Jan 2015
Regulation (EU) 838/2010 on laying down guidelines relating to the inter-transmission system operator compensation mechanism and a common regulatory approach to transmission charging	1 Jan 2014	1 Jan 2014
Regulation (EU) 543/2013 on submission and publication of data in electricity markets and amending Annex I to Regulation (EC) 714/2009	24 Dec 2015	24 Dec 2015
Directive 2005/89/EC concerning measures to safeguard security of electricity supply and infrastructure investment	31 Dec 2009	Moldova: 31 Dec 2010 Ukraine: 1 Jan 2012

The electricity *acquis* sets minimum requirements for the establishment of competitive electricity markets, including the development of coherent, transparent and non-discriminatory security of supply policies. Decision 2011/02/MC-EnC sets separate deadlines for Article 9 of Directive 2009/72/EC on the unbundling of transmission system operations, namely of

1 June 2016 and 1 June 2017 for Article 9(1) and Article 9(4) respectively. Article 11 on certification in relation to third parties is to be implemented no later than 1 January 2017.

The PHLG adopted Regulation (EU) 543/2013 on transparency of electricity markets at its June 2015 meeting.

 <b>Increasing Electricity Market Transparency</b>	
<b>I N F O C U S</b>	<p>The PHLG's decision adopting Transparency Regulation 543/2013 foresees a transposition date of 24 December 2015 and an implementation date of 24 December 2016 for the Contracting Parties. Until the time of publication of this Report, no Contracting Party has managed to successfully transpose this regulation governing the submission and publication of fundamental electricity market data.</p> <p>As regards implementation, the state of play is very heterogeneous with those countries whose transmission system operators are members of <i>European Network for Transmission System Operators for Electricity (ENTSO-E)</i> leading and all others lagging behind. This is partly due to the regulation's concept of centrally publishing data via a platform operated by <i>ENTSO-E</i>. Another explanation is that transparency is an element of every legislative package since the beginning of market liberalisation, resulting in those countries that lead in implementing the older <i>acquis</i> also leading in implementing the Transparency Regulation.</p> <p>Transparency is a necessary precondition for market functioning. With the experience gained during the development of cross-border wholesale markets in the EU, awareness for the need for a harmonised and comprehensive set of rules for transparency in electricity markets rose. Accordingly, the new regulation needs to be translated into reality, aiming to move towards a level playing field in the pan-European electricity market, reducing transaction costs and providing legal certainty.</p>





## Acquis on Gas

Title of Document	General Implementation Deadline	Implementation Deadline Moldova / Ukraine
Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC	1 Jan 2015	Moldova: Article 9: 1 Jan 2020
Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC	1 Jan 2015	1 Jan 2015
Regulation (EC) 715/2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) 1775/2005	1 Jan 2015	1 Jan 2015
Directive 2004/67/EC concerning measures to safeguard security of natural gas supply	31 Dec 2009	Moldova: 31 Dec 2010 Ukraine: 1 Jan 2012

The gas *acquis* establishes the main principles of gas market liberalisation. Decision 2011/02/MC-EnC sets separate deadlines for Article 9 of Directive 2009/73/EC on the unbundling of transmission system operations, namely of 1 June 2016 and 1 June 2017 for Article 9(1) and Article 9(4) respectively. Article 11 on certification in relation to third parties is to be implemented no later than 1 January 2017.

In view of the unique characteristics of its gas market, the Ministerial Council Decision 2012/05/MC-EnC granted Moldova an extended implementation deadline. As regards the provisions of Article 9 of Directive 2009/73/EC, the deadline of 1 January 2020 applies for Moldova.

The discussion on the adoption of Regulation (EU) 994/2010 of 20 October 2010 Concerning Measures to Safeguard Security of Gas Supply has been ongoing in the Energy Community since 2013. In parallel, the revision of the regulation has started at the EU level. At the March 2016 PHLG, the European Commission presented its proposal on a new security of gas supply regulation that would incorporate the Contracting Parties and repeal Regulation (EU) 994/2010. The Commission is to make a legislative proposal for the Joint Act on Security of Gas Supply once the revised regulation is adopted at the EU level.



## Incorporating EU Network Codes for Gas in the Energy Community

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Network codes are operational documents enabling practical implementation of the Third Energy Package in the European Union, by supplementing Regulation (EC) 715/2009 on Conditions for Access to the Natural Gas Transmission Network with more detailed rules. By their legal nature, network codes are regulations approved by the European Commission, which ensures their direct applicability in the EU Member States. For the other half of the Energy Community, the Contracting Parties, this direct applicability is not possible and legal obligation can be ensured only via institutional adaptations and decisions. Although the Third Energy Package has been adopted by the Ministerial Council and is legally binding for the Contracting Parties from January 2015, this is not yet the case for the network codes.

Following the conclusions of the PHLG in March 2016, the Secretariat, together with the European Commission, developed an implementation concept. The con-

cept, discussed with *European Network for Transmission System Operators for Gas (ENTSO-G)* and *Agency for the Cooperation of Energy Regulators (ACER)* and presented to the PHLG in June, strongly emphasises cooperation between the Contracting Parties and neighbouring EU Member States *ex ante* and *ex post* network code implementation. Transmission system operators and national regulatory authorities have started to discuss the network codes one by one, with the aim to define the key steps and deadlines in which different provisions can be implemented at the interconnection points.

The first dedicated meeting took place at the beginning of July 2016 in Budapest. Additional meetings are foreseen to take place during the autumn with the final aim to clarify the adaptations to the EU network codes texts as well as the deadlines and steps for their future implementation in the Energy Community Contracting Parties in due time for the PHLG meeting in December 2016.



## Acquis on Infrastructure

Title of Document	General Implementation Deadline
Regulation (EU) 347/2013 on guidelines for trans-European energy infrastructure	1 Jan 2017

The purpose of the regulation is to streamline the permitting procedure and facilitate investments in energy infrastructure in order to achieve the Energy Community's energy and environment policy objectives. The regulation as adapted for the Energy Community establishes rules for identifying projects of Energy Community significance. The identification of potential projects is to follow within the categories of electricity, gas and oil infrastructure, as well as the thematic area 'smart grid deployment'.

When adopted, these projects will benefit from streamlined permitting procedures within Contracting Parties and where applicable from cross-border cost allocation. They may also be eligible for European Union technical and financial assistance from the Instrument for Pre-Accession Assistance (IPA) and the Neighbourhood Investment Facility (NIF).

Due to the still ongoing transposition, the Implementation Report 2016 does not assess the Contracting Parties' compliance with the regulation.



## Selection of Priority Infrastructure Projects

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Following the Ministerial Council Decision 2015/09/MC-EnC regarding the adaptation and adoption of Regulation 347/2013 in the Energy Community, the first selection of Projects of Energy Community Interest (PECI) and Projects of Mutual Interest (PMI) in electricity, gas and oil infrastructure was performed in 2016.

The methodology for selecting the electricity and gas projects was in line with the EU process of selecting Projects of Common Interest, including net present value based market modelling and monetizing the societal costs and benefits of each project. This analysis was supplemented with a multi-criteria analysis in order to incorporate non-monetizable impacts and conditions of the projects into the assessment, such as market integration, system flexibility or maturity of the project. The European Commission coordinated the process, which was assisted by a consultancy consortium.

The proposal for a preliminary list of projects was made by electricity and gas groups, made of representatives of ministries, regulators and transmission system operators of the Contracting Parties, the European Commission and the Energy Community Secretariat. In cooperation with ACER, the Energy Community Regulatory Board provided its opinion on the proposed project list. The final list of Projects of Energy Community Interest and Projects of Mutual Interest is expected to be approved by the Ministerial Council in October 2016.

The projects having received the PMI status are proposed to be treated as PECIs within the corresponding host countries in accordance with Recommendation of the Ministerial Council.





## Acquis on Environment

Title of Document	General Implementation Deadline	Implementation Deadline Moldova / Ukraine
Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Directives 97/11/EC and 2003/35/EC	1 Jul 2006	Moldova: 31 Dec 2010 Ukraine: 1 Jan 2013
Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC	31 Dec 2011	Moldova: 31 Dec 2014 Ukraine: 1 Jan 2012
Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants	31 Dec 2017	Moldova: 31 Dec 2017 Ukraine: 1 Jan 2018
Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control) - for new plants	1 Jan 2018	1 Jan 2018
Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control) - for existing plants	1 Jan 2029	Ukraine: SO <sub>2</sub> and dust: 1 Jan 2029 NO <sub>x</sub> : 1 Jan 2034
Article 4(2) of Directive 79/409/EEC on the conservation of wild birds	1 Jul 2006	Moldova: 31 Dec 2010 Ukraine: 1 Jan 2015

Directive 85/337/EEC aims at identifying and assessing environmental consequences of projects before a building or operation permit is granted. The key objective of the Sulphur in Fuels Directive 1999/32/EC is to ensure effective protection from the risks resulting from SO<sub>2</sub> emissions, by imposing thresholds meant to prevent sulphur deposition exceeding critical loads and levels. Article 13 of the Treaty invites the Contracting Parties to accede to the Kyoto Protocol, which all Contracting Parties with the exception of Kosovo\* have already done, the majority, however, without emission reductions commitments.

The overall aim of the Large Combustion Plants Directive 2001/80/EC is to reduce emissions of acidifying pollutants, particles, and ozone precursors. By Decision 2013/05/MC-EnC, Article 4(6) of Directive 2001/80/EC was adapted for the specific purposes of the Energy Community, including the period for using National Emission Reduction Plans which will expire on 31 December 2027.

Based on Ministerial Council Decision 2013/06/MC-EnC, the provisions of Chapter III, Annex V, and Article 72(3)-(4) of the Industrial Emission Directive 2010/75/EU are applicable to new plants as from 2018 onwards. According to Ministerial Council Decision 2015/06/MC-EnC, Contracting Parties shall implement those provisions in the case of existing plants by 1 January 2028 at the latest. Prior to that date, they shall endeavour to implement the provisions of Chapter III and Annex V within the shortest possible timeframe, in particular in the case of retrofitting existing plants. For Ukraine, the implementation deadlines for existing plants are set at 1 January 2029 for SO<sub>2</sub> and dust and 1 January 2034 for NO<sub>x</sub> by Ministerial Council Decision 2015/07/MC-EnC.



## Acquis on Competition

The *acquis* on competition (Articles 18 and 19 of the Treaty) rests on three pillars:

1. The prohibition of anticompetitive agreements established by Article 101 of the Treaty on the Functioning of the European Union (TFEU);
2. The prohibition of abuse of a dominant position provided for in Article 102 of the TFEU; and
3. The prohibition of State aid granted in violation of Article 107 of the TFEU.

With reference to Article 106 of the TFEU, public undertakings, including undertakings providing services of general economic interest, must also comply with the above rules.

The Contracting Parties are under an obligation to introduce, to the extent the trade of network energy between the Contracting Parties may be affected, rules prohibiting cartels (agreements between undertakings, decisions by associations of undertakings and concerted practices), abuses of a dominant position, and rules prohibiting State aid. Moldova and Ukraine are under the same obligation from May 2010 and February 2011 respectively. The respective prohibitions are to be applied to public undertakings and undertakings to which special or exclusive rights have been granted by virtue of Article 19 of the Treaty.



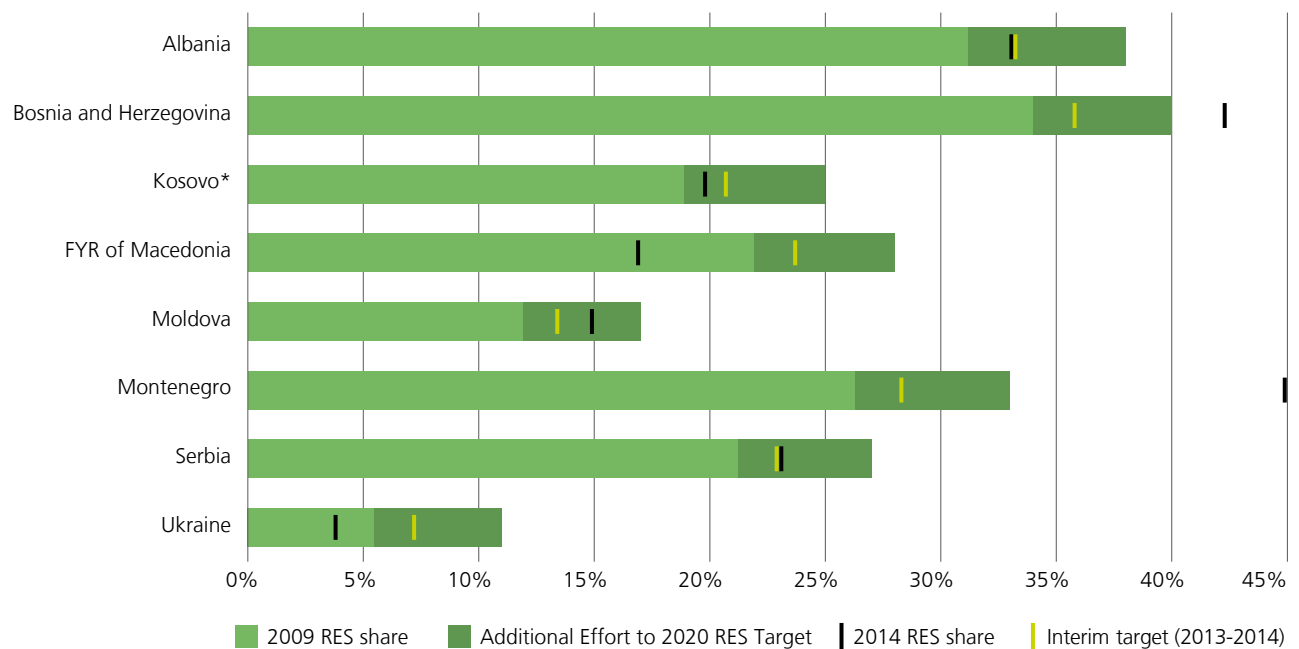
## Acquis on Renewable Energy

Title of Document	General Implementation Deadline	Implementation Deadline Moldova / Ukraine
Directive 2009/28/EC on the promotion of the use of energy from renewable sources	1 Jan 2014	1 Jan 2014

By Decision 2012/03/MC-EnC, the Ministerial Council adopted Directive 2009/28/EC and determined the Contracting Parties' binding national targets to be achieved through the use of

renewable energy in the electricity, heating and cooling, and transport sectors by 2020. For determining the targets, a similar methodology as for the EU Member States was applied.

### Energy Community Renewable Energy 2020 Targets



Source: EUROSTAT



## Acquis on Energy Efficiency

Title of Document	General Implementation Deadline
Directive 2012/27/EU on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC	15 Oct 2017
Directive 2006/32/EC on energy end-use efficiency and energy services and repealing Council Directive 93/76/EEC	31 Dec 2011
Directive 2010/30/EU on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products	31 Dec 2011
Directive 2010/31/EU on the energy performance of buildings	30 Sep 2012

Directive 2010/31/EU provides the legal framework for setting minimum energy performance requirements for new and existing buildings. Directive 2010/30/EU and the corresponding implementing legislation establish the legal framework for labelling and consumer information regarding energy consumption for energy-related products.

With the Decision 2015/08/MC-EnC, the Energy Efficiency Directive 2012/27/EU was incorporated into the *acquis* on 16 October 2015. The Contracting Parties have two years to transpose the new directive. Until that date, the 'old' Directive 2006/32/EC remains in force. In this Report, the Secretariat assesses the

Parties' compliance with Directive 2006/32/EC only.

Subject to some adaptations, Directive 2012/27/EU establishes a common framework of measures for the promotion of energy efficiency within the Energy Community. It sets a binding 20% energy efficiency target by 2020 and paves the way for further energy efficiency improvements beyond that date. As in the EU, the directive requires the Contracting Parties to adopt energy savings obligation schemes for energy distribution and retail companies, promote efficiency in heating and cooling and cogeneration and apply yearly targets for the renovation of central government buildings.





## Energy Intensity in the Energy Community

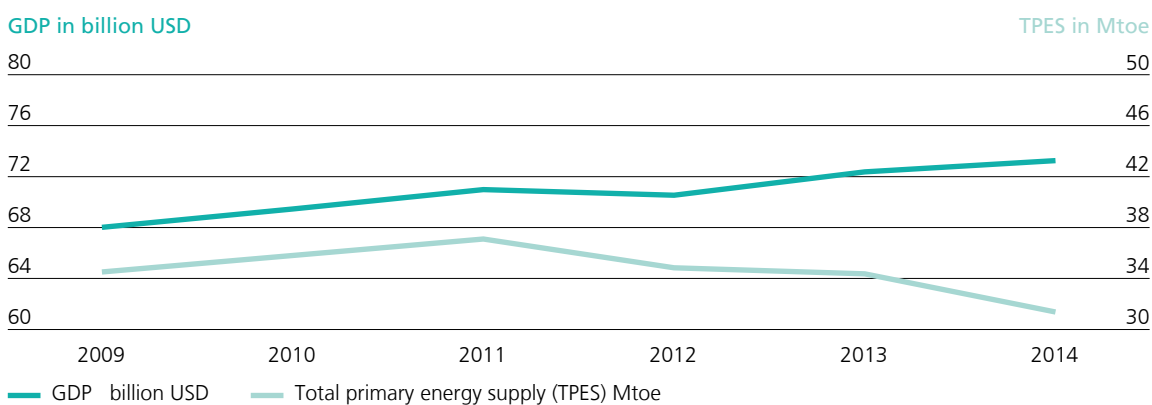
Energy efficiency is often perceived as a tool to save energy and nothing more. The charts below prove that energy efficiency brings increased competitiveness and enables wealth formation, without increasing energy consumption.

This is a clear message from the Western Balkans and Moldova where GDP growth decoupled from the use of energy resources, starting in 2009. This is mainly due to the large number of investment programmes in both the private and public sector financed by International Financing Institutions (*European Bank for Reconstruc-*

*tion and Development (EBRD), World Bank, Kreditanstalt für Wiederaufbau (KfW) and European Investment Bank (EIB))* with the technical support and incentives offered by the European Commission.

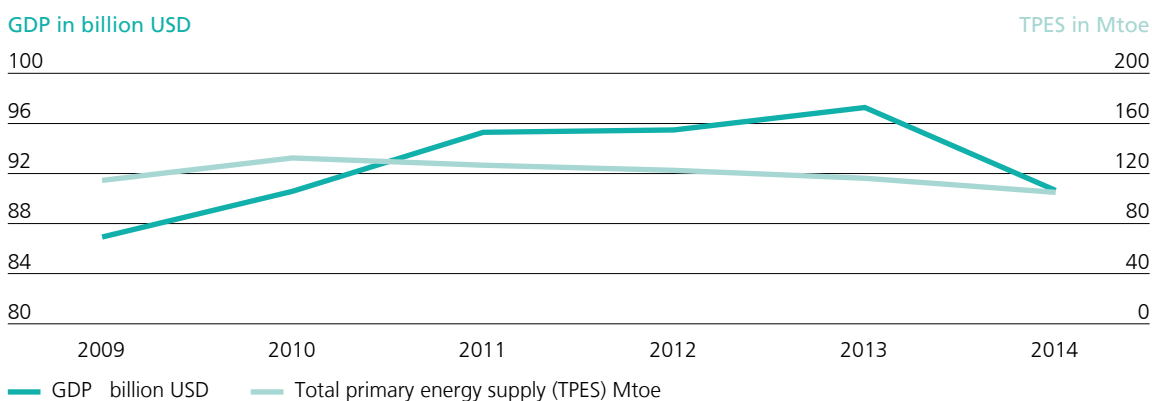
In Ukraine, energy consumption remained fairly stable from 2009 to 2013 while GDP grew steeply. However, in 2014, the use of energy resources did not follow the contraction of GDP growth in 2013 and 2014. This may indicate that Ukraine's economy is not "elastic" enough to adjust, and the GDP structure is still dominated by large, energy intensive industries.

### Energy Intensity in Western Balkans and Moldova



Source: Compiled by the Energy Community Secretariat

### Energy Intensity in Ukraine



Source: Compiled by the Energy Community Secretariat



## Acquis on Oil

Title of Document	General Implementation Deadline
Council Directive 2009/119/EC imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products	1 Jan 2023

Aiming to maintain a high level of security of oil supply, the directive requires stockholding for 90 days of net imports or 61 days of inland consumption in the preceding year. Moreover the

competent authorities are to be in a position to release quickly, effectively and transparently some or all of their stocks in the event of a major supply disruption.



## Acquis on Statistics

Title of Document	General Implementation Deadline
Directive 2008/92/EC concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users	31 Dec 2013
Regulation (EU) 431/2014 amending Regulation (EC) 1099/2008 on energy statistics, as regards the implementation of annual statistics on energy consumption in households	31 Dec 2016
Regulation (EU) 147/2013 amending Regulation (EC) 1099/2008 on energy statistics, as regards the implementation of updates for the monthly and annual energy statistics	31 Dec 2013
Regulation (EC) 1099/2008 on energy statistics	31 Dec 2013

The Ministerial Council's 2013 Decision 2013/02/MC-EnC to include statistical *acquis* aims to ensure the collection, compilation and dissemination of consistent, accurate and coherent energy related data. A year later, the Ministerial Council adopted Regulation (EU) 147/2013 in order to keep pace with developments in the European Union. By Decision 2015/02/MC-EnC, the Ministerial Council adopted Regulation (EU) 431/2014, amending Regulation (EC) 1099/2008 as regards the implementation of annual statistics on energy consumption in households.

The Contracting Parties' annual and monthly statistics are to follow the harmonized methodology developed by the *Statistical Office of the European Union (EUROSTAT)* and the *International Energy Agency (IEA)*. Price statistics shall follow *EUROSTAT* rules and methodology. With the amendments in Regulation (EU) 431/2014, the Parties are additionally required to generate detailed statistics on final energy consumption and ensure their gradual integration into the statistical scope.





## Energy Statistics – Tools for Energy Policy

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Since the incorporation of the *acquis* on energy statistics in the Energy Community legal order, the Contracting Parties have developed a statistical system which allows their energy statistics to be integrated in the *EUROSTAT* reporting and dissemination system.

Annual energy statistics of all Contracting Parties are publicly available in the *EUROSTAT* database and their annual energy balances, compiled in the standardized EU format, can be downloaded free of charge by all interested users.

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During the reporting period, all Contracting Parties have proved that their annual energy statistics were established in accordance with the applicable EU regulation and transmitted the required data in the prescribed for-

mat to *EUROSTAT*. In addition, all Contracting Parties have started to compile data on gas and electricity prices and to transmit it to *EUROSTAT* in order to implement the *acquis* on price statistics.

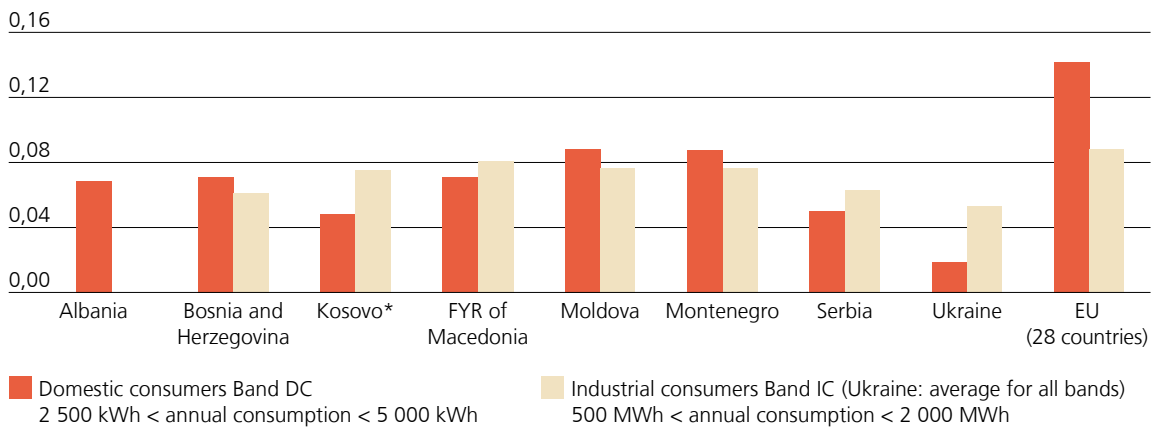
The chart below shows half annual electricity prices charged to final customers in 2<sup>nd</sup> semester 2015, as reported to *EUROSTAT*.

### Electricity Prices Charged in the Energy Community in 2<sup>nd</sup> Semester 2015 (in EUR/kWh)

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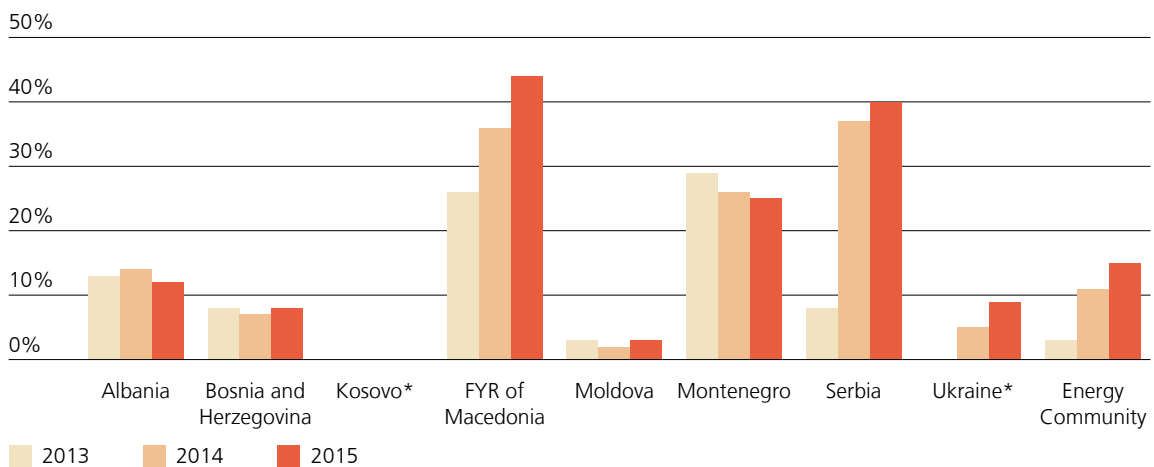
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Source: *EUROSTAT* and State Statistics Service of Ukraine

Data provided by the Contracting Parties and compiled by the Secretariat show increasing volumes of sales in the competitive market reaching 26 TWh in 2015 (four times more than in 2013) as shown in the chart below.

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### Share of Electricity Supplied to Final Customers from Competitive Market



\* Data for 2013 n/a

Source: Compiled by the Energy Community Secretariat





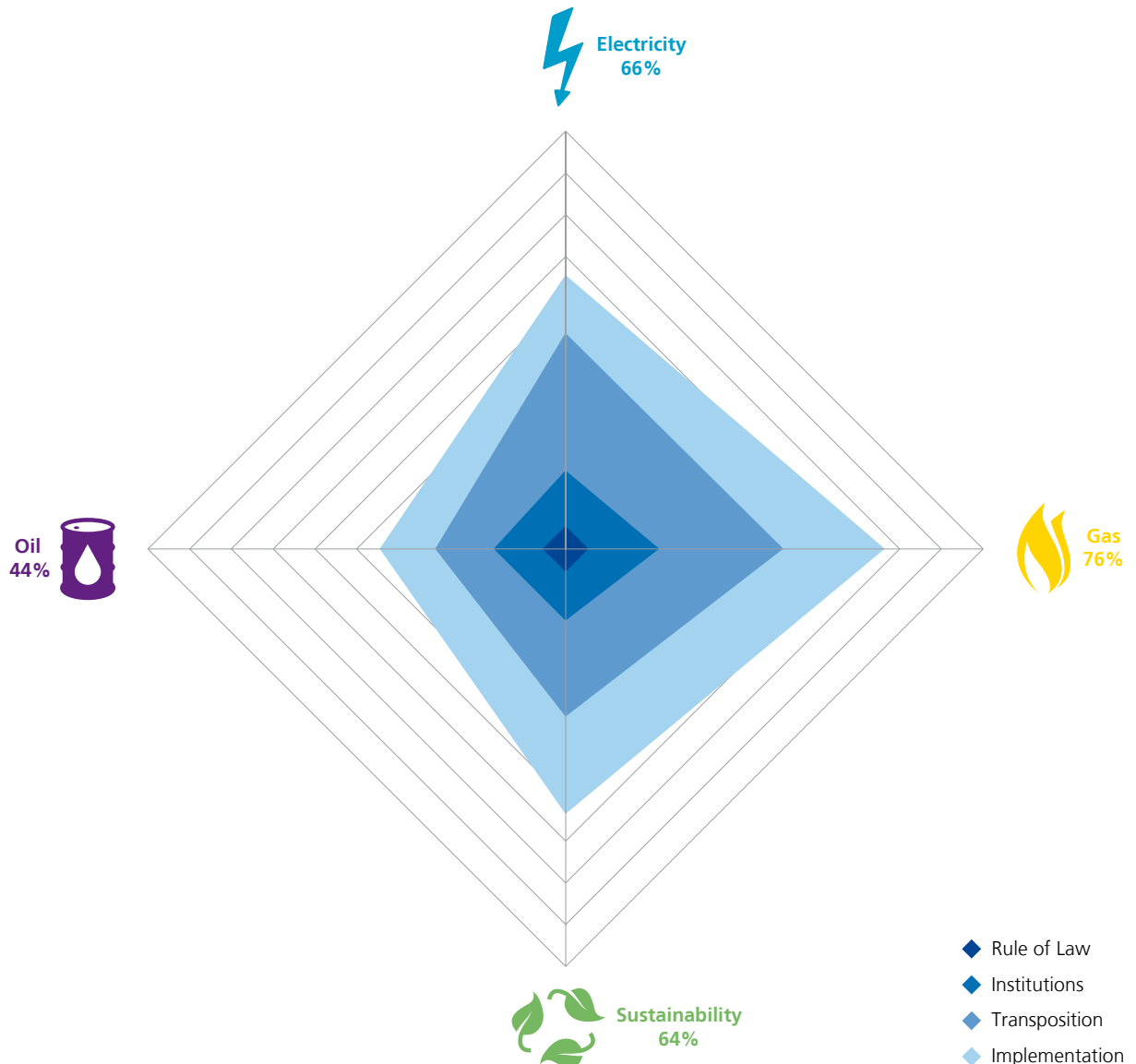


# 03 | Albania

Albania is living up to its commitments to implement the Third Energy Package by having adopted the new electricity market model in July 2016. The country had the first transmission system operator, *TAP AG*, certified under Third Energy Package procedures, which laid the groundwork for future gas market

penetration via the *Trans Adriatic Pipeline*. Nevertheless, the sustainability dimension of Albania's energy sector must not be forgotten. Albania must rectify the two breaches of Energy Community energy efficiency *acquis* without delay.

Implementation Performance of Albania



Source: Compiled by the Energy Community Secretariat



## Albania

### 3.1 Electricity

Description of data [unit]		2014	2015
Electricity production [GWh]		4.726	5.865
Net imports [GWh]		3.356	2.355
Net exports [GWh]		288	956
Gross electricity consumption [GWh]		7.815	7.265
Losses in transmission [%]		2,1%	2,0%
Losses in distribution [%]		37,8%	31,3%
Consumption of energy sector [GWh]		21	24
Final consumption of electricity [GWh]		5.011	5.069
Consumption structure [GWh]	Industrial, transport, services and other non-residential sectors	2.509	2.547
	Households (residential customers)	2.502	2.522
Net maximum electrical capacity of power plants [MW]		1.824	1.895
of which:	oil-fired	98	98
	hydro, total	1726	1797
Horizontal transmission network [km]	Substation capacity [MVA]	3.846	4.026
	Number of interconnectors	5	5
Electricity customers	Total number of customers	1.218.000	1.244.716
	out of which: non-households	159.655	164.653
	Eligible customers under national legislation	7	1.244.716
	Active eligible customers	7	7
Internal market	Electricity supplied to active eligible customers [MWh]	697.000	610.207
	Share of final consumption [%]	13,91%	12,04%

Source: ERE and INSTAT

#### a. Sector Overview

The new Power Sector Law transposing the Third Energy Package in the electricity sector was adopted in April 2015 and entered into force on 13 June 2015. Following the obligations stipulated therein, the Energy Regulatory Entity (ERE) and the Ministry of Energy and Industry started the process of harmonizing the secondary legislation required for the reforms and liberalization of the electricity market.

No less than 56 new or amended acts of secondary legislation addressing virtually all segments of Albania's electricity sector were scheduled for adoption in the course of the 12 months following the law's entry into force. Most of these acts are not yet adopted by ERE.

In July 2016, the Council of Ministers adopted the market model for the regulation of Albania's electricity market. Together with this decision, the Council also adopted a plan on the phasing out price regulation and enabling all market participants to freely trade on the market. An action plan for setting up a power exchange, which envisages the go-live of an organised day-ahead market in the second half of 2017, was also part of this package. The market model envisages

the coupling of the Albanian market with the markets of the neighbouring countries.

By commissioning the new 400 kV interconnection line with Kosovo\* in June 2016, Albania took a further step towards its regional electricity market integration. The two system operators have already developed and tested a mechanism for procurement of reserve capacity for secondary regulation.

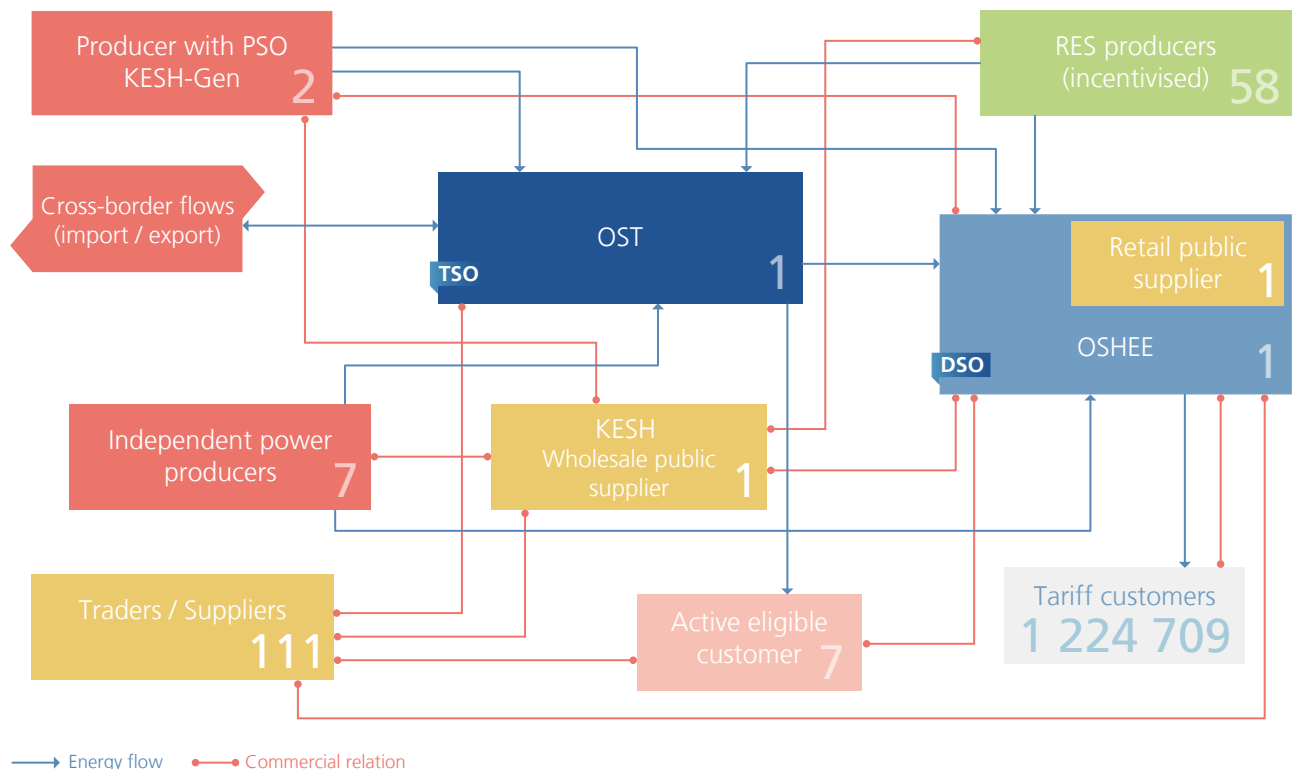
Albania participates in the *Coordinated Auction Office in South East Europe (SEE CAO)* since April 2015 for its border with Montenegro, and since November 2015 for its borders with Greece. In October 2015, the transmission system operator *OST* signed a Memorandum of Understanding on a regional security coordination initiative with the transmission system operators of Kosovo\*, Greece, Bulgaria, former Yugoslav Republic of Macedonia and Turkey. The initiative will introduce a service for coordinated capacity calculation for day-ahead allocations based on regionally coordinated congestion forecasts.

#### b. State of Compliance

The Power Sector Law of 2015 is in line with the Third Energy Package and transposes Directive 2009/72/EC and Regulation



## Albania's Electricity Market Scheme



Source: Compiled by the Energy Community Secretariat  
Refer to the market schemes legends on page 191 for a more detailed description.

(EC) 714/2009. The secondary legislation in force is yet to be adjusted, thus delaying the implementation of the Third Energy Package.

### 1. Unbundling

The Power Sector Law transposes the provisions of the Third Energy Package for unbundling of the transmission and distribution operators.

A law enabling the ownership unbundling of OST was adopted in January 2016. According to the law, the deadline for completion of its ownership unbundling is at the end of 2017. According to a decision of the Council of Ministers in April 2016, the Ministry of Economy shall be responsible for the management of OST, while the Ministry of Energy and Industry shall be responsible for operation of state-owned generation and supply companies (KESH and OSHEE). In December 2015, ERE approved the Rules for Certification of OST and opened the certification procedure in summer 2016.

The distribution system operator and supplier OSHEE still has a fully integrated structure, with no legal division whatsoever and no unbundled accounts as required by Articles 26 and 31 of Directive 2009/72/EC. The provisions on the adoption of a compliance programme and appointment of a compliance officer according to Articles 21 and 26 of Directive 2009/72/EC still need to be implemented.

### 2. Third Party Access

The legal provisions for third party access to the transmission and distribution systems, including treatment of exemptions as required by Article 32 of the Directive 2009/72/EC, are transposed in the Power Sector Law. The law also transposes the provisions on congestion management as required by Regulation (EC) 714/2009 and its Annex. ERE is developing new tariff methodologies.

### 3. Eligibility

The new law explicitly grants supplier switching rights to all customers, as required by Article 33 of Directive 2009/72/EC, including those connected to the low voltage (0.4 kV) network.

However, the conditions for supplier switching have yet to be implemented in practice. The applied distribution network tariffs are not fully cost-reflective relative to voltage level. ERE adopted switching rules as a first step in building the switching platform.

### 4. Market Opening and Price Regulation

The Power Sector Law transposes the provisions required for liberalization of the electricity market in Albania.

The new law imposes an obligation to switch to competitive

supply for the customers connected to the 110 kV voltage network and customers with an annual consumption of more than 50 million kWh and, since 30 June 2016, for those customers connected to the 35 kV voltage network. The deadline for switching to competitive supply for lower voltage levels is the end of 2016 for those connected to a 10 kV voltage network and the end of 2017 for the 6.0 kV voltage network. An action plan for phasing out price regulation for low voltage (0.4 kV) customers until 2019 is defined by the market model.

Albania's electricity market is still overregulated. The wholesale market is dominated by the state-owned, regulated generation company *KESH*, which supplies to *OShEE* the electricity needed for captive customers under regulated "full supply" condition, and the electricity to cover losses under market prices. The competitive wholesale environment consists of independent producers and a small number of large customers supplied through bilateral contracts. *OShEE* provides supply services to all captive customers under regulated prices.

Rules and methodologies for operations under a public service obligation still need to be adopted and implemented by ERE.

#### 5. Balancing

The requirements of Article 15 of Directive 2009/72/EC are fully transposed in the law. Balancing market and balance responsibility are outlined in their basic terms in the Market Model adopted by the Cabinet of Ministers on 13 July 2015. Further details are to be specified in the new Transmission Network Code.

The conditions for real-time balancing and balance responsibility are neither market-based nor compliant with the *acquis*. *KESH* provides *OST* with balancing energy for the system. Balancing services of *OShEE* are provided through its contract for regulated wholesale supply. Cost-reflectivity applies only to the balancing services provided to eligible customers who have switched their supplier.

#### 6. Customer Protection and Protection of Vulnerable Customers

The law transposes basic requirements for contractual obligations with customers and their rights as provided in Article 3 of the Directive 2009/72/EC. The law addresses vulnerable customers and imposes an obligation on the government to adopt a definition of vulnerable customers as required by the directive. The rules on conditions for termination of the supply to vulnerable customers are currently being developed by ERE.

The identification of the vulnerable customers is a competence of the Ministry for Social Affairs. The vulnerable customers are partially supported through a mechanism financed from the state budget.

#### c. Conclusions and Priorities

The development of a comprehensive set of secondary legislation, as prescribed by the Power Sector Law, is delayed. The market structure is only outlined by the adopted Market Model but detailed rules governing the electricity market are not developed yet. The same applies for switching rules. Actions for unbundling of *OShEE* or deregulation of *KESH* generation prices are yet to take place.

The first priority remains the development and adoption of the secondary legislation enforced by the law. The acts which are drafted by ERE in cooperation with the Secretariat need to be adopted as soon as their preparation is complete, without further delay.

Albania's market structure needs to be established and organized taking into account all the required segments. The ongoing project to establish an organized electricity market and power exchange needs to be completed within the agreed timeline. At the same time, the rules for supplier switching and the framework for deregulation of prices in generation and supply and the conditions for access to competitive supply need to be applied without additional delay.

Another priority is the unbundling of the distribution activities of *OShEE*. The obligations defined in the law for corporate, functional and legal restructuring need to be implemented.





# Albania

## 3.2 Gas

### a. Sector Overview

Albania currently has no gas sector. During the reporting period, Albania continued to focus on the development of the Gas Master Plan of Albania, financed by the *Western Balkans Investment Framework (WBIF)*.

In September 2015, the Albanian Parliament adopted a new Law on Natural Gas Sector, which transposes the Third Energy Package and establishes a general legal framework for further developing the gas market in compliance with the *acquis*.



### TAP AG - First TSO Certified under Third Energy Package

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Based on ERE's decision, *TAP AG* was certified pursuant to the tailor-made Independent Transmission Operator (ITO) model elaborated under the Final Joint Opinion of the Energy Regulators on *TAP AG's* Exemption Application of June 2013. *TAP AG* will have to finalise and prove its full compliance with the ITO rules under Directive 2009/73/EC in a new procedure prior to the start of *TAP's* commercial operation, which is currently scheduled to take place by 31 December 2020. The Secretariat issued its Opinion on the certification of *TAP AG* on 3 February 2016.

The Ministry of Energy and Industry and the national regulatory authority ERE agreed on an extensive list and timetable for the preparation of gas market secondary legislation. Following requirements stipulated in the new law, legal reforms enabling a fully functioning gas market are to be finished by May 2017.

In cooperation with the Secretariat, ERE certified *Trans Adriatic Pipeline (TAPAG)* as an independent transmission operator (ITO) for natural gas on 31 March 2016. *TAP AG* is foreseen as the future transmission system operator of the *TAP AG*, which will link Albania with the European gas market.

### b. State of Compliance

The most significant development during this reporting period is the adoption of the new Law on Natural Gas Sector, which to a large extent ensures compliance of Albania's gas market regulation with the Third Energy Package.

### 1. Unbundling

The new Law on Natural Gas Sector establishes requirements for (ownership) unbundling of natural gas transmission, distribution and storage system operators as well as for certification of transmission system operators, in compliance with the Third Energy Package. The state-owned *Albpetrol* remains a vertically integrated undertaking with transmission operations not unbundled from natural gas production and supply activities. In this respect, Albania is not compliant.

An exemption from unbundling requirements is envisaged by the new law for distribution system operators serving less than 10,000 customers.

### 2. Third Party Access

The requirements for unrestricted and non-discriminatory access to the transmission and distribution networks as well as storage and liquefied natural gas (LNG) facilities are established by the new Law on Natural Gas Sector in compliance with the Third Energy Package. Obligations of the operators in charge, including their services, and conditions for refusal of access are aligned with the gas *acquis*. Access is granted pursuant to the rules and tariffs approved by ERE.

By enactment of the new law, a number of previous shortcomings were eliminated, including different treatment of national and cross-border gas transmission, absence of obligatory provisions to establish a separate tariff for each entry and exit point to/from the transmission grid, lack of principles for capacity allocation and congestion management and failure to empower ERE with adequate tariff-setting competences. However, practical application of the general requirements stipulated in the law is yet to be developed through secondary legislation and tariff systems are yet to be adopted.

The new law requires a transmission system operator to adopt, subject to ERE's approval, the Transmission Grid Code which would *inter alia* elaborate the terms and conditions for third party access services, capacity allocation, congestion management and transparency in transmission operations. *Albpetrol* has failed to adopt such a code. The development of the Distribution Grid Code is also pending.

### 3. Eligibility

Under the new Law on Natural Gas Sector, all customers are eligible and therefore allowed to freely choose and switch their gas supplier. However, practical application of the customers' rights is yet to be developed through secondary legislation.

### 4. Market Opening and Price Regulation

The new Law on Natural Gas Sector provides for an open natural gas market where the trade in natural gas is organised pursuant to market-based principles. However, household customers and small enterprises are permitted to benefit from regulated gas supplies by the supplier under public service obligations. In cases where ERE regulates the final consumer gas price, it must justify such regulation as a public service obligation pursuant to the requirements equal to those of Directive 2009/73/EC.

### 5. Balancing

The new law, in compliance with Regulation (EC) 715/2009, requires the adoption of market based balancing rules designed in a fair, non-discriminatory and transparent manner and applied in line with objective criteria. It is understood that balancing rules have to be adopted by the transmission system operator subject to ERE's approval and may be an integral part of the Transmission Grid Code. To date, *Albpetrol* has failed to adopt balancing rules and imbalance charges.

### 6. Security of Supply

The new law transposes the general provisions of Directive 2004/67/EC and Directive 2009/73/EC on security of gas supply, including on national monitoring competences, reporting obligations and safeguard measures. Furthermore, it requires that the government adopts an emergency plan which shall specify adequate minimum security of supply standards and regulate provisions for securing reliable and efficient gas supplies. A draft emergency plan was developed by the Secretariat and submitted to the ministry in January 2016.

### 7. Customer Protection and Protection of Vulnerable Customers

The new law transposed the majority of requirements under Directive 2009/73/EC with regard to customer protection. Missing provisions, such as establishment of single points of contact, should be elaborated through secondary legislation.

In addition to the general customer protection provisions, the new law allows customers to benefit from supplies under public service obligations (household customers and small enterprises), supplies by multiple suppliers (large non-household customers) and supply of last resort.

The new Law on Natural Gas Sector defines a vulnerable customer as a customer that due to his or her social position retains certain special rights concerning the guaranteed supply of natural gas in exceptional cases. It also sets the general principles for the protection of vulnerable customers. However, the criteria and procedures for determining who qualifies as a vulnerable customer are yet to be developed and adopted by the government.

### c. Conclusions and Priorities

Albania achieved the key priority set out in the previous Implementation Report successfully by adopting the Law on Natural Gas Sector which is compliant with the Third Energy Package. Its regulatory authority gained independence and certified *TAP*, as the first transmission system operator in the Energy Community. Albania's authorities expressed commitments to develop all necessary secondary legislation in line with the law's deadlines.

Following the adoption of the new Law on Natural Gas Sector, it is now important to ensure adequate capacity building of the authorities in charge of decision-making in the gas sector, including ERE. The unbundling of *Albpetrol* must be enforced without delay.





## Albania

### 3.3 Regulatory Authority

#### a. Compliance with Independence Criteria and Competences

The Energy Regulatory Entity (ERE) is the single authority for nationwide regulation of the gas and electricity sector of Albania. ERE is by law set up as an institution legally distinct and functionally independent from any other public entity. The regulatory authority cannot be liquidated by an act of another public institution as its establishment is exclusively based on legislation. ERE is headed by a board of five commissioners. The term of board members is limited to five years, renewable once.

ERE's organisation complies with all independence criteria stipulated by Directives 2009/72/EC and 2009/73/EC. A rotation scheme for board members is not defined by law but is applied in practice. Management is independent in relation to staff appointments and the organisation of the regulatory authority's internal structure, including autonomy in setting of staff and board member salaries. There is an explicit legal requirement for the board to orientate salaries towards those of the regulated business.

ERE has autonomy in defining its annual work programme as well as setting up and managing its annual budget. ERE is held accountable for its activities by being obliged to present its annual report to parliament.

ERE is equipped with all gas and electricity sector related competences required by the Third Energy Package, albeit with a few exceptions. The obligation of ERE to comply with legally binding Energy Community Regulatory Board decisions, publish recommendations in relation to compliance of supply prices with public service obligation limits, impose measures to promote competition and, most importantly, require transmission

and distribution system operators to change their terms and conditions have not been transposed explicitly by the law. Also, the level of penalties that ERE can impose is lower than the Third Energy Package requires. This constitutes a breach of the gas and electricity directives.

#### b. Performance

ERE cooperates well with the Secretariat. Yet it must prove its ability to live up to the independence and powers granted to it by law. In particular, *de facto* independence from political interventions is not always guaranteed to the extent necessary. In the electricity sector ERE failed to eliminate the risk of cross-subsidisation between smaller customers connected to the electricity distribution grid, upholding a single tariff for all voltage levels below 35 kV.

On the regional level, ERE is relatively active in the ECRB.

#### c. Conclusions and Priorities

Except for a few lacking competences, among which first and foremost the power to impose penalties up to the limit required by the Third Energy Package, ERE's legal set up is in line with the *acquis*. The Natural Gas Sector Law and the Power Sector Law need to be amended to rectify the existing breaches.

The most evident challenge is for ERE to prove its independence also in practical terms and further develop as an independent institution of sufficient expertise. The newly defined right of the management to align staff salaries with those of the regulated industry should facilitate this process.





## Albania

### 3.4 Oil

#### a. Sector Overview

Albania is the largest exporter of crude oil in the Energy Community. In 2015 exports increased by 9,37% compared to 2014 (1.156 kt compared to 1.057 kt) whereas crude oil production decreased by 7% (1,278 kt compared to 1,368 kt).

As regards the production of refined petroleum products, the volume of 256 kt processed in 2015 constitutes a decrease by 10% compared to 2014. The volume of exported petroleum products increased by 53% to 206 kt. The same goes for the import of petroleum products which increased by 8% to a level of around 1.250 kt in 2015. The overall consumption of petroleum products in 2015 is estimated at 1.300 kt.

The state-owned *Albpetrol* is active in the development, production and trade of crude oil. The Albanian Government was planning to privatize *Albpetrol* in 2016. However, it has put these plans on hold due to a lack in foreign investor interest.

#### b. State of Compliance

Albania's current emergency oil stockholding system is based on legislation from 1999 (amended in 2004) and governmental decrees from 2004 and 2007, where the entire emergency stockholding obligation is assigned to the oil industry. Monitoring and control mechanisms for ensuring that the industry meets emergency stockholding requirements are formally in place and efforts have been made to strengthen their enforcement. However, the current system is not compliant with Directive 2009/119/EC.

Albania prepared a draft Law on Emergency Oil Stockholding in 2015, which foresees the creation of a central stockholding entity (CSE) fully responsible for Albania's stockholding obligation under the directive as of 1 January 2023. The intention of the Ministry of Energy and Industry is to change the stockholding obligation on industry, starting in 2017, to 30 days, and begin progressively building emergency stocks of the CSE. However, a decision on the oil stockholding model has not been taken.

#### c. Conclusions and Priorities

No real progress has been achieved with regard to priorities identified in last year's Implementation Report. None of the suggested actions have been followed up.

Albania's main priorities should be to take a decision on the oil stock holding model and establish an independent, dedicated entity responsible for the establishment of national emergency oil stocks. In particular, the following actions should be taken:

- Approve the final Law on Emergency Oil Stockholding;
- Approve the action plan for building up emergency oil stocks to 90/61 days;
- Draft relevant secondary legislation; and
- Establish and begin operation of a monthly data collection process necessary for operating the emergency oil stockholding system and meeting reporting requirements under Directive 2009/119/EC.







# Albania

## 3.5 Renewable Energy

	2014	2015
Total capacities of renewable energy (MW)	1.726	1.797
Hydropower, out of which:	1.726	1.797
- small hydropower (<10 MW)	134	177

Source: ERE and INSTAT

### a. Sector Overview

Albania has committed to a binding 38% target of energy from renewable sources in gross final energy consumption in 2020, starting with 31,2% in 2009. In 2014, according to the energy balance published by EUROSTAT, Albania achieved a 33,1% share of energy from renewable sources, in line with the second indicative trajectory of 33,2%.

The 2013 Law on Renewable Energy that partly transposed Directive 2009/28/EC is currently being amended. The new law is expected to be adopted by autumn 2016. A draft law on renewables in transport which would transpose the requirements of Directive 2009/28/EC with respect to sustainability criteria and certification of biofuels was developed a year ago but never adopted.

2014 and 2015 were marked by a series of changes affecting the support given to (existing) renewable energy producers. Producers have started complaining to the Secretariat.

### b. State of Compliance

Despite progress in increasing the share of energy from renewable sources and newly added generation capacities under concession agreements in the last years, Albania remains largely non-compliant with the *acquis* on renewable energy. Its compliance record will be boosted once the revised Law on

Promotion of the Use of Energy from Renewable Sources is adopted and implemented.

#### 1. National Renewable Energy Action Plan

Albania finally adopted the National Renewable Energy Action Plan (NREAP) in January 2016 and submitted it to the Secretariat, thus closing the case initiated by the Secretariat for failure to submit the NREAP.

The second progress report on the promotion of renewable energy for the years 2014 - 2015 is expected to be submitted by Albania by the end of 2016.



### Rectification of Failure to Adopt the National Renewable Energy Action Plan

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Following Albania's submission of its National Renewable Energy Action Plan to the Secretariat, Case ECS-3/14 was closed in January 2016. The submission of the plan followed a decision adopted by the Ministerial Council on 16 October 2015 establishing that Albania failed to fulfil its obligations under Article 20 of the Treaty read in conjunction with Article 4(1) and Article 4(2) of Directive 2009/28/EC.





## 2. Support Schemes

Currently, there is no support scheme for the promotion of energy from renewable sources, with the exception of hydro-power, due to the fact that the Law on Renewable Energy is not applied. To ensure compliance with the State Aid Guidelines 2014 - 2020, the new draft Law on Promotion of the Use of Energy from Renewable Sources aims at introducing a support scheme based on “*contracts for difference*” which are equivalent to a sliding feed-in premium system. The total support available will be determined by auctions. The renewable energy producers will sell the electricity in the market and receive the variable premium as the difference between the auction price and the electricity market price.

## 3. Cooperation Mechanisms

The provisions related to possible cooperation mechanisms between Albania and other Contracting Parties or EU Member States to reach the 2020 targets have not been transposed. They are envisaged in the new draft law on promotion of the use of energy from renewable sources.

## 4. Administrative Procedures

The timeframe for handling applications and the coordination between different institutions was improved by the designation of the National Centre for Energy Applications as a one-stop shop for renewable energy projects. The future will show whether its establishment will really benefit investors. Albania still has to increase compliance with the requirements of Article 13 of the Renewable Energy Directive for streamlined and simplified procedures.

## 5. Access to and Operation of the Grids

The Law on Power Sector provides for priority and guaranteed access of renewables to the network and priority dispatch of electricity from renewable sources. However, secondary legislation is incomplete. In practical terms, transmission and distribution system operators have to improve the methodology determining the costs of connection to the grid or grid reinforcements and transparency towards investors. Currently, Albania fails to implement the requirements related to grid access detailed in Article 16 of Directive 2009/28/EC.

## 6. Guarantees of Origin

The regulation on the issue, transfer and cancellation of guarantees of origin remains to be adopted by the regulatory authority as the designated body. Currently, there is no compliance with this requirement.

## 7. Renewable Energy in Heating and Cooling

There is a low level of compliance with respect to policy measures to promote the use of energy from renewable sources in

the heating and cooling sector, since it is only marginally addressed in the 2013 Law on Renewable Energy. More progress in this area is expected with the adoption of the new Law on Energy Performance of Buildings, which includes provisions for incorporating renewable energy technologies in newly built or renovated buildings to transform them into nearly zero-energy buildings. The establishment of an energy efficiency fund would also contribute to financing renewable energy projects in the heating and cooling sector.

## 8. Renewable Energy in Transport

The 2013 Law on Renewable Energy transposed the 10% renewables target by 2020 in the transport sector from Directive 2009/28/EC, as confirmed by the country's NREAP. Beyond mere target transposition, other requirements with regard to biofuels have not been complied with. The existing Law on the Production, Transport and Trade of Biofuels and other Renewable Fuels in Transport of 2008 is not compliant with Directive 2009/28/EC and was actually never enforced. It has to be amended to transpose the requirements for the sustainability regime and to establish a certification scheme and the relevant verification body as required by Article 18 of Directive 2009/28/EC, and as announced by the NREAP.

## c. Conclusions and Priorities

In this reporting period, the adoption of the NREAP was the main step towards ensuring compliance with the Renewable Energy Directive and formulating the policy measures needed to reach the 2020 targets.

Immediate adoption of the draft Law on Promotion of the Use of Energy from Renewable Sources must be the top priority to ensure compliance with the renewable energy *acquis*. Settlement of the open disputes between Albania and producers of electricity from renewable sources is necessary to regain investor interest in the domestic renewable energy market.

Network operators have to adapt their grid development plans to accommodate more renewable energy and increase transparency towards potential investors regarding connection and access to the grids. After the adoption of the new law, the national regulatory authority must review the regulation on the implementation of the system for certifying energy produced from renewable sources based on guarantees of origin, thus removing the confusion between guarantees of origin certificates and “*green tradable certificates*” existing in the regulation.

Adoption of the law transposing requirements of Directive 2009/28/EC in the transport sector is of utmost priority to boost the very low share of biofuels on the fuel market (1.63% in 2015 according to NREAP). Without a certification scheme in place, biofuel consumption cannot be counted towards meeting the renewable energy targets.



# Albania

## 3.6 Energy Efficiency

Energy Efficiency Action Plan (EEAP)*					
Period covered by EEAP		2010 - 2018 (1 <sup>st</sup> EEAP) 2010 - 2020 (draft 2 <sup>nd</sup> EEAP)			
Overall energy savings target - Directive 2006/32/EC (ktoe / % / year)		168 / 9 / 2018			
EEAP status		Last draft of 2 <sup>nd</sup> and 3 <sup>rd</sup> EEAP submitted in March 2016 (still not finalised and adopted)			
Achieved energy savings (ktoe / % / year)		Under preparation (to be reported as part of the 2 <sup>nd</sup> EEAP)			
Key institution(s) in charge		Ministry of Energy and Industry (MEI)			
Main data and energy efficiency indicators**		2011	2012	2013	2014 ***
<b>Total primary energy supply (TPES)</b>	ktoe	2.238	1.989	2.319	2.319
<b>Energy Intensity (TPES/GDP)</b>	toe / 1.000 USD	0,20	0,18	0,20	0,21
<b>TPES/Population</b>	toe/capita	0,77	0,69	0,80	0,80
<b>Total final energy consumption (TFEC)</b>	ktoe	1.992	1.820	2.098	2.144
Share of TFEC by sector	Residential	25%	28%	28%	27%
	Services	8%	9%	10%	9%
	Industry	19%	15%	13%	13%
	Transport	38%	40%	38%	39%
	Others	7%	6%	4%	5%
	Non-energy use	2%	2%	7%	7%

\* Source: 1<sup>st</sup> EEAP of Albania, 2<sup>nd</sup> / 3<sup>rd</sup> EEAP still not adopted

\*\* Source: *International Energy Agency* (May 2016)

\*\*\* Indicators calculated by the Energy Community Secretariat based on *EUROSTAT* energy balances for 2014

### a. Sector Overview

The final energy consumption of Albania increased during 2013 and 2014, after having contracted in 2012 due to the economic crisis. While Albania's energy intensity is still lower than the Contracting Party average (mainly due to its predominant share of efficient hydropower generation and low share of energy intensive industry in the overall economy), the trend in 2014 was upwards instead of downwards. Transport and residential sectors have the highest share in total final energy consumption (39% and 27% respectively). This indicates the need to improve energy efficiency policy and implement energy efficiency measures to utilize the high energy efficiency potential available in the country.

During this reporting period, concrete legislative progress was achieved with the adoption of the Law on Energy Efficiency in November 2015, which was prepared in close cooperation with the Secretariat.

The Ministry of Energy and Industry is currently drafting secondary legislation on the promotion of energy audits, the market for energy services and strengthening the national institutional and financial framework for energy efficiency. A national technical working group supported by the EBRD's Regional Energy Efficiency Programme in cooperation with the Secretariat developed a new Energy Efficiency Action Plan (EEAP) which will cover the reporting obligations of the 2<sup>nd</sup> and 3<sup>rd</sup> EEAP. The

new EEAP, due by 30 June 2016, is expected to also include a roadmap with policy measures for transposition of Directive 2012/27/EU. However, its adoption is still pending.


The Ministry of Energy and Industry (Directorate for Renewable Energy Sources and Energy Efficiency) is currently the key body responsible for the development and implementation of energy efficiency policy and the overall control and monitoring of EEAP implementation.

### b. State of Compliance

Despite the recent progress marked by the adoption of the Law on Energy Efficiency and drafting of other energy efficiency legislation, Albania remains non-compliant in many areas.

#### 1. Energy Services Directive 2006/32/EC


Albania adopted the Law on Energy Efficiency in November 2015, replacing the outdated Law on Energy Efficiency of 2005 and transposing the provisions of Directive 2006/32/EC. The law is in line with the requirements of Directive 2006/32/EC and some key provisions of Directive 2012/27/EU, including setting of the 2020 indicative energy savings target, EEAP and its monitoring, the exemplary role of the public sector, energy audits and promotion of the market for energy services. It also envisages institutional and financial reinforcement, *i.e.* the establishment of an energy efficiency agency and an energy efficiency fund.

	<b>Non-transposition of the Energy Services Directive</b>
I N D I S P U T E	<p>In Case ECS-10/13 initiated on 25 November 2013, the Secretariat challenged the lack of transposition and implementation of Energy Services Directive 2006/32/EC in Albania. In close cooperation with the Secretariat, Albania developed and adopted the Law on Energy Efficiency in November 2015, thus transposing requirements of Directive 2006/32/EC. However, despite having it prepared and reviewed by the Secretariat, Albania has not yet adopted the 2<sup>nd</sup> Energy Efficiency Action Plan required to implement the law. Pending its adoption and notification to the Secretariat, Case ECS-10/13 remains open.</p>

However, Albania is still working on the finalization of the 2<sup>nd</sup> and the 3<sup>rd</sup> EEAP and the set of secondary legislation to implement the law. The country thus fails to fully comply with Directive 2006/32/EC.

## 2. Energy Labelling Directive 2010/30/EU

The Law on Information of the Consumption of Energy and Other Resources by Energy-Related Products of January 2013 transposed Energy Labelling Directive 2010/30/EU. However, the development of secondary legislation for energy labelling of specific products is still pending, including those transposing the EU regulations adopted by the Ministerial Council Decision of September 2014. Therefore Albania is still not in compliance with the Labelling Delegated Acts.

	<b>Lack of Transposition of the Directive on Energy Performance of Buildings</b>
I N D I S P U T E	<p>On 13 May 2016, the Secretariat submitted a Reasoned Request to the Ministerial Council for failure to transpose Directive 2010/31/EU on the Energy Performance of Buildings (Case ECS-10/16). The case follows an expedited procedure for non-transposition of the <i>acquis</i> pursuant to Article 11(3) of the amended Dispute Settlement Rules.</p>

## 3. Energy Performance of Buildings Directive 2010/31/EU

With regard to energy efficiency in buildings, the adoption of the Law on the Energy Performance of Buildings is still pending, and thus compliance with Directive 2010/31/EU still needs to be achieved. The non-transposition of the directive is subject to a dispute settlement case.

### c. Conclusions and Priorities

Albania achieved progress compared to the previous reporting period with the adoption of the Law on Energy Efficiency and the drafting of other energy efficiency legislation.

However, the adoption of the 2<sup>nd</sup> and the 3<sup>rd</sup> EEAP and the Law on Energy Performance of Buildings as well as the set of by-laws to implement the new legislation are essential for Albania's compliance with the energy efficiency *acquis*.

Furthermore, the implementation of energy efficiency policy in Albania will require a strong institutional and financial framework. The Secretariat supports the setting up of a dedicated energy efficiency agency and fund, which will enable the effective implementation and financing of measures and projects in the field of energy efficiency in Albania.

Another priority should be the adoption of technical regulations dealing with labelling of energy-related products.





# Albania

## 3.7 Environment

### a. Sector Overview

#### 1. Environmental Impact Assessment Directive

The Law on Environmental Protection of 2011 lays down the basic principles of the procedure. The Laws on Environmental Impact Assessment and on Environmental Permits are in force since February 2013. In terms of secondary legislation, environmental impact assessment is regulated by the Decision Establishing Rules, Procedures and Deadlines for Environmental Impact Assessment (2013, amended in 2015), the Decision on the Determination of Rules for the Organization and Functioning of the National Environmental Agency of the Regional Environment Agencies (2014) and the Decision on the Approval of Rules, Requirements and Procedures for Informing and Involving the Public in Environmental Decision-Making (2014). Furthermore, the Decision on Establishing the Rules and Procedures for the Assessment of Transboundary Environmental Impact was adopted in 2015.

The environmental impact assessments for three Projects of Energy Community Interest (PEICs) (*Wind Park Dajç-Velipoje*, 400 kV OHL Tirana (AL) and *Trans Adriatic Pipeline*) were concluded during this reporting period. As regards the three other PEICs (400 kV OHL SS Bitola (MA) – SS Elbasan (AL), *Ionian Adriatic Pipeline* and *EAGLE LNG terminal*), the environmental impact assessment processes have not started yet.

#### 2. Sulphur in Fuels Directive

Albania has two refineries, located in the municipalities of Ballsh and Fier. Currently, only the refinery in Fier is operational and produces, among other products, heavy fuel oil and gas oil.

The Decision on the Quality of Some Liquid Fuels for Civil and Industrial Thermal Usage and for the Use in Marine Transport (seas, rivers and lakes) transposed the requirements of the directive into national law. The General Directorate for Standardization has aligned the applicable Albanian standards to the standards required for the sampling and analysis of fuels covered by the scope of the directive.

#### 3. Large Combustion Plants Directive

The Law on Environmental Permits adopted in 2011 transposes the requirements of the Large Combustion Plants Directive into national law and the emission limit values are fully aligned with those of the directive. The law requires continuous monitoring for plants with a rated thermal input of 100 MW or more, which is also in line with the directive's requirements. The law

establishes a three-level environmental permitting system (type A, B and C) based on the size of the installation, its activity and its potential to cause environmental pollution and to threaten human health. All activities referred to in Annex I to the Industrial Emissions Directive, including large combustion plants, belong to type A activities (with the highest potential to cause harm to human health or the environment).

Albania's currently non-operational thermal power plant Vlorë is capable of meeting the requirements of the Industrial Emissions Directive.

### b. State of Compliance

Albania has reached a high level of transposition of the Energy Community environmental *acquis*.

#### 1. Environmental Impact Assessment Directive

With the current legislative framework in place, Albania has transposed the provisions of the Environmental Impact Assessment Directive.

#### 2. Sulphur in Fuels Directive

The breach of Article 3(1) and 6(2) of the Sulphur in Fuels Directive was rectified by the Decision on the Quality of some Liquid Fuels for Civil and Industrial Thermal Usage and for the Use in Marine Transport (seas, rivers and lakes) and the decisions of the General Directorate for Standardization. With those amendments in place, Albania has transposed the Sulphur in Fuels Directive.



### Rectification of Breach of the Sulphur in Fuels Directive

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In June 2016, the Secretariat closed Case ECS-1/13 against Albania for failure to transpose and implement the requirements of Sulphur in Fuels Directive 1999/32/EC initiated in 2013. The legal requirements limiting sulphur content of heavy fuel oil and gas oil to 1% entered into force as from 1 January 2015, and the standards required by the directive for sampling and analysis of petroleum products were updated in September 2015.

### 3. Large Combustion Plants Directive

With regard to the Large Combustion Plants and Industrial Emissions Directives, Albania is already in the position to fully implement the provisions of both Directives.

#### c. Conclusions and Priorities

Albania has completed the full transposition of the Sulphur in Fuels Directive, indicated as a priority in last year's Implemen-

tation Report. Efforts should be focused on the practical implementation of the provisions of the environmental directives as well as on capacity building of the authorities responsible for their implementation. In particular, the National Environmental Agency shall be adequately staffed to handle all requests for environmental impact assessment and the authorities responsible for the testing and sampling of liquid fuels shall be equipped with the necessary human and technical resources to carry out inspections verifying that the limits of the sulphur content of heavy fuel oil and gas oil are met in practice.



## Albania

### 3.8 Competition

#### a. Sector Overview

The body in charge of enforcing competition law is the Albanian Competition Authority (ACA), which consists of a commission and a secretariat.

Following an investigation into the purchase of energy for covering losses in the distribution system, ACA concluded in January 2016 that there was no direct evidence of anticompetitive conduct. ACA also extended until June 2016 the exemption granted under an agreement between the distribution system operator *OSHEE* and the state-owned electricity production company *KESH*. Under the agreement, *OSHEE* buys energy for covering losses in the distribution system primarily from *KESH* without conducting a tendering procedure. Furthermore, ACA is preparing opinions on all draft regulations submitted by ERE related to the completion of the legal framework under the Law on Electricity.

The State Aid Enforcement Authority in Albania consists of the State Aid Commission (SAC), responsible for decision-making, and the State Aid Control Unit (SACU), which provides technical and administrative support to SAC.

The Law on State Aid was amended in April 2016 with regard to provisions on services of general economic interest, de minimis aid and specific categories of horizontal aid. Furthermore, the Council of Ministers drafted a decision on de minimis aid and aid for services of general economic interest.

#### b. State of Compliance

##### 1. Competition Law

The Law on Competition Protection contains provisions corresponding to Articles 101, 102 and 106 of the Treaty on the Functioning of the European Union (TFEU).

ACA's in-depth investigation into potential anticompetitive conduct relates to complaints alleging agreements between *OSHEE* and two participants in the tender procedure for the purchase of electricity for covering distribution system losses with the purpose of manipulating prices and quantities by sharing confidential information about the best final bid. The investigation has not revealed direct evidence of such conduct. Therefore, ACA closed the investigation and recommended to the Ministry of Energy and Industry and *OSHEE* to take into account ACA's recommendations when reviewing the regulatory framework.

ACA's exemption decision regarding the agreement between *OSHEE* and *KESH* resulted in a decision by *OSHEE* to cancel the tendering procedure and buy the entire quantity of electricity for covering losses in the distribution network exclusively from *KESH* without any tendering procedure. The Secretariat was approached by a complainant alleging that this agreement leads to the competitive foreclosure of the market for trade in electricity for covering distribution system losses. The Secretariat is currently reviewing this complaint.

The Secretariat appreciates ACA's opinion on the draft regulation on procedures for purchasing electrical energy from *OSHEE* to licensed undertakings for trade in electricity, which takes due account of the Secretariat's recommendations.

##### 2. State Aid Law

The State aid *acquis* has been correctly transposed into Albanian legislation. The recent amendments and decisions by the Council of Ministers further align Albanian legislation with the EU *acquis*, transposing Commission Regulation (EU) 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 TFEU to de minimis aid and Commission Regulation (EU) 360/2012 of 25 April 2012 on the application of Articles 107 and 108 TFEU to de minimis aid granted to undertakings providing services of general economic interest and Commission



Decision of 20 December 2011 on the application of Article 106(2) TFEU to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest.

The institutional structure and the enforcement mechanism, however, continue to be a cause of concern. The independence of SAC and SACU is questionable as they are both strongly connected to the Ministry of Economy. SAC is chaired by the ministry, which is the largest grantor of State aid. The rest of the members of SAC are appointed by a decision of the government. SACU is established within the ministry and is not adequately equipped with staff as it has only two employees. In addition, the fact that the decisions of the State aid enforcement authority are not publicly available contributes to its potential partiality.

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### c. Conclusions and Priorities

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ACA is an active national enforcement authority which has investigated competition concerns in the structure of the energy markets in the country. However, there is still no progress with regard to issuing binding decisions on violations of competition law. Since ACA is already well established in Albania and enjoys credibility as an independent institution, it is recommended, as in last year's Implementation Report, that the competence in the area of State aid should be transferred to it in order to guarantee the independence of the State aid authority. Reforming the institutional setting of the State aid authority should be a priority in the near future.





# Albania

## 3.9 Statistics

### a. Sector Overview

According to the Law on Statistics of 2004, the Institute of Statistics (INSTAT) is responsible for the publication of statistical data and for the collection of price data. By way of the government's 2007 decision, the National Agency of Natural Resources (AKBN) is authorized to collect information about the use of natural resources, including annual and monthly data on energy products. An agreement between AKBN and INSTAT is required to clearly separate the tasks and responsibilities related to energy data collection.

In addition, the Ministry of Energy and Industry is mandated by several sector laws to monitor security of supply (including collection of short-term data), emissions of pollutants, energy efficiency and other indicators and provide inputs for projections and modelling of energy supply and demand. According to the Law on Refining, Transportation and Trading of Oil, Gas and their By-Products, importers of oil products are obliged to report to the Ministry of Energy and Industry.

Under the sector-specific laws, the regulatory authority ERE is responsible for monitoring of energy markets and prices in the regulated electricity and gas sectors, generation of energy from renewable sources and cogeneration.

### b. State of Compliance

Compilation of monthly energy statistics and price statistics is still not adequate to achieve compliance with the *acquis*.

#### 1. Annual Energy Statistics

AKBN compiles an annual energy balance and questionnaires as defined by Regulation (EC) 1099/2008. Since 2015, Albania has been submitting annual questionnaires to *EUROSTAT*. As regards quality, AKBN is working on improving its methodologies and procedures, primarily on surveying consumption and renewable energy. The implementation of Regulation (EU) 431/2014 will pose serious challenges to AKBN.

#### 2. Monthly Energy Statistics

The obligations related to the preparation and dissemination of monthly statistics are assigned to AKBN. Implementation started in March 2014 through a pilot survey, but still only monthly electricity data are available. The necessary questionnaires and methodologies for collection of oil statistics have not been developed yet.

The *acquis* is currently not adequately implemented by Albania. This is largely due to the lack of human and financial resources.

#### 3. Price Statistics

Price statistics fall in principle under the responsibility of INSTAT. In the absence of a clear separation of duties between AKBN and INSTAT, the former began collecting data in cooperation with ERE. AKBN is collecting and disseminating data on electricity prices charged to households.

However, the set of compiled data is still incomplete. Prices charged to industrial end-users are not available yet. In addition, reporting of price systems and breakdown of electricity prices into main components are still missing.

In this respect, Albania fails to comply with the *acquis*.

### c. Conclusions and Priorities

Little was done during the reporting period to improve the level of compliance with the *acquis* on statistics. The current administrative and legislative framework fails to clearly assign responsibilities for the collection of short-term statistics and price statistics.

It is highly recommended that Albania develops secondary legislation which would provide the necessary resources for the designated institutions to fulfil their tasks.







# 04 | Bosnia and Herzegovina

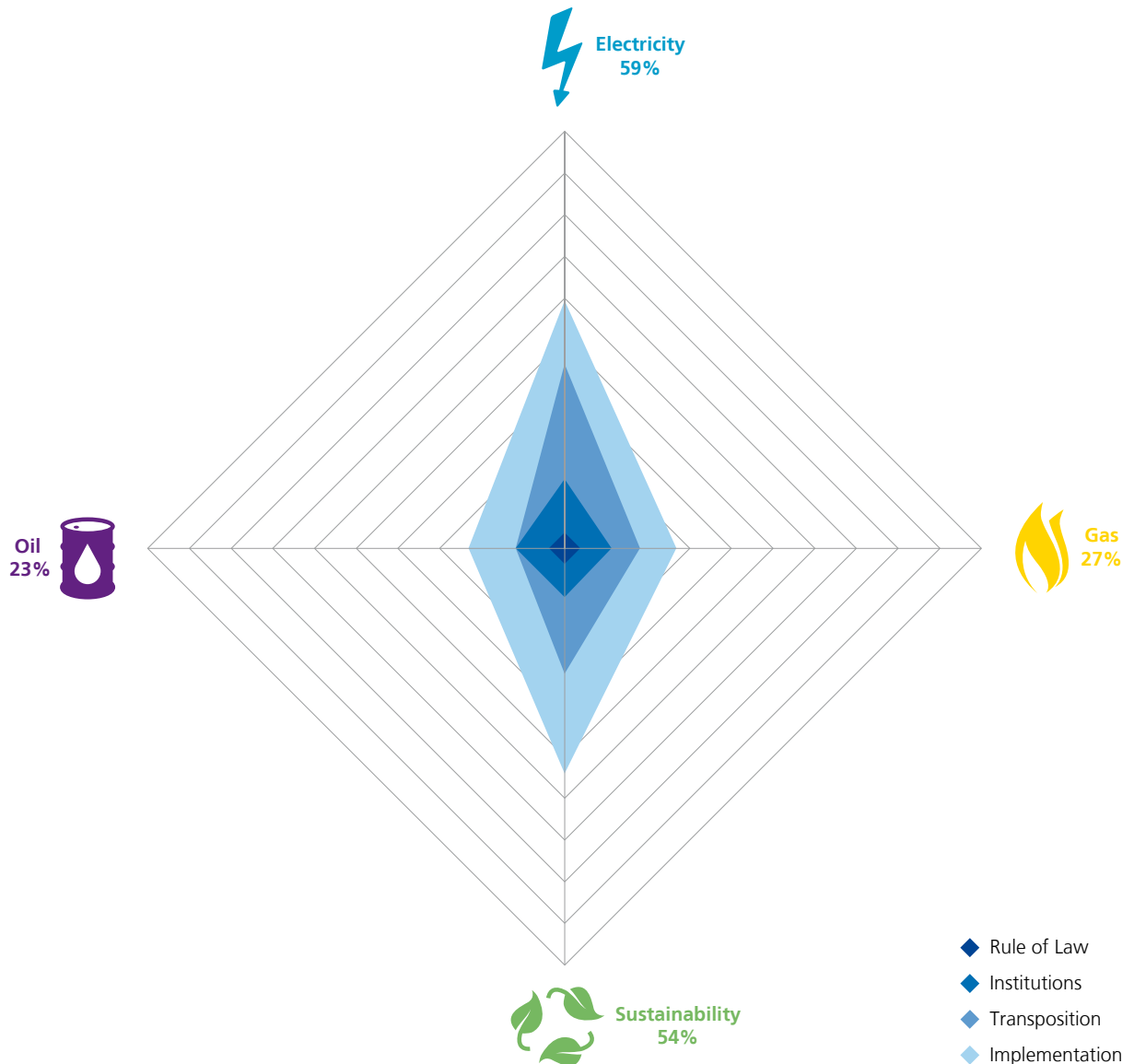
# 4

## Bosnia and Herzegovina

Despite the sanctions adopted against the country by the 2015 Ministerial Council and the Secretariat's repeated efforts, energy sector reform in Bosnia and Herzegovina remains deadlocked.

There is no doubt that Bosnia and Herzegovina is a victim of its own constitutional framework and the lack of political will which prevents progress from taking off the ground.

### Implementation Performance of Bosnia and Herzegovina



Source: Compiled by the Energy Community Secretariat





# Bosnia and Herzegovina

## 4.1 Electricity

Description of data [unit]		2014	2015
Electricity production [GWh]		15.030	14.408
Net imports [GWh]		3.178	3.747
Net exports [GWh]		5.998	5.884
Gross electricity consumption [GWh]		12.210	12.606
Losses in transmission [%]		1,7%	2,0%
Losses in distribution [%]		10,7%	10,4%
Consumption of energy sector [GWh]		14,12	27,86
Final consumption of electricity [GWh]		10.873	11.183
Consumption structure [GWh]	Industrial, transport, services and other non-residential sectors	6.268	6.460
	Households (residential customers)	4.605	4.723
Net maximum electrical capacity of power plants [MW]		3.989	4.009
of which:	coal-fired	1.856	1.856
	hydro, total	2.128	2.150,44
Horizontal transmission network [km]	Substation capacity [MVA]	12.369	12.857
	Number of interconnectors	36	37
Electricity customers	Total number of customers	1.505.015	1.517.161
	out of which: non-households	122.641	124.327
	Eligible customers under national legislation	122.641	1.517.161
	Active eligible customers	2	2
Internal market	Electricity supplied to active eligible customers [MWh]	755.930	861.860
	Share of final consumption [%]	6,95%	7,71%

Source: MOFTER, SERC

### a. Sector Overview

Bosnia and Herzegovina's electricity network is interconnected with the systems of Croatia, Montenegro and Serbia. Network capacities on the borders with Croatia and Montenegro are allocated through yearly and monthly auctions by the *Coordinated Auction Office in South East Europe (SEE CAO)* since 2014. Capacities on the border with Serbia are bilaterally coordinated between the domestic system operator *NOS BiH* and the Serbian transmission system operator. There is no organized electricity market in Bosnia and Herzegovina. Electricity is sold through bilateral contracts. Day-ahead and intra-day capacity is allocated bilaterally on all borders.

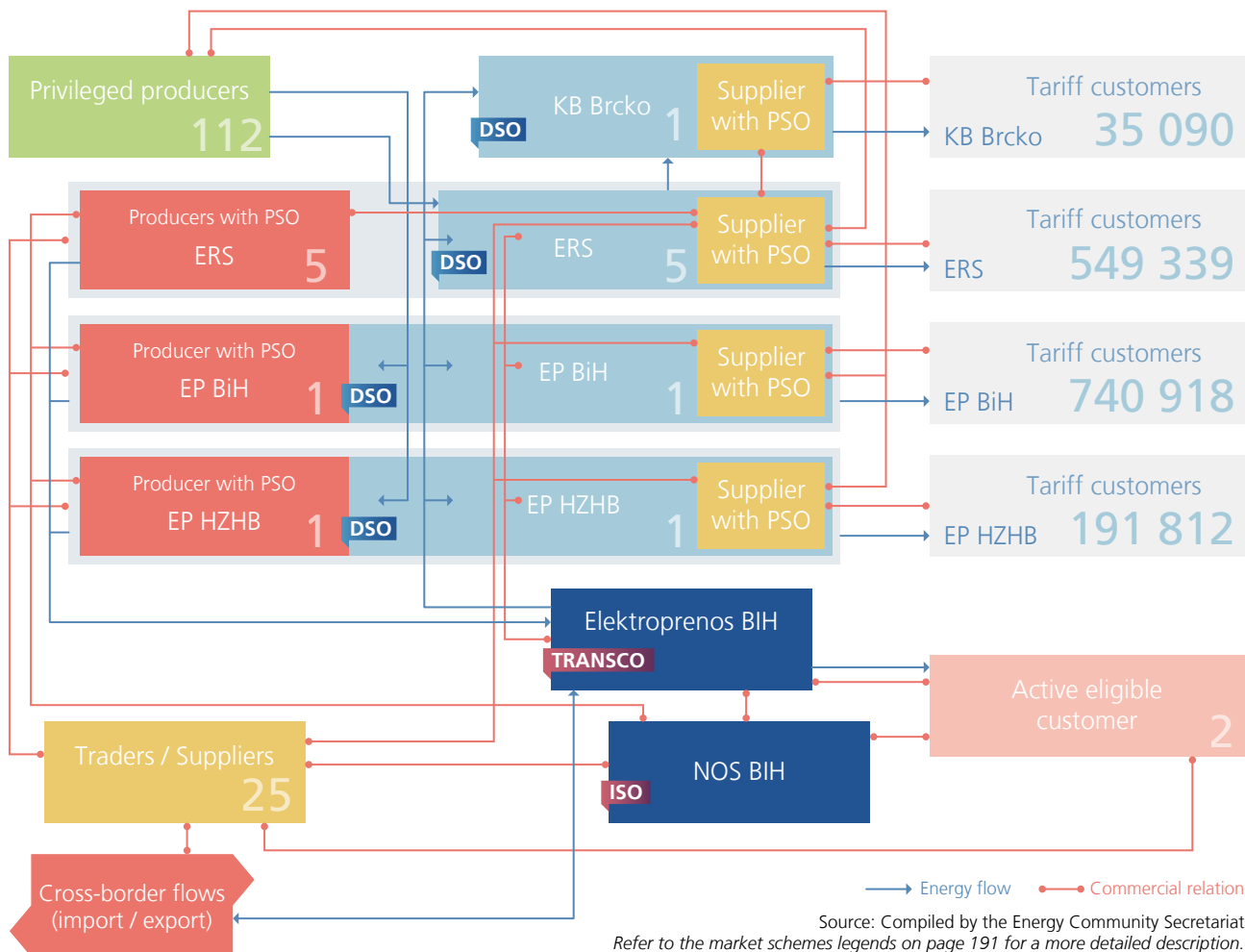
As in previous years, Bosnia and Herzegovina's legal and regulatory framework for the electricity market remains non-compliant with the Energy Community *acquis*. With the support of the Secretariat, a draft new Law on the Regulator, Transmission and Electricity Market in Bosnia and Herzegovina aimed at transposing the Third Energy Package was finalised in March 2016 but its adoption is uncertain. Bosnia and Herzegovina is also preparing a draft Law on Establishment of the Transmission System Operator in Bosnia and Herzegovina, which also would be required for Third Energy Package compliance.

The performance of the country in energy sector reforms is affected by the complexity of the constitutional structure of Bosnia and Herzegovina and general political impasse. Electricity transmission system operation and wholesale and cross-border supply are governed on state level for the whole territory of Bosnia and Herzegovina. The administrative bodies of the two entities - Republika Srpska and Federation of Bosnia and Herzegovina, as well as Brcko District of Bosnia and Herzegovina, are responsible for generation, distribution and retail supply of electricity to end-customers in their respective jurisdictions. The entities are also majority owners of the utilities, the *Elektroprivredas*, which partition the electricity markets along territorial lines.

### b. State of Compliance

Neither of the jurisdictions has harmonized its legal framework with the Third Energy Package. This is subject to infringement action pending at the Ministerial Council. A compliant legal framework on the state level is under preparation but has not been adopted. Both entities report activities to bring their own legal acts in compliance with the *acquis*, however so far with no tangible results. That confirms that political complexity may be one element keeping Bosnia and Herzegovina from performing better but it cannot explain the lack of will for reform inside the entities.

## Bosnia and Herzegovina's Electricity Market Scheme



### 1. Unbundling

The legal framework on the level of the state which is internally competent for transmission does not require unbundling of the electricity transmission system operation in line with the Third Energy Package. The independent system operator *NOS BiH* and the transmission company *Elektroprenos* are both legally and functionally unbundled from generation and supply activities governed by the entities, but do not correspond to any of the unbundling models laid down in Directive 2009/72/EC. Moreover, certification is not envisaged. The draft new Law on the Regulator, Transmission and Electricity Market would allow for the implementation of the ownership unbundling model.

The entities' distribution system operators have not been unbundled. In the Federation of Bosnia and Herzegovina, the Law on Electricity does not fully transpose the obligation for legal unbundling by omitting for example to enforce the development of compliance programmes as required in particular by Article 26(2)(d) of Directive 2009/72/EC. In Republika Srpska, all five distribution system operators are still legally and functionally bundled with supply. Only accounting unbundling is applied in all jurisdictions. The horizontally and vertically integrated

power utility *Komunalno Brcko* performs electricity distribution and supply in Brcko District. Compliance programmes and officers do not exist in any distribution system operator. The Secretariat is about to launch infringement procedures against those breaches.

### 2. Third Party Access

Third party access is envisaged by the legislation. State-level law, however, does not transpose provisions related to the refusal of access to transmission and appeal procedures as required by Article 32 of Directive 2009/72/EC. The primary legislation also fails to transpose Annex 1 of Regulation (EC) 714/2009.

Both entities and Brcko District transpose and apply third party access to distribution grids in their respective Distribution Codes and General Conditions for Electricity Supply.

### 3. Eligibility

All customers in Bosnia and Herzegovina are theoretically eligible to choose their electricity supplier. The regulatory authorities

of the Federation of Bosnia and Herzegovina and Republika Srpska have adopted Rulebooks for Supply of Electricity to Eligible Customers and a Procedure for Switching of the Supplier with effect as from 1 January 2015. The state-level regulatory authority SERC also adjusted the corresponding Rules and Methodologies for Setting Tariffs for Distribution and Electricity supply in Brcko District. Bosnia and Herzegovina is now compliant with Directive 2009/72/EC in this respect.

#### 4. Market Opening and Price Regulation

The electricity market in Bosnia and Herzegovina is highly foreclosed. The legal framework on the state level does not support the establishment of a compliant market structure or access to a power exchange.

The new Market Rules applied since January 2016 fail to support organized market platforms. Wholesale trading still takes place exclusively through bilateral contracts mostly between three incumbent generation and supply utilities and third-party suppliers or traders. The retail electricity markets in Bosnia and Herzegovina are partitioned along the boundaries of the three dominant utilities. In 2015, all consumers in Bosnia and Herzegovina, with the exception of two large companies, were supplied by the respective incumbent in their territories. Lack of effective unbundling between distribution and supply within the utilities further discourages entry of new suppliers and effective switching.

Under the Laws on Electricity in the Federation of Bosnia and Herzegovina and Republika Srpska, the price of generation used for supply of customers, including electricity sold to *Komunalno Brcko*, is regulated. This violates Articles 3 and 33 of Directive 2009/72/EC in all jurisdictions and effectively prevents supplier switching.

In 2016, the regulatory authorities in both entities stopped the practice of regulating retail supply prices, save for households and small customers. The customers of the incumbents, however, remain supplied under the umbrella of public service obligation for universal supply and supply of last resort provided by the same incumbents at non-market prices. Once more, this is excessive and constitutes a violation of Articles 3 and 33 of Directive 2009/72/EC.

#### 5. Balancing

The legal framework for balancing is defined on the state level. Article 15 of Directive 2009/72/EC was transposed by way of secondary legislation. The new Market Rules approved by SERC in May 2015 and the consequent acts of *NOS BiH* for implementation of operational environment for market-based balancing and ancillary services ensure compliance with the *acquis* as of 1 January 2016.

#### 6. Customer Protection and Protection of Vulnerable Customers

Electricity laws in all jurisdictions currently fail to transpose the overall framework for customer protection provided by Article 3 and Annex 1 of Directive 2009/72/EC. The General Conditions for Electricity Supply and/or the Rules for Supply of Eligible Customers in all jurisdictions comprise certain aspects of customers' protection in the context of disconnection, complaints and information rights. Transposition, however, remains fragmented and asymmetrical.

The protection of vulnerable customers is basically missing and needs to be introduced in the process of transposing the Third Energy Package.



#### Non-transposition of the Third Energy Package

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On 13 May 2016, the Secretariat submitted a Reasoned Request to the Ministerial Council for failure to transpose the Third Energy Package and failing to notify transposing measures to the Secretariat (Case ECS-10/16). The case follows an expedited procedure for non-transposition of the *acquis* pursuant to Article 11(3) of the amended Dispute Settlement Rules.

#### c. Conclusions and Priorities

The Third Energy Package is still not transposed, despite being the first priority for the development of the country's gas sector for more than a year. Consequently, market reforms are stalled and no organized market is contemplated, except for the new balancing framework. The distribution system operators have not been legally unbundled in any of the supply utilities, and no steps have been taken to deregulate generation prices. Social pressure to keep the supply prices regulated still persists, and there is no progress in developing effective measures for protection of socially vulnerable customers outside the retail market.

For the imminent future, completion of the ongoing transposition of the Third Energy Package, especially the adoption of the draft state-level laws, is the first priority. The consequent unbundling and certification of the transmission system operator according to the Third Energy Package as well as unbundling of the distribution sector are the second priority. Subsequent reforms in the broader legal environment e.g. value added tax (VAT), public procurement, social protection of vulnerable customers will also be required.

Furthermore, the successful balancing reforms should be considered a first step in the development of the market structure which now requires the designation of a national electricity market operator and development of organized platforms for day-ahead and intra-day trading.

The regulatory environment for supplier switching is in place but no results have been accomplished so far due to excessive price regulation. Efficient unbundling and effective deregulation of prices (generation and supply) are urgently needed. This should be accompanied by the protection of socially vulnerable customers outside the electricity market.





## Bosnia and Herzegovina

### 4.2 Gas

Description of data [unit]		2014	2015
Natural Gas Production [Bcm]		0	0
Import [Bcm]		0,176	0,213
Stock changes [Bcm]		0	0
Total supply [Bcm]		0,176	0,213
Consumption in Energy Sector [Bcm]		0	0,082
	out of which: Energy transformation [Bcm]	0	0
		0,055	0,082
Available for final consumption of natural gas [Bcm]		0,128	0,221
Interconnectors' capacity [Bcm]	Total	0,750	0,750
	out of which bidirectional	0	0
Storage working capacity [Bcm]		0	0
Length of transmission network [km]		234,2	234,2
Length of distribution network [km]		1.507	1.618
Natural gas customers	Total	67.536	68.301
	out of which: Non-households	4.962	4.673
	Eligible customers under national legislation	392	4.915
	Active eligible customers	1	387
	Households	62.574	63.628
Internal market	Gas supplied to active eligible customers [Bcm]	0,019	0,043
	Share of total consumption [%]	15%	19%
Final consumption of natural gas per sector [Bcm]		0,128	0,221
Consumption structure [Bcm]	Industry and commercial customers	0,070	0,092
	Households	0,058	0,130

Source: DERK, compiled by the Energy Community Secretariat

Difference between total supply and available for consumption is fulfilled by accumulation from previous year and from linepack

#### a. Sector Overview

Bosnia and Herzegovina has no domestic sources of natural gas. Supplies are exclusively based on imports from a single source (Russia) passing through Ukraine, Hungary and Serbia. *BH Gas* is a party, together with *Energoinvest*, in an import contract with *Gazprom* which is renewed annually, and a transit contract via Hungary (until 2018). Transit via Serbia is contracted between *BH Gas* and *Srbijagas* until 2017. A big customer in Republika Srpska has started to buy gas under its own supply license issued in 2014. The existing transmission pipeline connects the sole cross-border entry point in Zvornik with the cities of Sarajevo and Zenica. Although relatively short, the pipeline is operated by three transmission system operators: *BH Gas* in the territory of the Federation, *Gas Promet* in Republika Srpska and *Sarajevogas Istocno Sarajevo*, a company which shares ownership of the pipeline and transmission activities with *Gas Promet*, in the territory of Republika Srpska. This complex situation leads to underperformance and inefficient use of the system.

The Zenica - Travnik pipeline, although completed in 2013, is still not in operation due to a dispute with a construction con-

tractor. In Republika Srpska, the network has been extended by the pipeline Sepak - Bjeljina. However, it is unclear who is responsible for its operation.

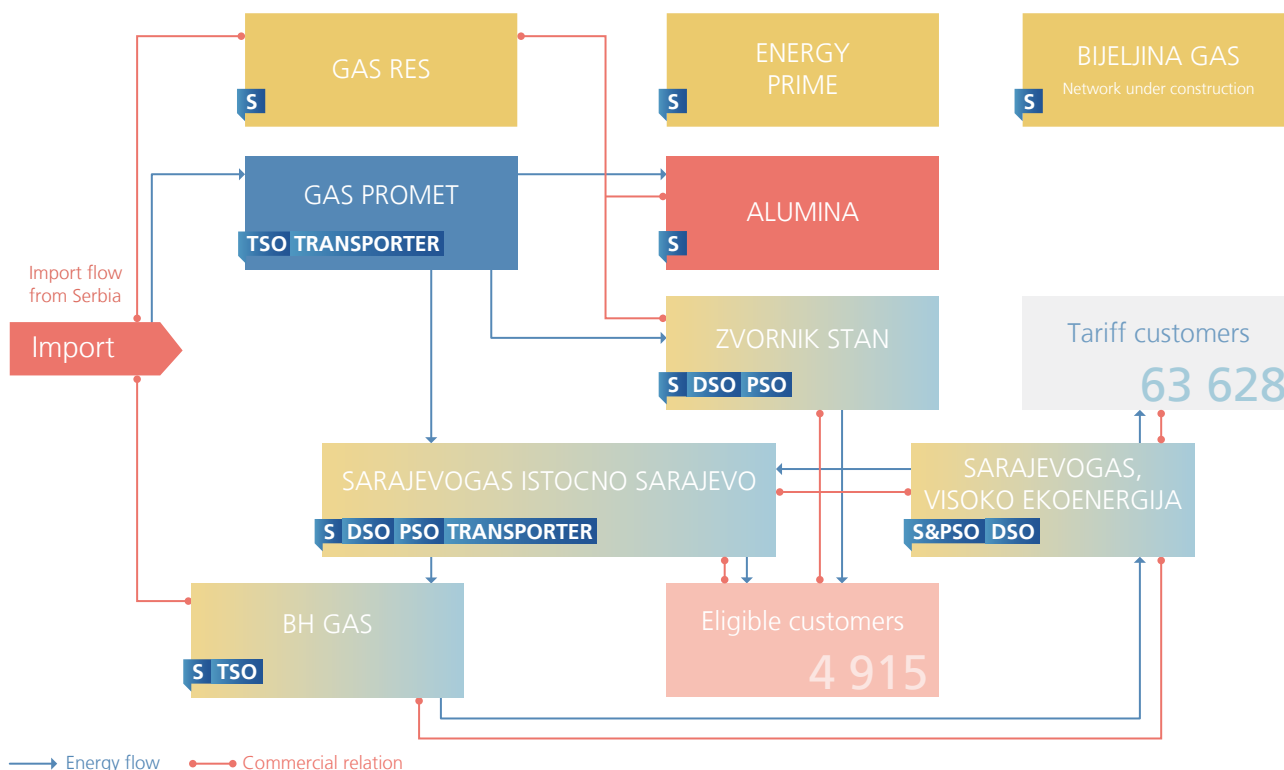
#### b. State of Compliance

The natural gas sector in Bosnia and Herzegovina is regulated at the level of the entities. In Federation of Bosnia and Herzegovina, a 2007 government decree applies which fails to transpose any major principle of the gas *acquis*. The adoption of a new draft gas law has been pending in the parliament for more than three years. The draft in its present form is widely non-compliant with the *acquis*. In Republika Srpska, the natural gas sector is regulated by the Law on Gas adopted in 2007 and amended in 2012. This law, however, equally fails to transpose the Third Energy Package provisions.

The failure to comply with the Second Energy Package has been confirmed by a Decision of the Ministerial Council and is subject to sanctions against the country under Article 92 of the Treaty.



## Bosnia and Herzegovina's Gas Market Scheme




Source: Compiled by the Energy Community Secretariat  
Refer to the market schemes legends on page 191 for a more detailed description.

### 1. Unbundling

Bosnia and Herzegovina is not compliant with the Third Energy Package unbundling and certification requirements. Most of the natural gas undertakings engaged in transmission system operation are not even unbundled in line with the Second Energy Package. This includes *BH Gas*, the transmission system operator in Federation of Bosnia and Herzegovina, and *Sarajevo-gas Istocno Sarajevo*, authorised both for the transmission and supply of natural gas in Republika Srpska, which remain fully bundled with supply or trade activities. The regulatory authority of Republika Srpska withdrew a trade and supply license from *Gas Promet*. The company thus remains responsible only for transmission and transmission system operation; however it is not unbundled according to the Third Energy Package. Compliance programmes are not in place in any of these companies.

In both entities, distribution activities are performed by the same companies engaged in the supply of and trade in natural gas. Republika Srpska allows an exemption for the unbundling of distribution system operators with less than 100.000 customers connected to the grid as permitted by the *acquis*. The Federation's legal system is silent on this and thus non-compliant. Additional requirements for unbundling of the distribution system operators will have to be introduced in line with Directive 2009/73/EC.

	<b>Non-implementation of the Gas Acquis</b>
I N D I S P U T E	Bosnia and Herzegovina persistently fails to comply with the provisions of the gas <i>acquis</i> from the Second Energy Package. The country continues to seriously infringe Energy Community law despite the Ministerial Council having already adopted three Decisions against Bosnia and Herzegovina in Case ECS-8/11 initiated on 7 October 2011. In its first Decision under Article 91 of the Treaty of 1 October 2013, the Ministerial Council established a breach of Energy Community law and required Bosnia and Herzegovina to take all appropriate measures to rectify the breaches identified by June 2014. The second and the third decisions of the Ministerial Council have been adopted under Article 92 of the Treaty. On 23 September 2014, the Ministerial Council decided that the breach was persistent and serious, and on 16 October 2015 it imposed sanctions against Bosnia and Herzegovina. Since compliance has not yet been achieved, the Secretariat submitted a request for extension of the sanctions in Case ECS-8/11 to be decided by the Ministerial Council in October 2016.

## 2. Third Party Access

Bosnia and Herzegovina is not compliant with the third party access provisions of the gas *acquis* on many accounts.

Legislation of Federation of Bosnia and Herzegovina allows negotiated access upon an *ad hoc* decision of the ministry in charge of energy. The gas transmission and distribution tariffs in the Federation were never adopted, published or applied.

Regulated access is in place in Republika Srpska. In spite of the developed methodologies for calculation of grid tariffs, so far only a distribution tariff has been enforced, whereas a transmission tariff was adopted only for a spur of the transmission pipeline Karakaj - Zvornik. Additionally, a separate tariff for each entry/exit point to/from the transmission grid is not implemented.

Neither entity defined third party access services by their transmission system operators. The exemption procedures are also not compliant with the Third Energy Package. The Federation allows for a third party access exemption decision to be issued by the responsible ministry without involving the regulatory authority and the Energy Community. While the law in Republika Srpska involves the regulator in such a procedure, it fails to involve the Energy Community Secretariat.

## 3. Eligibility

Bosnia and Herzegovina breaches the Treaty as all customers should have been eligible by 1 January 2015, regardless of their status. Customers in Federation of Bosnia and Herzegovina are still captive, which is a serious breach of the Treaty. The eligibility provisions, stipulated by a government decree of Federation of Bosnia and Herzegovina, define the eligibility status on the basis of a level of consumption or limit it to customers that use gas for generation of electricity. This is not in compliance with the *acquis*.

Republika Srpska, on the other hand, correctly transposed the eligibility criteria of the directive. In practice, non-household customers are supplied under non-regulated prices.

## 4. Market Opening and Price Regulation

The market is highly foreclosed. All natural gas consumers in Federation of Bosnia and Herzegovina are supplied by their respective incumbent at regulated prices. In Republika Srpska, regulated prices are still in place. Switching rules are missing.



### Non-transposition of the Third Energy Package

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On 13 May 2016, the Secretariat submitted a Reasoned Request to the Ministerial Council for failure to transpose the Third Energy Package and failing to notify transposing measures to the Secretariat (Case ECS-6/16). The case follows an expedited procedure for non-transposition of the *acquis* pursuant to Article 11(3) of the amended Dispute Settlement Rules.

## 5. Balancing

Bosnia and Herzegovina is not compliant with the gas *acquis* as regards balancing rules.

Federation of Bosnia and Herzegovina did not transpose any balancing provisions from Regulation (EC) 715/2009. In Republika Srpska, *Gas Promet* performs balancing under a Rulebook on the Operation of Natural Gas Transmission, but the balancing rules stipulated therein are not market based and thus are not compliant.

## 6. Security of Supply

Bosnia and Herzegovina is not compliant with Directive 2004/67/EC. Republika Srpska transposed key elements of Directive 2004/67/EC by the Decree on Security of Supply and Delivery of Natural Gas adopted in 2011. However, supply standards are not defined.

Federation of Bosnia and Herzegovina transposed only a few elements of Directive 2004/67/EC. A list of measures and responsibilities in case of emergency, the scope of reporting and cooperation with the neighbouring countries and definitions of supply standards and a major supply disruption are missing.

## 7. Customer Protection and Protection of Vulnerable Customers

Bosnia and Herzegovina has not transposed provisions related to customer protection and vulnerable customers as required by Directive 2009/73/EC.

Republika Srpska's Gas Law only refers to protection of customers as defined by the "*Energy Sector Development Strategy*". The existing legislation of Federation of Bosnia and Herzegovina introduces certain elements of the socially vulnerable status of customers by defining protected customers. It imposes obligations for the supplier of tariff customers as a manner of customer protection, which is not compliant with the *acquis*.

#### d. Conclusions and Priorities

The commitments and assurances given by the country to resolve the deadlock in the gas sector were not kept. The Energy Community made great efforts to find a solution for Bosnia and Herzegovina by bringing together all the parties and presenting a number of proposals, but to no avail. Even the minimal criteria which would ensure a compliant state-level solution were finally rejected.

Reaching agreement on implementing the Third Energy Package provisions in the whole territory of Bosnia and Herzegovina is the utmost priority. This can be done in many variants, with

a state law transposing minimum requirements needed for a state regulatory body and state institutions, complemented by harmonised entity laws in line with the Third Energy Package.

Although the country as such has fundamental deficiencies enshrined in its legal and constitutional framework, the long lasting absence of a minimal response to resolve the situation is striking and represents a mix of opaque interests running against any solution, which amounts to an absolute indifference for the well-being of its own citizens. As a consequence, the Bosnian people are held hostage by the energy elite and end up paying the highest price for gas in the whole of Europe.





## Bosnia and Herzegovina

### 4.3 Regulatory Authority

#### a. Compliance with Independence Criteria and Competences

The State Electricity Regulatory Commission (SERC) is the only regulatory authority in the Contracting Parties whose legal set-up does not comply with the requirements of Article 35(1) of Directive 2009/72/EC and Article 39(1) of Directive 2009/73/EC for a single regulatory authority for electricity and gas at national level. SERC is exclusively in charge only of electricity transmission on state level and does not have any jurisdiction over the gas sector. The legislator has so far not taken measures to introduce gas market related regulatory competences as tasked by the Ministerial Council Decisions of 2013, 2014 and 2015, following an infringement action of the Secretariat.

SERC is by law set up as an institution legally distinct and functionally independent from any other public entity. Establishment of SERC is solely based on legislation, meaning that it cannot be liquidated by act of another public institution.

SERC is headed by three commissioners. Their term is limited to a period of five years, renewable once, and a rotation scheme is in place as required under the Third Energy Package.

Besides the lack of nationwide competences for gas and the entire electricity sector, SERC's organisation fails to meet additional independence criteria stipulated by Directives 2009/72/EC and 2009/73/EC. The rigid ethnicity requirements for appointment of the commissioners and the strong political involvement in the selection process fall short of prohibiting political influence over the process. This is reinforced by the need for unanimous decision-making of the three commissioners that has proven to effectively block the execution of its duties. Also, the dismissal of a commissioner due to failure to participate in SERC's proceedings for a period longer than six weeks has to be considered overly restrictive.

Bosnia and Herzegovina has not yet transposed the Third Energy Package. In light of this, competences of SERC also have to be expanded to the complete set of regulatory powers and objectives foreseen under the Third Energy Package.

SERC has autonomy in defining its annual work programme as well as in setting up and managing its annual budget. SERC is held accountable for its activities by having to present its annual report to the parliament and the ministry.

SERC's management is independent in relation to staff appointment and organisation of the internal structure including

autonomy in principle in setting of salaries. However, in defining salaries SERC has to abide by the Law on Salaries and Allowances in the Institutions of Bosnia and Herzegovina and the Decision of the Council of Ministers of Bosnia and Herzegovina determining the base for salary calculation. In effect, salary levels are comparable with the public sector for SERC commissioners and with salary levels of the regulated sector for SERC staff.

#### b. Performance

SERC has shown active engagement in performing its duties, stretching its limited competences to the extent possible.

SERC is also active in the regulatory discussions in the Energy Community Regulatory Board (ECRB), including chairmanship of the ECRB Customer and Retail Markets Working Group. Further to this, the cooperation between SERC and the competition authority of Bosnia and Herzegovina has to be considered positively in terms of the regulator's readiness to take an active role in promoting competitive market structures

#### c. Conclusions and Priorities

The challenges reported in the Implementation Report 2015 remain unsolved, namely:

- SERC needs to be established as a single regulatory authority with nationwide competences for the gas and electricity sector to rectify the serious and persistent breach. In this context SERC's competences need to be expanded to the complete set of regulatory powers under the Third Energy Package.
- The unanimity rule for board decisions should be replaced by majority voting.
- The strict ethnicity requirements for appointment of the commissioners should be abolished.
- The selection committee responsible for short-listing commissioner candidates should be composed of neutral experts and civil servants with a view to better decouple the appointment procedure from political influence.
- Dismissal of a commissioner due to failure to participate in SERC proceedings for a period longer than six weeks should be abolished or the absence period should be lengthened.





## Bosnia and Herzegovina

### 4.4 Oil

#### a. Sector Overview

Bosnia and Herzegovina does not produce crude oil. Crude oil is imported mainly from Russia. Imports in 2015 were above 916 kt, around 3,95% lower than in 2014. In 2015, Bosnia and Herzegovina processed around 888 kt of oil, a decrease by around 1,26% compared to 2014. The export of petroleum products has increased by 38,3% to 240 kt. The import of petroleum products has increased by around 15,4% to a level of around 889 kt in 2015. The overall consumption of petroleum products in 2015 was 1.536 kt.

#### b. State of Compliance

Bosnia and Herzegovina does not have legislation on compulsory stocks of oil and petroleum products on the state level and there is no national policy to meet the obligations of Directive 2009/119/EC. Both entities have adopted laws which are not in compliance with the directive. A working group with representatives from both entities and the Ministry of Foreign Trade and Economic Relations has been established in order to develop a national policy for meeting the directive's requirements. Given the particular interests of the two entities, it will be important to explore various options, including industry based models.

Technical assistance was provided by the Secretariat in May 2016 in order to assist Bosnia and Herzegovina in formulating a model for an emergency stockholding system which would be consistent with Council Directive 2009/119/EC but also workable in the specific and complex case of Bosnia and Herzegovina.

The Agency for Statistics of Bosnia and Herzegovina, responsible for compiling national statistics and fulfilling international reporting requirements, does not collect any data directly from industry sources and relies entirely on the data provided by the entities. The statistics collection system must be improved to allow for the proper implementation of the directive.

#### c. Conclusions and Priorities

There has been no progress with regard to last year's priorities. None of the suggested actions have been followed up.

The Secretariat considers the transposition of Directive 2009/119/EC on the state level as top priority. The main priorities for Bosnia and Herzegovina are as follows:

- Working group agreement on further elaboration of the emergency stockholding scheme;
- Development of the role of each stakeholder and relationship among stakeholders in greater detail;
- Drafting an action plan for building up emergency oil stocks to 90/61 days;
- Drafting an emergency oil stockholding law and relevant secondary legislation; and
- Establishing a monthly oil data reporting system.







## Bosnia and Herzegovina

### 4.5 Renewable Energy

	2014	2015
Total capacities of renewable energy (MW)	2.128,3	2.159,5
Hydropower, out of which:	2.128	2.150
- small hydropower (<10 MW)	79,0	95,5
- pumped storage	420	420
Wind	0,3	0,3
Solar	0	8,2
Biogas	0	1,0

Source: MOFTER, SERC

#### a. Sector Overview

Bosnia and Herzegovina committed to a binding target of 40% renewable energy in gross final energy consumption in 2020. In 2014, according to the energy balance published by *EU-ROSTAT*, Bosnia and Herzegovina achieved a 42,3% share of energy from renewable sources, thus overachieving the 40% target for 2020 due to revision of biomass data. Building on the two entities' renewable energy action plans from 2014, the National Renewable Energy Action Plan (NREAP) was adopted by the Government of Bosnia and Herzegovina in March 2016. The document is the first legislative act on renewable energy at national level as the entire legal and regulatory frameworks for renewable energy fall within the competence of the entities. The adoption of the NREAP brought to an end the infringement case initiated against the country in February 2014.

#### b. State of Compliance

The existing framework for the promotion of energy from renewable sources remains non-compliant to a large extent.

##### 1. National Renewable Energy Action Plan

With the adoption of the NREAP, Bosnia and Herzegovina has increased its compliance with the requirements of Directive 2009/28/EC. It is foreseen that the binding renewable energy target will be exceeded, reaching 43% in 2020. Reliability of energy statistics and therefore of biomass data is expected to increase with the publication of the energy balance for 2014 following the recently finalized energy consumption surveys. The report on the progress in promotion of renewable energy for the years 2014 - 2015, which is due to be submitted to the Secretariat by the end of 2016, will provide more accurate information on consumption of renewable energy in the country.

##### 2. Support Schemes

Support schemes for various renewable energy technologies were adopted by both entities. The transition to a market-based

approach for granting the support remains to be achieved in both entities. A mechanism to transfer the costs of incentivising renewable energy to all customers in a fully liberalised market is missing. Full compliance with the *acquis* remains to be achieved.

##### 3. Cooperation Mechanisms

No legislation regarding cooperation mechanisms exists. Currently, the country does not comply with Directive 2009/28/EC in this respect.

##### 4. Administrative Procedures

Several solar photovoltaic (PV), wind and small hydropower plants were licensed in the last reporting period, but the co-ordination among the institutions in the authorisation process for small, decentralised renewable energy producers should be improved in the two entities. Both entities have to continue to simplify the procedures and provide clarity, predictability and transparency to applicants. Currently, Bosnia and Herzegovina does not comply fully with Article 13 of Directive 2009/28/EC.

##### 5. Access to and Operation of the Grids

The entity-level renewable energy laws fail to include priority or guaranteed access to the grids but do include priority dispatch and guaranteed priority of connection. However, they are often not respected in practice, particularly in case the plant is not close to the existing network in Federation of Bosnia and Herzegovina. Sometimes the connection procedure can take up to one and a half years.

A state-level law that imposes priority or guaranteed access for energy from renewable sources to the transmission network and priority dispatch is not in place. Moreover, requirements at the state level for the development of the transmission network to take into account the integration of renewable energy are not transposed. Bosnia and Herzegovina fails to comply with provisions of Article 16 of Directive 2009/28/EC.

## 6. Guarantees of Origin

Legislation for guarantees of origin exists in both entities and the bodies in charge of issuing, transferring and cancelling guarantees of origin for energy from renewable sources have been appointed. However, the two registries at entity level and a reliable, accurate and fraud-resistant system of issuing, transferring and cancelling guarantees of origin have yet to be made operational in both entities.

Currently, Bosnia and Herzegovina does not comply with Article 15 of Directive 2009/28/EC at state level.

## 7. Renewable Energy in Heating and Cooling

There is no compliance with the requirements of Article 13 of Directive 2009/28/EC in Federation of Bosnia and Herzegovina or in Republika Srpska. There are no requirements for the use of minimum levels of energy from renewable sources in new buildings and in existing buildings that are subject to major renovation. Obligations on the exemplary role of public buildings, promotion of heating and cooling systems and other requirements regarding biomass, heat pumps and solar thermal energy are missing despite the existing potential.

## 8. Renewable Energy in Transport

Republika Srpska has committed to a yearly increase of 0,5% in the use of renewable energy in the transport sector until reaching the share of 10% by 2020, while Federation of Bosnia and Herzegovina still refers to the now outdated target of 5,75% set by the former Directive 2003/30/EC. Both entities adopted secondary legislation defining the types, contents and quality of biofuels in motor vehicle fuels, introduced blending obligations on traders in line with Directive 2003/30/EC. The NREAP reported a renewables share in transport in the range of 0,6% to 1%.

During the reporting period, there were no activities to introduce incentives, promotional campaigns or the relevant certification scheme for biofuels at state or entity level. Articles 17

- 21 of Directive 2009/28/EC related to sustainability criteria for biofuels and bioliquids have not been transposed at all. Bosnia and Herzegovina is non-compliant with Directive 2009/28/EC with respect to renewable energy in the transport sector.


## d. Conclusions and Priorities

The adoption of the NREAP is a key achievement in this reporting period. However, the legal and regulatory framework remains split at entity level. A state-level framework for the promotion of renewable energy supplementing the existing entity laws is key. For example, the transmission system operator's role and responsibilities in connecting new renewable energy producers to the network and the principles of operation of the transmission network for electricity from renewable sources have to be set in state-level legislation. Moreover, the simplification of the procedures and the reduction of the number of regional and local/cantonal institutions as well as improving transparency of the processes will be instrumental in attracting investments in renewable energy projects.

Introducing a feed-in premium should be a priority for both entities in the upcoming period. The measures should integrate renewable energy into the electricity market in the most cost-effective way by introducing a tender procedure for granting support to producers.

The submission of the progress report on the promotion of renewable energy 2014 - 2015, due at the end of 2016, must be another priority at state level. The report will reveal the progress achieved towards the country's 2020 trajectory. To ensure accurate reporting of household biomass consumption, the revision of official energy statistics based on the recently conducted energy consumption surveys must be finalised.

A compliant legal framework for biofuels and bioliquids is a long standing and urgent priority. Without it, even the small present share of biofuels on the market cannot be calculated towards the achievement of the 10% target as outlined in the 2016 NREAP.

 <b>Rectification of Failure to Adopt the National Renewable Energy Action Plan</b>	
<b>I</b>	Following Bosnia and Herzegovina's submission of its National Renewable Energy Action Plan to the Secretariat, Case ECS-4/14 was closed in April 2016. The submission of the plan followed a decision adopted by the Ministerial Council on 16 October 2015 establishing that Bosnia and Herzegovina failed to fulfil its obligations under Article 20 of the Treaty read in conjunction with Article 4(1) and Article 4(2) of Directive 2009/28/EC.
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# Bosnia and Herzegovina

## 4.6 Energy Efficiency

Energy Efficiency Action Plan (EEAP)*					
Period covered by EEAP	2010 – 2018				
Overall energy savings target - Directive 2006/32/EC (ktoe / % / year)	298 / 9 / 2018				
EEAP status	- 1 <sup>st</sup> EEAP not adopted on state level (draft 1 <sup>st</sup> EEAP in Federation of Bosnia and Herzegovina; 1 <sup>st</sup> EEAP adopted in Republika Srpska in December 2013) - 2 <sup>nd</sup> EEAP under preparation				
Achieved energy savings (ktoe / % / year)	Under preparation (to be reported as part of the 2 <sup>nd</sup> EEAP)				
Key institution(s) in charge	State Ministry of Foreign Trade and Economic Relations, entity ministries in charge of energy and buildings and energy efficiency funds				
Main data and energy efficiency indicators**		2011	2012	2013	2014
<b>Total primary energy supply (TPES)</b>	ktoe	8.460	8.518	7.900	7.794
<b>Energy Intensity (TPES/GDP)</b>	toe / 1.000 USD	0,66	0,67	0,61	0,59
<b>TPES/Population</b>	toe/capita	2,20	2,22	2,06	2,03
<b>Total final energy consumption (TFEC)</b>	ktoe	4.741	4.906	4.420	4.554
Share of TFEC by sector	Residential	55%	58%	53%	47%
	Services	8%	8%	9%	9%
	Industry	15%	14%	15%	20%
	Transport	21%	19%	21%	22%
	Others	0%	0%	1%	1%
	Non-energy use	1%	1%	1%	1%

\* Source: draft 1<sup>st</sup> EEAP of Bosnia and Herzegovina, 1<sup>st</sup> EEAP of Republika Srpska

\*\* Indicators calculated by the Energy Community Secretariat

### a. Sector Overview

Final energy consumption and energy intensity of Bosnia and Herzegovina decreased between 2012 and 2014. However, the values of these indicators remain relatively high compared to the Energy Community average, suggesting that stronger energy efficiency measures must be implemented in all sectors. This is especially relevant for the residential sector, which is responsible for the highest share in total final energy consumption (47% in 2014).

In Bosnia and Herzegovina, the entity ministries are in charge of developing energy efficiency legislation, while the State Ministry of Foreign Trade and Economic Relations (MoFTER) participates, coordinates and reports about activities related to the Energy Community. Each entity established an energy efficiency and environmental fund.

### b. State of Compliance

Transposition of the energy efficiency *acquis* in Bosnia and Herzegovina is still not sufficient, especially in Federation of Bosnia and Herzegovina. Republika Srpska is comparatively more advanced in transposition and implementation of the *acquis*, especially with regards to adoption and implementation of secondary legislation and plans based on the Law on Energy Efficiency.



### Non-transposition of the Energy Services Directive

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In Case ECS-1/14 opened in March 2014, the Secretariat challenged the lack of transposition of Energy Services Directive 2006/32/EC in Bosnia and Herzegovina. While Republika Srpska has adopted the relevant legislation and the EEAP, these are completely missing in Federation of Bosnia and Herzegovina and Brcko District. In February 2016, the draft Energy Efficiency Law was removed from the agenda of the House of Peoples of the Parliament of the Federation and returned for additional consultations, despite being previously adopted by the House of Representatives in September 2014. Pending the adoption of the draft Energy Efficiency Law and the EEAP in Federation of Bosnia and Herzegovina, Case ECS-1/14 will remain open.

#### 1. Energy Services Directive 2006/32/EC

Republika Srpska has adopted a Law on Energy Efficiency, while Federation of Bosnia and Herzegovina and Brcko District failed to do so. In the absence of a full package of primary and secondary legislation transposing Directive 2006/32/EC and

the adoption of a state-level EEAP, Bosnia and Herzegovina continues to be in breach of this directive. The Secretariat initiated an infringement action against Bosnia and Herzegovina in March 2014, after which progress with adoption of secondary legislation was registered in Republika Srpska.

### 2. Energy Labelling Directive 2010/30/EU

Republika Srpska has transposed provisions of Directive 2010/30/EU in its Energy Efficiency Law and adopted nine delegated regulations as of March 2016. Federation of Bosnia and Herzegovina still fails to comply with Directive 2010/30/EU.

### 3. Energy Performance of Buildings Directive 2010/31/EU

In Federation of Bosnia and Herzegovina, the directive's requirements related to the methodology for calculating minimum energy performance of buildings, energy audits and energy certification of buildings are transposed through the existing Law on Physical Planning and Land Utilization and several by-laws. However, provisions of the directive related to cost-optimal calculations, definition and plans for realization of nearly zero-energy buildings are yet to be transposed.

In Republika Srpska, the key requirements of Directive 2010/31/EU were transposed via the Law on Physical Planning and Construction of May 2013 (energy performance of new and existing buildings, certification of buildings, energy audits of buildings

and public sector exemplary role). The remaining provisions still need to be developed further through secondary legislation.

Overall, Bosnia and Herzegovina still fails to fully comply with the requirements of this directive.

## c. Conclusions and Priorities

The reporting period was characterised by certain progress, namely the further implementation of existing Energy Efficiency Law in Republika Srpska, development of secondary legislation under the Regional Energy Efficiency Programme (REEP) and the work on the next round of EEAPs. However, the important priorities identified in the previous report, *i.e.* adoption of draft energy efficiency laws in Federation of Bosnia and Herzegovina and Brcko District are still not completed. This draft legislation needs to be adopted without any further delay, including those for which REEP finalised technical assistance (regulation on inspection of systems, energy performance calculation methodology and software). The state-level EEAP needs to be finalized and submitted to the Secretariat.

The coordination between state and entity level authorities needs to be strengthened as a precondition for further energy efficiency progress. Putting in place adequate structures for monitoring of energy efficiency measures and verification and reporting should be another priority.





## Bosnia and Herzegovina

### 4.7 Environment

#### a. Sector Overview

##### 1. Environmental Impact Assessment Directive

Environmental impact assessments are carried out by the responsible ministries in the entities of Bosnia and Herzegovina.

Between September 2015 and April 2016, Republika Srpska issued two environmental permits for 110 kV overhead power lines, 18 rulings on the approval of small hydropower plant projects in screening phase (preliminary environmental assessments), one ruling on approval of the environmental impact assessment for 43 MW hydropower plant Paunci and two additional approvals for surface mining pits in Ugljevik. None of them concerns a Project of Energy Community Interest. No information was provided by the authorities of Federation of Bosnia and Herzegovina.

##### 2. Sulphur in Fuels Directive

Bosnia and Herzegovina has one refinery producing heavy fuel oil and gas oil, located in the municipality of Brod in Republika Srpska.

##### 3. Large Combustion Plants Directive

Bosnia and Herzegovina has five plants falling within the scope of the Large Combustion Plants Directive with a total of 12 units and a total rated thermal input of 5 339 MW. All units use lignite and/or brown coal as fuel.

#### b. State of Compliance

Bosnia and Herzegovina has reached a modest level of transposition of the Energy Community environmental *acquis*. As environmental legislation falls within the responsibility of the entities, differences exist as regards the level of transposition and the preparedness for implementation between the entities.

##### 1. Environmental Impact Assessment Directive

No legislation on environmental impact assessment exists at the state level.

In Federation of Bosnia and Herzegovina, the Environmental Impact Assessment Directive is transposed through the Law on Environmental Protection and delegated legislation. The existing legal framework still has certain flaws (related mainly to

public participation). The new Law on Environmental Protection has not yet been adopted by parliament.

In Republika Srpska, the Law on Environmental Protection, adopted in 2012 and amended in September 2015, governs environmental impact assessment. Several rulebooks necessary for the implementation of the law exist.

As regards the Brcko District, the Law on Environmental Protection, in force since 2004, governs environmental impact assessment. The existing legal framework still has certain flaws, particularly as regards public participation.

##### 2. Sulphur in Fuels Directive

The legal framework aimed to transpose the Sulphur in Fuels Directive includes the entities' Laws on Air Protection adopted in 2002 (Republika Srpska), 2003 (Federation) and 2004 (Brcko). At state level, the government adopted a Decision on Liquid Fuels Quality in 2002, which was amended several times.

The incorrect transposition and implementation of the directive is currently subject to an infringement procedure. A derogation clause in the government decision resulted in a failure to transpose the provisions of the directive related to the maximum sulphur content allowed in heavy fuel oil and gas oil correctly. Furthermore, granting domestically produced petroleum products more favourable treatment with regard to the maximum sulphur content as compared to imported ones constitutes discrimination in violation of the Energy Community Treaty. In addition, the legislative limit values of sulphur content of gas oil have not been set at the required level.



#### Non-compliance with Sulphur in Fuels Directive

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Case ECS-2/13 was initiated with an Opening Letter on 11 February 2013, in which the Secretariat preliminarily concluded that Bosnia and Herzegovina has failed to transpose and implement Sulphur in Fuels Directive 1999/32/EC. On 13 May 2016, the Secretariat submitted a Reasoned Request to the Ministerial Council after Bosnia and Herzegovina failed to comply with the breaches identified in the Reasoned Opinion submitted by the Secretariat on 21 December 2015.



### 3. Large Combustion Plants Directive

Bosnia and Herzegovina submitted its draft National Emission Reduction Plan to the Secretariat in December 2015. The assessment of this plan is currently ongoing.

In Federation of Bosnia and Herzegovina, the Ordinance on Limit Values of Air Emissions from Combustion Plants adopted in 2013 transposes the emission limit values of the Large Combustion Plants Directive. The ordinance also requires operators of large combustion plants to develop emission reduction plans. The emission limit values of the Industrial Emissions Directive for new plants have not yet been transposed.

In Republika Srpska, the Rulebook on Measures for Preventing and Reducing Air Pollution and Improving Air Quality, as amended in 2015, transposes the emission limit values of the Large Combustion Plants Directive both for new and existing plants. The emission limit values of the Industrial Emissions Directive for new plants have not yet been transposed.

### c. Conclusions and Priorities

Apart from the submission of the National Emission Reduction Plan to the Secretariat, there was little progress as regards the follow-up of the priorities of last year's Implementation Report.

In Federation of Bosnia and Herzegovina, a law ensuring full compliance with the provisions of the Environmental Impact Assessment Directive must be adopted without delay.

Bosnia and Herzegovina must ensure compliance with the provisions of the Sulphur in Fuels Directive in order to settle the ongoing dispute settlement case.

Bosnia and Herzegovina must prepare the necessary legal acts to ensure timely implementation of its National Emission Reduction Plan and the implementation of the provisions of the Industrial Emissions Directive for new plants.





# Bosnia and Herzegovina

## 4.8 Competition

### a. Sector Overview

The body in charge of enforcing competition law at state level is the Competition Council. In the reporting period, Bosnia and Herzegovina completed an analysis of the electricity market with support of the European Union.

The Law on the System of State Aid is enforced by the State Aid Council, composed of eight members and assisted by a secretariat. In the reporting period, the State Aid Council did not take any decision in the energy sector.

### b. State of Compliance

#### 1. Competition Law

The Competition Act of Bosnia and Herzegovina, adopted in 2005 and amended in 2007 and 2009, is in line with the competition *acquis*.

An analysis of the electricity market supported by the European Union provides a useful first step to identify structural problems.

However, the Competition Council will need to follow up on the findings to improve the competitive environment.



### Lack of Effective State Aid Enforcement

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In Case ECS-1/10, the Secretariat takes the view that Bosnia and Herzegovina failed to fulfil its obligations under the Energy Community Treaty by not adopting and implementing legislation prohibiting State aid and enforcing that prohibition, as required by Articles 6 and 18 of the Treaty. Despite the fact that the Law on System of State Aid in Bosnia and Herzegovina was adopted back in 2012, no case in the energy sector has been notified or reviewed *ex officio* by the State aid enforcement authority. This makes the system of State aid enforcement in Bosnia and Herzegovina non-functional.



## 2. State Aid Law


The Law on the System of State Aid is generally in line with the State aid *acquis*. However, no case in the energy sector has ever been reviewed by the State Aid Council since the law's entry into force in 2012. Therefore, full implementation of the State aid law and its enforcement are yet to be achieved. The independence of the State Aid Council remains questionable as both the decision-making body as well as the secretariat are closely linked to the respective governments in terms of nomination of its members and financing. The decisions of the State Aid Council and the notifications it receives are not publicly available which renders close scrutiny by stakeholders and the general public impossible.

### c. Conclusions and Priorities

While having formally transposed the *acquis*, Bosnia and Herzegovina must start to actively enforce competition and State aid law. No progress has been made in the reporting period regarding the enforcement activities in the area of competition and State aid law.

As recommended last year, the Competition Council should begin issuing binding decisions on the restrictions of competition on the energy markets and sanction breaches of competition law. Setting concrete follow-up steps to the analysis of the electricity market should be the priority for the coming months.

The Secretariat will continue monitoring the enforcement of State aid law and will not close the ongoing dispute settlement procedure in Case ECS-1/10 before State aid rules are applied in practice to the energy sector.

	<b>Analysis of Competition in the Electricity Market of Bosnia and Herzegovina</b>
<b>I</b>	An analysis of the electricity market was prepared under an EU funded project "Support to the Implementation of Competition Regulations in Bosnia and Herzegovina and further Strengthening of Competition Policy", which also included a component on State aid.
<b>N</b>	The analysis found that market opening and liberalization is slowly taking place. However, the four incumbent utilities still covered 93% of the electricity supplied in 2014. Electricity generation/trading systems operate as three vertically integrated monopolies in three separate geographic areas and this is considered to contribute to inefficiency. The lack of a single, unified, energy strategy, applicable for the whole country, prevents Bosnia and Herzegovina from adequately addressing issues of security of supply. Low prices for households, due to political/social reasons, do not induce electricity stakeholders to compete on internal market(s). An efficient system of public procurement would be necessary to induce competition.
<b>F</b>	The Secretariat recommended that the analysis should provide conclusions on whether there might indeed be competition problems that the Competition Council could potentially investigate; or whether the problems are found in the legal and regulatory framework only, requiring improvements and actions beyond the competence of the Competition Council.
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## Bosnia and Herzegovina

### 4.9 Statistics

#### a. Sector Overview

Pursuant to the Law on Statistics of Bosnia and Herzegovina, the Agency for Statistics of Bosnia and Herzegovina (BHAS) is responsible for organizing, compiling, producing and disseminating statistical data.

The Federation of Bosnia and Herzegovina and Republika Srpska have established their own authorities for collecting, compiling and disseminating statistical data, namely the Institute for Statistics of the Federation of Bosnia and Herzegovina (FZS) and the Institute of Statistics of Republika Srpska (RZS RS). They are obliged to deliver statistical data to BHAS. In order to

ensure uniform quality of statistical data, all three authorities have signed an agreement on implementation of harmonized methodologies and standards in producing the statistical data.

By a Memorandum of Understanding signed by BHAS with the State Electricity Regulatory Commission (SERC), the latter collects and compiles information on electricity prices.

Under the Secretariat's technical assistance project, BHAS in cooperation with the entities' institutions completed a survey on energy consumption in households with a focus on renewable energy consumption. The results of the survey were published and incorporated in the official annual statistics for the year



2014. The survey also included information relevant for the implementation of Regulation (EU) 431/2014.

## b. State of Compliance

The responsible institutions of Bosnia and Herzegovina have achieved significant progress in complying with the energy statistics *acquis*, particularly with regard to annual energy statistics. Only monthly statistics remain an issue of non-compliance.

### 1. Annual Energy Statistics

Bosnia and Herzegovina collected and compiled the annual data collection comprising all five annual questionnaires for 2014 and for the first time transmitted a full set of annual energy statistics to *EUROSTAT* following the defined procedure although with considerable delay.

The conducted survey of energy consumption in households is a turning point in terms of completing the annual energy statistics in Bosnia and Herzegovina, providing the most relevant missing information on consumption of renewable energies and other forms of energy consumed in households.

In terms of annual statistics Bosnia and Herzegovina finally achieved compliance with the requirements of the *acquis*.

### 2. Monthly Energy Statistics

BHAS compiles monthly reports for electricity, gas and, from 2014, coal. Methodologies and questionnaires for monthly energy statistics are compliant with the *acquis*. The collection of data on oil and petroleum products still remains a problem. While the legal basis was established, the country will continue to fail to comply until sufficient resources are designated for this task. A comprehensive administrative framework is still missing, along with a corresponding IT solution.

### 3. Price Statistics

BHAS regularly reports semi-annual data for electricity and natural gas prices to *EUROSTAT*. The prices charged to industrial and household end-users are compiled and aggregated in the format and tables defined by *EUROSTAT*. The compilation procedure enables regular electricity and gas price reporting per consumption band in accordance with Directive 2008/92/EC.

Electricity prices are collected and compiled by SERC, whereas gas prices are provided by the biggest retail supplier. As regards the breakdown of components of electricity prices, after the break in 2014, Bosnia and Herzegovina submitted the required data for 2<sup>nd</sup> semester 2015 to *EUROSTAT* covering disaggregated prices for industrial end-users and for households and thus complied with the *acquis*.

## c. Conclusions and Priorities

After the completion of all annual datasets, indicated as a priority in last year's Implementation Report, their timely preparation and dissemination should now be the key focus.

Completing monthly data collection for oil and gas requires urgent action.

Taking into account the pending opening of the electricity and gas markets and its impact on the established price reporting systems, Bosnia and Herzegovina should improve the reporting system to capture comprehensive price information.

The successful completion of the consumption survey conducted by national institutes showed that Bosnia and Herzegovina possesses the expertise and commitment to comply with its obligations. However, an increase of dedicated staff and sufficient financial and technical resources is necessary to ensure implementation of the energy statistics *acquis*.









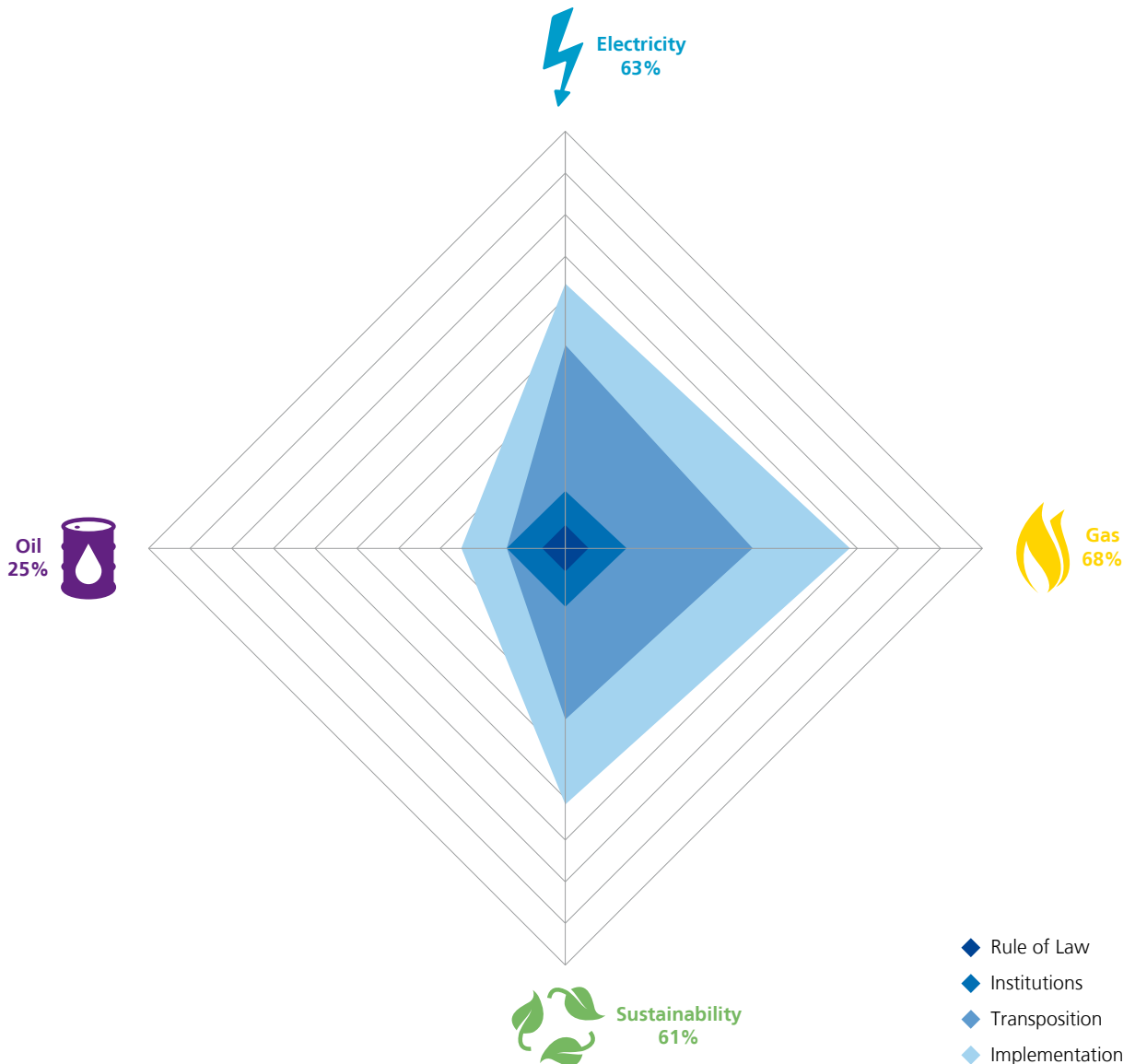
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# Kosovo\*

Kosovo\* adopted the Third Energy Package in June 2016. The country is now equipped with the right tools to liberalise its electricity market under the direction of an independent energy regulatory authority. Energy efficiency sector reform must now

come to the foreground. Kosovo\* must rectify the two open infringement cases linked to non-transposition of the Energy Services and the Energy Performance of Buildings Directives.

## Implementation Performance of Kosovo\*



Source: Compiled by the Energy Community Secretariat



## Kosovo\*

### 5.1 Electricity

Description of data [unit]		2014	2015
Electricity production [GWh]		4.894	5.503
Net imports [GWh]		966	715
Net exports [GWh]		475	628
Gross electricity consumption [GWh]		5.399	5.570
Losses in transmission [%]		1,42%	1,29%
Losses in distribution [%]		33,5%	31,8%
Consumption of energy sector [GWh]		112	112
Final consumption of electricity [GWh]		3.652	3.860
Consumption structure [GWh]	Industrial, transport, services and other non-residential sectors	1.589	1.746
	Households (residential customers)	2.063	2.114
Net maximum electrical capacity of power plants [MW]		1.217	1.222
of which:	coal-fired	1.171	1.171
	hydro, total	44,82	49,42
Horizontal transmission network [km]	Substation capacity [MVA]	5.579	5.782
	Number of interconnectors	7	7
Electricity customers	Total number of customers	490.545	511.820
	out of which: non-households	72.344	76.069
	Eligible customers under national legislation	72.344	511.820
	Active eligible customers	0	0
Internal market	Electricity supplied to active eligible customers [MWh]	0	0
	Share of final consumption [%]	0,00%	0,00%

Source: Energy Regulatory Office (ERO) and KOSTT

#### a. Sector Overview

In June 2016, Kosovo\* adopted a new set of laws to transpose the Third Energy Package in the electricity sector, comprised of the Law on Energy, the Law on Electricity and the Law on Energy Regulator. The new Electricity Law defines a period of nine months for aligning secondary legislation.

The wholesale and retail electricity markets in Kosovo\* continue to be dominated by the state-owned generation utility *Kosovo Energy Corporation (KEK)* and the privately-owned public electricity supplier *KESCO*.

The transmission system operators of Serbia and of Kosovo\* have further delayed the implementation of the Inter-TSO Agreement on Network and System Operation Management and the Framework Agreement signed by both parties in 2014. The entry into force of the Connection Agreement between *ENTSO-E* and the transmission system operator of Kosovo\*, signed in October 2015, was unduly conditioned by a supply license being issued to a Serbian supplier in Kosovo\*. As Serbia has failed to register a supply company, this long-standing dispute still remains unresolved. The only progress made was the inclusion of the transmission system operator of Kosovo\* in the

Multiyear ITC Agreement as of 1 January 2016. The transmission system operators of Serbia and Kosovo\* have also failed to make progress in finalising agreements on compensation for past congestion management and ITC for an interim period.

During the reporting period, *KOSTT* and the transmission system operator of Albania *OST* have developed a mechanism for the cross-border procurement of a reserve for secondary regulation. The implementation of this model of cooperation depends on the entry into force of the Connection Agreement between *KOSTT* and *ENTSO-E*.

#### b. State of Compliance

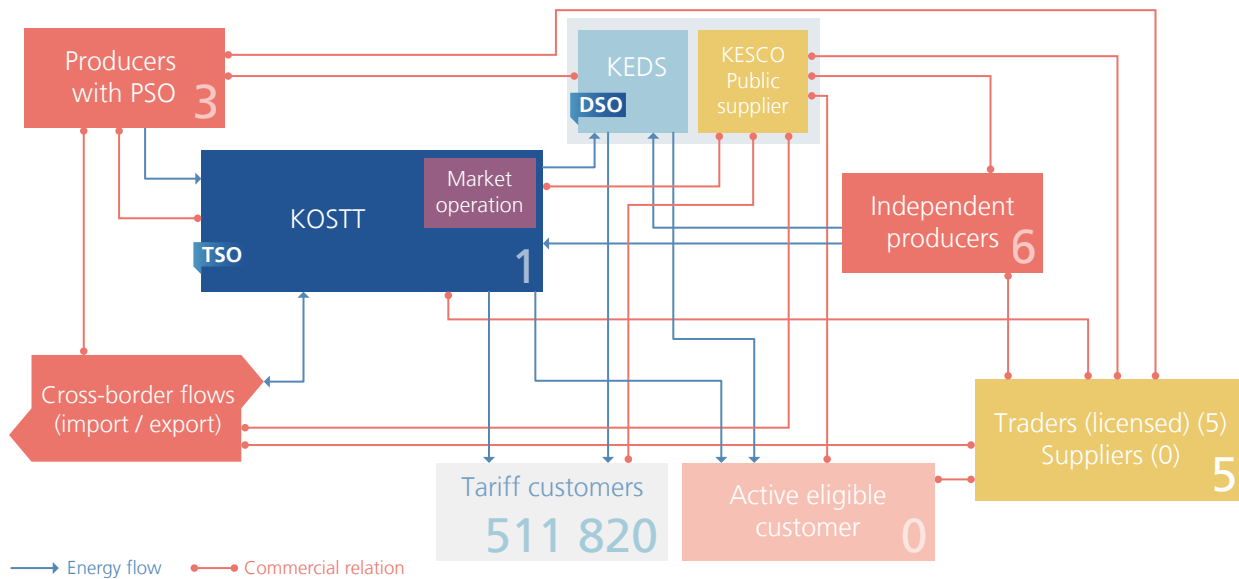
The adopted set of laws transposes the Third Energy Package in the area of electricity in a compliant manner. However, implementation is yet to follow, in particular towards phasing out price regulation in the still fully regulated electricity market.

##### 1. Unbundling

The new Electricity Law transposes the requirements for ownership unbundling of the transmission system operator. The certification procedure is in line with the *acquis*. It is envisaged



## Kosovo's\* Electricity Market Scheme



Source: Compiled by the Energy Community Secretariat  
Refer to the market schemes legends on page 191 for a more detailed description.

that the government controls the generation company *KEK*, while the transmission system operator *KOSTT* is controlled by the parliament.

Legal unbundling of the distribution system operator *KEDS* from supply is in effect as of 1 January 2015. Functional unbundling was completed by the adoption of a compliance programme by ERO in July 2015 and the appointment of a compliance officer. The first compliance report was submitted to ERO and published on the *KEDS* website.

### 2. Third Party Access

The requirement to grant third party access based on published, objective and non-discriminatory tariffs has been transposed in line with the *acquis*. Transmission and distribution tariffs were changed as of 1 April 2016 by ERO. The changes were motivated by the need to reduce the cross-subsidization between different categories of customers. Retail tariffs for commercial customers were reduced, while tariffs for household customers remained unchanged.

*KOSTT* will start performing allocation of cross-border transmission capacities upon the entry into force of the connection agreement with *ENTSO-E*. Until then, *EMS* continues to perform capacity allocation without the consent of *KOSTT*.

### 3. Eligibility

According to the new Law on Electricity, all customers are eligible to freely choose a supplier of their choice.

There are no switching rules in Kosovo\*. General principles of supplier switching are stipulated in the Law on Electricity in a compliant manner. According to the law, ERO shall be the body


responsible for adopting the switching rules. The adoption of the switching rules, which have been drafted by *KOSTT*, requires a positive decision of ERO. Without its approval, Kosovo\* is in breach of the *acquis*.

### 4. Market Opening and Price Regulation

Prices of generation and supply to all customers continue to be fully regulated based on the ERO tariff methodologies. As a result, wholesale and retail market opening has not yet taken place. The state-owned generation company *KEK* sells all the electricity produced at regulated prices to *KESCO*, which acts as a regulated wholesale buyer and a retail public supplier of all customers.

A first step towards the deregulation of generation and supply prices for all customers was made with the adoption of the new primary laws in June 2016. The new Electricity Law limits regulation to supply prices for household and small customers under universal service, where prices shall reflect all the costs of service. According to the new law, ERO shall annually reassess the price methodology, the level of prices and the need for further regulation and shall submit it to the Secretariat. The appointment of a supplier of last resort remains to be done in a tendering procedure not later than six months following the adoption of the law. Last resort supply will be provided at prices determined by ERO's methodology and up to 60 days.

The regulated prices are not cost-reflective and do not provide an incentive for new entrants to enter the market and for customers to switch their electricity supplier. To allow for market opening, ERO must enforce the deregulation of prices, start issuing supply licenses to alternative suppliers, and complete missing secondary legislation by adopting switching rules and an imbalance settlement price methodology.

	<b>Rectification of Failure to Transpose Third Energy Package</b>
I N D I S P U T E	<p>Following Kosovo's* adoption of national legislation transposing the Third Energy Package in June 2016 and its notification to the Secretariat, it formally rectified the breach identified in Case ECS-7/16. Therefore, the Secretariat decided to withdraw the Reasoned Request submitted to the Ministerial Council for decision on 13 May 2016.</p>

### 5. Balancing

The new Law on Electricity stipulates an obligation of the transmission system operator to procure balancing services in a transparent, market-based and non-discriminatory procedure in line with the Third Energy Package requirements. A contractual framework and a non-discriminatory approach to balance responsibility of each market participant have been introduced by the new law. In addition, the law defined obligations of the transmission system operator to develop balancing rules, including rules for imbalance settlement, and submit them to the regulator for approval. Until a liquid balancing market is established, production companies are obliged to provide balancing services to the transmission system operator based on the prices regulated by ERO.

Having in mind the existing limited balancing possibilities of production units in Kosovo A and Kosovo B, regional balancing cooperation is of utmost importance for *KOSTT* to provide an adequate reserve level and improve quality of frequency regulation. An important step towards that is an agreement between *KOSTT* and *OST* on cross-border procurement of a reserve for secondary regulation, whose implementation depends on the entry into force of the Connection Agreement between *KOSTT* and *ENTSO-E*.

### 6. Customer Protection and Protection of Vulnerable Customers

The Third Energy Package provisions on protection of customers, including vulnerable customers, have been transposed by the new laws. A transparent, simple and inexpensive out-of-court complaint handling procedure is envisaged by the law. The government is tasked to adopt a programme for defining the status of socially vulnerable customers, the scope of their rights and measures for their protection.

#### c. Conclusions and Priorities

Kosovo\* succeeded to fulfil last year's highest priority goal, namely to adopt the Third Energy Package compliant laws. In addition, Kosovo\* was the first Contracting Party that finalised the process of unbundling the distribution system operator. However, implementation of the other open issues is still pending, including the carrying out of the signed agreement between *ENTSO-E* and *KOSTT* which remains an obstacle for market development and integration.

Following the adoption of the new laws, the process of aligning secondary legislation within the stipulated deadlines shall now be of highest priority in order to allow for effective implementation of the Third Energy Package. Without delay, ERO must enforce measures aimed at the deregulation of prices in the wholesale and retail electricity markets and limit the public service obligation to what is necessary to address market failures. Kosovo\* is lagging behind other Contracting Parties in that respect.

The necessary preconditions for retail market opening need to be put in place, including development of switching rules and imbalance settlement price methodology, appointing a supplier of last resort and defining load profiles for customers without interval meters.

*KOSTT* must also start to procure balancing services and network losses in transparent and market-based procedures.







# Kosovo\*

## 5.2 Gas

### a. Sector Overview

The gas market is still non-existing in Kosovo\*. Kosovo\*, nevertheless, plans to establish a gas supply route through an interconnector with the planned gas transmission system of Albania (the ALKOGAP project). Thus, via Albania, Kosovo\* could potentially be supplied from Caspian gas sources.

The legal and regulatory framework for the natural gas sector of Kosovo\* is governed by the newly adopted laws which aim at transposing the Third Energy Package in gas, namely the Law on Natural Gas and the Law on Energy Regulator.

	<b>Rectification of Failure to Transpose Third Energy Package</b>
INDISPUTABLE	Following Kosovo's* adoption of national legislation transposing the Third Energy Package in June 2016 and its notification to the Secretariat, it formally rectified the breach identified in Case ECS-7/16. Therefore, the Secretariat decided to withdraw the Reasoned Request submitted to the Ministerial Council for decision on 13 May 2016. The case followed an expedited procedure for non-transposition of the <i>acquis</i> pursuant to Article 11(3) of the amended Dispute Settlement Rules.

### b. State of Compliance

Following its adoption of the Law on Natural Gas Sector, Kosovo\* is to a large extent compliant with the Third Energy Package in the gas sector.

#### 1. Unbundling

The Law on Natural Gas and the Law on Energy Regulator transpose the unbundling and certification requirements as required by the Treaty. The Law on Natural Gas prescribes that the unbundling model for a future gas transmission system operator is full ownership unbundling as the only model possible. Additional requirements for unbundling of the distribution are introduced in line with Directive 2009/73/EC. No exemptions from unbundling requirements are envisaged for system operators serving less than 100.000 customers.

#### 2. Third Party Access

The general requirements for non-discriminatory access to the transmission, upstream and distribution networks as well as to storage facilities are transposed by the Law on Natural Gas. Conditions upon which a refusal of access may be sustained are correctly transposed. The exemption from third party access is transposed in line with the Third Energy Package.

The principles upon which tariff methodologies for access to networks will be developed are compliant with the *acquis*. The only non-compliance is that the law fails to specify explicitly that the transmission tariff methodologies will be based on entry/exit principles, *i.e.* separate tariffs for entry/exit points to/from the transmission grid, as required by Regulation (EC) 715/2009. The tariff systems have not been adopted.

#### 3. Eligibility

The eligibility of natural gas customers in Kosovo\* is compliant with the Treaty deadlines, thus granting all customers, whether household or non-household, eligibility status.

#### 4. Market Opening and Price Regulation

The gas market is theoretically open as of 1 January 2015. There are no provisions regulating the natural gas supply or explicitly excluding such a possibility. Any practical implications would be possible to assess only after the gas system becomes operational in Kosovo\* and first participants enter the market.

#### 5. Balancing

The Law on Natural Gas transposes balancing provisions of Regulation (EC) 715/2009, which stipulates that balancing rules must be market based. In practice, those rules have not yet been defined.

#### 6. Security of Supply

Security of supply *acquis* pertaining to natural gas is transposed adequately by the Law on Energy Regulator and the Ministerial Regulation on Security of Supply in the Natural Gas Sector adopted in 2010. Concrete measures to comply with the supply standard and the emergency plan are still pending.

## 7. Customer Protection and Protection of Vulnerable Customers

Provisions on the protection of customers, including those that are vulnerable, are transposed in Kosovo's\* legal framework. This includes requirements to adopt general rules or conditions of supply, including switching rules, to ensure customer protection in practice as required by Annex I of Directive 2009/73/EC.

## c. Conclusions and Priorities

Kosovo's\* transposition of Directive 2009/73/EC and Regulation (EC) 715/2009 is at a satisfactory level. Kosovo\* now needs to focus on developing the numerous missing secondary legal acts.



## Kosovo\*

### 5.3 Regulatory Authority

#### a. Compliance with Independence Criteria and Competences

The Energy Regulatory Office (ERO) is the single authority for regulating the energy sector of Kosovo\* equipped with country-wide regulatory competences in the gas and electricity sector, as required by the Third Energy Package. ERO is by law set up as an institution legally distinct and functionally independent from any other public entity. The establishment of ERO is solely based on legislation, which means that the regulatory authority cannot be liquidated by act of another public institution. ERO is headed by five board members, including a chairperson. The term of board members is limited to a period of five years, renewable once and including a rotation scheme.

ERO's organisation complies with the criteria stipulated by Directive 2009/72/EC and Directive 2009/73/EC. That said, the selection procedure of commissioners would be better protected from political influence if an expert committee was involved.

ERO is accountable for its activities by presenting its annual report to the parliament.

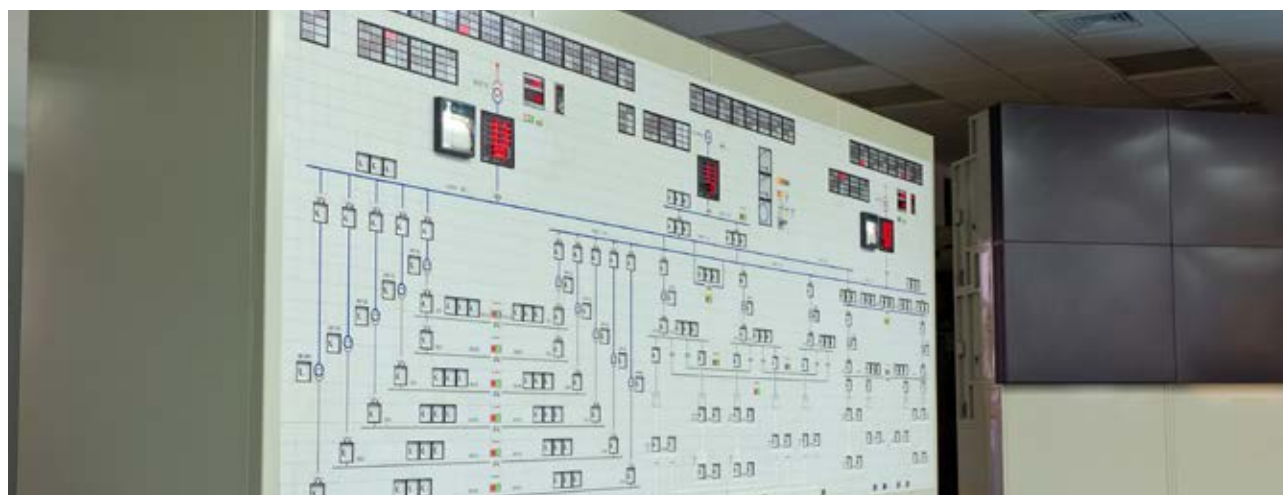
#### b. Performance

ERO does not play the required active role in addressing competition barriers in the country's energy market. Important regulatory decisions for the electricity market have been delayed for a long time already, including the approval of licenses for suppliers wishing to compete with the incumbent, or the adoption of switching and imbalance rules. The lack of sufficient human resources cannot justify the low level of commitment for supporting market opening.

On regional level, ERO does not participate actively in the work of the Energy Community Regulatory Board.

#### c. Conclusions and Priorities

With the new Law on Energy Regulator adopted in June 2016, ERO has been equipped with all competences and institutional independence requirements foreseen under the Third Energy Package. In praxis the regulator still has to live up to the powers granted and, in particular, adopt a number of pending decisions.





## Kosovo\*

### 5.4 Oil

#### a. Sector Overview

Kosovo\* neither produces nor refines crude oil. Petroleum products imported in 2015 amounted to some 704,3 kt, an increase of 15,7% compared to 2014. The overall consumption of petroleum products in 2015 was 694,4 kt, an increase of 14,8% compared to 2014.

#### b. State of Compliance

The main law governing the oil sector in Kosovo\* is the Oil Market Law of 2005, as amended in 2009. The Ministry of Trade and Industry (responsible for oil and petroleum products) drafted a new Law on Compulsory Oil Stockholding in March 2014, with the assistance of the Secretariat. The law was expected to be adopted in the 4<sup>th</sup> quarter of 2015. The Ministry of Trade and Industry submitted the new draft law to the government in March 2016 but its approval by the government and thus subsequent adoption by the parliament is still pending.

#### c. Conclusions and Priorities

No genuine progress has been achieved with regard to priorities identified in last year's Implementation Report. None of the suggested actions have been followed up.

Kosovo\* should prioritize the following:

- Drafting an action plan for building up emergency oil stocks to 90/61 days;
- Adopting the new draft Law on Compulsory Oil Stockholding;
- Drafting subsequent secondary legislation throughout 2016 - 2017;
- Improving data collection; and
- Abandoning the customs duties levied on imports of lubricants and petrol coke as a precondition for terminating the infringement action in Case ECS-12/14.



#### Illegal Customs Duties on Petroleum Products

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The Secretariat initiated a dispute settlement procedure against Kosovo\* in Case ECS-12/14 for levying customs duties on imports of certain petroleum products from EU Member States and the Contracting Parties. Following a Reasoned Opinion sent by the Secretariat in August 2015, Kosovo\* authorities informed the Secretariat about the adoption of an administrative instruction on exemption of certain petroleum products from customs duties by which three out of the five petroleum products subject to the case have been exempted from customs duties. However, the import of two petroleum products (namely lubricants and petrol coke) is still subject to customs duties of 10%. If those two petroleum products are not removed from the list of products subject to customs duties, the Secretariat will continue the case by submitting a Reasoned Request to the Ministerial Council.





## Kosovo\*

### 5.5 Renewable Energy

	2014	2015
Total capacities of renewable energy (MW)	46,2	50,9
Hydropower, out of which:	44,8	49,4
- small hydropower (<10 MW)	12,8	17,4
Wind	1,4	1,4
Solar	0	0,1

Source: Energy Regulatory Office (ERO) and KOSTT

#### a. Sector Overview

Kosovo\* committed to a binding target of 25% of energy from renewable sources in gross final energy consumption in 2020 compared with 18,9% in 2009. In 2014, according to the energy balance published by *EUROSTAT*, Kosovo\* achieved a 19,8% share of energy from renewable sources, which is below the second indicative trajectory of 20,7%. Despite the legal and regulatory measures adopted in the last years as envisaged in the NREAP, Kosovo\* has not succeeded in attracting sufficient investments in renewable energy in order to be on the trajectory set out in the NREAP.

The Laws on Electricity and Energy transposing the main articles of the Renewable Energy Directive were adopted in June 2016.

#### b. State of Compliance

With the transposition of the Renewable Energy Directive into national law, Kosovo\* has increased its compliance with the renewable energy *acquis*. The existing regulatory acts have to be reviewed and new ones swiftly adopted to complete the legal framework required to enable investments in renewable energy and to bring the country on track to 2020.

##### 1. National Renewable Energy Action Plan

Kosovo\* adopted and submitted to the Secretariat the National Renewable Energy Action Plan. However, due to questionable contribution of the HPP Zhur to the 2020 renewable energy targets, Kosovo\* will have to revise the NREAP.

The current level of investment remains minimal despite the existing legal framework for support schemes for energy produced from renewable sources. It remains questionable whether Kosovo\* will reach the 2020 renewable energy targets. The second progress report on the promotion of the use of energy from renewable sources in 2013 - 2014 is expected to be submitted by the end of 2016.

##### 2. Support Schemes

Support schemes exist for various renewable energy technologies like small HPPs, wind, biomass and biogas, and, since 2014, also for solar PV. In order to comply with Guidelines on State Aid for Environmental Protection and Energy 2014 - 2020, a market based approach for cost-effective promotion of renewable energy and integration of renewable energy into the market will have to be introduced.

The promotion of renewable energy is also affected by policy-makers' concerns about the potential impact of renewable energy deployment on end-user electricity prices.

##### 3. Cooperation Mechanisms

Despite the fact that some provisions on cooperation mechanisms have been transposed via a government administrative instruction at the end of 2013, Kosovo\* does not comply with the *acquis* in this respect. The act fails to transpose the possibilities for statistical transfer and joint support schemes between Kosovo\* and EU Member States as envisaged by Articles 8, 9 and 11 of Ministerial Council Decision 2012/04/MC-EnC. Furthermore, the provisions related to implementation of external audits need to be transposed.

##### 4. Administrative Procedures

The authorisation and permitting procedures have been simplified to a certain extent, without leading to the establishment of a one-stop shop for small projects yet. Existing barriers in granting the rights for the use of land and forests for development of renewable energy projects and in issuing permits for the use of water have not been completely addressed. Kosovo\* still fails to achieve full compliance with the *acquis*.

##### 5. Access to and Operation of the Grids

Rather than the lack of grid capacity, connection and access to the transmission and distribution grids remain the main barriers for renewable energy producers due to the inability of the grid operators to deal with intermittent electricity production.

The current framework provides for guaranteed transmission and distribution of generated electricity from renewable sources through the grid as well as priority dispatch. For the guaranteed and priority rights given to electricity from renewable sources to be fully implemented during the operation of the system, a proper market design, including coupling with neighbouring markets, is necessary.

The requirement for notification of generation schedules has to become as close as possible to real time. Currently, there is no full compliance with Article 16 of Directive 2009/28/EC.

#### 6. Guarantees of Origin

The legal provisions for procedures for issuance, transfer and cancellation of guarantees of origin, the template and the information required generally meet the requirements of the directive. After the adoption of the Law on Electricity, ERO must implement a system for the issuing, transfer and cancellation of the guarantees compliant with the requirements of the directive.

#### 7. Renewable Energy in Heating and Cooling

No substantive progress has been made so far in the heating and cooling from renewable sources. There are currently no minimum levels for the use of renewable energy in buildings in the relevant regulations and codes. Legislation with regard to the use of renewable energy in buildings is drafted but has still not been adopted. Compliance remains unsatisfactory.

#### 8. Renewable Energy in Transport

In relation to biofuels, there is no certification scheme defined or relevant body established, thus Kosovo\* is non-compliant with Directive 2009/28/EC. A secondary act, aiming to transpose Articles 17 - 21 of Directive 2009/28/EC, is still not finalised.

Kosovo\* intends to achieve the 10% target exclusively with liquid biofuels according to its NREAP. Kosovo\* envisages relying fully on biofuel imports until the end of 2017, after which domestic production should contribute to fulfilling the 10% target. As long as there is no domestic production, voluntary industrial certification schemes recognized by the European Commission are planned to be used.

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#### c. Conclusions and Priorities

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Kosovo's\* adoption of the Laws on Electricity and Energy in June 2016 is a significant step towards creating a conducive investment framework for renewable energy.

However, the legal and regulatory framework alone is not leading Kosovo\* to be on the trajectory until 2020. Its NREAP will possibly need to be revised if the second progress report reveals significant deviations from the trajectory. Technology neutral tenders for granting support should be introduced to comply with the State aid guidelines and to ensure Kosovo\* is on the right path to 2020.

A new electricity market design must facilitate the integration of new renewable energy producers into the grids and the operation of the system with more independent renewable energy producers. Correct transposition and implementation of the sustainability criteria for biofuels and certification schemes must be a priority.







## Kosovo\*

### 5.6 Energy Efficiency

Energy Efficiency Action Plan (EEAP)*					
Period covered by EEAP		2010 – 2018			
Overall energy savings target - Directive 2006/32/EC (ktoe / % / year)		92 / 9 / 2018			
EEAP status		2 <sup>nd</sup> EEAP adopted on 3 December 2013 3 <sup>rd</sup> EEAP under preparation			
Achieved energy savings (ktoe / % / year)		32 / 3 / 2012 (reporting for 2015 under preparation)			
Key institution(s) in charge		Ministry of Economic Development; Kosovo* Energy Efficiency Agency; Ministry of Environment and Spatial Planning; Ministry of Infrastructure			
Main data and energy efficiency indicators**		2011	2012	2013	2014 ***
<b>Total primary energy supply (TPES)</b>	ktoe	2.528	2.368	2.358	2.137
<b>Energy intensity (TPES/GDP)</b>	toe / 1.000 USD	0,53	0,48	0,46	0,41
<b>TPES/Population</b>	toe/capita	1,41	1,31	1,30	1,19
<b>Total final energy consumption (TFEC)</b>	ktoe	1.317	1.258	1.272	1.187
Share of TFEC by sector	Residential	37%	38%	39%	40%
	Services	9%	9%	9%	11%
	Industry	23%	22%	21%	20%
	Transport	25%	26%	25%	24%
	Others	1%	2%	2%	2%
	Non-energy use	4%	3%	3%	3%

\* Source: 2<sup>nd</sup> EEAP of Kosovo\*

\*\* Source: International Energy Agency (May 2016)

\*\*\* Indicators calculated by the Energy Community Secretariat based on EUROSTAT energy balances for 2014

#### a. Sector Overview

According to the energy efficiency indicators of Kosovo\*, there is a clear indication that final energy consumption was on a downward trend in the period 2011 - 2014, while the gross domestic product continued to grow. The positive trend is reflected in decreased energy intensity and the decoupling of economic growth from energy demand.

The Ministry of Economic Development is the leading state body for development of energy efficiency policy, while the Kosovo Agency for Energy Efficiency (KEEA) is responsible for implementation. Municipalities are responsible for development and implementation of Municipal Energy Efficiency Plans (MEEPs) and energy efficiency measures in public buildings.

The Energy Efficiency Law is currently being amended to reflect the provisions of new Energy Efficiency Directive 2012/27/EU. A sustainable financing framework is envisaged by the draft law, which includes provisions on the establishment of a national energy efficiency fund and creation of a market for operation of Energy Service Companies (ESCOs).

KEEA is currently coordinating the development of the 3<sup>rd</sup> EEAP due by 30 June 2016. Its submission to the Secretariat is still

pending. The 3<sup>rd</sup> EEAP will include a roadmap for timely transposition of Directive 2012/27/EU by 15 October 2017. KEEA is responsible for the monitoring of EEAP implementation and verifying the achievement of energy saving targets.

A primary law compliant with Directive 2010/31/EU on Energy Performance of Buildings was endorsed by the government in June 2016 and its adoption in parliament is currently pending. Kosovo\* also developed a set of secondary legislation (on minimum energy performance requirements of buildings, national calculation methodology, energy performance certification of buildings and inspection of heating and air conditioning systems) as well as a software for the calculation of minimum energy performance of buildings.

#### b. State of Compliance

Kosovo\* has achieved partial compliance with the energy efficiency *acquis*. Compliance still remains problematic in certain areas, notably where legal acts have been drafted, but their adoption is pending (*i.e.* law and regulation to transpose Energy Performance of Buildings Directive, 3<sup>rd</sup> EEAP, etc.).

### 1. Energy Services Directive 2006/32/EC

Certain key provisions of Directive 2006/32/EC were transposed by the Energy Efficiency Law (energy efficiency targets and plans, exemplary role of the public sector, energy management, energy auditing, role of state institutions and other bodies dealing with energy efficiency) and further implemented by secondary legislation and the EEAP.

The 2<sup>nd</sup> EEAP, adopted in December 2013, complies with all requirements of Directive 2006/32/EC. The 3<sup>rd</sup> EEAP is under preparation.


However, the adoption of the 3<sup>rd</sup> EEAP and additional secondary legislation, including on financing instruments, energy efficiency procurement procedures, metering, informative billing and ESCOs, is required to reach full compliance.

### 2. Energy Labelling Directive 2010/30/EU

In the area of labelling, the Administrative Instruction on the Labelling of Energy Related Products transposes Directive 2010/30/EU and the delegated regulations, as adopted by the Ministerial Council in 2010. However, Kosovo\* has failed to implement the new delegated regulations adopted in 2014.

### 3. Energy Performance of Buildings Directive 2010/31/EU

The adoption of the draft Law on the Energy Performance of Buildings criteria is still pending. Thus Kosovo\* fails to comply with Directive 2010/31/EU. The Secretariat initiated infringement action in March 2016 against Kosovo\* for non-compliance with Directive 2010/31/EU.

	<b>Lack of Transposition of Directive on Energy Performance of Buildings</b>
I N D I S P U T E	On 13 May 2016, the Secretariat submitted a Reasoned Request to the Ministerial Council for failure to transpose Directive 2010/31/EU on the Energy Performance of Buildings and failing to forthwith notify those measures to the Secretariat (Case ECS-11/16). The case follows an expedited procedure for non-transposition of the <i>acquis</i> pursuant to Article 11(3) of the amended Dispute Settlement Rules.

## c. Conclusions and Priorities

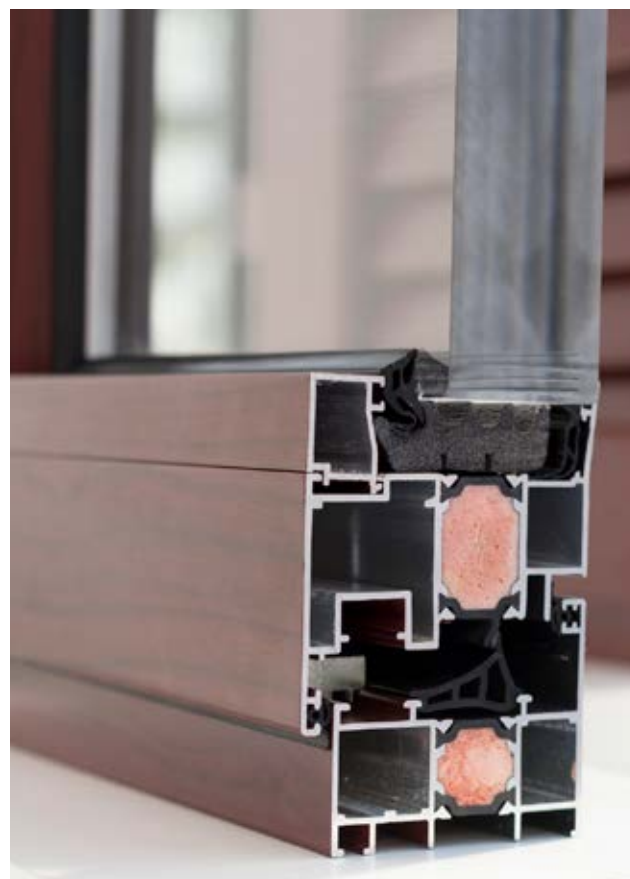
Kosovo\* made progress during the reporting period, mainly in the form of drafting legislation to transpose Directive 2012/27/EU and development of the 3<sup>rd</sup> EEAP. However, no completion of last year's priorities was achieved.

The first priority for Kosovo\* remains the adoption of the Law on Energy Performance of Buildings and the relevant secondary legislation to transpose Directive 2010/30/EU.

Kosovo\* should finalize and adopt the 3<sup>rd</sup> EEAP and continue creating a framework for EEAP implementation. This includes the establishment of an energy efficiency fund and an ESCO supporting regulation as well as strengthening human capacities of KEEA.

Transposition of the labelling delegated regulations should continue, in accordance with the Ministerial Council Decision of September 2014, as well as finalization of secondary legislation to introduce energy efficiency criteria in public procurement.

Energy efficiency statistics should be improved to enable accurate monitoring, evaluation and verification of the achieved savings. The Monitoring and Verification Platform (MVP) should be put into operation as an official tool for monitoring and verification of energy savings.





## Kosovo\*

### 5.7 Environment

#### a. Sector Overview

##### 1. Environmental Impact Assessment Directive

Environmental impact assessments related to the energy sector are carried out by the Ministry of Environment and Spatial Planning.

In the case of the Kosova e Re (New Kosovo) power plant, which has received the Project of Energy Community Interest label, the environmental impact assessment has not yet been finalised.

Between January and December 2015, the Ministry of Environment and Spatial Planning received 13 requests for environmental consent related to energy projects. Nine of these requests have been approved: eight hydropower plants, one wind farm and two solar farms. Between 1 January and 15 July 2016, two hydropower plants and a solar farm have received their environmental consents while one request for a 110 kV transmission line is under review.

##### 2. Sulphur in Fuels Directive

Kosovo\* has no refineries and consequently no domestic production of heavy fuel oil and gas oil. Currently there are 14 licensed importers of heavy fuel oil and no licensed importers of gas oil as a final product. Four licensed importers produce heavy fuel oil for final consumption under the supervision of the customs authority. In 2015, domestic producers covered 17% of total consumption in Kosovo\*, while the rest of the products used in the country were imported mainly from Serbia.

##### 3. Large Combustion Plants Directive

Kosovo\* has two plants falling under the scope of the Large Combustion Plants Directive with a total of five units and a total rated thermal input of 3.350 MW. All units are fired by lignite.

#### b. State of Compliance

As regards the Environmental Impact Assessment and Sulphur in Fuels Directives, Kosovo\* has reached a high level of transposition of the Energy Community environmental *acquis*. In the case of the Large Combustion Plants and Industrial Emissions Directives, amendments to the currently applicable legislation are still needed.

##### 1. Environmental Impact Assessment Directive

Kosovo\* has transposed the provisions of the Environmental

Impact Assessment Directive into national law by the Law on Environmental Impact Assessment of 2010 and several acts of secondary legislation adopted during 2011.

##### 2. Sulphur in Fuels Directive

Kosovo\* transposed the requirements of the Sulphur in Fuels Directive through the Administrative Instruction on the Quality of Oil Products adopted in 2012.

##### 3. Large Combustion Plants Directive

Kosovo\* is preparing for the implementation of Directive 2001/80/EC according to the Administrative Instruction on the Rules and Standards of Emissions into the Air by Stationary Sources of Pollution. Operators have to obtain an integrated permit and prepare a separate emission reduction plan for each plant which could serve as a basis for the national one. The emission limit values have not yet been brought in line with the requirements of the Large Combustion Plants and Industrial Emissions Directives.

In December 2015, Kosovo\* submitted its draft National Emission Reduction Plan to the Secretariat, the assessment of which is currently ongoing.

Furthermore, the administrative instruction requires the continuous measurement of emissions into the air in the case of large combustion plants. Kosovo\* is currently making emission measurements in its two large combustion plants.

The amendments to the administrative instruction and the Law on Integrated Pollution Prevention and Control planned for 2016 with a view to ensuring compliance with the Large Combustion Plants and the Industrial Emissions Directives have been postponed to 2017. The Ministry of Environment and Spatial Planning is currently in the process of amending the Administrative Instruction on the Rules and Standards of Emissions into the Air by Stationary Sources of Pollution.

#### c. Conclusions and Priorities

Kosovo\* submitted its National Emission Reduction Plan to the Secretariat, thus fulfilling one of the priorities indicated in last year's Implementation Report.

As regards the Sulphur in Fuels Directive, the Secretariat assessed a complaint regarding the incorrect sampling and analysis in Kosovo\* and found no violation.

In the case of large combustion plants, Kosovo\* must finalise the amendments to the Administrative Instruction on the Rules and Standards of Emissions into the Air by Stationary


Sources of Pollution in line with the requirements of the Large Combustion Plants and the Industrial Emissions Directives by the end of 2017.


Kosovo\*  
5.8 Competition

**a. Sector Overview**

The authority in charge of enforcing the Law on Protection of Competition is the Kosovo Competition Authority (KCA), composed of a commission and a secretariat. In the reporting period, the authority has not been operational.

The State Aid Office is an administrative unit established within the KCA, responsible for receiving, analysing and monitoring notifications of State aid measures. The KCA is responsible for appointing the members of the State Aid Office. However, due to the operational problems of the KCA, the State Aid Office has also not been operational during the reporting period. The State Aid Office supports the State Aid Commission (SAC), acting as a decision-making body on an *ad hoc* basis. Since the State Aid Office has not been operational, SAC has neither assessed any State aid measure nor begun to enforce State aid law.

	 <b>Lack of Effective State Aid Enforcement</b>
INDUSTRIES	<p>In Case ECS-7/11, the Secretariat takes the view that Kosovo* failed to fulfil its obligations under the Energy Community Treaty by not adopting and implementing legislation prohibiting State aid and enforcing that prohibition, as required by Articles 6 and 18 of the Treaty. Despite the fact that a State aid law has been adopted and entered into force in January 2012, the State Aid Commission and the State Aid Office have not been made operational and no case on State aid in the energy sector has been reviewed. A new State aid law was drafted in 2016 in close cooperation with the Secretariat and was approved in first reading by parliament. Pending the adoption of the new law and making the enforcement authority operational, the case remains open.</p>

**b. State of Compliance**

*1. Competition Law*

Kosovo\* has transposed the competition *acquis* via its Law on Protection of Competition of 2010, amended in 2014. The work of the KCA has been blocked since November 2013 due to a delay in the appointment of its members. Having an enforcement authority that is completely non-functional constitutes an infringement of the Energy Community Treaty. However, in June 2016, the members of the KCA were finally appointed.

*2. State Aid Law*

The Law on State Aid transposes the State aid *acquis*. However, the obligation to implement the general prohibition of State aid in the energy sectors includes the establishment of an effective institution responsible for enforcing this prohibition in each individual case. The institution must be adequately equipped with expert staff and technical support. The State Aid Office has neither. There have still been no enforcement activities since the law entered into force more than three years ago. Therefore, Kosovo\* is still not complying with the obligations stemming from the Energy Community Treaty in this respect.

**c. Conclusions and Priorities**

As in last year's Implementation Report, Kosovo\* is requested to render the competition and State aid law enforcement authorities operational in order to comply with the Energy Community Treaty. These authorities must be equipped with adequate infrastructure and expert resources in order to be able to act in an independent and impartial manner. Following the appointment of the members of the KCA, Kosovo\* should move forward with rendering the authority fully operational.



## Kosovo\*

### 5.9 Statistics

#### a. Sector Overview

The Law on Official Statistics determines the fundamental principles for the organization, production and publication of official statistics and the role of the Kosovo Agency for Statistics (KAS), the Central Bank and the ministry in charge of finance. KAS is established within the Prime Minister's Office with the task to coordinate the statistical system of Kosovo\*.

The Rules on Energy Balances introduced by an Administrative Order of the Ministry of Economic Development (MED) determine the reporting requirements and institutions responsible for specific data. Responsibility for the compilation of the energy balance lies with MED which started to report annual data to IEA in 2012. According to the 2013 Memorandum of Cooperation between KAS and MED, the responsibilities for energy statistics were transferred to KAS in 2015.

Data are regularly collected from the *Kosovo Energy Corporation (KEK)* and the External Trade Statistics of KAS.

#### b. State of Compliance

Kosovo's\* compliance with the *acquis* on monthly statistics remains at a critical level. The Secretariat also has concerns regarding the quality of compilation of other energy statistics.

##### 1. Annual Energy Statistics

Kosovo\* produces quarterly and annual energy balances. Energy consumption surveys were conducted for the industry, households, agriculture, services and transport sectors in 2014.

Since 2015, the annual questionnaires have been submitted to and published by *EUROSTAT* and *IEA*. In general, annual energy statistics are collected and disseminated as required by the *acquis*.

##### 2. Monthly Energy Statistics

The frequency of statistics collection is yearly and quarterly. Monthly statistics in Kosovo\* have not been established yet. An EU-financed project provided technical assistance to KAS for monthly statistics, but the new reporting system is not in operation yet. Kosovo\* does not comply with the *acquis* in this respect.

##### 3. Price Statistics

The data for industrial and household consumers were compiled and aggregated in the format and tables defined by *EUROSTAT*. Electricity prices are reported by the distribution system operator and the public supplier of electricity.

Electricity prices per consumption band and breakdown of taxation levels are submitted to and subsequently published by *EUROSTAT*. Price components for industrial end-users are reported in accordance with the *acquis*. Gas prices are not relevant for Kosovo\*.

The established compilation procedure enables regular price data reporting in compliance with Directive 2008/92/EC.

#### c. Conclusions and Priorities

The priorities identified in last year's Implementation Report remain the same for Kosovo\*. Monthly data collection has to be tackled without delay. KAS needs to strengthen its administrative and institutional capacities to become the central office responsible for coordinating the national statistics system with full control over implementation of the statistical programme. The required liberalization of the electricity market will make market-related information, including prices, more complex to collect, which requires greater capacity building. KAS also has to develop and implement a quality control policy and a dissemination policy in order to implement requirements related to quality reporting.







# 06 | Former Yugoslav Republic of Macedonia

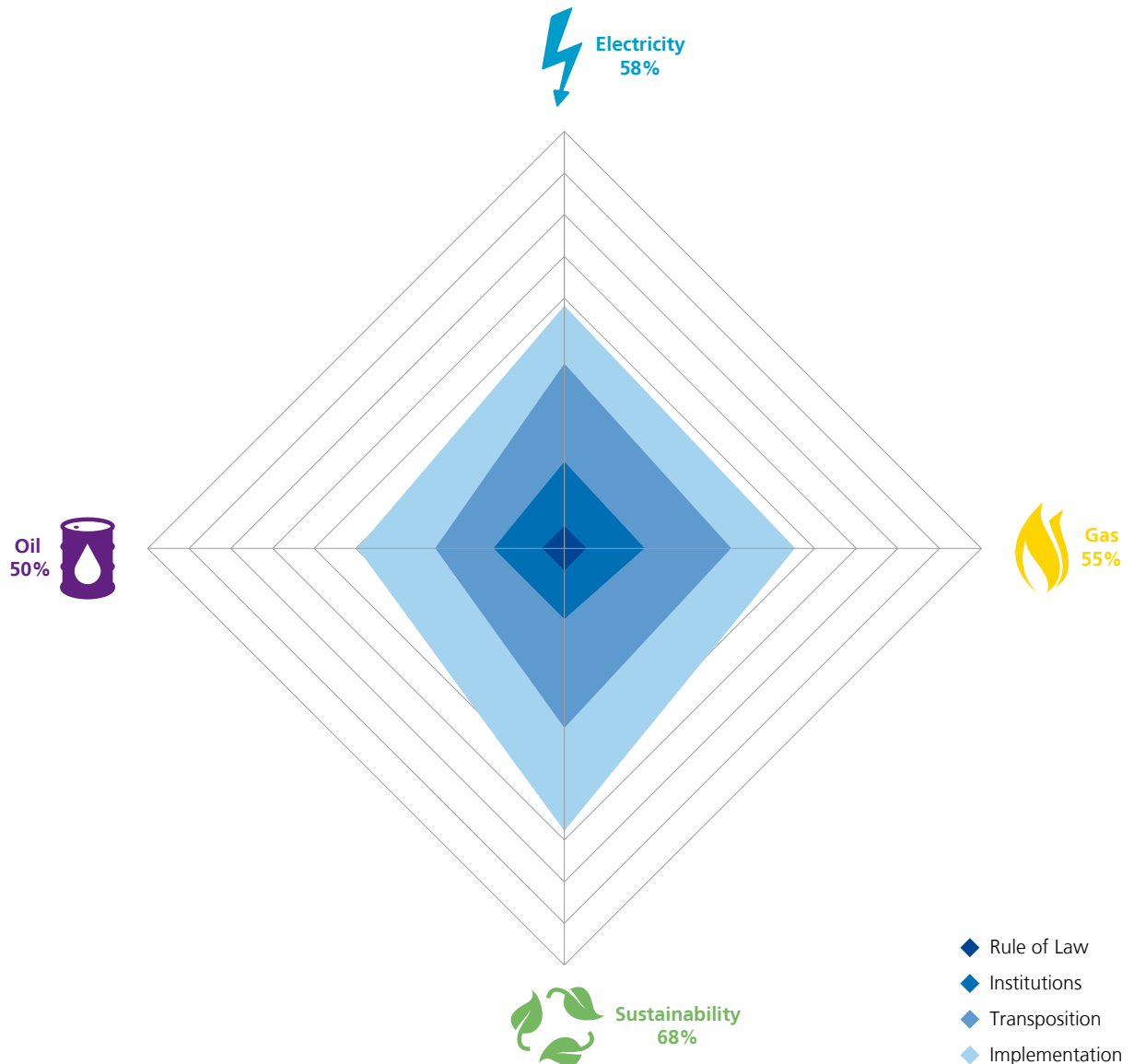
# 6

## Former Yugoslav Republic of Macedonia

To the detriment of the country's citizens, energy reform continues to be at a stalemate in former Yugoslav Republic of Macedonia. The country's failure to adopt a compliant Energy

Law brings down its compliance record not only in terms of the electricity and gas *acquis*, but also renewables where the country is significantly behind its trajectory to 2020.

### Implementation Performance of Former Yugoslav Republic of Macedonia



Source: Compiled by the Energy Community Secretariat



## Former Yugoslav Republic of Macedonia

### 6.1 Electricity

Description of data [unit]		2014	2015
Electricity production [GWh]		4.982	5.251
Net imports [GWh]		3.073	2.656
Net exports [GWh]		66	143
Gross electricity consumption [GWh]		8.026	7.795
Losses in transmission [%]		1,9%	1,7%
Losses in distribution [%]		15,5%	14,8%
Consumption of energy sector [GWh]		205	208
Final consumption of electricity [GWh]		6.755	6.645
Consumption structure [GWh]	Industrial, transport, services and other non-residential sectors	3.709	3.503
	Households (residential customers)	3.046	3.142
Net maximum electrical capacity of power plants [MW] of which:		2.011	2.053
	coal-fired	800	800
	gas-fired	287	287
	oil-fired	210	210
	hydro, total	663	699
Horizontal transmission network [km]	Substation capacity [MVA]	2.700	2.700
	Number of interconnectors	4	4
Electricity customers	Total number of customers	695.360	698.518
	out of which: non-households	253	253
	Eligible customers under national legislation	253	253
	Active eligible customers	253	253
Internal market	Electricity supplied to active eligible customers [MWh]	2.433.603	2.942.850
	Share of final consumption [%]	36,03%	44,29%

Source: Ministry of Economy

#### a. Sector Overview

The legal framework for liberalisation of the electricity market in former Yugoslav Republic of Macedonia has not improved in the reporting period. The country's electricity sector is still governed by the Energy Law of 2011 which was amended in 2011, 2013 and 2014 but does not transpose the Third Energy Package. This is subject to infringement action pending at the Ministerial Council. The same goes for the country's decision to refuse the majority of customers the right to choose their supplier by amendments to the Energy Law adopted in October 2014. The foreclosure of the retail side of the market is mirrored by excessive public service obligations on the wholesale level.

The transmission network is operated by *Makedonski Elektro-prenosen Sistem Operator (MEPSO)*, a state-owned company. *MEPSO* also performs the functions of a market operator. In June 2016, *MEPSO* became a shareholder of the regional capacity allocation body *SEE CAO*. However, it does not participate in regional allocation of interconnection capacity yet.

Other key players in the electricity market are the state-owned utility *Elektrani na Makedonija (ELEM)* and *EVN Makedonija*.

*ELEM* owns the majority of generation plants and operates a small closed distribution network. *EVN Makedonija* operates most of the distribution network in the country. *ELEM* and *EVN* also hold licences for supply of last resort.



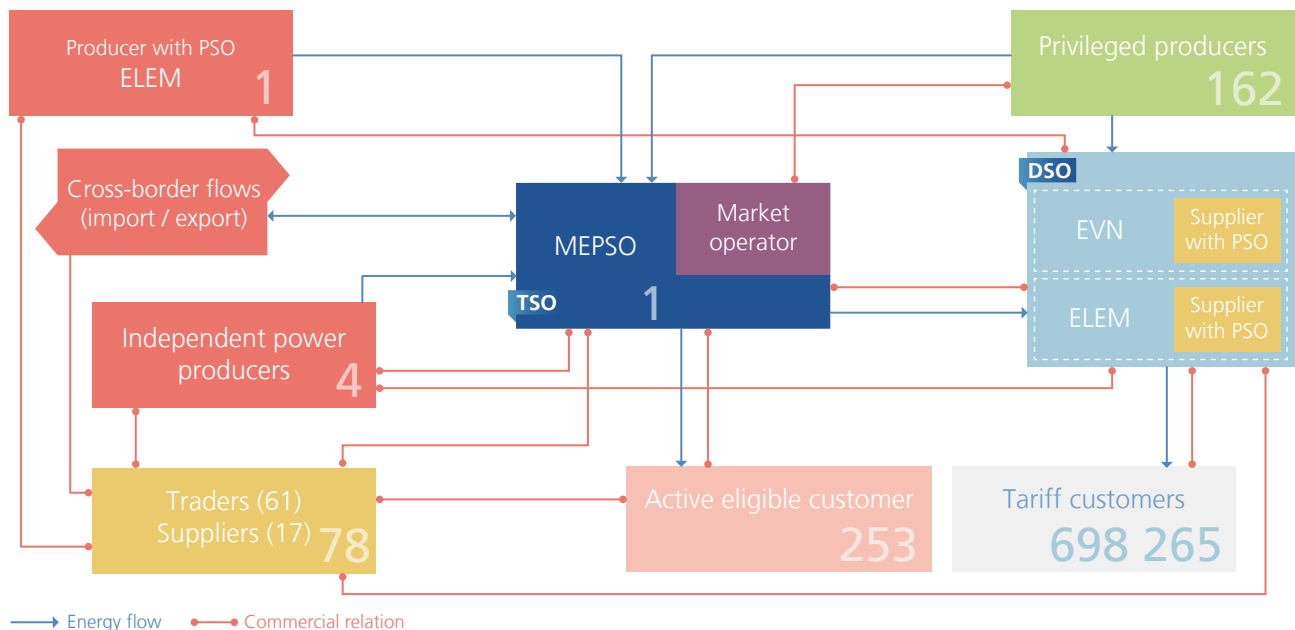
#### Non-participation in Regionally Coordinated Capacity Allocation

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Case ECS-4/11 was initiated by an Opening Letter in January 2011 and followed up by a Reasoned Opinion in September 2014 because the transmission system operator, *MEPSO*, has not adopted a common coordinated congestion management method and procedure for allocation of capacity to the market as obliged by a 2008 decision of the Ministerial Council.

On 1 June 2016, *MEPSO* signed an agreement to become a shareholder of the *Coordinated Auction Office in South East Europe (SEE CAO)*. Annual, monthly and daily auctions are expected to begin early in 2017. Until then, the case remains open.

## Former Yugoslav Republic of Macedonia's Electricity Market Scheme



Source: Compiled by the Energy Community Secretariat  
Refer to the market schemes legends on page 191 for a more detailed description.

### b. State of Compliance

Former Yugoslav Republic of Macedonia has missed the deadline for implementation of the Third Energy Package by 1 January 2015. The current law and especially its amendments of October 2014 entailed several instances of non-compliance with the Energy Community Treaty, including impediments to market opening, suspension of an already existing eligibility right and prevention of regional market integration.

#### 1. Unbundling

The unbundling requirements of the Third Energy Package for transmission system operators have not been transposed. The transmission network operator *MEPSO* is only legally unbundled.

Whilst the Energy Law of 2011 transposes unbundling requirements in line with the Second Energy Package for distribution system operators, it has not been implemented. Both network operators also hold supply licenses (for supply of last resort and supply to customers at regulated prices). In June 2016, *EVN* chose an unbundling model which envisages the creation of a separate company for network operation. It is, however, not yet established. The regulatory authority has approved the compliance programme of *EVN*, which has appointed compliance officers. No other measures exist to ensure functional unbundling.

As both operators do not prepare and publish their financial statements separately for each of their regulated activities, they are also in breach of the requirements for accounting unbundling.

#### 2. Third Party Access

The right to network access is transposed by the Energy Law. Network tariffs for transmission and distribution network operators are set by the regulatory authority ERC for a period of three years and are subject to annual review. The Third Energy Package, including Regulation (EC) 714/2009, has not been transposed.

The allocation of cross-border capacity is conducted through yearly, monthly, weekly and intra-day auctions. Capacities are split 50:50 with neighbouring systems. Allocation of interconnection capacities by *SEE CAO* is yet to start. This depends on amendments to the legislation on value added tax, which have been prepared by the Ministry of Economy but have not been proposed to the legislator yet.

#### 3. Eligibility

Eligible customers are customers connected to the transmission network and customers connected to the distribution network with more than 50 employees and an annual turnover exceeding EUR 10 million. The amendment of the Energy Law in October 2014 abolished the eligibility status for small customers and households and forced small customers and households to remain captive, until being granted the right to switch from the incumbent supplier, *EVN*. Eligibility of the households has been postponed until 1 July 2020 in violation of the Treaty.

The list of eligible customers is published by *MEPSO*. The latest update counts 271 eligible customers which were obliged to switch from 1 January 2015. Another 158 customers with an-




nual consumption exceeding 1 GWh in 2015 became eligible from 1 July 2016 and may not be supplied by their previous incumbent supplier.

Switching rules are part of the Rules for the Supply of Electricity. By interpreting them in a way that final customers with outstanding debts are forbidden to switch supplier, the rules constitute another obstacle to exercising eligibility in practice.

4. Market Opening and Price Regulation

Despite the denial of the right to eligibility to most customers, the electricity market in former Yugoslav Republic of Macedonia is the most deregulated among the Contracting Parties in terms of volumes. The regulated segment of the market, however, is fully foreclosed both on the wholesale and retail level. The monopoly on the retail market is mirrored by public service obligations on EVN and ELEM, respectively for supply of last resort and electricity generation to meet the demand of the suppliers of last resort. ERC additionally regulates the price at which the incumbent generator ELEM sells electricity to the suppliers of last resort. These public service obligations are excessive and without time limitation. They breach Article 3 of Directive 2009/72/EC.

	<b>Postponement of Full Electricity Market Opening</b>
I N D I S P U T E	Following a preliminary procedure, the Secretariat submitted on 13 May 2016 a Reasoned Request in Case ECS-2/15 to the Ministerial Council requesting a decision against former Yugoslav Republic of Macedonia for failure to comply with the Energy Community’s eligibility rules by postponing full opening of the electricity market until 2020. Former Yugoslav Republic of Macedonia is the only Contracting Party where households and several categories of small customers are prevented from choosing the supplier of their choice after 1 January 2015.

5. Balancing

The 2014 Market Rules establish the principles for balance responsibility for market participants. Imbalances are settled on an hourly basis. To enable participation, distribution system operators developed standardized load profiles for market participants without hourly load registration.

Balance responsible parties are registered in 38 balancing groups, out of which six have more than one market participant. Although imbalances are calculated for all balancing groups, the costs are charged only to eligible customers and their respective balancing groups. Undertakings with an obligation to provide public services (including regulated generation, transmission, distribution and supply) are exempted from balancing responsibility.

As part of its public service obligation, ELEM is currently the provider of ancillary services. According to the law, MEPSO has to procure ancillary services in a market-based procedure on the balancing market, but the procurement and provision of balancing energy still remains regulated and foreclosed. This poses an obstacle hindering former Yugoslav Republic of Macedonia from participating in any regional initiatives, as required by the Treaty.

6. Customer Protection and Protection of Vulnerable Customers

The notion of vulnerable electricity customer is not defined by the Energy Law. However, the government offers monthly financial subsidies for consumed energy to households belonging to a social protection scheme.


Measures for customer protection, in particular consumer rights as defined in Annex I of Directive 2009/72/EC have not been transposed. Some principles of customer protection are defined in the Rules for the Supply of Electricity.

c. Conclusions and Priorities

In the absence of progress during the reporting period, the priorities for former Yugoslav Republic of Macedonia remain the same. The country must urgently adopt new legislation to ensure the proper transposition of the requirements of the Third Energy Package and rectify the breaches of Energy Community law.

Excessive price regulation, in particular wholesale price regulation, must be eliminated without delay. Public service obligations should only be applied as a tool for overcoming market failure and not as an instrument to obstruct the development of markets.

Former Yugoslav Republic of Macedonia must also effectively implement its Market Rules, particularly regarding the procurement of balancing energy and setting prices for ancillary services and balancing energy.

	<b>Non-transposition of Third Energy Package</b>
I N D I S P U T E	On 13 May 2016, the Secretariat submitted a Reasoned Request to the Ministerial Council for failure to transpose the Third Energy Package and failing to forthwith notify transposing measures to the Secretariat (Case ECS-9/16). The case follows an expedited procedure for non-transposition of the <i>acquis</i> pursuant to Article 11(3) of the amended Dispute Settlement Rules.



# Former Yugoslav Republic of Macedonia

## 6.2 Gas

Description of data [unit]		2014	2015
Natural gas production [Bcm]		0	0
Import [Bcm]		0,135	0,136
Stock changes [Bcm]		0	0
Total supply [Bcm]		0,135	0,136
Consumption in energy sector [Bcm]		0,095	0,098
	out of which: Energy transformation [Bcm]	0,045	0,052
		0,049	0,046
Available for final consumption of natural gas [Bcm]		0,040	0,038
Interconnectors' capacity [Bcm]	Total	0,800	0,800
	out of which bidirectional	0	0
Storage working capacity [Bcm]		0	0
Length of transmission network [km]		181	142
Length of distribution network [km]		37	41
Natural gas customers	Total	116	289
	out of which: Non-households	71	85
	Eligible customers under national legislation	5	289
	Active eligible customers	5	5
	Households	40	204
Internal market	Gas supplied to active eligible customers [Bcm]	0,111	0,098
	Share of total consumption [%]	82%	72%
Final consumption of natural gas per sector [Bcm]		0,040	0,039
Consumption structure [Bcm]	Industry and commercial customers	0,040	0,038
	Households	0,000040	0,000600

Source: ERC

### a. Sector Overview

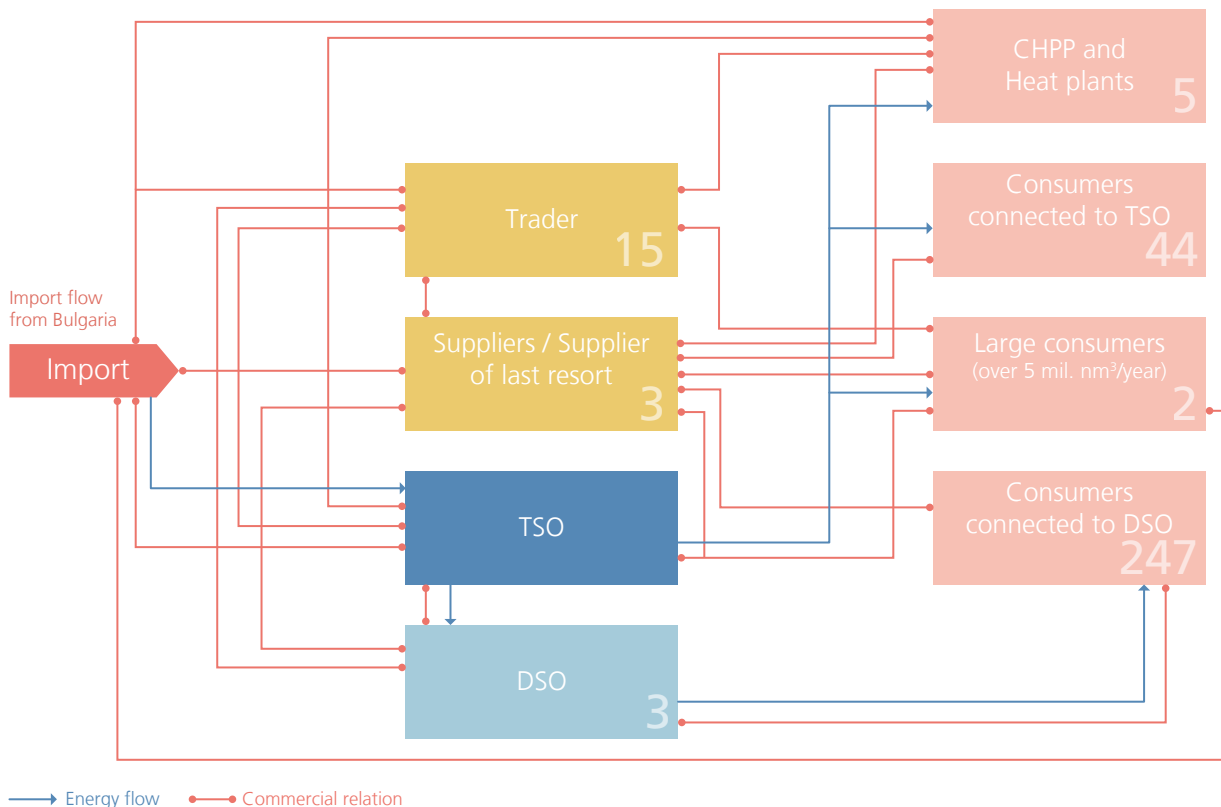
There is no domestic gas production in the country. Almost the entire consumption is imported from Russia through the single entry point at the Bulgarian border. Natural gas is mainly consumed for electricity and heat production and by industrial customers. Households have only a very small share of consumption. The distribution network in the city of Strumica, in the South of the country, is not connected with the transmission network at all and supply is ensured by truck transport of compressed natural gas (CNG) from Bulgaria.

Fifteen licences have been issued for trade and five for supply. *Makpetrol* imports gas under a long-term contract with *Gazprom* and three big consumers import gas individually for their own needs. *Promgas*, a subsidiary of *Makpetrol*, acts as a supplier and, since 15 December 2014, also as a supplier of last resort. The transmission system operator, *GAMA*, jointly controlled by *Makpetrol* and the state, operates 98 km of the main transmission pipeline and 82 km of branch pipelines.

In terms of further network development, the government tasked the state-owned company *Macedonia Energy Resources (MER)* to fulfil its gasification strategy and construct pipelines towards south and west of the country. Construction is going on the pipeline Klecovce (point at existing pipeline) to Negotino. In parallel, the government launched tenders for a public private partnership contract to develop gas distribution systems in different regions. The natural gas market is governed by the Energy Law of 2011 and secondary legislation (Supply Rules, Rules on Supply of Last Resort, Transmission Grid Code and Tariff Methodologies, Regulation on Security of Supply). The Natural Gas Market Rules were adopted by ERC in January 2014 and the Distribution Grid Codes were approved by ERC in April 2015.

The work on drafting a new Energy Law to transpose the Third Energy Package started in late 2013. The Secretariat commented the law twice in 2014 and once in November 2015 during an expert meeting in Vienna. Since this meeting, the Secretariat has not received any new versions of the draft law for review or updates on its status.

## Former Yugoslav Republic of Macedonia's Gas Market Scheme



Source: Energy Regulatory Commission (ERC)

Refer to the market schemes legends on page 191 for a more detailed description.

## b. State of Compliance

The Energy Law transposes only those requirements of Directive 2009/73/EC which remained the same as in Directive 2003/55/EC. All novelties introduced by the Third Energy Package are yet to be transposed, and thus the state of compliance is exactly at the same level as in the previous Implementation Report.

### 1. Unbundling

The only licensed gas transmission system operator in former Yugoslav Republic of Macedonia, *GAMA*, is part of a vertically integrated company which does not comply with the unbundling requirements of Directive 2009/73/EC. The state (controlling entire production and supply of electricity) and *Makpetrol*, the biggest gas importer and supplier, are the only shareholders of *GAMA*. The existing distribution companies are at the same time licensed for supply and distribution system operation, which is compliant with the *acquis* as they serve less than 100.000 customers. The law allows for such an exemption.

### 2. Third Party Access

The Energy Law transposes third party access provisions from Directive 2009/73/EC, as a general principle. Nevertheless, the exemption procedure for new infrastructure is not compliant as the involvement of ERC and the Secretariat is missing. Further,

reasons for refusal have not been transposed properly, allowing for broad refusals in "cases of risk to the reliability of supply".

ERC approves both the methodology and the tariffs for access to the transmission and distribution systems, with a caveat that the entry/exit transmission tariff methodology as required by Regulation (EC) 715/2009 is not in place.

The Transmission Grid Code and the Gas Market Rules transpose the requirements for third party access services, capacity allocation and transparency, but are not compliant with the requirements of Regulation (EC) 715/2009 as regards cross-border issues and assessing market demand for new investments.

### 3. Eligibility

According to the Energy Law, all customers have been granted eligibility status conditioned by the adoption of secondary legislation (Gas Market Rules). In 2014, ERC made all necessary preparations for enforcement of the Gas Market Rules and all customers became formally eligible as of 1 January 2015 in line with the Energy Community Treaty.

### 4. Market Opening and Price Regulation

In practical terms, only three big customers, with annual consumption above 10 mcm (*TE-TO AD Skopje*, *Kogel Sever* and

*Proizvodstvo EE*) changed incumbent suppliers. They have concluded contracts for gas import directly with suppliers outside former Yugoslav Republic of Macedonia. Another big customer (*Makstil*) is supplied at market prices under a contract with *Makpetrol*.

Until the end of 2014, captive customers were supplied at regulated prices by *Promgas*. Since 1 January 2015, customers directly connected to the transmission/distribution networks became eligible customers supplied by *Promgas* at market prices. In 2015, there was no case of a request by a customer to be supplied by the supplier of last resort (*Promgas*) at regulated prices.

### 5. Balancing

The Transmission Grid Code and the Gas Market Rules lay down the balancing rules, including on balancing groups, balancing responsibility and imbalance charges. They are in line with Regulation (EC) 715/2009.

### 6. Security of Supply

The 2013 Regulation for the Criteria and Conditions for Proclamation of State of Crisis in the Supply of Natural Gas transposed Directive 2004/67/EC.

### 7. Customer Protection and Protection of Vulnerable Customers

The Energy Law and the Natural Gas Supply Rules transpose the main measures for customer protection from the gas directive. There are, however, shortcomings with respect to the transposition of certain provisions including *inter alia* energy efficiency measures, prepayment and vulnerable customers.


Protection of vulnerable customers is implemented in practice as a programme for subsidizing the consumption of energy where the government allocates monthly funds covering part of the costs of energy (electricity, heating energy, natural gas and other) for social aid recipients.

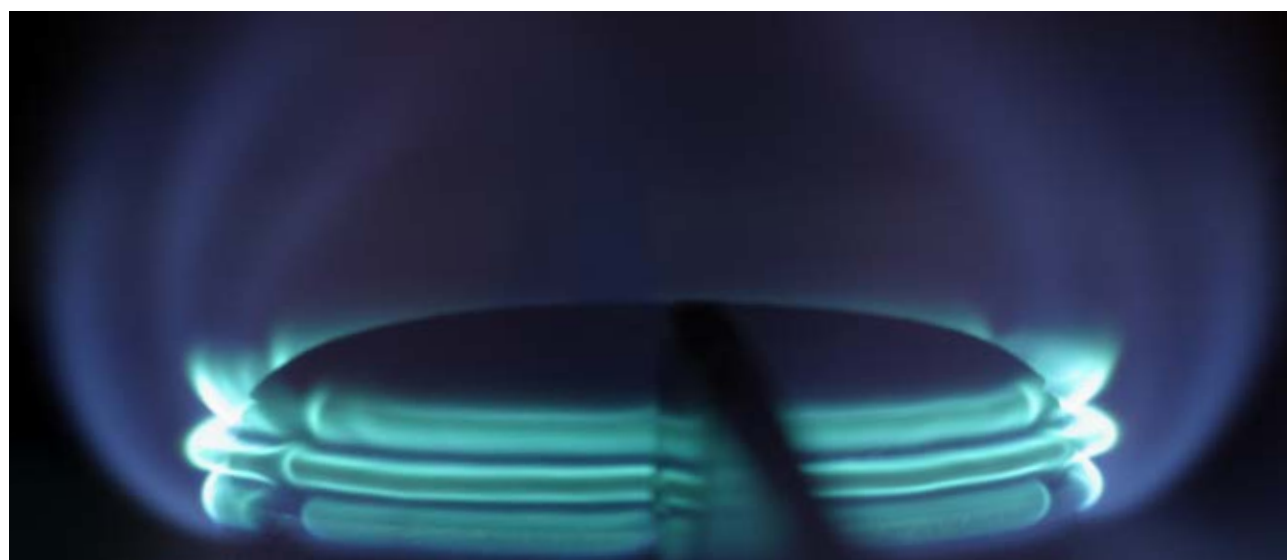
### c. Conclusions and Priorities

Former Yugoslav Republic of Macedonia failed to take concrete steps towards the transposition and implementation of Directive 2009/73/EC and Regulation (EC) 715/2009 during this reporting period. The only development is that the majority of gas customers are now supplied at market prices.

The deadline of 1 January 2015 for transposition of the Third Energy Package was missed by more than a year and half, despite the provided Instrument for Pre-accession Assistance (IPA) support to develop a comprehensive energy law and supplementary assistance from the Secretariat.

The establishment of a fully unbundled and functioning transmission system operator, *GAMA*, is a priority. Transposition and implementation of Directive 2009/73/EC, with a focus on defining the appropriate unbundling model for *GAMA*, could help to resolve the deadlock situation. Another potential transmission system operator, *MER*, will have to be established in line with the ownership unbundling rules.

	<b>Non-transposition of Third Energy Package</b>
<b>I N D I S P U T E</b>	<p>On 13 May 2016, the Secretariat submitted a Reasoned Request to the Ministerial Council for failure to transpose the Third Energy Package and failing to forthwith notify transposing measures to the Secretariat (Case ECS-9/16). The case follows an expedited procedure for non-transposition of the <i>acquis</i> pursuant to Article 11(3) of the amended Dispute Settlement Rules.</p>





## Former Yugoslav Republic of Macedonia

### 6.3 Regulatory Authority

#### a. Compliance with Independence Criteria and Competences

The Energy Regulatory Commission (ERC) is the single authority for regulating the energy sector of former Yugoslav Republic of Macedonia equipped with nationwide regulatory competences in the gas and electricity sector. ERC is by law set up as an institution legally distinct and functionally independent from any other public entity. Establishment of ERC is solely based on legislation meaning that it cannot be liquidated by act of another public institution. ERC is headed by five commissioners, one of which acts as president. The term of the commissioners is limited to a period of five years, renewable once.

ERC's organisation complies with the independence criteria stipulated by Directives 2009/72/EC and 2009/73/EC except for the lack of a rotation scheme for board members. A selection committee of neutral experts for short-listing commissioner candidates should also be introduced in order to better decouple the appointment procedure from politics. A 2014 amendment to the law introduced the requirement for applicants to pass a psychological and integrity test with undefined criteria. This requirement unduly limits the transparency of the selection processes and has potential for misuse. Regulatory independence is further weakened by the fact that the management does not have full autonomy in defining the authority's internal organisation and its statutes require parliament's approval.

Former Yugoslav Republic of Macedonia has not yet transposed the Third Energy Package. ERC's competences therefore still have to be extended to the complete set of regulatory powers and objectives foreseen by the Third Energy Package. A draft law has been prepared to overcome the existing shortcomings but its adoption is not envisaged anytime soon.

ERC ensures accountability of its activities by presenting its annual report to the parliament, ministry and government.

#### b. Performance

ERC's performance in terms of actively designing the market and being genuinely independent is ambiguous. On the one hand the regulator has not expressed resistance, or even concerns, against the postponement of electricity market opening until 2020. On the other hand, the rules put in place by ERC on the liberalised market segment prove expertise and commitment for prudent regulatory decision-making. ERC also showed readiness to stand up against politics by explicitly urging participation of the electricity transmission system operator *MEPSO* in regionally coordinated capacity allocation and congestion management procedures.

On the regional level, ERC is relatively active in the Energy Community Regulatory Board (ECRB).

#### c. Conclusions and Priorities

Due to the failure to adopt the prepared draft law transposing the Third Energy Package, no progress has been made to overcome the shortcomings of ERC's independence and competences that were already identified in the Secretariat's Implementation Report 2015. Namely:

- ERC's competences need to be expanded to the complete set of regulatory powers and objectives foreseen under the Third Energy Package.
- A rotation scheme for board members needs to be introduced.
- The requirement for applicants for the post of commissioner to pass a psychological and integrity test needs to be abolished or complemented by transparent assessment criteria.
- A selection committee of neutral experts for short-listing applicants for commissioner posts should be introduced.
- The requirement for ERC's statutes to be approved by the parliament represents an undue intervention in ERC's autonomy in terms of defining its internal organisation and needs to be abolished.





## Former Yugoslav Republic of Macedonia

### 6.4 Oil

#### a. Sector Overview

There was no import of crude oil into former Yugoslav Republic of Macedonia in 2015. While the domestic refining capacity is 2,5 mt/year, there was also no production of petroleum products in 2015. The export of petroleum products has decreased by 27,3% to 132 kt. The import of petroleum products has increased by 4,3% to a level of around 1.139 kt in 2015. The overall consumption of petroleum products in 2015 was around 1 mt.

#### b. State of Compliance

The Law on Compulsory Oil Reserves, which transposes Directive 2009/119/EC on Maintaining Minimum Stocks of Crude Oil and/or Petroleum Products, entered into force in October 2014. The law was supposed to be applicable as of 1 January 2015. However, on 2 December 2014, the parliament adopted the Law Amending the Law on Compulsory Oil Reserves, which postponed the application of the law for one year. On 13 November 2015, the parliament adopted another law amending the Law on Compulsory Oil Reserves, which postponed the application of the law for two more years. Accordingly, this law is envisaged to begin to apply only as of 1 January 2018.

The preparation of secondary legislation related to the transposition of Directive 2009/119/EC is being finalized with the assistance of the Secretariat.

#### c. Conclusions and Priorities

No real progress was achieved with regard to the priorities set in last year's Implementation Report. None of the suggested actions were followed up. While the adoption of the Law on Compulsory Oil Reserves represents a significant step forward, the delays of its application and the approval of the necessary by-laws are not justified.

The main priorities during the next reporting period should be:

- Development of an action plan for the establishment of compulsory reserves;
- Finalization of the preparation of secondary legislation related to the transposition of the Annexes to Directive 2009/119/EC;
- Decision on the quantity and structure of the compulsory oil reserves for the current year;
- Adoption of a decree prescribing the manner of determining and calculating the amount and reimbursement of expenses for maintaining compulsory reserves;
- Adoption of a decree prescribing the manner of determining and calculating the amount of the fee for oil reserves, as well as the content, manner and submission deadlines for data on the placement of oil derivatives in the country; and
- Adoption of an intervention plan (decree) in the event of an emergency disruption to the supply of crude oil and petroleum products.





# Former Yugoslav Republic of Macedonia

## 6.5 Renewable Energy

	2014	2015
Total capacities of renewable energy (MW)	714,6	756,5
Hydropower, out of which:	663	699
- small hydropower (<10 MW)	59,5	95,6
Wind	36,8	36,8
Solar	14,8	16,7
Biogas	0	4

Source: Ministry of Economy

### a. Sector Overview

Former Yugoslav Republic of Macedonia committed to a binding target of 28% in gross final energy consumption in 2020. In 2014, according to energy balance published by *EUROSTAT*, the country has achieved a 16,9% share of energy from renewable sources, which is well below the second indicative trajectory of 23,7%. This is due to a delay in integrating biomass data from the energy consumption survey conducted in 2015.

Currently, Directive 2009/28/EC is only partly transposed by the Energy Law of 2011 and several regulatory acts. The draft Energy Law, which aims to transpose the requirements of the Third Energy Package as well as the Renewable Energy Directive, has not been adopted.

### b. State of Compliance

Due to the delay in the adoption of the revised Energy Law, the country has not increased its compliance with the Renewable Energy Directive in the last reporting period. However, in accordance with the existing framework, several renewable energy projects became operational in the last years and the permitting and authorisation processes have been streamlined and made more transparent towards the investors.

#### 1. National Renewable Energy Action Plan

Former Yugoslav Republic of Macedonia adopted the NREAP in November 2015. Its submission to the Secretariat and thus the closure of the case is without prejudice to the fact that the country's NREAP has to be reviewed following the finalisation of the 2014 energy balance. The revised energy balance, including updated biomass consumption data, will provide accurate information on renewable energy consumption.

Moreover, the NREAP sets out the trajectory for meeting the country's binding 28% renewable energy target in 2030 instead of 2020. This is a clear breach of the Renewables Energy Directive as adopted by the Energy Community.

#### 2. Support Schemes

Support schemes for various technologies are in place and several renewable energy projects in wind, solar PV, small hydropower and biogas totalling 115 MW have been put into operation and already contribute to the trajectory. The 18 MW capacity cap for supporting solar PV installations has already been filled. A competitive procedure for granting support to renewable energy producers based on technology neutral auctions has to be implemented in line with the requirements of Guidelines on State Aid for Environmental Protection and Energy 2014 - 2020. Moreover, the capacity cap per type of renewable energy technology has to be removed to ensure cost-effective achievement of the 2020 renewable energy targets.

#### 3. Cooperation Mechanisms

The provisions related to cooperation mechanisms among the Contracting Parties or with EU Member States are only foreseen in the draft of the Energy Law. Without adoption of the Energy Law, the country fails to comply with the Renewable Energy Directive in this respect.

#### 4. Administrative Procedures

In the past few years, several steps have been taken to remove some of the barriers related to administrative procedures linked to authorization, urban planning and property issues. Deadlines have been shortened, unnecessary procedural steps have been abolished and gaps in coordination between authorities have been overcome to some extent. Investor guides for various renewable energy technologies are published on the ministry's website.

However, non-discrimination and objectivity are still not ensured. The creation of a one-stop shop for all permit applications does not exist. Full compliance with Article 13 of Directive 2009/28/EC remains to be achieved.

## 5. Access to and Operation of the Grids

Rules on connection to the grids are published by the transmission and distribution system operators. However, specific rules for taking renewable energy into consideration in transmission and distribution network development planning are not in place. Principles for access to the networks and operation of the grids for renewable energy producers still have to be transposed in primary legislation.

To comply fully with Article 16 of Directive 2009/28/EC, *MEPSO* and *EVN* as network operators have to become more transparent towards producers of renewable energy with regard to information on the estimated costs and timeframe for connection. The regulator has to ensure that rules for connection and access to the networks are implemented in a non-discriminatory and objective way for private and state companies. This is currently in doubt.

## 6. Guarantees of Origin

A certification system based on guarantees of origin has been established. The Energy Agency is in charge of the implementation of the certification system and the issuing body for these types of certificates.

That said, the implementation of the system of issue, transfer and cancellation of guarantees of origin has not advanced. According to the existing regulations, the guarantees of origin are only issued to producers which do not benefit from feed-in tariffs. A register for guarantees of origin is already established, but there are no applications at the moment, not even from the existing large hydropower plant producers. The country is currently non-compliant.

## 7. Renewable Energy in Heating and Cooling

Since 2013, former Yugoslav Republic of Macedonia has demonstrated significant progress in adopting secondary legislation specifically with regard to the use of renewable energy for heating and cooling in buildings. Yet proper implementation by the competent central and local authorities is still lacking.

A government programme, which provides subsidies for solar thermal collectors, has further contributed to the increase of energy produced from renewable sources in heating and cooling. Compliance with Energy Community *acquis* is partly achieved in this sector.

## 8. Renewable Energy in Transport

The government intends to achieve the 10% renewable energy target in transport by the import of biofuels and bioliquids as well as domestic production, as announced in the NREAP.


However, Articles 17 to 21 of Directive 2009/28/EC related to sustainability of biofuels have not been transposed. Currently, there is no certification scheme defined or relevant body established. Former Yugoslav Republic of Macedonia is thus completely non-compliant with Directive 2009/28/EC in the transport sector. Its uncertified production of biofuels cannot be counted towards the fulfilment of the national target.

A working group was set up by the Ministry of Economy in 2015 to prepare a draft Law on Biofuels and the relevant secondary acts. However, no steps towards the adoption of the laws have been taken since then. Without proper incentives and mandatory blending obligations in place, most of the biofuels currently produced are exported, under an industrial voluntary certification scheme recognised in the EU.

## c. Conclusions and Priorities

The lack of political will to adopt the Energy Law in the reporting period also affecting the country's compliance with the Renewable Energy Directive. The only progress made by former Yugoslav Republic of Macedonia in this reporting period was the adoption of the NREAP in November 2015.

The adoption of the draft Energy Law transposing Directive 2009/28/EC, including the introduction of a competitive process for granting support to renewable energy producers, is the first and foremost priority for the country. The revision of the adopted NREAP in line with the commitments taken to reach the 28% target in 2020 must be another priority of the government in 2016. A key precondition in this respect is to finalise the energy balance including the revised biomass consumption determined in accordance with *EUROSTAT* methodology. The ministry is expected to submit the second progress report on the promotion of renewable energy sources for the period 2014 - 2015 by the end of 2016.

	<b>Rectification of Failure to Adopt the National Renewable Energy Action Plan</b>
<b>I N D I S P U T E</b>	Following the former Yugoslav Republic of Macedonia's submission of its National Renewable Energy Action Plan to the Secretariat, the breach identified in Case ECS-5/14 has been rectified and the case was closed in January 2016. The submission of the plan followed a decision adopted by the Ministerial Council on 16 October 2015 establishing that this Contracting Party failed to fulfil its obligations under Article 20 of the Treaty read in conjunction with Article 4(1) and Article 4(2) of Directive 2009/28/EC.



# Former Yugoslav Republic of Macedonia

## 6.6 Energy Efficiency

Energy Efficiency Action Plan (EEAP)*					
Period covered by EEAP		2010 – 2018			
Overall energy savings target - Directive 2006/32/EC (ktoe / % / year)		149 / 9,1 / 2018			
EEAP status		Draft 3 <sup>rd</sup> EEAP submitted in July 2016, adoption is pending			
Achieved energy savings (ktoe / % / year)		79,4 / 4,9 / 2015 (reported in draft 3 <sup>rd</sup> EEAP)			
Key institution(s) in charge		Ministry of Economy; Energy Agency			
Main data and energy efficiency indicators**		2011	2012	2013	2014 ***
<b>Total primary energy supply (TPES)</b>	ktoe	3.122	2.963	2.797	2.634
<b>Energy intensity (TPES/GDP)</b>	toe / 1.000 USD	0,43	0,41	0,37	0,34
<b>TPES/Population</b>	toe/capita	1,49	1,40	1,33	1,27
<b>Total final energy consumption (TFEC)</b>	ktoe	1.947	1.872	1.809	1.786
Share of TFEC by sector	Residential	28%	28%	25%	26%
	Services	11%	13%	12%	11%
	Industry	33%	31%	32%	29%
	Transport	24%	24%	27%	30%
	Others	1%	1%	1%	1%
	Non-energy use	3%	3%	3%	3%

\* Source: 2<sup>nd</sup> NEEAP of former Yugoslav Republic of Macedonia

\*\* Source: *International Energy Agency* (May 2016)

\*\*\* Indicators calculated by the Energy Community Secretariat based on *EUROSTAT* energy balances for 2014

### a. Sector Overview

There is a clear indication that final energy consumption was on a downward trend in the period 2011 - 2014 in former Yugoslav Republic of Macedonia, while the gross domestic product resumed growth in 2014. The positive trend is reflected in decreased energy intensity and the decoupling of economic growth from energy demand growth.

Key institutions responsible for the promotion of energy efficiency are the Ministry of Economy and the Energy Agency. The Energy Law provides a legal basis for the establishment of financial support mechanisms, including an energy efficiency fund. However, the fund has not been established to date.

The Energy Law includes an extensive chapter on energy efficiency and establishes a good legal basis for the development of secondary legislation and implementation of Directives 2006/32/EC, 2010/30/EU and 2010/31/EU.

During the reporting period, training and certification of energy auditors were conducted by the Ministry of Economy in line with the buildings directive. A register of licensed energy auditors is now publicly available on the website of the ministry. The Energy Agency is monitoring implementation and reports on the energy savings achieved as part of the 3<sup>rd</sup> EEAP. The draft 3<sup>rd</sup> EEAP was submitted to the Secretariat in July 2016. The web-based Monitoring and Verification Platform (MVP) is

now used for EEAP monitoring. The Secretariat assisted the national working group in the development of secondary legislation and software for the calculation of minimum energy performance of buildings.

### b. State of Compliance

Former Yugoslav Republic of Macedonia achieved a certain level of compliance with the energy efficiency *acquis* with the adoption of the Energy Law. However, despite the significant work invested in drafting of secondary legislation, there was little genuine progress in terms of improving compliance in the reporting period.

#### 1. Energy Services Directive 2006/32/EC

Directive 2006/32/EC was transposed by the adoption of the Energy Law and secondary legislation (on energy audits, monitoring and management, etc.). In accordance with the Energy Law, the public sector is obliged to implement measures aimed at energy efficiency improvements in their buildings.

The draft 3<sup>rd</sup> EEAP was finalized and submitted to the Secretariat but is still not adopted by the government. By not submitting the approved EEAP to the Secretariat, former Yugoslav Republic of Macedonia fails to comply with this requirement of Directive 2006/32/EC.



## 2. Energy Labelling Directive 2010/30/EU

Directive 2010/30/EU and the delegated acts were transposed with the adoption of the Rulebook on Labelling of Energy-Related Products and its amendments of November 2012.

The Ministry of Economy drafted a second rulebook in February 2016 in order to implement all new labelling delegated regulations adopted by the Ministerial Council in 2014. Its adoption is still pending.

## 3. Energy Performance of Buildings Directive 2010/31/EU

Key provisions of Directive 2010/31/EU were incorporated in the Energy Law and the Rulebook on Energy Performance of Buildings. However, the amendments to the Energy Law of March 2015 resulted in non-compliance with the following Articles of Directive 2010/31/EU: Article 11 (energy performance certificates), Article 12 (issue of energy performance certificates), and Article 13 (display of energy performance certificates). The Secretariat will initiate infringement action.

Moreover, the implementation of the directive's provisions on existing buildings was postponed until former Yugoslav Republic of Macedonia accedes to the European Union. This constitutes a clear breach of its obligation to implement Directive 2010/30/EU. The country also failed to adopt an updated regulation on minimum energy performance requirements of

buildings, national calculation methodology, energy performance certification of buildings and inspection of heating and air-conditioning systems, developed with Regional Energy Efficiency Programme (REEP) assistance.

## c. Conclusions and Priorities

Former Yugoslav Republic of Macedonia suffers from a lack of political will to implement the energy efficiency *acquis*. This is reflected in the absence of progress in the reporting period, despite the significant work invested in drafting of legislation by the relevant institutions with the support of donors and the Secretariat.

The first priority should be the adoption of the 3<sup>rd</sup> EEAP and full implementation of the requirements of Directive 2010/31/EU on Energy Performance of Buildings and adoption of the already drafted secondary legislation.

Former Yugoslav Republic of Macedonia should show political support for the implementation of measures planned under the 2<sup>nd</sup> and 3<sup>rd</sup> EEAPs via the establishment of an energy efficiency fund and an ESCO enabling market and strengthening the human capacities in the Ministry of Economy (energy efficiency department) and the Energy Agency.

In addition, the country should transpose the remaining labelling delegated regulations.







## Former Yugoslav Republic of Macedonia

### 6.7 Environment

#### a. Sector Overview

##### 1. Environmental Impact Assessment Directive

Under the country's Environmental Law, one request for environmental impact assessment related to the energy sector was submitted to the authorities of former Yugoslav Republic of Macedonia during this reporting period for ten new small wind farms with a total capacity of 30 MW. Furthermore, the Ministry of Environment and Physical Planning invited interested companies to express their interest for the design, construction and concession of two hydropower plants (HPPs) Cebren and Galiste for which the environmental impact assessment was carried out in the course of 2015.

##### 2. Sulphur in Fuels Directive

Former Yugoslav Republic of Macedonia has one refinery, operated by OKTA and located in the vicinity of Skopje. The refinery currently does not produce any heavy fuel oil and gas oil.

##### 3. Large Combustion Plants Directive

Former Yugoslav Republic of Macedonia has nine plants falling under the scope of the Large Combustion Plants Directive with a total of twelve units and a total rated thermal input of 4,368 MW. Four units are fired by lignite, three by natural gas, three by fuel oil while two are using multiple fuels.

#### b. State of Compliance

Former Yugoslav Republic of Macedonia has reached a high level of transposition of the Energy Community environmental *acquis*, with certain amendments related to large combustion plants still to be adopted.

##### 1. Environmental Impact Assessment Directive

The Environmental Impact Assessment Directive was transposed into national law by the Environmental Law as amended in 2010 and 2011 as well as a number of by-laws which follow closely the structure and content of the directive. With this legal framework in place, former Yugoslav Republic of Macedonia transposed the requirements of the Environmental Impact Assessment Directive into national law.

##### 2. Sulphur in Fuels Directive

Former Yugoslav Republic of Macedonia adopted a Law on Ambient Air Quality and Rulebooks on the Quality of Liquid

Fuels, on Maximum Permissible Concentration and Quantities of Other Harmful Matters That May Be Released into the Air by Individual Pollution Sources, and on Ambient Air Quality. The maximum thresholds for the sulphur content of heavy fuel oil and gas oil are compliant with those of the Sulphur in Fuels Directive.



#### Rectification of Non-compliance with the Sulphur in Fuels Directive

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The Secretariat submitted a Reasoned Opinion in Case ECS-3/13 against former Yugoslav Republic of Macedonia on 21 December 2015. In April 2016, the national authorities informed the Secretariat that the Ministry of Economy prepared a draft annual plan for monitoring of the quality of heavy fuel oil and gas oil in order to ensure effective monitoring of their sulphur content and establish the sampling methods for their analysis. The plan was adopted on 15 August 2016. With that, former Yugoslav Republic of Macedonia has addressed the breach of the Sulphur in Fuels Directive and consequently the Secretariat closed the case.

##### 3. Large Combustion Plants Directive

The provisions of the Large Combustion Plants Directive were transposed by the Rulebook on the Limit Values for the Permissible Levels of Emissions and Types of Pollutants in the Exhaust Gases and Vapours Emitted into the Air from Stationary Sources. The emission limit values for new and existing plants are aligned with those of the directive. The rulebook also includes the common stack approach. Since February 2016, amendments to the rulebook are being prepared to transpose the Industrial Emissions Directive which will be part of an IPA project. A Decree for Determining the Combustion Facilities That Have to Take Measures to Protect Ambient Air Pollution Quality requires operators of large combustion plants to prepare and implement a five-year plan (to be reviewed annually) to reduce the plants' emissions.

In December 2015, former Yugoslav Republic of Macedonia submitted a National Emission Reduction Plan to the Secretariat, covering all large combustion plants in the country. The analysis of the plan by the Secretariat is currently underway. No requests for an opt-out were submitted to the competent authorities by the operators of combustion plants.

### c. Conclusions and Priorities

Former Yugoslav Republic of Macedonia submitted its National Emission Reduction Plan to the Secretariat, indicated as a priority in last year's Implementation Report. Furthermore, the annual monitoring plan of liquid fuels was adopted, which was also flagged as a priority. Amendments to the rulebook related to emissions into air, however, have not yet been adopted.

Efforts should be focused on the practical implementation of the Environmental Impact Assessment Directive and on capacity

building for the authorities responsible for their implementation.

Former Yugoslav Republic of Macedonia must make sure that the provisions of the Sulphur in Fuels Directive on sampling and analysis are complied with in practice.

The country should also proceed with the adoption of the amendments to the rulebook related to emissions into the air to transpose the relevant requirements of the Large Combustion Plants and Industrial Emissions Directives.



## Former Yugoslav Republic of Macedonia

### 6.8 Competition

#### a. Sector Overview

The authority entrusted with the enforcement of competition and State aid law is the Commission for Protection of Competition (CPC).

In the reporting period, the CPC enacted five guidelines of which three relate to merger control and two to competition law. There have been no decisions by the CPC in the area of competition and State aid law, apart from the approval of the acquisition of *Geoplin doo Ljubljana* by *Petrol Slovenska energetska druzba dd*.

#### b. State of Compliance

##### 1. Competition Law

The Law on Protection of Competition adopted in 2010, as amended, and secondary legislation transpose the competition *acquis* into domestic legislation. The CPC enacted guidelines on vertical restraints and guidelines on the application of Article 7 of the Law on Protection of Competition to horizontal cooperation agreements. However, the CPC did not conduct any enforcement activities during the reporting period.

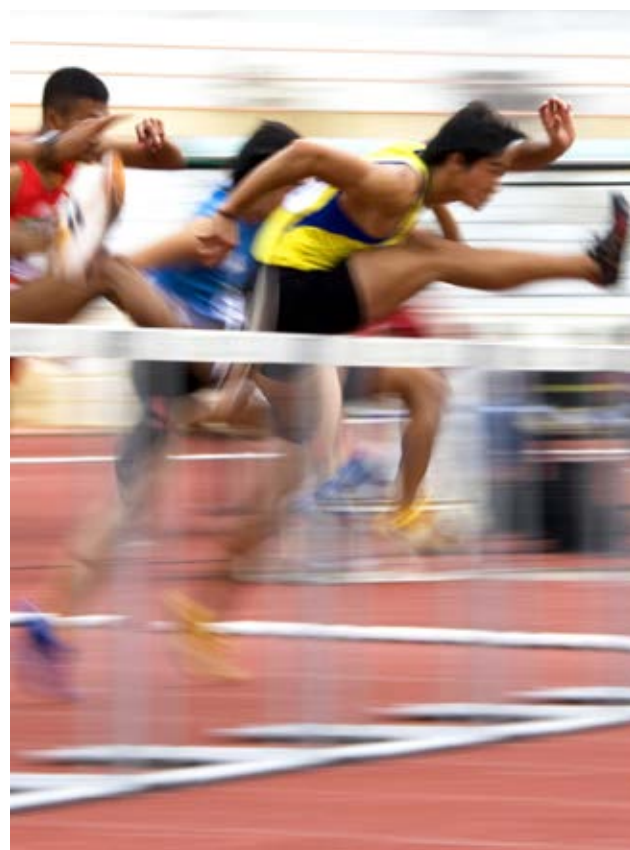
##### 2. State Aid Law

The Law on State Aid Control, adopted in 2010, transposes the State aid *acquis* into national legislation. No decision on State aid in the energy sectors has been adopted by the CPC since 2013.

#### c. Conclusions and Priorities

The CPC started enforcing competition law by concluding a cartel investigation in the electricity sector. Prior to this report-

ing period, it had fined five companies for participating in a concerted practice regarding tendering procedures. However, it did not start enforcing competition and State aid law more rigorously, as recommended in last year's Implementation Report. Enforcement should be actively continued by investigating cases concerning the structures of the energy markets. The guidelines adopted could be used as guidance for enforcement priorities. As a general priority, the CPC should become more active in the enforcement of State aid law.





# Former Yugoslav Republic of Macedonia

## 6.9 Statistics

### a. Sector Overview

According to the Law on State Statistics of 1997, amended in 2007 and 2011, the State Statistical Office (SSO) is responsible for the compilation of official statistics and coordination of all statistical activities in the country.

The Energy Law allows the ministry in charge of energy and the national regulatory authority to collect certain energy data, such as data for energy balances. The ministry adopted a Rulebook for Energy Balance and Energy Statistics in October 2011.

The government regularly adopts a programme for statistical surveys, the most recent one for the period 2013 - 2017 and annual work plans for SSO, which entrust SSO to collect, compile and disseminate energy statistics, including energy price data, in accordance with the definitions and methodology set by *EUROSTAT*.

To improve the quality and completeness of data, SSO conducted in 2015 a survey of consumption of energy in households with the support of the Secretariat.

### b. State of Compliance

Former Yugoslav Republic of Macedonia has transposed and implemented key requirements of the energy statistics *acquis*, whereas only timeliness and quality of collections has to be improved further to achieve full compliance.

#### 1. Annual Energy Statistics

Annual data are compiled and disseminated in questionnaires for coal, oil, natural gas, electricity, heat and renewable energy. The breakdown of final consumption is presented in accordance with the national classification of activities. SSO has already established a quality system for producing quality reporting as required under the Energy Community Treaty.

Data are collected through monthly and annual surveys from reporting units with full coverage of businesses dealing with production, transmission and distribution of energy. Sampling of industrial energy consumers, quarterly and annual surveys on forestry and annual surveys on agriculture and external trade statistics are also conducted. The commercial and public sectors are not covered. Energy consumption in other sectors and in households, apart from electricity and heat, is estimated. On the basis of all collected data, SSO develops energy balances for all energy commodities used in the country. Annual questionnaires are communicated to *IEA* and *EUROSTAT* timely and in compliance with the *acquis*.

A survey of consumption in households conducted in 2015 provided information to improve data quality, not only in terms of consumption structure in accordance with Regulation (EU) 431/2014, but also completeness and consistency of data on renewable energy.

Results of the survey have not been integrated in the annual datasets yet. SSO plans to integrate the results of the survey in the annual statistics reported for the year 2015.

#### 2. Monthly Energy Statistics

SSO releases monthly energy statistics on electricity, natural gas, oil and petroleum products and solid fuels. From 2014, SSO collects and submits to *EUROSTAT* monthly energy statistics which are published by *EUROSTAT*. This is in accordance with Annex C of Regulation (EC) 1099/2008 on Energy Statistics.

In 2015, SSO established Joint Organisations Data Initiative (JODI) data communication with *United Nations Statistical Division (UNSD)*, ensuring the visibility of its oil and gas statistics in the global JODI database.

#### 3. Price Statistics

Prices of electricity charged to industrial end-users and households and prices of natural gas charged to industrial end-users are compiled and submitted to *EUROSTAT*. From 2014, SSO published the average electricity and gas prices for industry and households per consumption band on its webpage.

SSO has begun reporting on disaggregated electricity prices for industrial end-users as well as disaggregated electricity prices for households, thus achieving compliance with Directive 2008/92/EC.

### c. Conclusions and Priorities

SSO successfully completed the survey of energy consumption in households during this reporting period. However, the results of the survey on consumption in households have to be integrated in the official statistics without delay in order to provide a reliable basis for energy planning and energy policy measures.

The system of continuous data collection should be permanently improved and adjusted to reflect the changes in the energy sector and to the reporting requirements of competitive markets. Financial resources and sufficient qualified staff are key prerequisites for SSO to fulfil its tasks.







Moldova



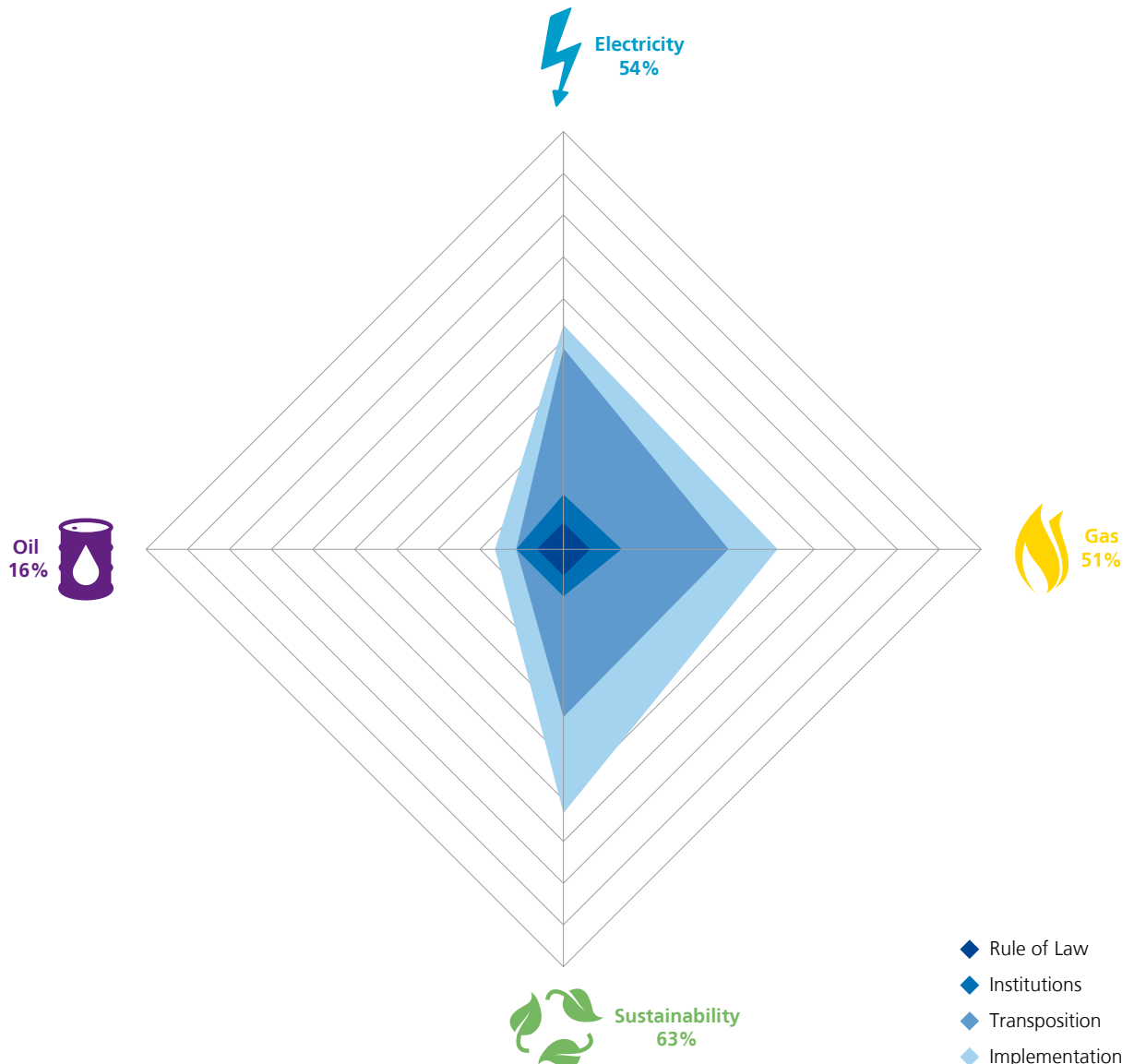
## 07 | Moldova



This reporting period has been marked by two key successes in Moldova – the adoption of the Third Energy Package and closure of the infringement case for failure to adopt electricity distribution tariffs. Nevertheless, the repeated violations of

independence of the energy regulatory authority in Moldova remain of serious concern to the Secretariat. The country must remedy the existing shortcomings in the regulator's institutional independence, thus shielding it from political influence.

#### Implementation Performance of Moldova



Source: Compiled by the Energy Community Secretariat



# Moldova

## 7.1 Electricity

Description of data [unit]		2014	2015
Electricity production [GWh]		788	793
Net imports [GWh]		3.342	3.360
Net exports [GWh]		0	0
Gross electricity consumption [GWh]		4.130	4.153
Losses in transmission [%]		2,7%	2,7%
Losses in distribution [%]		9,7%	8,5%
Consumption of energy sector [GWh]		3.646	3.717
Final consumption of electricity [GWh]		1.990	2.054
Consumption structure [GWh]	Industrial, transport, services and other non-residential sectors	1.656	1.663
	Households (residential customers)	401	401
Net maximum electrical capacity of power plants [MW]		0	0
of which:	gas-fired	380	380
	hydro, total	16	16
Horizontal transmission network [km]	Substation capacity [MVA]	4.749	4.725
	Number of interconnectors	22	22
Electricity customers	Total number of customers	1.330.534	1.342.704
	out of which: non-households	72.365	74.623
	Eligible customers under national legislation	4	1.342.704
	Active eligible customers	1	1
Internal market	Electricity supplied to active eligible customers [MWh]	85.220	93.086
	Share of final consumption [%]	2,34%	2,50%

Source: ANRE

### a. Sector Overview

The country's electricity sector is characterized by its dependence on limited sources as well as by the opaqueness of the purchasing procedures and structures. Domestic supply sources consist of two combined heat and power (CHP) plants located in Chisinau and operated by *Termoelectrica*, CHP Balti and an additional eight small CHPs, together covering up to 20% of domestic consumption. The *Cuciurgani-Moldavskaya GRES* gas-fired power plant, owned by the Russian company *Inter-RAO* and located in Transnistria, covers the remainder of the consumption.

Two Ukrainian companies, *DTEK* and *Donbasenergo*, have regained the possibility to access the Moldovan market following the lifting of restrictions on electricity exports imposed by Ukraine in November 2014 due to the unavailability of coal-fired power plants located in Eastern Ukraine. However, the tender in March 2016 for the annual supply of wholesale electricity to the country's two electricity suppliers (*Furnizarea Energiei Electrice Nord* and *Gas Natural Fenosa Furnizare Energie*) was won by *Cuciurgani-Moldavskaya GRES* and the intermediaries selling that electricity. Its price is down by 27% compared with the previous contractual period. As a result, the regulator decreased the regulated supply tariffs for end-customers of the two supply companies by 9% on average in April 2016.

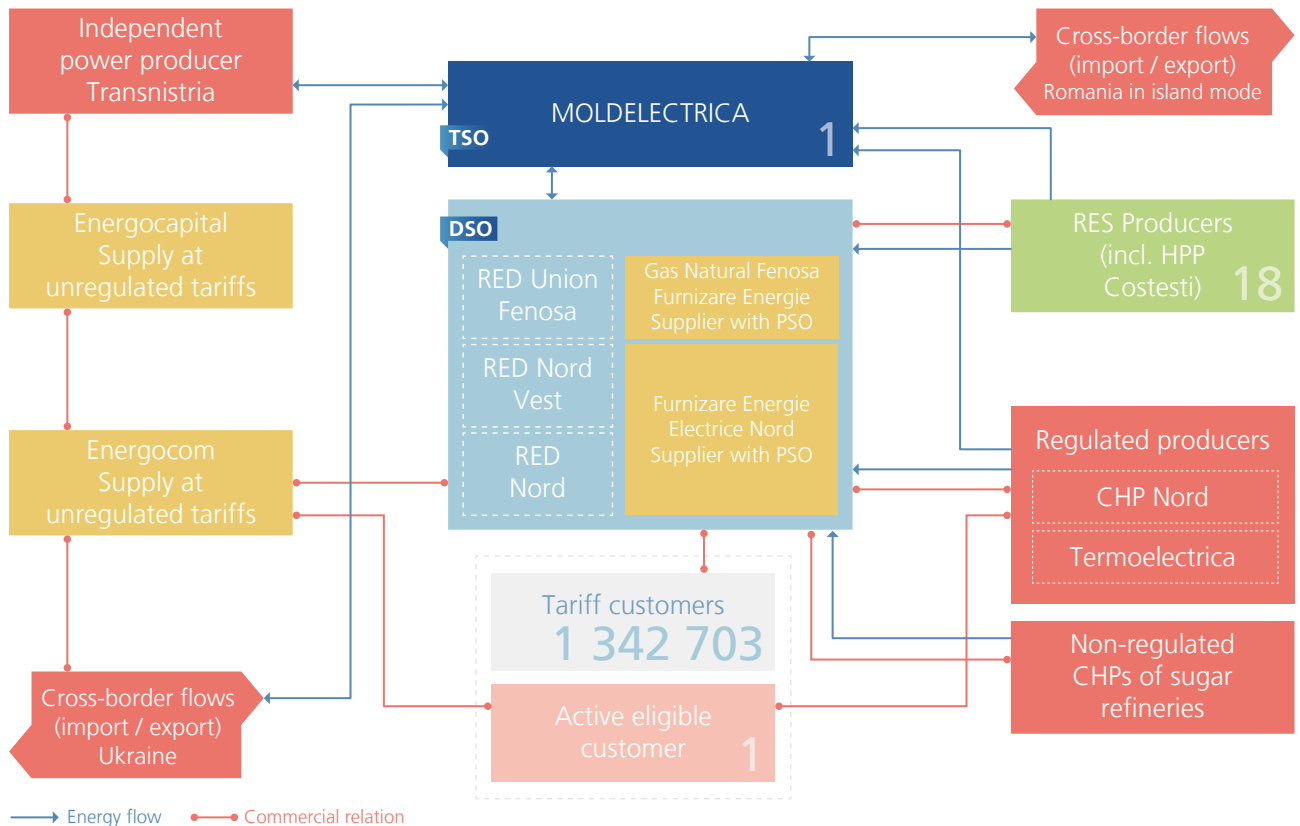
In June 2016, an agreement between *Gas Natural Fenosa*, the electricity supplier and distribution operator, and the Government of Moldova was mediated by the Energy Community Secretariat's Dispute Resolution Center. The agreement will resolve an international arbitration in a dispute over losses in revenue as a result of the gap between the regulated retail prices and tariffs and the increased costs for the procurement of electricity due to drastic currency depreciation in 2015. The settlement includes the recovery of the financial deviations over a period of four years through adaptations of the regulated prices and tariffs.

In May 2016, the Parliament of Moldova adopted a new Electricity Law to transpose the Third Energy Package.

### b. State of Compliance

With the adoption of the Electricity Law in May 2016, Moldova transposed the Third Energy Package requirements, except provisions for the independence of the energy regulator and its enhanced powers. More than thirty secondary legislative acts have to be adopted in the upcoming period to ensure Moldova implements the electricity *acquis*.

## Moldova's Electricity Market Scheme



Source: Compiled by the Energy Community Secretariat  
Refer to the market schemes legends on page 191 for a more detailed description.

### 1. Unbundling

The Electricity Law transposes the ownership unbundling model for the transmission system operator and the conditions for its certification in compliance with provisions of Directive 2009/72/EC. However, the state-owned transmission system operator is currently only legally unbundled from generation and supply activities.

The three electricity distribution companies are also legally separated from supply activities. Rebranding and appointment of the compliance officers has not been completed for both incumbent supply companies. Requirements for accounting unbundling for regulated and non-regulated supply activities and per category of customers are transposed by the law. Implementation of the requirements for unbundling of transmission and distribution system operators is pending.


### 2. Third Party Access

The right to third party access has been transposed by the Electricity Law. In July 2015, ANRE adopted the current transmission access tariff.

Tariffs for access to the distribution network at different voltage levels unbundled from the end-user regulated electricity tariffs

were adopted for all three distribution companies in July 2015 and revised in March 2016.

Rules for access to interconnection capacities have been drafted but their adoption is pending. Currently, no Ukrainian company is exporting to Moldova, although the Moldavian electricity system is balanced with the Ukrainian system. Exclusive export rights and reservation of interconnection capacity for Ukrainian companies to trade with Moldova have been lifted. This is expected to boost competition in the supply market in Moldova as potential traders and suppliers from Ukraine have non-discriminatory access to the interconnections between

	<b>Rectification of Failure to Adopt Electricity Distribution Tariffs</b>
<b>I N D I S P U T E</b>	Following the entry into force of the distribution tariffs that apply to all distribution companies and their system users connected to the same voltage level and all eligible customers adopted by the national regulatory authority in November 2015, the Secretariat closed Case ECS-5/15 against Moldova for breach of Directive 2009/72/EC concerning common rules for the internal market in electricity.

Ukraine and Moldova. The connection capacities between the Moldovan and the Romanian systems are limited due to the operation in passive-island mode of the two systems, which are not synchronously connected. They are allocated jointly based on market procedures and performed by the Romanian system operator whenever a trading opportunity is identified.

### 3. Eligibility

The eligibility requirements have been transposed in the Electricity Law correctly. All customers are eligible to choose their supplier. The Electricity Law adopted in 2016 transposed the concept of closed distribution systems correctly as defined in Directive 2009/72/EC, thus removing the non-compliant “sub-customer” category which existed under the previous Electricity Law.

### 4. Market Opening and Price Regulation

Despite the provisions in the Electricity Law granting eligibility to all customers, the competition in the retail electricity market in Moldova suffers from limited supplies in the wholesale and, by consequence, the retail market.

For a period of ten years, electricity suppliers at regulated tariffs are designated to act as universal suppliers for end-customers and suppliers of last resort. Only one eligible customer, a cement factory, has switched supplier and is supplied at unregulated prices by the state-owned *Energocom*. For all other customers supplied by the two incumbent supply companies, ANRE regulates the end-user electricity price.

### 5. Balancing

Moldova is balancing its system mostly through imports from Ukraine or from *Cuciurgani-Moldavskaya GRES*. The Electricity Law tasks the transmission system operator *Moldelectrica* with procuring balancing energy and system services to keep the electricity system in balance. The rules on balancing included in the Market Rules have to be revised to comply with the Electricity Law's provisions.

### 6. Customer Protection and Protection of Vulnerable Customers

The directive's provisions on customer protection have been transposed by the new Electricity Law.

Vulnerable customers are also defined in the Electricity Law. They are entitled to social protection measures. Appropriate support from the state budget needs to be secured to protect vulnerable customers through social programmes and thus removing the subsidies from the electricity tariffs.

## c. Conclusions and Priorities

The adoption of the Electricity Law in compliance with the Third Energy Package was the major achievement in this reporting period.

The regulator adopted the long-awaited access tariffs to distribution networks unbundled from the regulated supply tariffs. The settlement with *Gas Natural Fenosa* over the loss of revenues from regulated supply tariffs due to currency devaluation has averted the consequences of an international arbitration. Moreover, ANRE ensured that cost-reflectivity is respected so that future investments in energy infrastructure become financially viable.

Following the adoption of the Electricity Law in May 2016, Moldova must finalize the process of adopting new implementing legislation or revise the existing regulations to align with the new legal framework. This includes the certification of the transmission system operator and updating the rules for the electricity market, including balancing and imbalance settlement rules.

The creation of a common electricity market between Ukraine and Moldova would enable wholesale suppliers in Moldova to be given non-discriminatory access to Ukraine's more competitive supply market as well as market-based access to capacities on interconnections for cross-border trade. Rules for capacity allocation of cross-border capacities and transparency requirements have to be adopted and implemented by *Moldelectrica* and *Ukrenergo* in accordance with Regulation (EC) 714/2009. The Ministry of Economy, as the sole shareholder of *Moldelectrica*, needs to strengthen the institutional capacity for the implementation of electricity market rules as amended and ensure the company lives up to its designated role in a liberalised electricity market.

The decision on the most suitable electricity interconnections with Romania still needs to be taken. The future projects aim at increasing security of electricity supply in Moldova, reducing the dependence on very few sources of electricity supplies and providing increased competition to push the electricity prices even lower for the benefit of the customers in Moldova.



### Rectification of Failure to Transpose the Third Energy Package

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Following Moldova's adoption of national legislation transposing the Third Energy Package in June 2016 and its notification to the Secretariat, it formally rectified the breach identified in case ECS-8/16. Therefore, the Secretariat decided to withdraw the Reasoned Request submitted to the Ministerial Council for decision on 13 May 2016.



# Moldova

## 7.2 Gas

Description of data [unit]		2014	2015
Natural Gas Production [Bcm]		0,000093	0,000105
Import [Bcm]		1,053	1,009
Stock changes [Bcm]		0	0
Total supply [Bcm]		1,053	1,009
Consumption in Energy Sector [Bcm]		0,491	0,481
	out of which: Energy transformation [Bcm]	0,397	0,398
Available for final consumption of natural gas [Bcm]		0,561	0,496
Interconnectors' capacity [Bcm]	Total	44,6	45,0
	out of which bidirectional	0	0
Storage working capacity [Bcm]		0	0
Length of transmission network [km]		1.560	1.570
Length of distribution network [km]		22.699	22.897
Natural gas customers	Total	682.909	695.861
	out of which: Non-households	12.184	12.806
	Eligible customers under national legislation	682.909	695.861
	Active eligible customers	0	0
	Households	670.725	683.055
Internal market	Gas supplied to active eligible customers [Bcm]	0	0
	Share of total consumption [%]	0	0
Final consumption of natural gas per sector [Bcm]		0,561	0,496
Consumption structure [Bcm]	Industry and commercial customers	0,277	0,218
	Households	0,284	0,278

Source: ANRE

### a. Sector Overview

Moldova's gas supplies come primarily from the Russian Federation, which covers some 99% of the demand. Its domestic gas production covers less than 1% of demand. Moldova does not have underground storage or LNG facilities.

Moldova is a transit country of Russian gas supply to Turkey and the Balkan countries. Its domestic consumption of natural gas (3 Bcm/y) accounts for cca 60% of primary energy consumption and gas is used for 96% of production of electricity and heat. Two thirds of the national gas consumption is used for electricity generation on the left bank of the Dniester and one fifth takes place in the capital Chisinau.

Recently, a new company *Vestmoldtransgaz* was established to operate the Moldovan part of the interconnector Iasi–Ungheni with Romania to provide Moldova with another supply source. Only 1 mcm out of 1,5 Bcm capacity has been contracted for 2015. Negotiations with international donors about the extension of the pipeline to Chisinau, Moldova's main consumption centre, are ongoing.

Moldova's gas market is entirely monopolized. All activities,

namely import, supply, cross-border and national transmission, distribution and retail, are performed by one vertically integrated company, *Moldovagaz*. *Moldovagaz's* shares are divided between the state (36,6%), authorities in Transnistria (13,4%) and *Gazprom* (50%).

*Moldovagaz* acts as an importer and as a wholesale supplier. Its daughter companies, *Moldovatransgaz* and *Tiraspoltransgaz*, operate the transmission system, whereas 12 subsidiaries of *Moldovagaz* operate the distribution network.

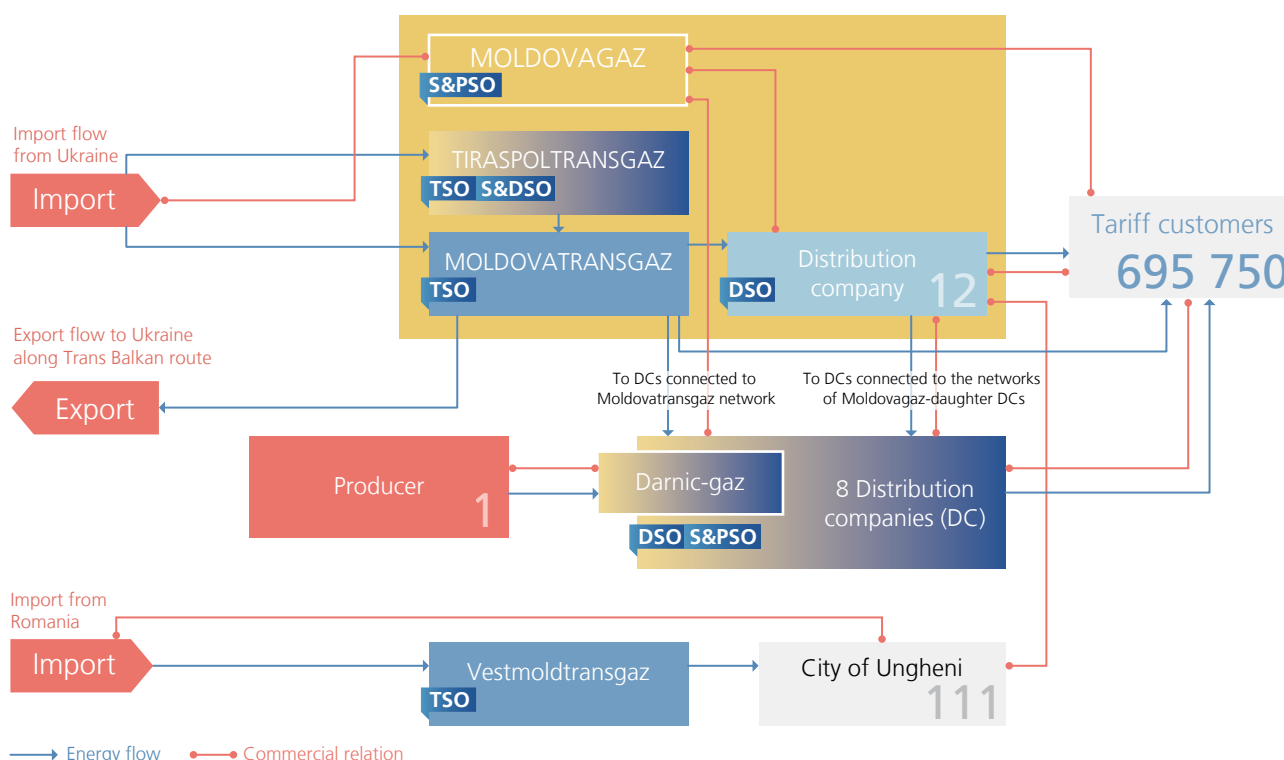
In May 2016, the Parliament of Moldova adopted a new Law on Natural Gas to transpose the Third Energy Package.

### b. State of Compliance

With the adoption of the Law on Natural Gas in May 2016, Moldova transposed Third Energy Package requirements, except provisions on the independence of the energy regulator and its enhanced powers. Some transitional provisions of the Law on Natural Gas may be detrimental to the correct implementation of the *acquis* in the future. In addition, numerous secondary legislative acts have to be adopted in the upcoming period to ensure Moldova implements the gas *acquis* in real terms.



## Moldova's Gas Market Scheme



Source: ANRE, compiled by the Energy Community Secretariat  
Refer to the market schemes legends on page 191 for a more detailed description.

### 1. Unbundling

The Law on Natural Gas sets general principles compliant with unbundling requirements for transmission system operators and certification procedures, as defined by Directive 2009/73/EC and Regulation (EC) 715/2009. The law introduces all three possible unbundling models and transposes a derogation granted by the Ministerial Council for unbundling until 1 January 2020.

The Law on Natural Gas transposed unbundling provisions for distribution operators including the exemption for those serving less than 100.000 customers. The deadline for the unbundling of distribution system operators is two months since the law's adoption.

At the moment, the unbundling requirements from the Second Energy Package have not been implemented for the transmission system operators, *Moldovatransgaz* and *Tiraspoltransgaz*. Distribution system operators have been legally but not functionally unbundled.

### 2. Third Party Access

The Law on Natural Gas transposes the principle of third party access to transmission, distribution and storage networks from Directive 2009/73/EC. Access is granted based on the rules and tariffs approved by the regulatory authority ANRE. Third party access services, capacity allocation and congestion manage-

ment procedures as required by Regulation (EC) 715/2009 for the transmission system are in place. The conditions for refusal of access are aligned with the gas *acquis*.

However, the implementation of an entry/exit transmission tariff was postponed until "*identifying relevant market conditions*" without any additional explanation, which is non-compliant with the *acquis*.

In addition, the provision of the law stating that the transmission and distribution system operators shall give priority to natural gas produced on the territory of the Republic of Moldova contravenes the general principle of non-discrimination, regardless of the scarce gas production in Moldova. The rules on exemptions of interconnectors from third party access suffer from an unclear procedure in cases when ANRE cannot reach a joint decision with a neighbouring regulator.

### 3. Eligibility

Under the Law on Natural Gas, all customers are eligible and allowed to freely choose and switch their gas supplier.

### 4. Market Opening and Price Regulation

The Law on Natural Gas introduces an open natural gas market. Household customers and small enterprises are entitled to regulated gas supplies by the supplier under public service

obligations. The law envisages a concept of last resort supplier for all final customers.

In contrast to these general principles, the law effectively and unduly allows that all final customers can benefit from supplies under regulated prices without restrictions in time and clearly defined and transparent rules, thus making the law non-compliant in that respect.

#### 5. Balancing

The new Law on Natural Gas requires from a transmission system operator the adoption of balancing rules designed in a fair, non-discriminatory and transparent manner and applied in line with objective criteria, but not necessarily market-based. To date, balancing rules and imbalance charges are not implemented in Moldova.

#### 6. Security of Supply

The new Law on Natural Gas transposes the general provisions of Directive 2004/67/EC and Directive 2009/73/EC on security of gas supply, including national monitoring competences, reporting obligations, adequate minimum security of supply standards and safeguard measures. Furthermore, it requires that the Ministry of Economy adopts an emergency plan with an accompanying action plan securing reliable and efficient gas supplies.

#### 7. Customer Protection and Protection of Vulnerable Customers

The new Law on Natural Gas transposes the requirements of Directive 2009/73/EC with regard to customer protection. It


introduces the concept of a vulnerable customer and refers to the relevant social security regulations for the definition.

### c. Conclusions and Priorities

Moldova completed last year's priorities by adopting the Law on Natural Gas.

However, Moldova achieved little progress in the restructuring of *Moldovagaz* in line with the Second Energy Package and moving to the implementation of the Third Energy Package, taking into account the given deadline derogation.

Moldova will have to rectify the few non-compliances in the Law on Natural Gas, related to *inter alia* correct implementation of the transmission tariff methodology and genuine market opening. In addition, it will have to adopt numerous secondary acts stemming from the new law.

	<b>Rectification of Failure to Transpose the Third Energy Package</b>
I N D I S P U T E	Following Moldova's adoption of national legislation transposing the Third Energy Package in June 2016 and its notification to the Secretariat, the country formally rectified the breach identified in Case ECS-8/16. Therefore, the Secretariat decided to withdraw the Reasoned Request submitted to the Ministerial Council for decision on 13 May 2016.





## Moldova

### 7.3 Regulatory Authority

#### a. Compliance with Independence Criteria and Competences

The National Agency for Energy Regulation (ANRE) is the single authority for regulating the energy sector of Moldova equipped with country-wide regulatory competences in the gas and electricity sector, as required by the Third Energy Package. ANRE is by law set up as an institution legally distinct and functionally independent from any other public entity. Establishment of ANRE is solely based on legislation, meaning that it cannot be liquidated by act of another public institution. ANRE is headed by five board members out of whom the parliament designates one as director general. That position is currently vacant. The term of board members is limited to six years for the director general, four years for two board members and two years for the other two board members.

Moldova has transposed the Third Energy Package in the gas and electricity sector but not yet the Law on Energy that governs the institutional set up of ANRE. The gas and electricity laws grant ANRE all competences foreseen under the Third Energy Package with the exception of a limitation on regulatory penalties set at 1 - 5% of a licensee's annual turnover in a number of cases, mainly related to non-compliance with license conditions and data provisions but not market abuse; this limitation applies only for the first penalising step and can be extended by an additional 5% in case of continued non-compliance. ANRE's penalty rights in the case of market abuse or related failures are in all cases set at up to 10% of a licensee's annual turnover and thus in line with the Third Energy Package.

The independence criteria stipulated by Directive 2009/72/EC and Directive 2009/73/EC are only met to a certain extent, falling short in relation to the following elements:

- The overall limit for terms in office is set at a maximum of 12 years for all cases, which leads to a renewable term more than once for four board members.
- Appointment requirements for board members are only vaguely prescribed by law.
- A selection committee and/or involvement of neutral experts do not exist. Board members are appointed by the parliament upon proposal of a parliamentary commission. The parliament also designates the director general upon the proposal of the chairman of the parliament following the positive opinion of the parliamentary commission.
- Dismissal of a commissioner is by law limited to cases of conflict of interest or conviction for a criminal act. However, also

the vague and unspecified case of "*incompatibility*" is listed among the reasons for dismissal, which opens a possibility for misuse and political intervention and has already proven to be problematic in praxis by the parliament's suspension of the director general in 2013 and 2014 and an opaque decision by a court of appeal.

- The requirement for approval of ANRE's budget by the parliament is *per se* not problematic. However, a certain limit to financial independence is foreseen by putting an overall budget limit at the level of up to 0,15% of the annual cost of electricity, natural gas supplied to consumers, main petroleum products and liquefied gas imports.

ANRE is held accountable for its activities by being obliged to present its annual report to the parliament.

#### b. Performance

As in previous years, also in this reporting period ANRE has been subject to serious political interventions. The extraordinary auditing of ANRE by the court of auditors initiated in mid-2015 has been criticised by the Secretariat as an *ultra vires* activity interfering with ANRE's independence and exceeding the court of auditors' legal responsibilities. The dispute settlement case filed by ANRE with the parliament's juridical committee in this context has not been closed yet. One year after serious attempts to dismiss the board of directors following its decisions adopting cost-reflective tariffs, the Parliament and the Government of Moldova requested the Secretariat to conduct a regulatory audit to assess the independence of the regulator. It has been published in September 2016.

On the other hand, ANRE also regained some degree of practical independence. The recommendation of the supreme security council issued to the regulator in August 2015 to suspend its decisions of July 2015 on distribution tariffs and increased supply prices led to the dismissal of ANRE's board by the parliament in December 2015. However, following concerns raised by the Secretariat, the decision was ruled unconstitutional. In January 2016, the Secretariat closed its dispute settlement Case ECS-5/15 against Moldova after ANRE set the required distribution tariffs.

Despite these developments showing progress towards increased independence, ANRE should improve its profile in pro-actively designing the market. Overcoming the legal shortcomings by adopting the Energy Law must be seen as a first step in this direction. On the regional level, ANRE increased its role and influence in the Energy Community Regulatory Board (ECRB).

### c. Conclusions and Priorities

Existing independence constraints must be abolished by adjustment of the Energy Law to the institutional independence requirements of the Third Energy Package. Besides these formal

aspects, political interventions into the work of ANRE need to be stopped in order to develop stakeholders' trust in the agency's work and improve its performance as an active and independent expert body.



## Moldova

### 7.4 Oil

#### a. Sector Overview

Moldova is completely reliant on imports of petroleum products to meet domestic oil demand. Moldova imported and consumed petroleum products in the amount of 783 kt in 2015, an increase of 16,8% compared to 2014. In terms of storage of petroleum products, the total capacity is over 150.000 cm, encompassing state and industry storage but excluding the army. In addition, the Giurgiulesti terminal has eight tanks for petroleum product storage with capacity of 63.600 cm at its disposal.

#### b. State of Compliance

Moldova currently has no legislation on emergency oil stockholding. Until now the issue has not been given high priority. The industry has no legal obligation to hold oil stocks. The Commodity Reserves Law deals with oil stocks by requiring the Material Reserves Agency to keep oil stocked in the amount of 30 days of consumption in the previous year. Details of these stocks are treated as a state secret, and therefore the current level and composition is undisclosed. However, it is unlikely that the full 30 days are currently being covered due to funding difficulties. The Commodity Reserves Law includes procedures to release and report on such stocks which are, however, not in compliance with Directive 2009/119/EC.

#### c. Conclusions and Priorities

There has been no progress with regard to achieving the priorities identified in last year's Implementation Report. None of the suggested actions have been followed up.

The Secretariat believes that oil security and transposition of Directive 2009/119/EC should be given more attention in order for Moldova to implement the directive's obligations on time.

In the near future, Moldova will need to:

- Draft an action plan for building up emergency oil stocks to 90/61 days;
- Prioritize the adoption of the new draft Law on Compulsory Oil Stocks;
- Draft subsequent secondary legislation throughout 2016/2017; and
- Improve data collection.







# Moldova

## 7.5 Renewable Energy

	2014	2015
Total capacities of renewable energy (MW)	20,9	21,2
Hydropower, out of which:	16	16
- small hydropower (<10 MW)	0	0
Wind	1,1	1,1
Solar	1	1,3
Biogas	2,8	2,8

Source: ANRE

### a. Sector Overview

In 2012, Moldova committed to a binding target of 17% of energy from renewable sources in gross final energy consumption by 2020, compared with 11,9% in 2009. In 2014, according to the energy balance published by *EUROSTAT*, Moldova is on track towards reaching its 2020 target. The country reached a 14,9% share of energy from renewable sources compared with the second indicative trajectory of 13,4%.

The Law on Promotion of Energy from Renewable Sources was adopted in February 2016. It transposed the binding 17% target in 2020 and the 10% target of renewable energy in transport. However, its entry into force was delayed until 25 March 2017 to allow the competent authorities to adopt or propose for adoption the necessary secondary acts. Instead, the existing Law on Renewable Energy adopted in 2007 remains in force until March 2017.

### b. State of Compliance

The entry into force of the new law will significantly boost Moldova's compliance with the renewable energy *acquis*. The implementation of the policy measures for promotion of energy from renewable sources in electricity, heating and cooling and transport sector has to swiftly follow to ensure Moldova is on the trajectory to 2020. That said, Moldova fails to comply with its Energy Community Treaty obligations until the law's entry into force.

#### 1. National Renewable Energy Action Plan

Moldova adopted and submitted to the Secretariat the NREAP required under Directive 2009/28/EC. The second report on the progress in promotion of renewable energy 2014 - 2015 is expected to be submitted by the end of 2016.

#### 2. Support Schemes

Following the adoption of the Law on Promotion of Energy from Renewable Sources in 2016, Moldova is the second

Contracting Party that envisages the introduction of support schemes based on tendering to comply with the State aid guidelines. The implementation of the market-based allocation of the support remains to be achieved to ensure Moldova is on the trajectory to 2020.

#### 3. Cooperation Mechanisms

Possibilities for entering into cooperation mechanisms on renewable energy are transposed in the new law. Moldova could take advantage of cooperation projects on renewable energy should the trajectory to the binding targets in 2020 be exceeded.

#### 4. Administrative Procedures

Following the adoption of the new law, Moldova must urgently implement a more simplified, transparent and non-discriminatory framework taking into account particularities of individual renewable energy technologies. Currently, Moldova fails to comply with the requirements of Directive 2009/28/EC in this respect.

#### 5. Access to and Operation of the Grids

The 2016 Law on Promotion of Energy from Renewable Sources transposes correctly the requirements for non-discriminatory access to the grid, priority dispatch of electricity generated from renewable energy, guaranteed purchase for eligible producers (selected through auctioning) and minimisation of curtailment.

Methodologies for determining connection costs for new renewable energy producers have not yet been issued for the transmission or the distribution grids. The current practice of the network operator to provide information only on a case-by-case basis is not compliant. In this respect, Moldova fails to meet the requirements of Article 16 of Directive 2009/28/EC.

#### 6. Guarantees of Origin

There is still no electronic registry and no guarantee of origin



issued. The requirement to set up and maintain separate accurate, reliable and fraud-resistant registries for the issue, transfer and cancellation of guarantees of origin for all four network operators is burdensome. A single entity managing one system for the entire country would minimize the costs and the administrative burden on all three network operators but was not envisaged in the adopted law. Moldova is not compliant with Article 15 of Directive 2009/28/EC.

#### *7. Renewable Energy in Heating and Cooling*

The Law on Promotion of Energy from Renewable Sources transposed the requirement to include renewable energy technologies when planning, constructing and renovating buildings or industrial sites. The law also requires the introduction of support measures for heating and cooling from renewable sources.

The combined adoption of the Law on Heat and Promotion of Cogeneration, the Law on Energy Performance in Buildings, and the Law on Promotion of Energy from Renewable Sources enables Moldova to gradually catch up with its compliance obligations stemming from the Energy Community Treaty. Moldova has to ensure compliance with these requirements further in terms of implementation.

#### *8. Renewable Energy in Transport*

The new law tasks the Ministry of Environmental Protection to develop and the government to adopt a regulation on sustainability criteria to be submitted by the government for adoption by 25 March 2017. Until then, any consumption of biofuels cannot be counted towards the target due to the missing sys-

tem for verification of sustainability, as required by Directive 2009/28/EC. The role of a certification body has been assigned to the Energy Efficiency Agency once the relevant framework, including voluntary certification schemes, is in place.

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#### *c. Conclusions and Priorities*

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The adoption of the Law on Promotion of Energy from Renewable Sources in 2016 is a great step towards creating an enabling framework for renewable energy projects.

Following the adoption of the Law on Promotion of Energy from Renewable Sources in 2016, the implementation of the entire set of measures via the adoption of secondary legal acts has to follow.

The methodology for support schemes for renewable energy projects based on tendering remains to be developed and the administrative procedures including for access and connection to the networks need to be simplified during 2016. Later on, monitoring of the effectiveness of the measures by the Ministry of Economy will be crucial.

Except for the transposition of the requirement to adopt a regulation on the sustainability criteria for biofuels and bioliquids by 2017 and the appointment of the Energy Efficiency Agency as the certification body in the 2016 Law on Promotion of Energy from Renewable Sources, the regulatory framework introducing sustainability criteria is missing. The significant agricultural potential of the country should be tapped into to develop domestic biofuel production rather than relying on imports of biofuels to reach the 10% target in 2020.





# Moldova

## 7.6 Energy Efficiency

Energy Efficiency Action Plan (EEAP)*					
Period covered by EEAP		2013 - 2020			
Overall energy savings target - Directive 2006/32/EC (ktoe / % / year)		176,3 / 9,5 / 2020			
EEAP status		1 <sup>st</sup> EEAP adopted on 7 February 2013 draft 2 <sup>nd</sup> EEAP submitted on 27 June 2016			
Achieved energy savings (ktoe / % / year)		30 / 1,6 / 2016 (reported in draft 2nd EEAP)			
Key institution(s) in charge		Ministry of Economy; Energy Efficiency Agency; Ministry of Regional Development and Constructions			
Main data and energy efficiency indicators**		2011	2012	2013	2014 ***
<b>Total primary energy supply (TPES)</b>	ktoe	3.458	3.415	3.070	2.025
<b>Energy intensity (TPES/GDP)</b>	toe / 1.000 USD	0,92	0,92	0,76	0,48
<b>TPES/Population</b>	toe/capita	0,97	0,96	0,86	0,57
<b>Total final energy consumption (TFEC)</b>	ktoe	2.424	2.360	2.265	2.029
Share of TFEC by sector	Residential	40%	39%	41%	41%
	Services	10%	11%	11%	12%
	Industry	26%	27%	21%	11%
	Transport	21%	20%	22%	31%
	Others	3%	2%	2%	3%
	Non-energy use	1%	2%	2%	2%

\* Source: 1<sup>st</sup> EEAP of Moldova

\*\* Source: *International Energy Agency* (May 2016)

\*\*\* Indicators calculated by the Energy Community Secretariat based on *EUROSTAT* energy balances for 2014

### a. Sector Overview

The energy intensity of the Moldovan economy significantly decreased in 2014 compared to previous years. This is due to a drop in final energy consumption in the period from 2011 to 2014, mostly a result of energy efficiency measures and a decrease in energy consumption by industry, while the gross domestic product continued to grow.

The Ministry of Economy, the Ministry of Regional Development and Constructions and the Energy Efficiency Agency share the responsibility to transpose and implement the energy efficiency *acquis*. Programmes to support energy efficiency and renewable energy are implemented via an energy efficiency fund established in 2012.

During this reporting period, the Energy Efficiency Agency drafted the 2<sup>nd</sup> EEAP (2016 - 2018) and submitted it to the Ministry of Economy and the Secretariat for review. Continuing its work on transposition of Directive 2006/32/EC, the agency is also developing the standard documentation to introduce energy performance contracts and removing all existing financial, accounting and administrative barriers.

The Government of Moldova prepared a detailed roadmap for the transposition and implementation of the provisions of new Energy Efficiency Directive 2012/27/EU. Donor support was

made available for capacity building of the relevant ministries and authorities regarding the implementation requirements of the new directive.

### b. State of Compliance

The existing legal framework on energy efficiency is only partially compliant with the Energy Community *acquis*. Progress made by Moldova during this reporting period consists mostly of drafting secondary legislation and programme/strategic documents, but these are yet to be adopted.

#### 1. Energy Services Directive 2006/32/EC

The Energy Efficiency Law of 2010 and the secondary legislation, including the 1<sup>st</sup> EEAP and draft 2<sup>nd</sup> EEAP, have transposed the main provisions of Directive 2006/32/EC. However, the adoption of certain important pieces of secondary legislation such as public procurement and ESCO related regulations is still pending. The Government of Moldova is currently preparing for transposition of the new Energy Efficiency Directive.

#### 2. Energy Labelling Directive 2010/30/EU

Moldova transposed Directive 2010/30/EU in 2014 together with five labelling regulations, namely on household tumble driers, air conditioners, domestic ovens and range hoods,

electrical lamps and luminaries, and household washing machines. In 2016 Moldova adopted energy labelling regulations on household dishwashers, household refrigerating appliances and televisions. Nevertheless, the delegated regulations on the labelling of water heaters, vacuum cleaners, etc. are yet to be adopted. Thus, Moldova has not yet fully transposed the labelling *acquis*.

### 3. Energy Performance of Buildings Directive 2010/31/EU

The Law on Energy Performance of Buildings was adopted in 2014, but it is not compliant with the directive. In particular, energy performance certification does not apply to multi-apartment buildings that were commissioned before the law came into force, even if they are sold or rented. During the reporting period, the government continued its work on drafting secondary legislation, such as the methodology for buildings energy performance calculation, the rules for inspection of boilers and heating systems in buildings, energy performance of buildings certification procedures, decree on authorization of specialists in the field of energy performance of buildings, etc. However, their adoption is still pending. As long as the required secondary legislation is not adopted and the Law on Energy Performance

of Buildings is not amended, Moldova will remain only partially compliant with Directive 2010/31/EU.

### c. Conclusions and Priorities

To meet the priorities identified in last year's Implementation Report, Moldova continued transposition of the Energy Labelling Directive and adopted regulations on energy labelling of household dishwashers, household refrigerating appliances and televisions. Nevertheless, the majority of priorities remained unattained.

The first priority for Moldova should be bringing the Law on Energy Performance of Buildings in compliance with Directive 2010/31/EU and adoption of all missing secondary legislation to ensure full implementation of Energy Efficiency and Energy Performance of Buildings Laws.

A second priority is the adoption of the 2<sup>nd</sup> EEAP, the further transposition of energy labelling regulations and update of the Energy Efficiency Law to bring it into compliance with new Directive 2012/27/EU.





## Moldova

### 7.7 Environment

#### a. Sector Overview

##### 1. Environmental Impact Assessment Directive

Environmental impact assessments are carried out by the Ministry of Environment in Moldova. During the reporting period, no environmental impact assessments related to projects in the energy sector were concluded.

##### 2. Sulphur in Fuels Directive

Moldova has no refineries and consequently no domestic production of heavy fuel oil and gas oil.

##### 3. Large Combustion Plants Directive

Moldova has two plants falling under the scope of the Large Combustion Plants Directive with a total of eight units and a total rated thermal input of 1,294 MW. All units are run on natural gas.

#### b. State of Compliance

With the exception of the Large Combustion Plants and Industrial Emissions Directives, Moldova has reached a high level of transposition of the environmental *acquis*.

##### 1. Environmental Impact Assessment Directive

Environmental impact assessment is governed by the Law on Environmental Impact Assessment adopted in 2014, with which Moldova has fully transposed the directive's provisions into national law. In the framework of preparation for the implementation of the law, the development of the Guideline on the Application of the Environmental Impact Assessment Procedure is expected to be approved in the course of 2016 which shall establish best practice standards for the competent authorities carrying out environmental impact assessments.

##### 2. Sulphur in Fuels Directive

In April 2016, a decision of the Government of Moldova on

the reduction of the sulphur content of certain liquid fuels, including marine fuels, was adopted. With this decision, Moldova transposed the provisions of the Sulphur in Fuels Directive into national law.

##### 3. Large Combustion Plants Directive

Moldova has not yet transposed the requirements of the two directives regulating the emissions of large combustion plants into national law. The relevant provisions of the Industrial Emissions Directive are planned to be transposed into national law by 2018.

Moldova did not submit opt-out declarations or a National Emission Reduction Plan under Article 4(6) of the Large Combustion Plants Directive, as adapted by the Decision 2013/05/MC-EnC of the Ministerial Council, meaning that plants will need to comply with the emission limit values of the Large Combustion Plants Directive from 1 January 2018 onwards individually.

#### c. Conclusions and Priorities

Moldova followed up on the priorities set in last year's Implementation Report, in particular by transposing the provisions of the Sulphur in Fuels Directive into national law.

Moldova should ensure the practical implementation of the Law on Environmental Impact Assessment and provide the administrative capacities necessary for the task.

Moldova should also ensure that the thresholds of the government decision on the sulphur content of the fuels covered by its scope are met in practice when these products are placed on its market. Sampling and analysis of these products must take place according to these provisions.

Moldova must also adopt the necessary domestic legal measures transposing the relevant provisions of the Large Combustion Plants and Industrial Emissions Directives into national law.



# Moldova

## 7.8 Competition

### a. Sector Overview

The authority in charge of enforcing competition and State aid law in Moldova is the Competition Council.

There has not been any enforcement activity by the Competition Council with regard to competition law in this reporting period. However, the Competition Council authorized State aid granted by the Ministry of Finance to *Termoelectrica JSC*. Furthermore, it found support measures in the field of energy efficiency and exploitation of renewable energy sources, addressed to public sector applicants, to constitute compatible State aid.

### b. State of Compliance

#### 1. Competition Law

Moldova adopted the Competition Law in 2012. It includes provisions corresponding to Articles 101, 102 and 106 TFEU. There were no decisions by the Competition Council on competition law or inquiries in the energy sector during this reporting period.

#### 2. State Aid Law

The State Aid Law, adopted in 2012, contains a general prohibition of State aid in accordance with Article 107(1) TFEU and covers aid to providers of services of general economic interest.

In December 2015, the Competition Council authorized State aid granted by the Ministry of Finance to *Termoelectrica JSC*, the main heat generator and supplier in Chisinau and its suburbs, for improving the heat supply infrastructure. The aid was assessed with regard to *Termoelectrica* providing services of general economic interest, namely the distribution of heat in Chisinau. According to point 9 of the Regulation on State Aid to Beneficiaries Which Offer Services of General Economic Interest, the Competition Council found that the conditions for compatibility were fulfilled, namely that the aid was necessary for the provision of the service of general economic interest

and that the aid did not unduly distort competition. However, the Competition Council has not assessed in detail the two conditions.

Based on its positive environmental effects, the Competition Council has declared a State aid scheme whose purpose would be the enhancement of energy efficiency and uptake of renewable energy to be compatible under the special rules of the Regulation on State Aid for Environmental Protection. The scheme was meant to provide support for individual projects for the rehabilitation of buildings in all sectors of the national economy that require energy efficiency measures or uptake of renewable energy. However, it obliged the supplier to notify any individual aid that exceeds a set threshold and any changes of the scheme's budget in the future exceeding 20% of the budget. The Energy Efficiency Fund therefore notified support measures, benefitting the authorized representatives of socially oriented buildings, owned by central and local administrations at all levels (town halls, schools, kindergartens, hospitals, etc.). The Competition Council found that those measures constituted State aid, but considered them to be compatible based on the Regulation on State Aid for Environmental Protection. However, it is not possible to verify the compliance of the finding of the Competition Council with the European Commission's Guidelines on State Aid for Environmental Protection and Energy 2014 - 2020 because the decision does not contain a compatibility analysis.

### c. Conclusions and Priorities

There have been no new decisions in the area of competition law in the reporting period. As already underlined in last year's Implementation Report, the Competition Council should address the enforcement of competition law more rigorously in the following period. Also with regard to the enforcement of State aid law, no progress has been made. The Competition Council should enforce State aid law in the energy sector with more intensity and follow the State aid rules strictly and systematically, especially as regards the assessment of compensation for the provision of services of general economic interest and compatibility criteria.





## Moldova

### 7.9 Statistics

#### a. Sector Overview

The Law on Official Statistics of 2004 designates the National Bureau of Statistics (NBS) as the principal body providing official statistics responsible for the coordination of the Moldovan statistical system. The law is supplemented by a governmental decree on energy statistics adopted in February 2014. Energy statistics are also covered by the Law on Energy which defines general rules for statistical reports and transparency. A statistics work programme for 2015 approved by a government decision includes activities to establish a reporting system for monthly statistics and energy prices.

#### b. State of Compliance

NBS achieved compliance with all key obligations of the statistical *acquis*.

##### 1. Annual Energy Statistics

Since 2012, NBS has been preparing annual statistical data in line with the unified format of *IEA/EUROSTAT* in time series from 1990. Energy balances are published on NBS's website. Annual questionnaires are communicated timely to the *IEA* and *EUROSTAT* and published in their respective databases. Annual data are obtained using unified questionnaires for all registered legal entities in Moldova with detailed instructions to respondents, including specially designed questionnaires for energy undertakings. NBS has established a registry of undertakings which produce and use renewable energy.

Energy consumption in households is estimated using reports of electricity, natural gas and heat distributors. With the support of the Secretariat, NBS is conducting a survey on energy consumption in households based on a representative sample in 2016. The results of the survey are expected to be integrated in the official statistics in the annual reporting for 2015.

NBS is producing annual data in compliance with the *acquis*.

##### 2. Monthly Energy Statistics

The reporting scheme for monthly data has been established

in Moldova and NBS publishes monthly datasets for coal, oil and petroleum products, natural gas and electricity. NBS has been compiling Joint Organisations Data Initiative (JODI) oil and gas questionnaires starting with January 2015 and submitting them to the *United Nations Statistics Division (UNSD)*. The information is available in the global JODI database from 2016.

Moldova has ensured compliance with its *acquis* obligations as regards monthly statistics.

##### 3. Price Statistics

NBS has established a methodology and a reporting system to collect electricity and gas prices. Regular surveying of electricity and gas prices charged to end-users was initiated in 2015.

The dissemination of these data started in August 2015 when the first collection of prices for the first semester of 2015 was published on NBS's website. The price statistics include biannual gas and electricity price data per consumption band and disaggregated electricity prices for industrial end-users and households, broken down per price components.

The price data are submitted to *EUROSTAT*. In this respect, Moldova has achieved compliance with the *acquis* on price statistics.

#### c. Conclusions and Priorities

With the completion of annual monthly and price statistics in this reporting period, Moldova has achieved major progress towards achieving compliance with the *acquis* on statistics. Completion of the survey of energy consumption in households and its integration in the official data disseminated in 2016 will further improve the quality of Moldovan energy statistics. The results will also enable implementation of Regulation (EU) 431/2014.

In order to maintain a sustainable system of energy statistics, NBS must be equipped with the technical means and sufficient financial resources ensuring its capacity to perform its responsibilities. The remaining task is developing quality reporting as required by Regulation (EC) 1099/2008.

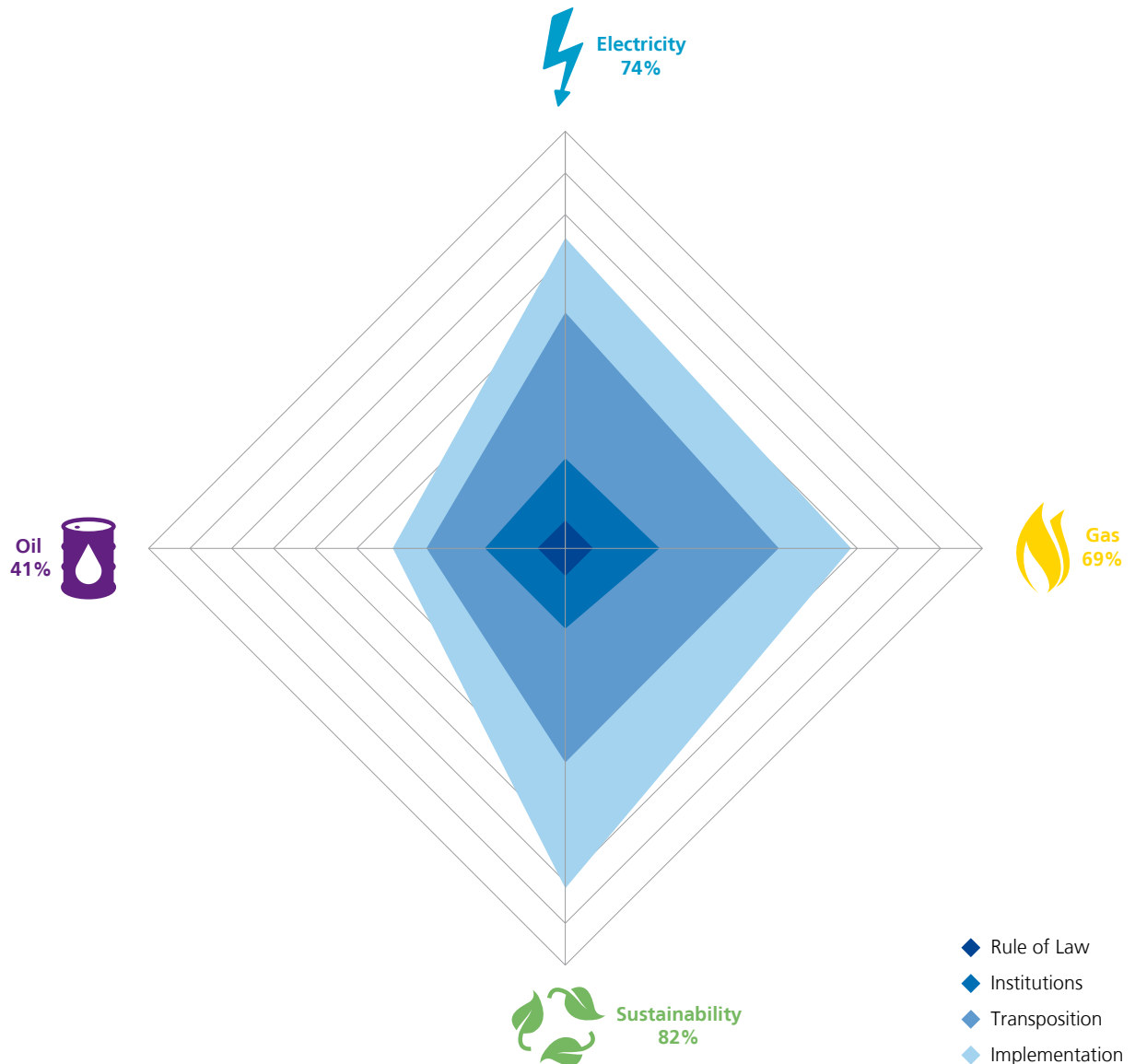




Having partly transposed the Third Energy Package in December 2015, albeit almost one year past the transposition deadline, Montenegro is on a good way in its compliance with the Energy Community *acquis*. It is the highest performer in terms

of the “sustainability” *acquis* and has already met its binding renewable energy target for 2020. There are currently no open infringement cases against Montenegro.

#### Implementation Performance of Montenegro



Source: Compiled by the Energy Community Secretariat



# Montenegro

## 8.1 Electricity

Description of data [unit]		2014	2015
Electricity production [GWh]		3.038	2.872
Net imports [GWh]		886	865
Net exports [GWh]		634	273
Gross electricity consumption [GWh]		3.290	3.464
Losses in transmission [%]		3,9%	3,8%
Losses in distribution [%]		17,6%	17,6%
Consumption of energy sector [GWh]		9	9
Final consumption of electricity [GWh]		2.723	2.879
Consumption structure [GWh]	Industrial, transport, services and other non-residential sectors	1.542	1.625
	Households (residential customers)	1.181	1.251
Net maximum electrical capacity of power plants [MW]		876	886
of which:	coal-fired	218,5	218,5
	hydro, total	658	667,7
Horizontal transmission network [km]	Substation capacity [MVA]	3.359	3.359
	Number of interconnectors	11	11
Electricity customers	Total number of customers	384.736	374.109
	out of which: non-households	34.434	35.133
	Eligible customers under national legislation	4	374.109
	Active eligible customers	4	4
Internal market	Electricity supplied to active eligible customers [MWh]	709.049	719.371
	Share of final consumption [%]	26,04%	24,99%

Source: Ministry of Economy

### a. Sector Overview

The electricity sector in Montenegro is dominated by the utility *Elektroprivreda Crne Gore (EPCG)*, which performs generation, distribution and supply activities. Transmission system operation is performed by *Crnogorski elektroprenosni sistem (CGES)* and the electricity market is operated by *Crnogorski operator trzista elektricne energije (COTEE)*.

There is substantial transit of electricity from north to south in Montenegro, which nearly equals the average annual consumption of electricity in the country.

The regulatory authority RAE is authorized to issue licenses for generation, transmission, market operation, distribution and supply. *EPCG* performs the task of public supplier and supplier of last resort until these tasks are assigned to a supplier in a competitive procedure.

*CGES* is a founding member of the *Coordinated Auction Office in Southeast Europe (SEE CAO)* in Podgorica. *SEE CAO* performs joint capacity allocation on yearly, monthly and daily basis for the interconnections with Albania and Bosnia and Herzegovina. *CGES* applies Rules for Allocation of Interconnection Capacity through annual, monthly and daily auctions of interconnection

capacities split 50:50 with the Serbian electricity system. Congestion income is used for the reduction of tariffs.

Montenegro's electricity sector is governed by the new Energy Law adopted in December 2015, which transposes the key provisions of the directives of the Third Energy Package. In addition to the Energy Law, the Law on Cross-border Exchange of Electricity and Natural Gas was adopted to transpose the regulations of the Third Energy Package.

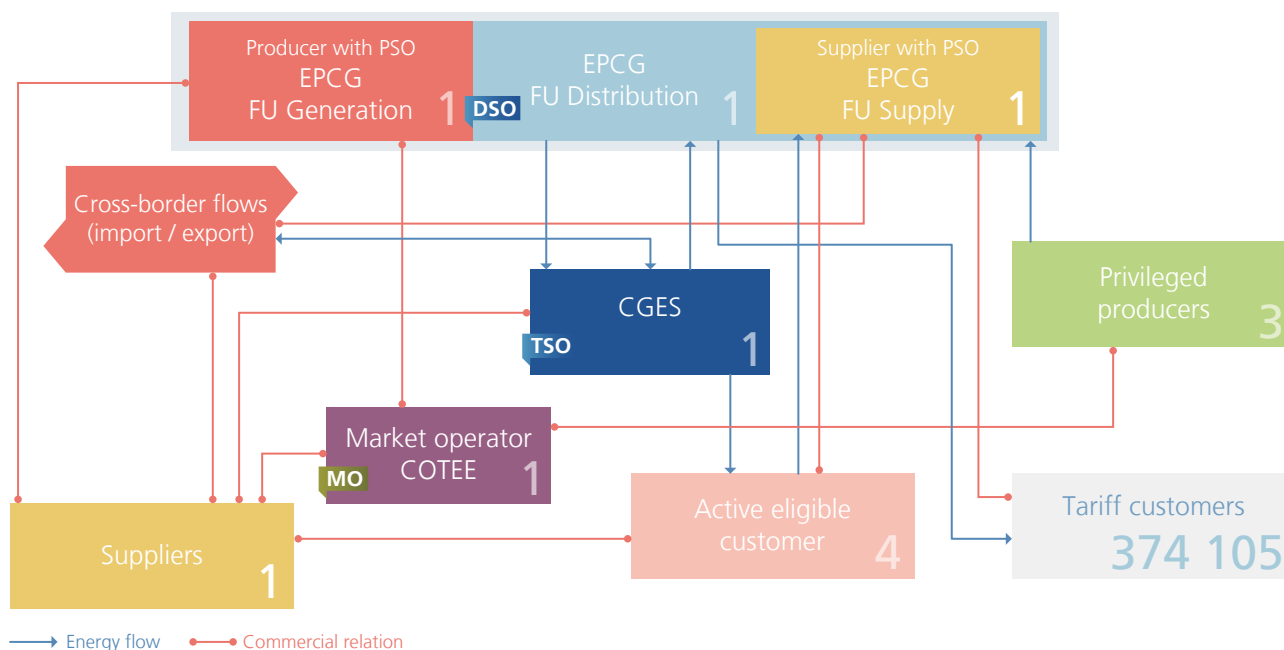
### b. State of Compliance

In the reporting period, Montenegro adopted primary legislation compliant with the Third Energy Package and the responsible institutions and undertakings have started with its implementation. The general deadline for adoption of secondary legislation is January 2017.

Overall progress toward achieving the deadlines set in the laws is satisfactory.



## Montenegro's Electricity Market Scheme



Source: Compiled by the Energy Community Secretariat  
Refer to the market schemes legends on page 191 for a more detailed description.

### 1. Unbundling

The new Energy Law transposed the unbundling requirements of the Third Energy Package correctly. However, Montenegro has still not unbundled its transmission system operator.

Distribution, generation and supply are operated within EPCG. The Energy Law requires legal, functional and accounting unbundling of distribution three months after the law's adoption. This deadline has been missed. In July 2016, EPCG established a separate legal entity to operate, maintain and own the distribution network and identified its assets, staff and management structure. Development of a compliance programme and appointment of a compliance officer, requested within six months after the adoption of the law, has yet to be done.

### 2. Third Party Access

The law requires network operators to grant non-discriminatory access to the transmission and/or distribution networks unless the provision of public services is endangered. Should the access be denied, the affected party is entitled to file a complaint with RAE.

Terms, conditions and fees for access and use of transmission and distribution networks are defined by rules approved by RAE. RAE has developed new methodologies for network tariffs, as required by the two new laws adopted in 2016.

Full compliance still depends on the adoption of corresponding secondary legislation necessary to implement the Energy Law.

### 3. Eligibility

All customers are eligible from 1 January 2015. The conditions and procedure for supplier switching are defined in the respective rules developed by RAE. In this respect, Montenegro complies with the *acquis*.

### 4. Market Opening and Price Regulation

In the wholesale electricity market there are 36 active traders. In the retail market, there are currently only three licensed suppliers of end-customers, one of them being a "self-supplying" customer. In practice, the current degree of retail market opening in Montenegro is not satisfactory. The rather small and concentrated retail market makes supplier switching unattractive and impedes the interest of new entrants to enter the supply market.

The electricity prices for the four customers connected to the transmission network are not regulated. Customers connected to the distribution network, however, are entitled to public supply at regulated end-user prices set by RAE still until 1 January 2017. After that date, prices will be established by the market, with the ceiling set by RAE only for customers entitled to universal service. RAE's methodology for price regulation envisages the price to be set on the basis of the reference market price.

The Energy Law envisaged that the obligation to perform regulated supply is imposed on an undertaking following a competitive procedure. During a transitory period, however, i.e. until such a supplier is designated, the incumbent EPCG

performs the tasks of a supplier of last resort and the supplier of vulnerable customers.

On 9 June 2016, the government instructed the market operator *COTEE*, the transmission system operator *CGES* and the incumbent company *EPCG* to sign a contract on establishing a limited liability company with a task to establish a power exchange in Montenegro. The implementation is expected to follow in the course of 2016.

### 5. Balancing

The Market Rules developed by *COTEE* and approved by RAE define principles for functioning of the balancing market and setting market-based imbalance prices for customers connected to the transmission network. Nine balance responsible parties are registered with *COTEE*.

*COTEE* is responsible for the calculation of imbalances and ensuring the financial settlements. In principle, this system is compliant with the *acquis* related to provision of balancing services. According to the 2012 Market Rules currently in force, the provision of balancing services and the prices of imbalances are regulated. Since 2015, *CGES* and the Serbian *EMS* implement a mechanism for exchange of balancing energy from tertiary reserve based on a common merit order list.

It is the distribution system operator's responsibility to develop load profiles for customers without hourly meter readings. Until these documents are developed and adopted, implementation of the Market Rules and further opening of the market for customers connected to the distribution network are not feasible as their hourly demand cannot be assigned for balancing purposes.

### 6. Customer Protection and Protection of Vulnerable Customers

The Energy Law transposes the *acquis*' requirements for customer protection as well as principles and system for protection of vulnerable customers. Vulnerable customers are defined as customers in need of social support whose social status is determined by a responsible authority or having health conditions requiring a certain level of quality of supply.

### c. Conclusions and Priorities

With the adoption of the Energy Law and the Law on Cross-border Exchange of Electricity and Natural Gas, Montenegro fulfilled its last year's highest priority task. To complete the legal framework, Montenegro has to develop comprehensive secondary legislation within the time schedule put in place by the laws.

The new laws set the legal ground for establishing an organised day-ahead market, on which responsible stakeholders have to follow up in line with the government's instruction.

Completion of the distribution system unbundling process and certification of the transmission system operator are to be tackled as priority tasks. The action plan for market opening and competition development shall be implemented in accordance with the deadlines set by the Energy Law.

In order to create conditions for effective market opening, the provision of balancing energy and allocation of balance responsibility to market participants are to be tackled without delay.





# Montenegro

## 8.2 Gas

### a. Sector Overview

Montenegro has no gas market. The Government of Montenegro has launched the preparation of a gas master plan aimed at providing a clear and realistic strategy for gas penetration in Montenegro.

Montenegro's adoption of the 2015 Energy Law, which transposed Directive 2009/73/EC, represents a key step forwarded in terms of the country's compliance with the Energy Community Treaty.

In June 2016, the Law on Cross-Border Exchange of Electricity and Natural Gas was adopted, transposing Regulation (EC) 715/2009.

### b. State of Compliance

The most significant development during this reporting period is the adoption of the new Energy Law, which to a large extent ensures Montenegro's compliance with the Third Energy Package related to the gas *acquis*.

#### 1. Unbundling

The Energy Law is compliant with the Third Energy Package unbundling and certification requirements. Montenegro transposed correctly provisions on ownership unbundling as the only one possible model for the country. The unbundling requirements for distribution and storage system operators are introduced in line with Directive 2009/73/EC. Montenegro exempted DSOs serving less than 100.000 customers from unbundling requirements.

#### 2. Third Party Access

The general requirements for non-discriminatory access to the transmission and distribution networks as well as to storage facilities and LNG terminals are stipulated in the Energy Law and the Law on Cross-Border Exchange of Electricity and Natural Gas.

The conditions for refusal of access are aligned with the gas *acquis*. The only exception is the absence of a provision requiring refusals to be accompanied by a duly reasoned explanation. The exemption from third party access is transposed in line with the Third Energy Package. However, the law implies that only a transmission system operator can apply for an exemption, which restricts the application of the *acquis*.

The tariff methodologies and systems for access to networks are compliant with Directive 2009/73/EC and with Regulation (EC) 715/2009, which requires establishing a separate tariff for each entry/exit point to/from the transmission grid. The tariff systems have not been adopted.

#### 3. Eligibility

The law grants eligibility to all final customers. However, the concept of eligibility in the Montenegrin law does not specify whether wholesale customers (traders) are deemed eligible.

#### 4. Market Opening and Price Regulation

The law allows market opening in line with the Third Energy Package. It envisages that the regulatory authority approves the market rules "in line with the same conditions as for the electricity market" and allocates the market operator role to the transmission system operator. However, the market rules have not yet been developed.

The law sets provisions on gas supply related to *inter alia* public supply and supplier of last resort, but secondary acts which would implement these general principles have not been developed.

#### 5. Balancing

Both laws require the transmission system operator to adopt balancing rules. Such balancing rules must be market based as required by Regulation (EC) 715/2009. General provisions on balancing and imbalance charges have been transposed.

#### 6. Security of Supply

The two laws transpose provisions of Directive 2009/73/EC and Directive 2004/67/EC relevant for security of supply, including certain fundamental provisions from Regulation (EC) 994/2010 on security of gas supply. The Law on Cross-Border Exchange of Electricity and Natural Gas obliges the government to adopt the relevant by-laws related to security of supply within 12 months after the final investment decision on relevant gas infrastructure is adopted.

#### 7. Customer Protection and Protection of Vulnerable Customers

The Energy Law transposed customer protection measures as well as measures to protect vulnerable customers.

Certain provisions of Annex I of Directive 2009/73/EC related to contractual rights of customers are missing. These include the right to receive transparent information on applicable prices and tariffs and on standard terms and conditions; a wide choice of payment methods; transparent, simple and inexpensive procedures for dealing with complaints; and having access to consumption data. These deficiencies will have to be overcome by way of secondary legislation.

### c. Conclusions and Priorities

Although with some shortcomings, the 2015 Energy Law and the Law Cross-Border Exchange of Electricity and Natural Gas transposed Directive 2009/73/EC and Regulation (EC) 715/2009 respectively, Montenegro, and more specifically the regulator, will now have to focus on development of the numerous missing secondary legal acts.



## Montenegro

### 8.3 Regulatory Authority

#### a. Compliance with Independence Criteria and Competences

The Energy Regulatory Authority of Montenegro (RAE) is the single authority for regulating the energy sector of Montenegro, as required by the Third Energy Package. RAE is by law set up as an institution legally distinct and functionally independent from any other public entity. The establishment of RAE is solely based on legislation, which means that the regulatory authority cannot be liquidated by act of another public institution. RAE is headed by a board consisting of two members, a president as well as an executive director and a deputy executive director. The term of the board members is limited to a period of five years, renewable once, and a rotation scheme is in place.

After the adoption of a new Energy Law transposing the Third Energy Package, RAE ranks among those regulators whose organisation complies with all independence criteria and competences stipulated by Directives 2009/72/EC and 2009/73/EC except for two obstacles. Firstly, the management is not entirely free to decide on the authority's internal organisation as its statutes are subject to governmental approval. Secondly, the right to impose penalties is not with the regulator but is transferred to a competent court. This weakens the ability of the regulator to act effectively in terms of enforcement. Also, possible penalties are significantly below the required 10% threshold and the list of cases triggering penalties does not necessarily cover all non-compliance cases. This is a breach of the *acquis*. The right of RAE to refer non-compliance cases to the

competent court is prescribed by law, which includes a detailed list of violations.

Other shortcomings reported in previous Implementation Reports have been removed with the new Energy Law. A recent change of the Law on Salaries in the Public Sector introduced a link of RAE's salaries to those of civil servants. However, the salary level is relatively higher ranked within the civil servant limits.

RAE is held accountable for its activities by being obliged to annually present a financial report as well as a report on the situation in the energy sector of Montenegro to parliament.

#### b. Performance

On national level, RAE still has to live up to the new competences granted by the Third Energy Package. On regional level, RAE participates actively in the regulatory discussions in the Energy Community Regulatory Board, the president of which is board member of RAE.

#### c. Conclusions and Priorities

The organisational set-up, level of competences and independence of RAE have significantly improved with the new Energy Law, leaving only two areas representing serious limits to regulatory independence and a breach of the *acquis*.





## Montenegro

### 8.4 Oil

#### a. Sector Overview

The consumption of petroleum products in Montenegro was at a level of around 243,6 kt in 2015. These products are mainly imported from Greece, Serbia and other neighbouring countries. The total storage capacity that could be used for the needs of strategic stock holding is around 205.000 cm.

#### b. State of Compliance

The Energy Law of 2010 required that strategic reserves of oil and petroleum products are equal to 90 days of average domestic consumption in the previous year and places the responsibility of emergency stockholding fully on the industry. However, the provisions of the law related to oil stocks have not been implemented to date.

A decision has been made to regulate this area by a new law which would focus exclusively on strategic stocks of oil and oil products. The newly adopted Energy Development Strategy by 2030 foresees the establishment of a stockholding agency, a detailed plan for ensuring stocks of oil products and secondary legislation.

In April 2015, the government adopted an action plan for the implementation of Oil Stocks Directive 2009/119/EC, which was revised in September 2015 reflecting all components of the emergency oil stockholding system. Based on the revised

action plan, Montenegro decided to establish an independent central stockholding entity responsible for the management of a public oil stockholding scheme. The draft Law on Compulsory Oil Stocks has been prepared in compliance with Directive 2009/119/EC and is now in the final stages of the internal reviewing process. It is planned to be adopted by the government and put into parliamentary procedure by the end of September 2016.

#### c. Conclusions and Priorities

During the reporting period, Montenegro has taken some important steps towards the adoption of a compliant oil stock holding regime. Nevertheless not all suggested actions with regard to the last's year priorities have been achieved. Montenegro failed to adopt the new draft Law on Compulsory Oil Stocks and the subsequent secondary legislation in line with Directive 2009/119/EC.

In 2016 - 2017, Montenegro should focus on:

- Finalizing the new draft Law on Compulsory Oil Stocks;
- Drafting subsequent secondary legislation in line with Directive 2009/119/EC; and
- Improving data collection.







## Montenegro

### 8.5 Renewable Energy

	2014	2015
Total capacities of renewable energy (MW)	658	667,8
Hydropower, out of which:	658	667,8
- small hydropower (<10 MW)	9	18,8

Source: Ministry of Economy

#### a. Sector Overview

Montenegro committed to a binding 33% target of energy from renewable sources in gross final energy consumption in 2020. In 2014, according to the energy balance published by *EUROSTAT*, Montenegro achieved a 44,9% share of energy from renewable sources, thus overachieving the 33% target for 2020 due to revision of biomass data in 2011. With the revision of its biomass data, Montenegro exceeded its target already in 2009 without any additional effort. The country reported a 47% renewable energy share in gross final energy consumption in 2013.

In December 2015, Montenegro adopted a new Energy Law which transposes the key principles of the Renewable Energy Directive. However, amendments to the existing secondary legislation necessary for full compliance with the directive are yet to be adopted.

#### b. State of Compliance

Significant progress in ensuring compliance with principles of the Renewable Energy Directive has been achieved with the adoption of the Energy Law in 2015. Montenegro has still to develop or review the implementing legislation so as to complete the regulatory framework and thus fulfil all the requirements of Directive 2009/28/EC.

##### 1. National Renewable Energy Action Plan

Montenegro adopted and submitted to the Secretariat the National Renewable Energy Action Plan required by Directive 2009/28/EC. The National Renewable Energy Action Plan foresees reaching 36% of energy from renewable sources in gross final energy consumption in 2020.

##### 2. Support Schemes

The new Energy Law grants support for the use of renewable energy sources and high-efficiency cogeneration based on auctions. In December 2015, the government adopted amendments to the decree setting feed-in tariffs for electricity produced from renewable energy sources and high-efficiency cogeneration only for small hydropower producers.

Every year in January, the government adopts a decree with the incentive fee applied to end-customers to compensate the cost for the promotion of electricity from renewable sources. For 2016, the incentive was set at a value of 0.058715 c€/kWh, representing a 27% increase compared with 2015. The market operator, *COTEE*, concludes power purchase agreements with electricity suppliers who are obliged to purchase a certain percentage of electricity from renewable sources.

Secondary legislation introducing auctions for granting support to renewable energy producers remains to be adopted. Compliance with provisions of the Energy Law and requirements of State aid guidelines needs to be ensured.

##### 3. Cooperation Mechanisms

The provisions related to cooperation mechanisms have been transposed in the 2015 Energy Law. As Montenegro has already achieved the mandatory renewable energy target, it can benefit from entering into cooperation mechanisms with EU Member States or other Contracting Parties to statistically transfer renewable energy to count to other country's target at a price mutually agreed. The revenue received could be used for the development of the transmission and distribution networks to accommodate more renewable energy into the grids.

##### 4. Administrative Procedures

The administrative procedures for permitting, construction and licensing remain quite lengthy and burdensome despite several simplification rounds in the last years. The number of procedures for issuing the construction licenses and permits in the Ministry of Sustainable Development and Tourism were reduced from 36 to two. However, there are several procedures involving different authorities resulting in an uncoordinated and non-transparent process in practice, despite the authorisation and permitting procedures being clearly defined by law. A one-stop shop is envisaged only for small projects and only in relation to the technical specifications and building and deployment permits. Currently, Montenegro fails to comply with the requirements of Article 13 of Directive 2009/28/EC.

### 5. Access to and Operation of the Grids

The Energy Law provides for priority access and priority dispatch for the privileged renewable energy producers. However, the requirements related to access to and operation of the grids as well as rules for connection to the grids for renewable energy producers provided for in Article 16 of Directive 2009/28/EC are still not entirely implemented. Due to lack of transmission and distribution capacities, applications for connections to the grids are on hold which is deterring investors. Moreover, the system operators have still not put forward plans to develop their network in order to integrate more renewable energy into the grids. The transparency of the network operators towards investors and new users has to increase.

### 6. Guarantees of Origin

The 2011 Government Decree on Guarantees of Origin that constitutes the framework for the issue, transfer and cancellation of guarantees of origin needs to be revised in order to comply with the 2015 Energy Law's provisions. In its capacity as issuing body for the guarantees of origin, the energy regulator should develop the standard template and the entire system for issuing, transfer and cancellation of the guarantees of origin in compliance with European practice and therefore increase compliance with respect to the implementation of Article 15 of Directive 2009/28/EC.

### 7. Renewable Energy in Heating and Cooling

The existing regulation on the use of energy from renewable sources in heating and cooling should be adjusted to the country's new Energy Efficiency Law. While several programmes for increasing use of solar thermal and biomass are already operational and producing results, Montenegro must adopt support measures for promotion of the use of energy from renewable sources in heating and cooling in order to fully comply with the Renewable Energy Directive.

### 8. Renewable Energy in Transport

Montenegro has transposed the basic principles of Directive 2009/28/EC with regard to renewable energy used in transport in the new Energy Law, including the 10% renewables in transport target and Articles 17 to 21 related to sustainability criteria for biofuels and bioliquids. However, the framework will remain incomplete as long as no incentives for the production or use of biofuels or a sustainability verification system have been established as required by Directive 2009/28/EC. Further to that, the government has to define yearly shares and obligations for market players.

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### c. Conclusions and Priorities

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The 2015 Energy Law transposes the principles of the Renewable Energy Directive. The development of secondary legislation has to follow to enable implementation in practice. The auction rules for granting support to renewable energy producers for a cost-effective deployment of renewables have to be adopted and implemented.

Moreover, the network and market operators should increase their efforts to be able to take up more renewable energy in the electricity system.

In the permitting and grid connection procedures, simplification (expanding the one-stop shop) and increased transparency are urgently required to create a conducive investment framework. The poor record of installing electricity generation capacities from renewable sources testifies to this.

Moreover, the legal framework for renewable energy in the transport sector has to be set up from scratch. Cooperation among the responsible institutions should not be delayed further in order to put Montenegro on track to fulfil the 10% target in transport by 2020.





# Montenegro

## 8.6 Energy Efficiency

Energy Efficiency Action Plan (EEAP)*					
Period covered by EEAP	2010 – 2018				
Overall energy savings target - Directive 2006/32/EC (ktoe / % / year)	58,9 / 9 / 2018				
EEAP status	3 <sup>rd</sup> EEAP adopted on 30 June 2016				
Achieved energy savings (ktoe / % / year)	25 / 4 / 2012 Separate report for 2015 will be submitted by the end of 2016				
Key institution(s) in charge	Ministry of Economy (Directorate for Energy Efficiency)				
Main data and energy efficiency indicators**		2011	2012	2013	2014 ***
<b>Total primary energy supply (TPES)</b>	ktoe	1.126	1.062	1.026	0.974
<b>Energy intensity (TPES/GDP)</b>	toe / 1.000 USD	0,39	0,38	0,35	0,33
<b>TPES/Population</b>	toe/capita	1,82	1,71	1,65	1,57
<b>Total final energy consumption (TFEC)</b>	ktoe	763	734	721	675
Share of TFEC by sector	Residential	35%	38%	40%	38%
	Services	1%	1%	4%	10%
	Industry	29%	27%	27%	18%
	Transport	28%	28%	24%	29%
	Others	1%	1%	2%	1%
	Non-energy use	6%	4%	3%	4%

\* Source: 3<sup>rd</sup> EEAP of Montenegro

\*\* Source: *International Energy Agency* (May 2016)

\*\*\* Indicators calculated by the Energy Community Secretariat based on *EUROSTAT* energy balances for 2014

### a. Sector Overview

There is a clear indication that final energy consumption in Montenegro was on a downward trend from 2011 to 2014, while the gross domestic product resumed growth in 2014, after contracting in 2012. The positive trend is reflected by the constant decrease of energy intensity in this period and thus the decoupling of economic growth from energy demand.

The key state body responsible for the implementation of national energy efficiency policy in Montenegro is the Ministry of Economy and its Directorate for Energy Efficiency. The State Fund for Energy Efficiency supports implementation of programmes and projects and manages donations, loans and/or other financing mechanisms.

The adoption of the new Law on Efficient Use of Energy in December in 2014 and a package of secondary legislation initiated transposition of new Energy Efficiency Directive 2012/27/EU. A 1% renovation target for central government buildings was set in February 2016, while implementation of concrete renovation projects is ongoing. Provisions dealing with promotion of energy efficiency in heating and cooling, as well as in energy transformation, transmission and distribution, were incorporated in the new Law on Energy.

The 3<sup>rd</sup> Energy Efficiency Action Plan (EEAP) was adopted by the government on 30 June 2016. The web-based Monitor-

ing and Verification Platform (MVP) was transferred to the national server in April 2016, and a complementary rulebook on methodology for determining energy savings was adopted in March 2016.

A set of rulebooks implementing Directive 2010/31/EU on Energy Performance of Buildings were recently adopted by the Ministry of Economy and the Ministry of Sustainable Development and Tourism, which is responsible for buildings.

### b. State of Compliance

With the exception of several missing labelling delegated regulations, Montenegro has achieved a relatively high level of transposition of the energy efficiency *acquis*. Efforts must continue to achieve effective implementation in practice.

#### 1. Energy Services Directive 2006/32/EC

After adoption of the Law on Efficient Use of Energy in December 2014 (compliant with Directives 2012/27/EU, 2006/32/EC, 2010/30/EU and 2010/31/EU), further progress in implementation was achieved with the adoption of seventeen pieces of secondary legislation by March 2016. The by-laws deal with the promotion of the leading role of public sector in energy efficiency, development of programmes and plans for municipalities and big energy consumers, energy efficiency in public procurement, setting methodology for calculation of achieved

energy savings, implementation of information systems, energy audits, etc.

The exemplary role of the public sector is being promoted well by the law and the EEAP. The 3<sup>rd</sup> EEAP, which also includes a roadmap for full transposition of Directive 2012/27/EU, was submitted to the Secretariat and adopted by the government on 30 June 2016.

### 2. Energy Labelling Directive 2010/30/EU

With regards to labelling, the Law on Efficient Use of Energy of 2014 transposed key requirements of Directive 2010/30/EU. Transposition was improved with the adoption of a rulebook in November 2015 on obligatory labelling of household washing machines and air-conditioners starting from 30 June 2016. However, the adoption of delegated regulations on energy labelling of household refrigerating appliances, televisions, dish-washers, and electrical lamps and luminaries was postponed to January 2017. Montenegro only partially complies with the Energy Labelling Directive.

### 3. Energy Performance of Buildings Directive 2010/31/EU

The requirements of Directive 2010/31/EU are in general transposed through the Law on Efficient Use of Energy and further implemented through a set of rulebooks adopted in December 2015. The rulebooks deal with setting of minimal energy performance requirements in buildings, certification, regular inspection of heating and air-conditioning systems and energy audits of buildings. Issuance of energy performance certificates is obligatory from January 2016.

However, the implementation of certain requirements of the directive (i.e. cost-optimal calculations, nearly zero-energy building targets and strategies) was delayed.

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### c. Conclusions and Priorities

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During this reporting period, Montenegro achieved significant progress with the implementation of the Law on Efficient Use of Energy and the adoption of a package of by-laws during 2015 and the first half of 2016. The 3<sup>rd</sup> EEAP was adopted in June 2016. However, many priorities identified in last year's Implementation Report were not fulfilled.

Once again, Montenegro should prioritise the adoption of the missing secondary legislation on energy labelling of energy-related products and further transposition of Directive 2012/27/EU. Montenegro should also improve statistical data collection and put in place a functional system for calculation of energy efficiency indicators and savings, as well as monitoring of EEAP implementation. The ongoing work on the methodology and the Monitoring and Verification Platform (MVP) is a step forward. Adequate resources, both human and financial, should be dedicated to improve implementation in this area.

In order to achieve the indicative energy savings target, significant financial resources should be mobilized, in addition to public budget financing. It is necessary to develop the models for public private partnership in the field of energy efficiency further, including the establishment of an ESCO enabling framework. Finally, the institutional set-up must be strengthened, either by reinforcing the capacity within the Ministry of Economy and local authorities or by establishing a specialized energy efficiency agency.





## Montenegro

### 8.7 Environment

#### a. Sector Overview

##### 1. Environmental Impact Assessment Directive

Environmental impact assessment in Montenegro is carried out by the Environmental Protection Agency or local authorities, depending on the type of the project.

Two environmental impact assessments related to the energy sector were being carried out during the reporting period by the Montenegrin authorities. Both projects are related to the construction of small hydropower plants.

##### 2. Sulphur in Fuels Directive

Montenegro has neither domestic crude oil production nor installations for the refining of oil products and therefore heavy fuel oil and gas oil are not produced domestically.

##### 3. Large Combustion Plants Directive

Montenegro has one single unit lignite-fired plant falling under the scope of the Large Combustion Plants Directive with a rated thermal input of 516 MW.

#### b. State of Compliance

Montenegro has reached a high level of transposition of the Energy Community environmental *acquis*.

##### 1. Environmental Impact Assessment Directive

With the Law on Environmental Impact Assessment of 2005 (as amended in 2010, 2011 and 2013) and the Decree on Projects Subject to Environmental Impact Assessment adopted in 2013 which defines projects for which a mandatory environmental impact assessment is required (List 1) and those that have to undergo a screening procedure (List 2), Montenegro has transposed the requirements of the Environmental Impact Assessment Directive into national law.

Amendments to the law and the decree with the aim of transposing the newly amended Environmental Impact Assessment Directive 2014/52/EU in force in the European Union since 2014 are expected to be finalised by the end of 2017.

##### 2. Sulphur in Fuels Directive

Montenegro has transposed the requirements of the Sulphur in Fuels Directive into its national law by the Law on Air Quality and the Regulation on the Limit Values of Polluting Substances in Liquid Fuels of Petrol Origin, which stipulates the thresholds of 1% of sulphur content by mass for heavy fuel oil and 0.1% for gas oil. Should Montenegro complete the exercise of transposing the requirements of Directive 2012/33/EU related to the sulphur content of marine fuels, it would be in a position to implement the provisions of the Sulphur in Fuels Directive in its latest version, thus putting it on an equal footing with EU Member States.

##### 3. Large Combustion Plants Directive

The Large Combustion Plants Directive was only partially transposed by the Law on Air Quality and the Regulation on Limit Values for Emission into the Air from Stationary Sources. While the emission limit values for new plants are fully harmonized with those of the Industrial Emissions Directive, the regulation provides in its transitional provisions that plants which are put into operation before its entry into force are allowed to exceed the emission limit values by 250% until 31 December 2025. This issue must be addressed prior to the implementation deadline of the Large Combustion Plants Directive, *i.e.* 31 December 2017.

As Montenegro has only one plant falling under the scope of the directive, the option to adopt a National Emission Reduction Plan is not applicable. As the operator formally requested to trigger the application of the opt-out mechanism provided by Ministerial Council Decision 2013/05/MC-EnC, it would be able to remain in operation for a maximum of 20,000 operational hours between 1 January 2018 and 31 December 2023 if the request is approved by the Ministerial Council.

#### c. Conclusions and Priorities

With regard to the priorities identified in last year's Implementation Report, Montenegro has followed up with the submission of the opt-out declaration of its large combustion plant.

Montenegro shall fully transpose the Large Combustion Plants and Industrial Emissions Directives into national law also with regard to existing plants by end 2017.





# Montenegro

## 8.8 Competition

### a. Sector Overview

The Agency for Competition Protection (ACP), established in 2013, is entrusted with the enforcement of competition law in Montenegro. There has been no case of enforcement of competition law in the reporting period, apart from the approval of two mergers.

The authority in charge of enforcing State aid law is the State Aid Control Commission (SACC), composed of five members appointed by the government. The work of SACC is prepared by the Ministry of Finance, both procedurally and on substance. The shortages with respect to the independence of SACC, repeatedly pointed out in the Secretariat's Implementation Reports, are expected to be addressed in a new Law on State Aid Control currently being drafted.

SACC has issued four decisions in the energy sector during the reporting period. In the first case, SACC found a scheme to promote Krnovo wind power project by guaranteeing the price of electricity for the entire electricity output of the plant in the power purchase agreement (PPA) to be compatible with State aid rules. The second case concerned the new Energy Law. The law was first assessed to be non-compliant, but after being amended, it was reassessed and found to be compliant with State aid rules. In the last case, SACC found aid to support the construction of a small hydropower plant in Bistrica to be compliant with State aid rules.

According to Montenegrin legislation, State aid rules established by EU bodies, including case law of EU courts, are directly applicable in Montenegro after being published in the Official Gazette (the Rulebook on the List of State Aid Rules).

### b. State of Compliance

#### 1. Competition Law

Montenegro transposed Articles 101, 102 and 106 TFEU in its Competition Law, adopted in 2012. There has been no case of applying competition law to the electricity or gas sector in the past four years, except for the review of two mergers in the reporting period. The ACP approved the acquisition of control of *PETROL, Slovenska energetska družba over GEOPLIN d.o.o. Ljubljana* and of *Messer Hungarogáz Kft over Air Liquide Hungary Ipari Gaztermelo Kft*. More intense enforcement of

competition law, in particular with regard to anticompetitive agreements and the abuse of dominance, is needed in order for Montenegro to fully comply with its obligations under the Energy Community Treaty.

#### 2. State Aid Law

The Law on State Aid Control adopted in 2009 and amended in 2011 continues to fall short of complying with the State aid *acquis*, especially as regards the definition of State aid and the independence of SACC. SACC still has no power to order recovery of unlawfully granted aid and can only propose measures for recovery to the government or the competent local authority.

When assessing a scheme to guarantee the price of electricity for the entire electricity output of the Krnovo wind power plant in the PPA, SACC correctly applied the criteria for the definition of State aid and ultimately found the measure to be in accordance with Guidelines on State Aid for Environmental Protection and Energy 2014 - 2020, an integral part of Montenegrin legislation. The same assessment was undertaken for the aid to the hydropower plant in Bistrica; the decision clearly follows the structure of the assessment criteria of the guidelines.

The other case concerned the new Energy Law. After having been found to be non-compliant, it was amended in order to comply with the provisions of the 2014 - 2020 State aid guidelines, in particular the requirement of an incentive effect of aid and the necessity of competitive bidding processes, and the rules on compensation for services of general economic interest. Therefore, SACC found it to be compliant with State aid rules.

### c. Conclusions and Priorities

Competition law is formally in line with the EU *acquis*, but also during this reporting period its enforcement in the energy sectors was at an unsatisfactory level. It appears that since the last reporting period SACC has commenced enforcement of State aid law in the energy sector and, with improved independence under the new Law on State Aid Control, it is possible that the number of cases will increase in the future. The priority in the following period should be the adoption of the draft Law on State Aid Control and its compliance with the *acquis* as well as more rigorous enforcement of both State aid and competition law.



# Montenegro

## 8.9 Statistics

### a. Sector Overview

The Law on Official Statistics and the Official Statistical System from 2012 defines the organizational framework for production and dissemination of official statistics. The Statistical Office of Montenegro (MONSTAT) is the central body responsible for development of the statistical system and the programme of statistical surveys entitled to access all relevant administrative data. The Energy Law from 2015 defines additional transparency and reporting requirements for stakeholders in the energy sector.

The “*Programme of Official Statistics 2014 - 2018*” identified key areas which require improvement, including energy statistics. Key energy indicators are published in the “*Annual Statistical Yearbook*”.

### b. State of Compliance

In terms of annual energy statistics and electricity price statistics, Montenegro achieved compliance with the *acquis*. However there is still not sufficient progress in the implementation of the *acquis* related to monthly statistics.

#### 1. Annual Energy Statistics

MONSTAT collects and publishes energy balances containing annual data on production, import, export, transformation, consumption and distribution of electricity, coal, oil products and firewood in Montenegro. The methodology and formats are harmonized with *IEA/EUROSTAT* standards.

MONSTAT conducted an annual survey on consumption of energy in services under the technical assistance project supported by the Secretariat. The results are integrated in the official annual statistics.

Annual questionnaires are communicated timely to *IEA* and *EUROSTAT* and are in compliance with the *acquis*.

#### 2. Monthly Energy Statistics

Montenegro established a functional statistical system capable of implementing the requirements of the *acquis*. Monthly reports on electricity and solid fuels are prepared and transmitted to *EUROSTAT*. Short-term monthly oil data from 2014 onward have not been transmitted to *EUROSTAT*.

Recalling that the reporting system for monthly energy data in the Ministry of Economy has been operational since 2013, MONSTAT and the ministry are expected to ensure that an adequate reporting scheme is in place, which is capable of producing and disseminating the remaining short-term monthly statistics.

As regards monthly statistics, Montenegro failed to keep up the previously achieved level of compliance and produce statistics of relevance.

#### 3. Price Statistics

Price statistics are established for electricity supplied to industrial end-users and households. Prices, reported per consumption band and broken down per cost driver, are communicated to and subsequently published by *EUROSTAT*. In this regard, Directive 2008/92/EC is implemented.

### c. Conclusions and Priorities

With the completion of the survey on consumption of energy in services and integration of its results in official statistics, the quality of energy statistics has improved. Montenegro has to put additional effort into the implementation of Regulation (EC) 1099/2008, in particular related to monthly data.

The system of continuous data collection should be permanently improved, particularly information on final consumption and information obtained from sample surveys. Additional efforts will be needed to implement Regulation (EU) 431/2014 related to disaggregated data on energy consumption in households.

Regarding implementation of Directive 2008/92/EC, methodologies and procedures for price statistics will need continuous improvement in line with market opening. MONSTAT will also have to establish quality reporting on energy statistics.





Serbia

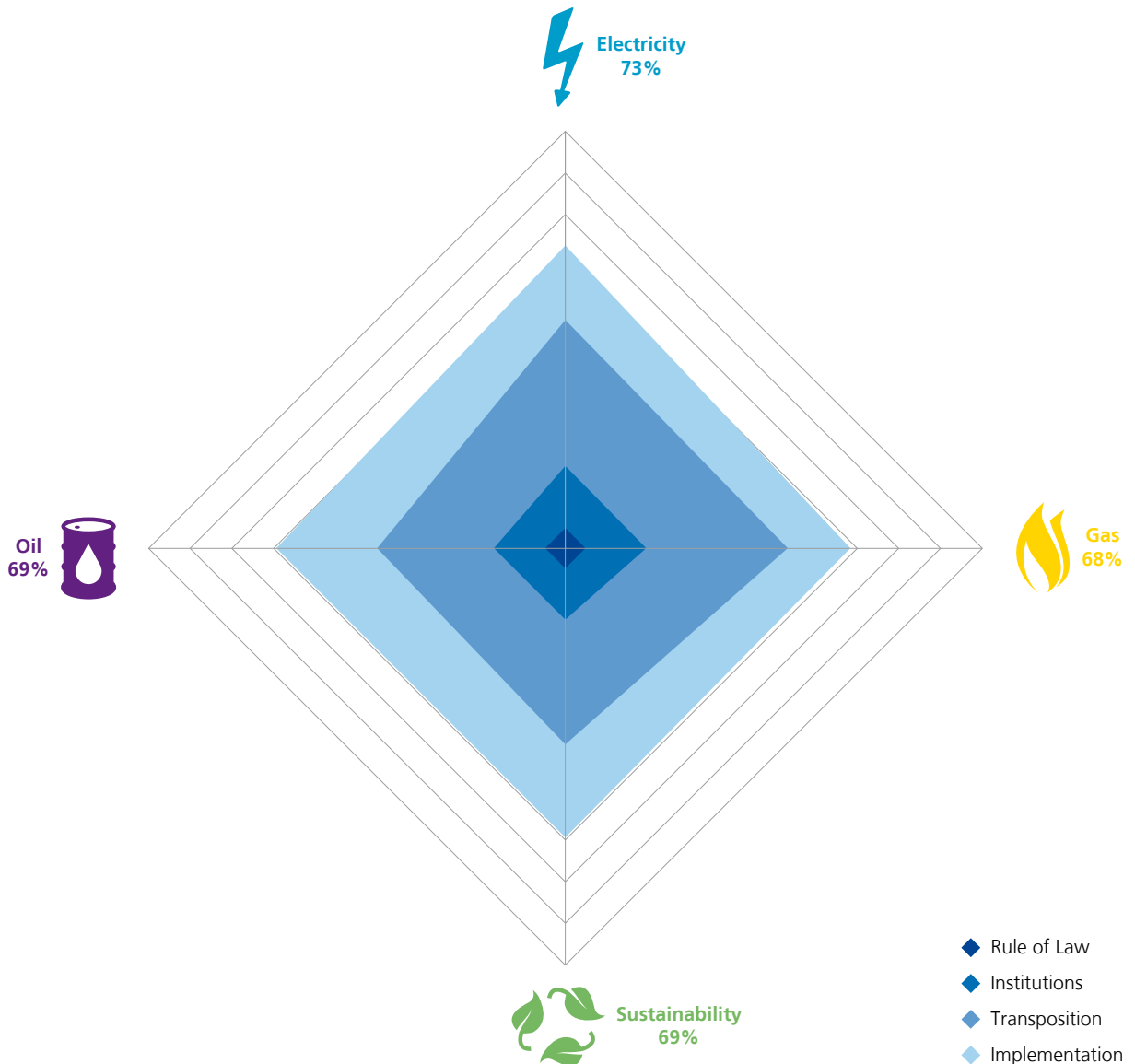


# 09 | Serbia

In previous Implementation Reports, Serbia has been commended on being a frontrunner in reforming its energy sectors in the Energy Community. This year the state of play is shifting as other Contracting Parties continue to make ground in transposing and implementing the *acquis*. Serbia is yet to rectify

its long-term breaches of Energy Community law, *inter alia* the lack of unbundling of *Srbijagas* and non-participation in regionally coordinated capacity allocation. Serbia must also facilitate the implementation of the signed Inter-TSO Agreement with Kosovo\*.

Implementation Performance of Serbia



Source: Compiled by the Energy Community Secretariat





## Serbia

### 9.1 Electricity

Description of data [unit]		2014	2015
Electricity production [GWh]		32.151	35.912
Net imports [GWh]		3.180	1.050
Net exports [GWh]		1.021	2048
Gross electricity consumption [GWh]		34.130	35.217
Losses in transmission [%]		2,44%	2,22%
Losses in distribution [%]		14,4%	14,1%
Consumption of energy sector [GWh]		1.303,0	1.518
Final consumption of electricity [GWh]		27.664	28.531
Consumption structure [GWh]	Industrial, transport, services and other non-residential sectors	13.862	14.469
	Households (residential customers)	13.802	14.062
Net maximum electrical capacity of power plants [MW]		7.005	7.172
of which:	coal-fired	3.846	3.905
	gas-fired	249	353
	hydro, total	2.897	2.898
Horizontal transmission network [km]	Substation capacity [MVA]	27.370	30.498
	Number of interconnectors	22	22
Electricity customers	Total number of customers	3.605.448	3.617.781
	out of which: non-households	396.539	3.617.781
	Eligible customers under national legislation	396.539	396.248
	Active eligible customers	55.972	91.072
Internal market	Electricity supplied to active eligible customers [MWh]	10.156.000	11.313.000
	Share of final consumption [%]	36,71%	39,65%

Source: Ministry of Mining and Energy

#### a. Sector Overview

The electricity sector in Serbia is dominated by two state-owned companies, *Elektroprivreda Srbije (EPS)* and the transmission system operator *Elektromreža Srbije (EMS)*. *EPS* performs coal production, generation and supply activities, whereas distribution is carried out by the subsidiary *EPS Distribution*. *EPS* should have been transformed into a joint-stock company until 1 July 2016, which has not taken place yet.

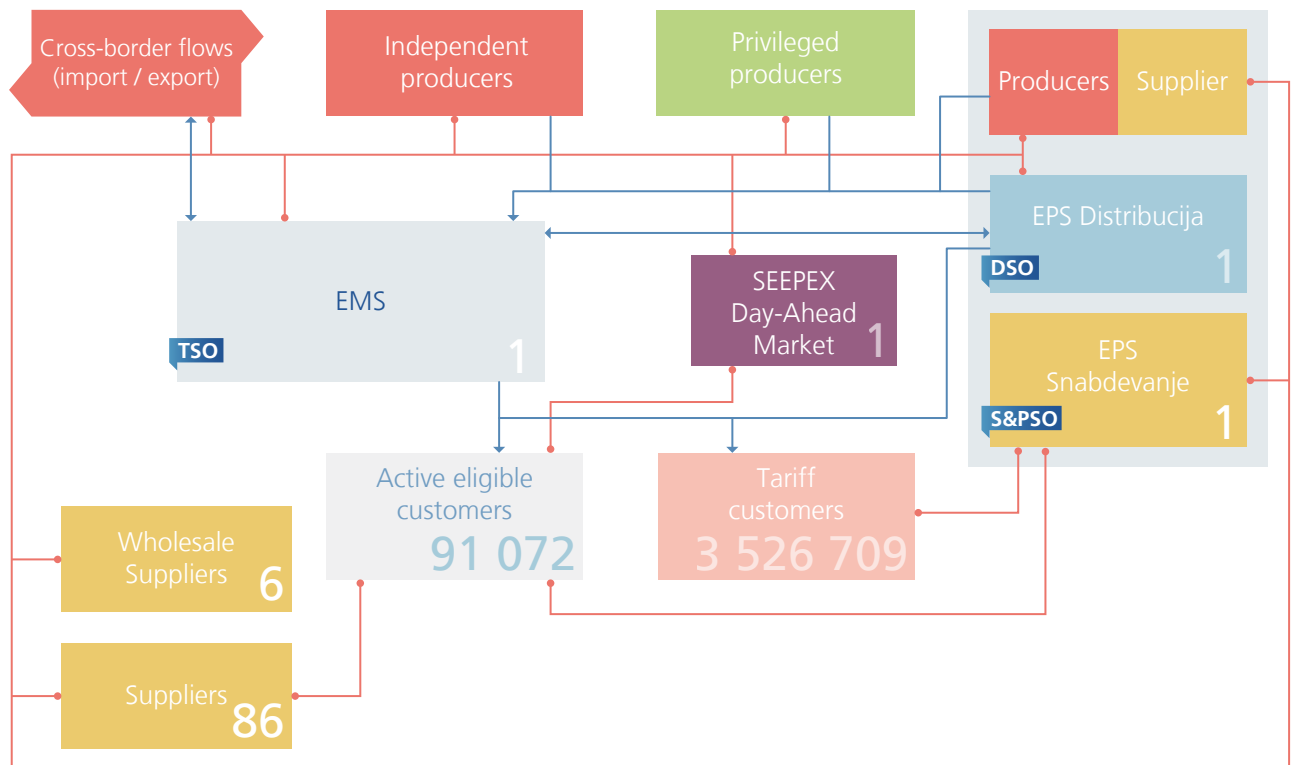
The transmission system operators of Serbia and of Kosovo\* have further delayed the implementation of the Inter-TSO Agreement on Network and System Operation Management and the Framework Agreement signed by both parties in 2014. The entry into force of the Connection Agreement between *ENTSO-E* and the transmission system operator of Kosovo\*, signed in October 2015, was unduly conditioned by a supply license being issued to a Serbian supplier in Kosovo\*. As Serbia has failed to register a supply company, this long-standing dispute still remains unresolved. The only progress made was the inclusion of the transmission system operator of Kosovo\* in the Multiyear ITC Agreement as of 1 January 2016. The transmission system operators of Serbia and Kosovo\* have also failed

to make progress in finalising agreements on compensation for past congestion management and ITC for an interim period. *EMS* submitted an application for becoming a shareholder of *SEE CAO*, albeit an agreement has still not been finalised. This has delayed the allocation of cross-border capacities through the regional platform.

A major development was the launch of the Serbian day-ahead electricity market on 17 February 2016. The spot market is operated by the joint-stock company *South East European Power Exchange (SEEPEX)*, with 75% of its shares owned by *EMS* and 25% by *EPEXSPOT*. *SEEPEX*, together with the regulatory authority and the transmission system operator, expressed interest to couple with the markets of Hungary, Czech Republic, Slovakia and Romania (known as 4MMC). *EMS* and *CGES* created a common mechanism for exchange of balancing energy from a manually activated frequency restoration reserve and started preliminary negotiations with neighbouring operator on joining the cooperation.

Serbia transposed the Third Energy Package by adopting an Energy Law in December 2014. The majority of by-laws were adopted or amended in 2015.

## Serbia's Electricity Market Scheme



Source: Compiled by the Energy Community Secretariat  
Refer to the market schemes legends on page 191 for a more detailed description.

→ Energy flow    → Commercial relation

### b. State of Compliance

The Energy Law and the adopted secondary legislation ensure a compliant legal framework for the implementation of the Third Energy Package. However, implementation is characterised by uneven progress. While notable progress has been made in market development and price deregulation, unbundling of the transmission system operator and its participation in regionally coordinated capacity allocation still need to be implemented.

#### 1. Unbundling

The provisions of Directive 2009/72/EC concerning ownership unbundling of the transmission system operator are transposed in the Energy Law. According to the law, provisions ensuring unbundling apply as of 1 June 2016. This deadline, as well as the Energy Community Treaty's, was missed. Ownership unbundling requires further measures, including amendments of the laws on government, ministries and public enterprises. The new law governing the control over public enterprises, promulgated in February 2016, fails to ensure unbundling in a compliant manner.

Unbundling of the distribution system operator is transposed in line with the Third Energy Package. Unbundling of *EPS Distribution* was accomplished in June 2016 with the approval of a compliance programme of the distribution system operator and

the distribution system operator's decision on the appointment of the compliance officer by the Energy Agency of the Republic of Serbia (AERS).

#### 2. Third Party Access

Provisions on third party access to transmission and distribution systems are transposed in compliance with the Third Energy Package. Prices of access to the transmission and distribution systems are determined and published based on the methodologies adopted by AERS. The amended Methodology for Determining the Price of Access to the Distribution System includes provisions on determining prices of access to the closed distribution system as defined by the new Energy Law.

*EMS* still fails to allocate cross-border transmission capacities through the regional coordinated capacity allocation platform. So far negotiations between *EMS* and *SEE CAO* failed to result in an agreement on either shareholder participation or use of services. In May 2016, *EMS* submitted an application for shareholder status in *SEE CAO*. *EMS* continues to allocate cross-border capacities through joint auctions with neighbouring operators *ESO*, *HOPS*, *MAVIR*, *Transelectrica* and *NOS BiH* and split auctions with *CGES*, *MEPSO* and *OST* in breach of the *acquis*.

	<b>Non-compliance with Rules for Cross-Border Electricity Flow</b>
I N  D I S P U T E	<p>On 13 May 2016, the Secretariat sent a Reasoned Request to the Ministerial Council seeking a decision on the allegation that Serbia failed to comply with Regulation 1228/2003/EC by not using the revenues resulting from the allocation of interconnection on the interconnectors with Albania, former Yugoslav Republic of Macedonia and Montenegro for one or more of the purposes specified in Article 6(6) of that regulation.</p>

### 3. Eligibility

The Energy Law defines eligibility in line with the *acquis*. All customers are eligible to choose their supplier as of 1 January 2015, including households and small customers. The Switching Rules adopted by AERS in 2015 are in line with the directive's requirements. However, the currently cumbersome administrative procedure needs to be simplified in order to ensure easy supplier switching, in particular for households and small customers.

### 4. Market Opening and Price Regulation

In 2015, 41 wholesale suppliers were active in the electricity market, while eight supplied final customers.

According to the new Energy Law, all final customers except households and small customers are obliged to choose their electricity supplier at unregulated prices. The right to be supplied under regulated prices remains only for households and small customers, who may choose to be supplied by a guaranteed supplier. In practice, *EPS* continues to supply households and small customers at prices regulated by AERS.


The switching rate remains low due to non-competitive, regulated electricity prices. AERS is obliged to publish the first report on the need for further regulation of this price until 1 May 2017. To perform this task, AERS, in cooperation with the Ministry of Mining and Energy, has developed an action plan for phasing out remaining price regulation based on the Energy Law. Once AERS concludes that there is no longer a need for further price regulation, the ministry shall conduct a public tender procedure for choosing a guaranteed supplier. Within six months of the appointment of the guaranteed supplier, AERS must fully abolish electricity price regulation.

### 5. Balancing

The rules on balancing and imbalance settlement, which are further elaborated by the Market Rules, are transposed and implemented in line with the directive's requirement for a market-based and non-discriminatory approach. *EMS* is currently in the process of aligning the Market Rules with requirements of the recently launched day-ahead market. The Energy Law defines that prices of reserve capacity needed for secondary and tertiary regulation may be regulated, depending on the assessment of AERS on the need for full or partial regulation, the level of competition, development of the regional market and cross-border capacities. In practice, *EMS* procures the balancing reserve from *EPS* based on the price regulated by AERS, which impedes the establishment of a cross-border exchange for balancing services. AERS is obliged to publish the first report on the need for further regulation of this price until 1 May 2017.

### 6. Customer Protection and Protection of Vulnerable Customers

The Energy Law defines mechanisms for protection of vulnerable customers in conformity with the Third Energy Package. In line with the law, the government adopted a decree on vulnerable energy customers in December 2015. The decree defines detailed criteria for obtaining the status of vulnerable customer in electricity or gas, namely the customer's social situation, health condition and whether or not the household customer lives in one residential unit with a single metering point. The decree also sets the maximum income and quantities of electricity and gas to benefit from the social tariff. In line with the law, funds for vulnerable energy customers are provided from the state budget.

	<b>Non-participation in Regionally Coordinated Capacity Allocation</b>
I N  D I S P U T E	<p>Case ECS-6/11 was initiated by an Opening Letter in January 2011 concluding that the Serbian transmission system operator, <i>EMS</i>, has not adopted a common coordinated congestion management method and procedure for the allocation of capacity to the market as required by a 2008 decision of the Ministerial Council. Despite the application sent by <i>EMS</i> to <i>SEE CAO</i> for use of its services in July 2015, an agreement has not been reached. If the non-compliance persists and if annual, monthly and daily auctions are not performed in a coordinated manner through <i>SEE CAO</i> or another common coordinated congestion management method and procedure, the Secretariat will proceed with the case.</p>

### c. Conclusions and Priorities

Serbia was partially successful in fulfilling last year's priorities. The launch of the Serbian power exchange was a huge step forward in facilitating efficient day-ahead trading. On the other hand, *EMS* failed to close any of the two open issues in the sphere of regional capacity allocation. Joining a capacity allocation platform and unblocking implementation of the signed agreement between *ENTSO-E* and *KOSTT* remain the highest priority tasks for *EMS* in order to close the long-standing disputes.

Majority of the secondary legislation was adopted in line with the deadlines stipulated in the Energy Law. The process of aligning secondary legislation has to be finalised as soon as

possible, including the adoption of new Market Rules by *EMS*, rules on publication of key market data by *AERS*, and the decree on electricity delivery and supply by the ministry.

The unbundling of the transmission system operator must be finalized in line with the deadlines stipulated by the Energy Law.

*AERS* should publish as soon as possible the reports on the need for further regulation of electricity prices for households and small customers, as well as prices of balancing reserve. To facilitate competition in the electricity market and streamline its integration, *SEEPEX* should continue its efforts to improve liquidity, including through market coupling with neighbouring markets.





## Serbia

### 9.2 Gas

Description of data [unit]		2014	2015
Natural gas production [Bcm]		0,467	0,432
Import [Bcm]		1,393	1,740
Stock changes [Bcm]		0,142	-0,115
Total supply [Bcm]		2,002	2,057
Consumption in energy sector [Bcm]		0,510	0,598
	out of which: Energy transformation [Bcm]	0,018	0,013
		0,471	0,569
Available for final consumption of natural gas [Bcm]		1,493	1,444
Interconnectors' capacity [Bcm]	Total	5,238	5,238
	out of which bidirectional	0	0
Storage working capacity [Bcm]		0,450	0,460
Length of transmission network [km]		2.423	2.423
Length of distribution network [km]		16.363	16.532
Natural gas customers	Total	261.262	262.567
	out of which: Non-households	12.288	12.764
	Eligible customers under national legislation	12.288	262.567
	Active eligible customers	60	802
	Households	248.975	249.803
Internal market	Gas supplied to active eligible customers [Bcm]	0,800	1,780
	Share of total consumption [%]	40%	87%
Final consumption of natural gas per sector [Bcm]		1,493	1,444
Consumption structure [Bcm]	Industry and commercial customers	1,314	1,253
	Households	0,179	0,191

Source: AERS

#### a. Sector Overview

The only producer of gas in Serbia, *Naftna Industrija Srbije, NIS AD*, majority owned by *Gaspromneft* of Russia, produced some 19% of gas supplies in 2015. The remaining supplies come from the Russian Federation via a long-term agreement with *Srbijagas*, which is also a licensed transmission system operator under long-term oil-indexed contracts with *Gazprom*, through the vertically integrated company *Yugorosgaz*. *Srbijagas* is 100% owned by the state. *Yugorosgaz* is under the ownership of *Gazprom* (50%), *Srbijagas* (25%), *Central ME Energy* and *Gas Vienna* (25%), which is in turn 100% owned by *Centrex Europe Energy & Gas AG*, Vienna. *Yugorosgaz* also owns *Yugorosgaz Transport*. Thirty-two licensed distribution system operators are active. *Banatski Dvor*, 51% owned by *Gazprom* and 49% owned by *Srbijagas*, is a licensed storage system operator.

In retail gas supply, *Srbijagas* is also the dominant market player, accounting for some 67% of total natural gas sales in 2014. The remainder consists of other suppliers, such as public supplier *DP Novi Sad* (3%) and *NIS* (2.5%), whereas all others have even lower market shares.

Serbia adopted a new Energy Law, which transposed the Third Energy Package, in December 2014.

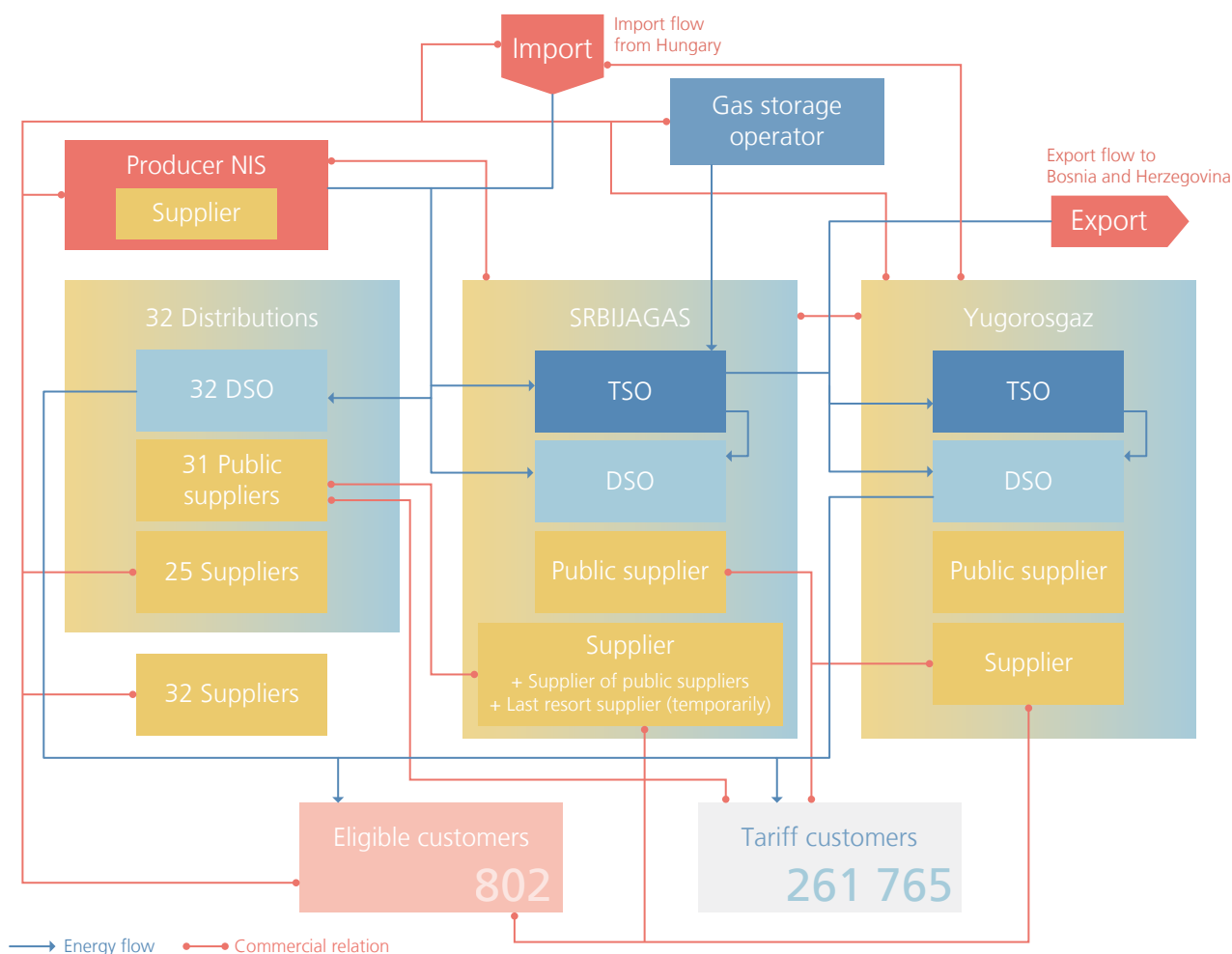
#### b. State of Compliance

In this reporting period, Serbia did not resolve the major non-compliance issue that constitutes a persistent and serious breach of its Energy Community Treaty obligations – the unbundling of *Srbijagas* and *Yugorosgaz* in line with the Second Energy Package, let alone the Third Energy Package. There is thus a wide gap between transposition and implementation of the Energy Community *acquis*.

Serbia continued to align its secondary legislation to the new Energy Law, albeit with a number of shortcomings. A number of secondary legal acts were neither aligned nor adopted in line with the December 2015 deadline set by the law. This includes security of supply rules, general conditions for gas delivery and all acts that should have been developed by the transmission system operator (grid code, programme for non-discriminatory conduct, ten-year network development plan).



## Serbia's Gas Market Scheme



Source: Energy Agency of Serbia (AERS), compiled by the Energy Community Secretariat. Refer to the market schemes legends on page 191 for a more detailed description.

The regulatory authority AERS has adopted all necessary secondary legal acts stipulated by the law. The Ministry of Mining and Energy adopted the licensing and certification rules.

### 1. Unbundling

Serbia transposed the unbundling and certification provisions of the Third Energy Package correctly. The Certification Rules adopted by the ministry describe the procedures which a candidate transmission system operator must follow before the regulator's certification. The Energy Law transposes the role of the Secretariat during the certification procedure with a shorter time period for the Secretariat's opinion than required by the *acquis*. The Law on Government, the Law on Ministries, the Law on Public Companies, Company Law and other regulations still need to be amended according to the Energy Law to allow for effective unbundling.

All three models of transmission operator system unbundling were transposed. Several transitory provisions related to man-

agement cooling off periods under the independent transmission operator (ITO) models could lead to non-compliance with the directive.

The Energy Law sets the deadline for unbundling of transmission system operators as of 1 June 2016, while stipulating that a certification procedure shall be performed until 31 December 2016. *Yugorosgaz Transport* (controlled by a third country) applied for certification under Article 11 of Directive 2009/73/EC but then revoked its application before AERS adopted a preliminary decision. *Srbijagas* continues to hold licenses for and performs the function of transmission system operator and supplier of natural gas in Serbia, without being unbundled even in line with the Second Energy Package. It has neither adopted nor applied compliance programmes as required by the Energy Law and Directive 2009/73/EC. Both *Srbijagas* and *Yugorosgaz* are not functionally unbundled within the meaning of Article 9 of Directive 2003/55/EC. It is unlikely that the certification procedure will be finalised in the timeframe stipulated by the Energy Law.

The Energy Law also requires the unbundling of storage and distribution operators from activities not related to storage and distribution, if they are part of a vertically integrated undertaking.

As all retail undertakings in the Serbian gas sector serve less than 100.000 final customers, they are exempted from the unbundling requirements by law. While *Srbijagas* established a daughter company, the limited liability company "*Distribucijagas Srbija*", in practice *Srbijagas* still acts as a distribution system operator.

## 2. Third Party Access

The Energy Law transposes non-discriminatory network access to transmission, distribution system and storage facilities, as well as to upstream pipelines, as a principle rule. Detailed rules on access to the transmission network have been included in the network codes of *Srbijagas* and *Yugorosgaz Transport* and distribution codes of distribution system operators. *Banatski Dvor*, the storage operator, did not adopt a storage code, which is in breach of the Energy Law.

The regulatory authority approves network tariffs based on its methodologies defined and published in advance. The Transmission Tariff Methodology is based on entry/exit principles. Access to storage in Serbia is regulated via a storage tariff methodology adopted by AERS. However, *Banatski Dvor* does not perform storage activity based on the adopted tariff methodology.

The procedures for the exemption of new gas infrastructure from third party access, including the role of the Secretariat, are defined in line with Directive 2009/73/EC.

The Energy Law further stipulates provisions on third party access services offered by transmission system operators and on capacity allocation as general obligations of transmission system operators. This is elaborated in more detail in the network codes of *Srbijagas* of 2013 and *Yugorosgaz Transport* of 2015, which also include capacity allocation, congestion management and balancing. Secondary trading and interruptible capacity are offered as a means of congestion management.

However, the network codes of *Srbijagas* and *Yugorosgaz Transport* do not allow for capacity rights transfer on a monthly or daily basis, which runs counter to the *acquis*' requirement that the transmission system operators facilitate such trade.

In practical terms, the codes are not implemented, which contributes to the foreclosure of the gas market in Serbia.

## 3. Eligibility

The eligibility right to freely choose a supplier is guaranteed to all customers as of 1 January 2015, which is in line with the gas *acquis*.

Supplier Switching Rules were adopted in 2012 and aligned with the new law. They are compliant with the gas directive.

## 4. Market Opening and Price Regulation

Only two traders – *NIS* and *Srbijagas* – are active on the wholesale market. The wholesale market in Serbia is based on bilateral contracts among suppliers and between suppliers and a producer. Additionally, the purchase contracts between public suppliers and the supplier of public suppliers, *Srbijagas*, are still in place. The existing intergovernmental agreement on gas supplies signed between Serbia and Russia in 2012, with a validity period up to 2021, includes anticompetitive clauses which constitute a restriction of the territory to which the goods may be sold.

Serbia's retail market is based on bilateral purchase contracts between suppliers and customers. In total, 802 customers purchased gas on the market at unregulated prices, representing 85,3% of gas quantities available. The rest of the market (household customers and some small consumers) is supplied under regulated prices by 33 public suppliers. These categories of customers are also free to opt for supply under market conditions, but the switching rate is low, and represents some 5,5% of the total gas quantities sold to the customers in Serbia (the switching rate for the customers connected to the transmission system is higher and stands at 19,8% of sold gas quantities).

The new law granted customers and suppliers (including public suppliers) the right to purchase gas on the open market, while retaining the concept of a so-called supplier of public suppliers until a competitive natural gas market is established in Serbia. However, there is no clear benchmark when this might happen or who would be in charge to assess if this happened. *Srbijagas* is designated as a supplier of public suppliers until 1 July 2016 and supplier of last resort until 1 January 2017.

## 5. Balancing

The balancing rules defined in the *Srbijagas* network code are in compliance with Regulation (EC) 715/2009. The code envisages a virtual point for trade. The code of *Yugorosgaz Transport* does not include provisions on commercial responsibility of system users nor the transmission system operator's obligation to publish information on balancing status, and is thus not in line with the *acquis*.

In practical terms, the balancing rules are not being applied.

## 6. Security of Supply

Serbia complies with the provisions on security of supply required by Directives 2009/73/EC and 2004/67/EC. The security of supply provisions were transposed by the Energy Law and the Decree on Conditions for Natural Gas Delivery. Serbia transposed a few essential provisions required by Regulation (EC) 994/2010 in the law.

### 7. Customer Protection and Protection of Vulnerable Customers

The Energy Law complies with customer protection provisions from the Third Energy Package. The Government's Decree on the Protection of Vulnerable Customers defines vulnerable customers, who receive a discount on gas supply for which suppliers are compensated from the state budget.

#### c. Conclusions and Priorities

During the previous reporting period, Serbia made a great leap towards transposition of the Third Energy Package into national legislation. It also made initial efforts to rectify the breach from the Second Energy Package related to lack of *Srbijagas* unbundling. However, this reporting year saw a complete annulment of the previous year's work and total lack of progress on this issue. Only the secondary acts for which the regulator was responsible were updated. Progress related to construction of the interconnector between Serbia and Bulgaria was also absent.

Serbia even slowed down the pace of aligning the remaining secondary legislation and did virtually nothing in terms of preparatory work for unbundling of transmission system operators before the deadlines for certification set by the Energy Law. The highly concentrated share of *Srbijagas* in the wholesale and retail markets explains the company's obstruction to unbundling and making space for new entrants. It is up to the Serbian authorities to fully apply their own laws and stick to international commitments, thus enabling the creation of an integrated gas market to the benefit of Serbian customers.



### Lack of Unbundling in the Gas Sector

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In Case ECS-9/13 against Serbia for failure to comply with its obligations under the Energy Community Treaty related to the unbundling of two vertically integrated gas undertakings, the Secretariat submitted a Request to the Ministerial Council for a decision under Article 92 of the Treaty to be adopted in October 2016. This Request follows a decision of the Ministerial Council of 23 September 2014 on Serbia's failure to comply with the gas unbundling rules of the Second Energy Package, which set a deadline of 30 June 2015 for rectifying the breach. Both *Srbijagas* and *Yugorosgaz* are not yet unbundled within the meaning of Article 9 of Directive 2003/55/EC. Compliance programmes as required by the gas directive have not been adopted and applied by either of the two companies.





## Serbia

### 9.3 Regulatory Authority

#### a. Compliance with Independence Criteria and Competences

The Energy Agency (AERS) is the single authority for regulating the energy sector of Serbia, as required by the Third Energy Package. AERS is by law set up as an institution legally distinct and functionally independent from any other public entity. As the establishment of AERS is solely based on legislation, the regulatory authority cannot be liquidated by act of another public institution. AERS is headed by a council consisting of a president and four members with a term of five to seven years, all renewable once. A rotation scheme is in place.

The organisation of AERS complies with all independence criteria stipulated by Directives 2009/72/EC and 2009/73/EC except for two very crucial aspects. First, the management does not have full autonomy in designing the authority's internal management as statutes require approval of the parliament. The main threat to regulatory independence, however, lies in constant budgetary uncertainty and insufficient human resources. At the cut-off date of the present report, the regulator's financial plan for 2016 has still not been approved by the parliament. Similar delays have occurred in previous years.

According to the Law on the Maximal Number of Employees in the Public Sector, the employment of additional staff is subject to a decision of the National Assembly Committee for Administrative and Budgetary Affairs. The appointment of new employees is indirectly subject to the parliament's approval of the regulator's annual budget. Staff salaries were originally comparable to the private industry and higher than those of the public sector. Due to a conservative policy on salary increases in comparison to the (regulated) industry as well as introduction of certain salary limits applicable to civil servants, the competitiveness of the regulator's salaries has decreased.

AERS provides accountability of its activities by presenting its annual report to the parliament.

#### b. Performance

AERS has proven both its expertise and commitment to actively design the Serbian gas and electricity markets. However, the regulator has failed for several years to oppose political pressure and enforce compliance with the obligation of the electricity transmission system operator *EMS* to participate in regionally coordinated capacity allocation and congestion management procedures or the unbundling of the gas incumbents *Srbijagas* and *Yugorosgaz*. AERS did not stand up against the pending infringement cases related to the breach of the *acquis* - as must be expected from a truly independent regulator not only performing its formal legal tasks of tariff and market rule setting but actively designing the national energy market with a view to overcome existing shortcomings, in particular for a regulator equipped with competences and expertise as is the case for AERS.

At the same time, it must be noted that AERS has been subject to political influence when it comes to including debts of *Srbijagas* – as agreed between the Republic of Serbia and the *International Monetary Fund (IMF)* – into the transmission tariff. Further to this, the regulator failed to adopt an entry/exit tariff system for the gas transmission operator *Yugorosgaz*.

On the regional level, AERS is one of the most active participants in the ECRB, including co-chairmanship of the Electricity Working Group.

#### c. Conclusions and Priorities

Although granted by law, genuine financial independence of AERS needs to be put in place by not intervening in staff and/or salary levels as well as by ensuring financial certainty. AERS must also improve its independence from political influence and *vice versa*. To this extent improvements have not been made compared to the Secretariat's Implementation Report 2015.





## Serbia

9.4 Oil

### a. Sector Overview

In Serbia, oil production was around 1.083 mt in 2015. Import of crude oil was around 1,97 mt, 11,5% higher than in 2014. Crude oil exports were around 4 kt, the same as in 2014. As regards the domestic production of petroleum products, the volume of 3.041 kt of petroleum products processed in 2015 constitutes a decrease by 3,7% compared to 2014. The estimated export of petroleum products decreased by 9,1% compared to 660 kt in 2014. The estimated import of petroleum products decreased by 6,5% compared to a level of around 855 kt in 2014. The overall consumption of petroleum products in 2015 was 2.564 kt.

### b. State of Compliance

Following the transposition of the most relevant provisions of Directive 2009/119/EC on emergency oil stocks in 2013, Serbia has adopted nearly all the secondary legislation necessary to implement and bring into operation its emergency stockholding system.

During the last quarter of 2015, activities were conducted on the formation of emergency reserves. Serbia procured crude oil and petroleum products to the total amount of 48.000 tonnes and contracts on the optional purchase of petroleum products (tickets) to the total amount of 60.000 tonnes. With these procurements, the emergency oil stocks were at the level of 14,5 days of average daily consumption at the end of 2015.

### c. Conclusions and Priorities

After one year of operation, it is obvious that the work on emergency oil stockpiling is progressing well. The only remaining secondary legislation not yet transposed is the Emergency Response Plan in the event of an oil supply disruption.

The main priorities for 2016 should be:

- Approval of the Emergency Response Plan; and
- Building up stocks in compliance with the country's long-term, mid-term and annual programmes.







## Serbia

### 9.5 Renewable Energy

	2014	2015
Total capacities of renewable energy (MW)	2.909,6	2.914,1
Hydropower, out of which:	2.897	2.898
- small hydropower (<10 MW)	54,2	63,2
- pumped storage	614	614
Wind	0,5	0,5
Solar	7,22	10,8
Biogas	4,9	4,9

Source: NEURC

#### a. Sector Overview

With the adoption and adaptation of Directive 2009/28/EC by the Ministerial Council in 2012, Serbia committed to a binding 27% target of energy from renewable sources in gross final energy consumption in 2020 compared with 21,2% in 2009. In 2014, according to the energy balance published by *EU-ROSTAT*, Serbia achieved a 23,1% share of energy from renewable sources, which is above the second indicative trajectory of 22,9%. This is mainly due to a decrease of energy consumption rather than investments in new renewable energy capacities.

The 2014 Energy Law sets the main legislative framework for renewable energy and partly transposes Directive 2009/28/EC, including the provisions linked to the transport sector. Additional elements of the legal and regulatory framework for renewable energy are split among several laws and by-laws.

In June 2016, the Government of Serbia adopted three regulatory decrees on renewable energy. The regulation on privileged producers determined the conditions and procedure for acquiring the status of privileged producer. The regulation on the incentive measures for producing electricity and heat from renewable sources and for high-efficiency cogeneration set the level of feed-in tariffs offered to privileged producers per type of technology and the duration of the support. The third regulation on the standard model for the power purchase agreement set the template for such agreements to be signed by the privileged renewable energy producers and the guaranteed supplier.

#### b. State of Compliance

While Serbia has transposed the majority of the renewable energy *acquis* via the adoption of the new Energy Law and subsequent secondary legislation, the legal and regulatory framework still remains to be implemented in many respects.

#### 1. National Renewable Energy Action Plan

Serbia adopted and submitted to the Secretariat its NREAP by the deadline. With its adoption, Serbia also complied with the obligation of adopting a binding 27% share of renewable energy in 2020. However given the minimal deployment of renewables, Serbia should consider revising its NREAP as well as new measures in order to ensure it is on track to meet the 2020 renewable energy target.

#### 2. Support Schemes

In accordance with the Energy Law, support schemes for various renewable energy technologies have recently been adopted, including a template for power purchase agreements between privileged renewable energy producers and the guaranteed supplier.

The support schemes do not take into the account the requirements of the State Aid Guidelines for Environmental Protection and Energy 2014 - 2020 (EEAG), especially rules on granting the aid in a competitive procedure and in the form of a premium on top of the price of electricity sold directly on the market. The Secretariat is currently assessing compliance.

#### 3. Cooperation Mechanisms

The possibility to enter into cooperation mechanisms is partially transposed in the new Energy Law. In case Serbia plans to make use of the cooperation mechanisms to reach the 2020 target, the government, upon a proposal of the ministry, shall adopt the conditions for implementation of cooperation mechanisms in compliance with Decision 2012/04/MC-EnC of the Ministerial Council. These conditions have to be adopted if the cooperation will be with one or more Contracting Parties. In case of cooperation with EU Member States using statistical transfers or joint support schemes, Serbia must ensure compliance with Articles 8, 9, 13 of Decision 2012/04/MC-EnC. In case of joint projects on renewable energy, the conditions set in Articles 7, 8, 9 and 10 of Directive 2009/28/EC as adapted by Decision 2012/04/

MC-EnC of the Ministerial Council have to be transposed and implemented. Serbia has to ensure compliance with the requirements on cooperation mechanism further if it intends to enter into cooperation with other countries.

#### 4. Administrative Procedures

The investor guides for various renewable energy technologies have been updated. However, the requirements for streamlining, simplification and coordination of procedures for authorization, licensing and network connections and introduction of one-stop shops as required by the revised Law on Construction and Planning are yet to be implemented in practice. Serbia must ensure full compliance with Article 13 of Directive 2009/28/EC.

#### 5. Access to and Operation of the Grids

Currently, the Energy Law does not include guaranteed access for electricity or gas produced from renewable sources to enable the transition to a support scheme based on a feed-in premium to be paid on top of the price of electricity or gas sold directly to the market. It only contains priority dispatch for renewables under the condition that security of supply or operation of the distribution or transmission system will not be jeopardised. If priority dispatch is rejected on these grounds, the distribution and transmission system operators must inform the regulator about the measures needed to prevent the limitation of electricity from renewable sources. Compensation in case of curtailments is envisaged in the power purchase agreement template adopted by the 2016 government decree.

The methodologies for determining connection costs to the transmission and distribution systems were approved by AERS in December 2015 and entered into force by the end of the same year. Detailed information about the procedures is available on the operators' websites. Overall, Serbia does not fully comply with Article 16 of the directive.

#### 6. Guarantees of Origin

Based on the Rules on Issuing, Transfer and Cancellation of Guarantees of Origin, the transmission system operator EMS, as the issuing body for guarantees of origin, has taken steps towards the implementation of an accurate, reliable and fraud-resistant system in accordance with European practice. Based on a software solution compliant with European practice, the registry for guarantees of origin became operational in July 2016. Serbia shall ensure full compliance with Article 15 of the Renewable Energy Directive in the implementation phase.

#### 7. Renewable Energy in Heating and Cooling

The framework for promotion of heating and cooling from renewable sources is not yet complete. At present, energy from renewable sources in heating and cooling does not even count towards the achievement of the 2020 target, according to the NREAP. Investment support for biomass heating power plants has only recently been introduced. Serbia needs to ensure full compliance and adequately promote heating and cooling from renewable sources in the most cost-effective way.

#### 8. Renewable Energy in Transport

Serbia's NREAP includes the 10% renewables target in transport by 2020. However, the actual share of energy from renewables in the transport sector is close to 0%. Despite being an obligation under the 2014 Energy Law, the sustainability criteria for biofuels have not been established so far.

Serbia is completely non-compliant with provisions of Directive 2009/28/EC in the transport sector, none of the Articles 17 to 21 has been transposed. Even measures already required by the previous Directive 2003/30/EC have not been fulfilled in Serbia.

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### c. Conclusions and Priorities

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In this reporting period, despite the adoption of the secondary legislation as required by the 2014 Energy Law, Serbia failed to make significant progress in implementing the policy measures outlined in its NREAP and to ensure the country is on the trajectory to 2020. Moreover, the secondary legislation on support schemes based on feed-in tariffs which was adopted in 2016 fell short of complying with the State aid *acquis*. A revision of the Energy Law and the relevant regulatory framework is needed in this respect.

The administrative, permitting and grid connection procedures and commercial agreements have to be further streamlined to ensure a conducive investment environment. The current approach of ignoring the potential contribution of renewables in heating and cooling needs to be changed urgently and measures to increase efficient use of energy from renewable sources in heating shall be fostered.

Serbia should also introduce compliant sustainability criteria and a certification system for liquid biofuels without delay.



## Serbia

### 9.6 Energy Efficiency

Energy Efficiency Action Plan (EEAP)*						
Period covered by EEAP		2010 – 2018				
Overall energy savings target - Directive 2006/32/EC (ktoe / % / year)		752 / 9 / 2018				
EEAP status		2 <sup>nd</sup> EEAP adopted and published on 21 October 2013 3 <sup>rd</sup> EEAP under development				
Achieved energy savings (ktoe / % / year)		102 / 1.22 / 2012 Reporting for 2015 is under preparation				
Key institution(s) in charge		Ministry of Mining and Energy; Ministry of Construction, Transport and Infrastructure; other state and local authorities				
Main data and energy efficiency indicators**		2011	2012	2013	2014 ***	
Total primary energy supply (TPES)		ktoe	16.176	14.533	14.891	13.294
Energy intensity (TPES/GDP)		toe / 1.000 USD	0,57	0,52	0,52	0,47
TPES/Population		toe/capita	2,24	2,02	2,08	1,86
Total final energy consumption (TFEC)		ktoe	9.822	8.650	8.712	8.367
Share of TFEC by sector	Residential	%	32%	36%	33%	33%
	Services	%	11%	10%	9%	9%
	Industry	%	27%	28%	28%	25%
	Transport	%	20%	20%	22%	25%
	Others	%	1%	2%	2%	2%
	Non-energy use	%	8%	4%	6%	6%

\* Source: 2nd EEAP of Serbia (in Serbian)

\*\* Source: *International Energy Agency* (May 2016)

\*\*\* Indicators calculated by the Energy Community Secretariat based on *EUROSTAT* energy balances for 2014

#### a. Sector Overview

Final energy consumption in Serbia decreased in 2014, while the gross domestic product continued recovering after its contraction in 2012. The decoupling of economic growth from energy demand was reflected in the decrease of energy intensity in 2014.

The Ministry of Mining and Energy is the key institution for implementation of state energy efficiency policy, while the Ministry of Construction, Transport and Infrastructure is responsible for promotion of energy efficiency in buildings. State support for measures in public sector is provided through the budgetary fund for energy efficiency.

During the reporting period, the Ministry of Mining and Energy continued developing by-laws based on the Law on Efficient Use of Energy to fully complete the energy efficiency legal framework, including adoption of the package of regulations to implement an energy management system and the programme for the training of energy managers and authorized energy auditors, the Rulebook on Conditions for Allocation and Use of Resources of the Budgetary Fund for Improvement of Energy Efficiency (February 2016), the Rulebook on the Format of Periodical Reporting on Achieved Energy Savings (May 2016) and Rulebook on Condition of Appointing Energy Managers

in Local Self-Governments (March 2016).

With the support of the Energy Community Secretariat, the Rulebook Determining a Model Contract for Energy Services for Implementation of Energy Efficiency Improvement Measures for Public Sector Users was developed and published in May 2015. The first tender for a municipal ESCO street lighting project was published in June 2016. The Secretariat supported drafting of the rulebook introducing minimal energy efficiency requirements for public procurement (December 2015), as well as the rulebook for inspection of heating and air conditioning systems (June 2016), the adoption of which terminated the preliminary dispute settlement procedure initiated by the Secretariat.

The 3<sup>rd</sup> EEAP is currently being developed. The Ministry of Mining and Energy, which monitors its implementation, will report on the energy savings achieved as part of this EEAP. The new EEAP will also include a roadmap for the timely transposition of Directive 2012/27/EU by 15 October 2017.

#### b. State of Compliance

With the exception of the missing 3<sup>rd</sup> EEAP, Serbia has achieved a relatively high level of transposition of the energy efficiency *acquis*. Efforts must continue to achieve full implementation.

### 1. Energy Services Directive 2006/32/EC

The Law on Efficient Use of Energy adopted in March 2013 transposes the main provisions of Directive 2006/32/EC (definitions, EEAP requirements, energy audits, minimum energy efficiency requirements in generation, transmission and distribution of electricity, new financing mechanisms and obligations of the public sector).

The Ministry of Mining and Energy now has in place the comprehensive package of secondary legislation to enable the full implementation of Directive 2006/32/EC (including recent adoption of regulation on energy efficiency in public procurement, energy services etc.) and certain aspects of Directive 2012/27/EU (e.g. energy management).

Following the adoption of the 2<sup>nd</sup> EEAP in October 2013, the 3<sup>rd</sup> EEAP is still under preparation and its submission to the Secretariat (due by 30 June 2016) is pending. The calculation of the national indicative energy savings target was in previous EEAPs not fully in compliance with Article 4 of Directive 2006/32/EC, and this should be improved. Instead of being based on the average annual amount of consumption for the most recent five-year period, 2008 data on final energy consumption was used due to the lack of available statistical data.

### 2. Energy Labelling Directive 2010/30/EU

Directive 2010/30/EU and seven delegated acts were transposed with the adoption of the Decree and Rulebooks on the Labelling of Energy-Related Products in 2014. The remaining four delegated acts (665/2013, 812/2013, 811/2013 and 392/2012) adopted by the Ministerial Council Decision in September 2014 still need to be transposed.

### 3. Energy Performance of Buildings Directive 2010/31/EU

The Law on Construction and Planning, the Law on Efficient Use of Energy, the Rulebook on Energy Efficiency of Buildings, the Rulebook on Conditions, Content and Manner of Issuance of Certificates of Energy Performance of Buildings, and most recently the rulebook on inspection of heating and air conditioning systems transposed core provisions of Directive 2010/31/EU. However, the full transposition and implementation of certain provisions (i.e. cost-optimal calculations, nearly zero-energy building targets and strategies) is delayed.

### c. Conclusions and Priorities

Serbia achieved significant progress towards full transposition and implementation of the energy efficiency *acquis* with the adoption of additional secondary legislation, namely on energy management, public procurement, inspection of heating and air-conditioning systems and energy services. However, a number of priorities identified in last year's Implementation Report still need to be fulfilled.

The first priority for Serbia in the forthcoming period is the implementation of the new set of secondary legislation based on the Law on Efficient Use of Energy, as well as transposition of the missing labelling delegated regulations, in accordance with the Ministerial Council Decision of September 2014.

The second priority should be the timely finalization and adoption of the 3<sup>rd</sup> EEAP and correcting some of the shortcomings of the 2<sup>nd</sup> EEAP.

The institutional capacity of public institutions responsible for energy efficiency should be strengthened. Moreover, the decision to abolish the Energy Efficiency Agency in 2012, in spite of the Secretariat's recommendation, raises concerns regarding the capacity for implementation of energy efficiency policy.





## Serbia

### 9.7 Environment

#### a. Sector Overview

##### 1. Environmental Impact Assessment Directive

Environmental impact assessments are carried out by different authorities related to the responsibilities for issuing building permits, while all environmental impact assessments with potential transboundary impact fall under the responsibility of the Ministry of Agriculture and Environmental Protection.

In total, the environmental impact assessments for six Projects of Energy Community Interest were concluded so far (combined heat and power plant in Pancevo; thermal power plant Kolubara B; thermal power plant Nikola Tesla B3; hydropower plants Ibarske (10 HPPs); 400 kV OHL SS Kragujevac - SS Kraljevo and 400 kV OHL SS Resita (RO) - SS Pancevo (RS)). For three projects (400 kV OHL SS Bajina Basta - SS Kraljevo; 400 kV OHL SS Obrenovac - SS Bajina Basta and interconnection pipeline RS (Niš-Dimitrovgrad) to BU), the environmental impact assessment is ongoing, while for one project (interconnection pipeline HR - RS (Slobodnica-Sotin-Backo Novo Selo)), the preparation of the environmental impact assessment has not started yet.

##### 2. Sulphur in Fuels Directive

Serbia has two refineries producing heavy fuel oil and gas oil located in the municipalities of Pancevo and Novi Sad operated by *NIS a.d.*

##### 3. Large Combustion Plants Directive

Serbia has nine thermal power plants falling under the scope of the Large Combustion Plants Directive operated by *Elektroprivreda Srbije* with a total of 21 units and a total rated thermal input of 15.049 MW (including Toplana Vreoci Kolubara Prerada and an auxiliary boiler at TPP Nikola Tesla B). 17 units are fired by lignite while four are running on natural gas. Furthermore, a total of 26 combustion plant units are operated in different industrial sectors.

#### b. State of Compliance

With the exception of the Sulphur in Fuels Directive, Serbia has reached a high level of transposition of the Energy Community environmental *acquis*.

##### 1. Environmental Impact Assessment Directive

Environmental impact assessment in Serbia is governed by the Law on Environmental Impact Assessment of 2004, as amended

in 2009. The list of activities requiring an environmental impact assessment is transposed by the Decree on the Lists of Projects Subject to an Environmental Impact Assessment of 2011. Following the entry into force of the new Environmental Impact Assessment Directive (2011/92/EU) in the EU, Serbia started revising the decree according to Annex I of Directive 2011/92/EU (projects for which an environmental impact assessment is mandatory). This exercise is planned to be finalised by the end of 2016.

Serbia has transposed the Environmental Impact Assessment Directive into national law and environmental impact assessments are carried out in accordance with the provisions of the directive.

##### 2. Sulphur in Fuels Directive

Serbia still fails to fully comply with the Sulphur in Fuels Directive and the infringement case launched in 2013 is ongoing.

With the adoption of the new Rulebook on Technical and Other Requirements for Petroleum-Derived Liquid Fuels in 2015, shortcomings related to the transposition of the Sulphur in Fuels Directive (namely related to the definition of heavy fuel and gas oil as well as sampling and analysis) were addressed. Furthermore, Serbia adopted the rulebooks on the annual programme for fuel quality monitoring in 2015 and 2016.

However, one of the critical issues still persists as the new rulebook allows for an unconditional derogation from the maximum sulphur content of heavy fuel oil until the end of 2019.



#### Non-compliance with Sulphur in Fuels Directive

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On 13 May 2016, the Secretariat submitted a Reasoned Request in Case ECS-4/13 to the Ministerial Council, following its Reasoned Opinion issued on 21 December 2015, in which the Secretariat concluded that Serbia failed to transpose and implement Sulphur in Fuels Directive 1999/32/EC.

##### 3. Large Combustion Plants Directive

Serbia submitted its draft National Emission Reduction Plan to the Secretariat in December 2015. The assessment of this plan is currently ongoing.



Serbia has adopted new legislation regulating the emissions of large combustion plants, namely the Regulation on Emission Limit Values of Pollutants into the Air from Combustion Plants and the Regulation on the Measurements of Emissions of Pollutants into Air from Stationary Sources of Pollution. These regulations effectively transpose the emission limit values of the Large Combustion Plants Directive (for existing plants) and the Industrial Emissions Directive (for new plants) and enable Serbia to implement the provisions of these directives by the deadlines set by the Treaty and the relevant decisions of the Ministerial Council.

### c. Conclusions and Priorities

With regard to the priorities identified in last year's Implementation report, Serbia has submitted its National Emission Reduction Plan and opt-out requests to the Secretariat in a timely

manner. At the same time, the priorities related to the Sulphur in Fuels Directive have not been followed up.

Serbia must first and foremost achieve complete transposition into national legislation and effective implementation of the Sulphur in Fuels Directive. Despite the adoption of the new rulebook in 2015, one of the fundamental concerns of the Secretariat remains valid. The Secretariat thus referred the case to the Ministerial Council.

As regards the Large Combustion Plants and Industrial Emissions Directives, Serbia should focus its efforts on preparing for the practical implementation of the directives, in particular via the reconsideration and update of the environmental permits of large combustion plants with the aim of bringing those in line with the emission limit values of the directives.



## Serbia

### 9.8 Competition

#### a. Sector Overview

Competition law in Serbia is enforced by the Commission for Protection of Competition.

Since its establishment, the Commission for Protection of Competition has not undertaken any investigation of the gas or electricity markets. It has also not identified any infringements of competition law in the energy sector so far. In the reporting period, it only approved the acquisition of control of *PETROL, Slovenska energetska družba* over *GEOPLIN d.o.o. Ljubljana* and of *Messer Hungarogáz Kft* over *Air Liquide Hungary Ipari Gaztermelo Kft*. In January 2016, the commission completed its fifth sector inquiry of the wholesale and retail petroleum product markets in Serbia in 2014.

The body in charge of the enforcement of State aid law is the Commission for State Aid Control. It is assisted by a Department for State Aid Control established within the Ministry of Finance.

In the area of energy, there is one case pending upon the Secretariat's initiative. It relates to support measures in the form of a guarantee for a loan for the construction of Kostolac power plant.

#### b. State of Compliance

##### 1. Competition Law

The Law on Competition is largely in line with the competition *acquis*. However, the implementation and application of competition law in the energy sectors have to be improved. Since the establishment of the Commission for Protection of Competition, there has not been a single case of applying competition law to the electricity and gas sectors except for reviewing a few mergers.

Furthermore, although the inquiries of the Commission for Protection of Competition into the petroleum product market are generally useful for obtaining information on the situation in the oil and oil derivatives market in Serbia, there have been no follow-up activities that would ensure that the recommendations of the inquiry report are complied with in practice.

##### 2. State Aid Law

The Law on State Aid Control is generally in line with the State aid *acquis*. Some changes to the by-law are in the process of being adopted. However, the draft amendments are not public and were not submitted to the Secretariat for a compliance review.

The independence of the State aid enforcement authority remains questionable as it is closely linked to the Ministry of Finance and chaired by a representative of the same ministry.


With regard to the Kolubara project, Serbia had issued four state guarantees for loans from EBRD and KfW to *Elektroprivreda Srbije (EPS)* and transferred property and land to EPS for the same project. Based upon a complaint, the Secretariat initiated dispute settlement proceedings against Serbia for non-compliance with the State aid *acquis*. The Secretariat found that the guarantees and transfer of property and land constituted State aid. However, the Commission for State Aid Control failed to assess whether four of the measures were compatible with the Energy Community internal market. The single compatibility assessment undertaken by the Commission for State Aid Control was not in line with State aid *acquis*. Therefore, the Secretariat preliminarily concluded that Serbia did not fulfil its obligation to effectively enforce the Energy Community State aid *acquis*.

**c. Conclusions and Priorities**

Despite having transposed the competition *acquis* to a large extent, the Serbian authorities' enforcement of competition and State aid law is at a very low level. As last year, there has been no case of applying competition law in the energy sectors. No progress has been made since the last reporting period. The Commission for Protection of Competition must become more active in reviewing competition law infringements by undertak-

ings operating on the energy markets. It is also advisable that it undertakes an inquiry into the electricity and gas sectors in addition to the inquiry into the oil market.

In the area of State aid, no progress has been made with regard to the enforcement activities of the commission. The single pending case relates to a request for information issued by the Secretariat. It is advisable that the commission follows the rules for the assessment of State aid strictly rather than to allow State aid only because it is in the general interest. As recommended last year, the commission's independence from the Ministry of Finance should be strengthened in order to improve the independence of its decision-making.

 <b>Non-compliance with State Aid Acquis</b>	
<b>I N D I S P U T E</b>	<p>On 14 July 2016, the Secretariat sent an Opening Letter to the Republic of Serbia for its failure to comply with the Energy Community State aid <i>acquis</i>. Serbia failed to comply with its obligations under Articles 18 and 19 of the Energy Community Treaty because the Commission for State Aid Control did either not assess or incorrectly assessed the compatibility of State aid granted to <i>Elektroprivreda Srbije (EPS)</i> for the Kolubara B power plant project.</p>





# Serbia

## 9.9 Statistics

### a. Sector Overview

The Official Statistics Law established the legal framework for the organization, production and dissemination of official statistics. Its implementation is supported by secondary legislation including the "Strategy for Development of Official Statistics", which aims to achieve harmonisation with international standards. The central body is the Statistical Office of the Republic of Serbia (SORS), with some competencies kept by the ministry in charge of energy.

The Energy Law from 2014 supports the collection of official statistics by obliging economic operators to provide the necessary data at the request of the Ministry of Mining and Energy. The ministry has yet to define the content of energy balances, data submission and other elements required for compiling planned energy balances and monitoring of its implementation.

The "Programme of Official Statistics 2016 - 2020" and the "Annual Plan for Official Statistics for 2016" envisage the introduction of monthly energy statistics in the course of 2016.

### b. State of Compliance

To fully comply with the statistics *acquis*, Serbia must implement the reporting requirements in terms of monthly data collections in oil and gas.

#### 1. Annual Energy Statistics

SORS collects, compiles and disseminates annual energy statistics comprising supply, transformation and consumption of solid fuels, gas, oil, oil derivatives, electricity, heat and renewable energy. The data are collected from regular annual surveys from companies operating in the energy sector, including traders, administrative sources and surveys in industry, transport and construction.

Data is available on the website of SORS and in the form of five questionnaires communicated to IEA and EUROSTAT. Annual energy statistics are published by EUROSTAT.

The *acquis* related to annual statistics is implemented.

#### 2. Monthly Energy Statistics

SORS is responsible for disseminating monthly data. The web application (IMIS database) in the ministry has been operational since 2014. SORS has access to the database in order

to produce monthly reports. Since September 2015 monthly electricity and coal data have been transmitted to EUROSTAT for the period from January 2015 onward.

To complete the reporting scheme for oil, the Regulation on the Methodology of Data Collection and Processing and Calculation of Average Daily Net Imports, the Average Daily Consumption and the Amount of Required Reserves of Oil and Oil Derivatives has to be implemented.

Although SORS was expected to begin transmission of data in line with Annex C of Regulation (EC) 1099/2008 during 2015, monthly oil and gas data are still not compiled and transmitted in line with the *acquis*.

Serbia is still not in compliance with the *acquis* as regards monthly reporting.

#### 3. Price Statistics

SORS is responsible for price statistics. The submission of data to EUROSTAT began in 2014. Questionnaires for collection of gas and electricity prices charged to industry and households were developed in accordance with EUROSTAT methodology. Prices of electricity and gas for industry and households per consumption band and the price breakdown per component and level of taxation are submitted to EUROSTAT.

Price system reporting is established in accordance with the *acquis*.

### c. Conclusions and Priorities

Although some progress has been achieved with compilation and transmission of monthly collections of solid fuel and electricity, Serbia has to finalize activities on the remaining monthly data and their dissemination in the requested format. The priority is the full implementation of Annex C of Regulation (EC) 1099/2008, followed by Annex D of Regulation (EC) 1099/2008.

The system of continuous data collection should be completed and permanently improved. Additional efforts will be needed to implement *acquis* related to detailed data on energy consumption in households.

Methodologies and procedures for price statistics will need continuous improvement to reflect changes in the functioning of the market







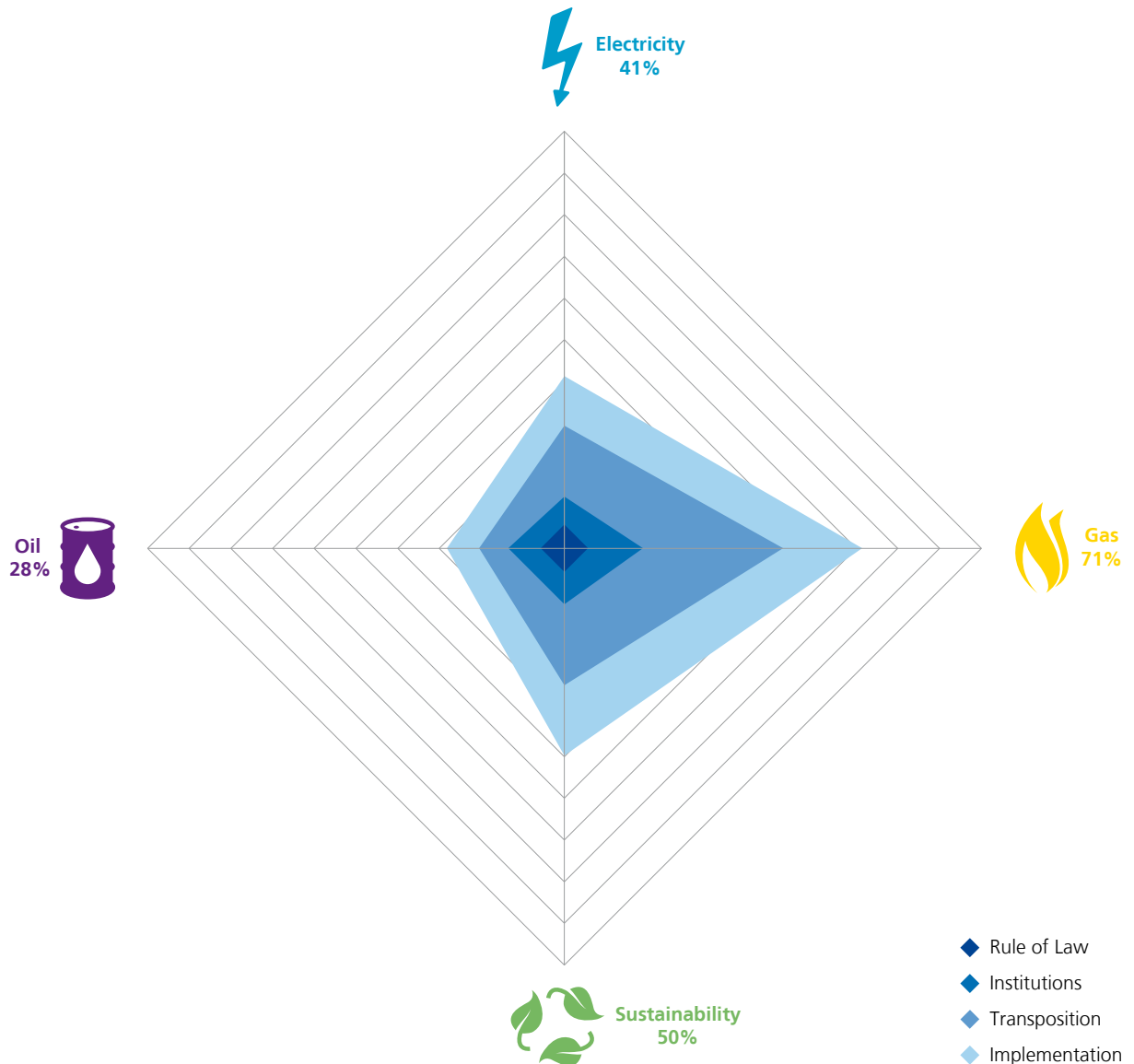


# 10 | Ukraine

Ukraine did not continue the energy sector reform at the same pace as during the previous reporting period (with the adoption of the Third Energy Package complaint Law on Natural Gas Market). In spite of significant support and technical assistance provided by the Secretariat and the international community,

the adoption of the Energy Regulator and Electricity Market Laws is still pending. Regrettably, Ukraine has again missed the opportunity to adopt vital energy efficiency sector reforms and is about to fail its unbundling obligations.

Implementation Performance of Ukraine



Source: Compiled by the Energy Community Secretariat



## Ukraine

### 10.1 Electricity

Description of data [unit]		2014	2015
Electricity production [GWh]		165.797	144.063
Net imports [GWh]		178	2.292
Net exports [GWh]		8.053	3.638
Gross electricity consumption [GWh]		154.671	136.262
Losses in transmission [%]		2,7%	3,0%
Losses in distribution [%]		10,1%	9,8%
Final consumption of electricity [GWh]		133.958	117.140
Consumption structure [GWh]	Industrial, transport, services and other non-residential sectors	92.935	80.122
	Households (residential customers)	41.023	37.018
Net maximum electrical capacity of power plants [MW]		54.873	54.355
of which:	coal-fired	25.183	25.334
	gas-fired	9.116	8.392
	nuclear	13.835	13.835
	hydro, total	5.854	5.884
Horizontal transmission network [km]	Substation capacity [MVA]	78.585	74.715
	Number of interconnectors	53	53
Electricity customers	Total number of customers	18.896.261	17.068.426
	out of which: non-households	545.905	512.168
	Eligible customers under national legislation	545.905	17.068.426
	Active eligible customers	1.427	1.435
Internal market	Electricity supplied to active eligible customers [MWh]	6.723.643	10.153.877
	Share of final consumption [%]	5,49%	8,67%

Figures without Crimean EPS and uncontrolled territory of Donbass EPS

Source: National Energy and Utilities Regulatory Commission of Ukraine (NEURC), State Statistic Service of Ukraine (data on electricity supplied from competitive market), compiled by the Energy Community Secretariat

#### a. Sector Overview

The electricity market in Ukraine still operates under non-transparent, overregulated conditions with excessive cross-subsidization based on a "single buyer" model (*Energorynok*) established decades ago. It is organized around *Energorynok*, the state-owned enterprise buying essentially all electricity and selling

it on the domestic market or for export. The legal framework which was updated in 2013 is still non-compliant with the Third Energy Package, and its real implementation never commenced.

With the support of the Energy Community Secretariat, a new electricity market law aimed at transposing the Third Energy Package was drafted. The draft law was approved by the Gov-



### Preparation of Secondary Legislation to Implement the New Electricity Market Law

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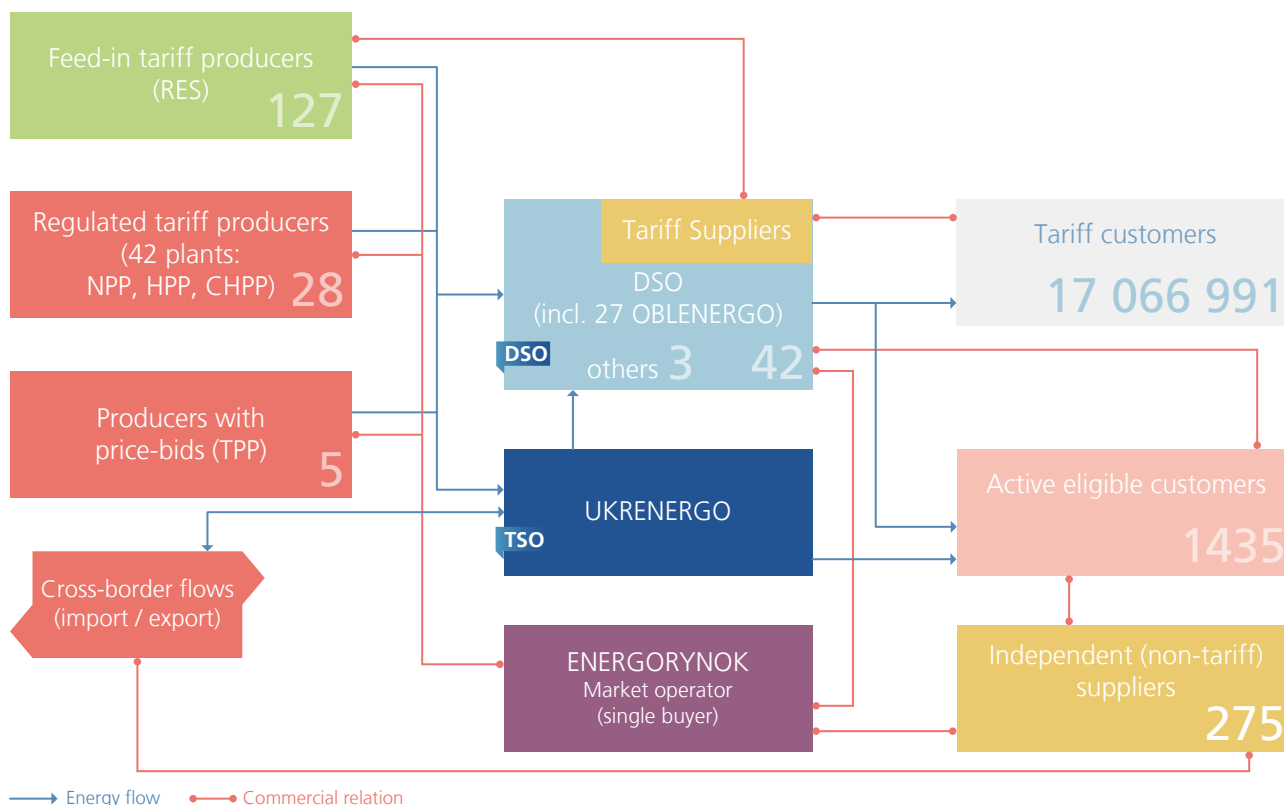
Since September 2015, the Secretariat's project office in Kyiv developed and submitted to NEURC draft secondary legislation acts compliant with the Third Energy Package in support of the new draft Electricity Market Law, in particular referring to:

- Licensing conditions for network and market operators and suppliers;
- Compliance programmes and unbundled licences for distribution system operation and supply activities;
- Electricity supply and switching the supplier, methodologies for setting prices for regulated services and

service agreements;

- Market concept design defining new functions and architecture of the electricity market, rules for bilateral and day-ahead markets, ancillary services and balancing market, balance responsibility and settlement rules;
- Network codes for transmission and distribution, rules for cross-border capacity allocation; and
- Commercial metering (provided through EU assistance).

## Ukraine's Electricity Market Scheme



Figures without Crimean EPS and uncontrolled territory of Donbass EPS  
 Source: Compiled by the Energy Community Secretariat  
 Refer to the market schemes legends on page 191 for a more detailed description.

ernment of Ukraine in March 2016 and is currently pending before parliament. In the meantime, experts hired by the Secretariat supported by the UK Government have developed a comprehensive set of more than 20 pieces of secondary legislation compliant with the Third Energy Package. In April 2016, NEURC approved the market concept design.

One key feature of the electricity system of Ukraine is its fragmentation. It operates as a part of the United Power System (UPS), which includes the neighbouring systems of Moldova, Belarus and the Russian Federation. Only the small isolated network in the area of Burstin, which shares its borders with Poland, Slovakia, Hungary and Romania, is synchronised with *ENTSO-E*.

The state-owned company *Ukrenergo* performs central dispatching and balancing of the entire system and allocation of the interconnection capacities for exports of electricity on the interconnections of Burstin.

### b. State of Compliance

The existing legal framework on electricity is not in line with the Third Energy Package. The new draft Electricity Market Law which will transpose Directive 2009/72/EC and Regulation (EC) 714/2009 is currently in parliamentary procedure.

### 1. Unbundling

The transmission system operator, *Ukrenergo*, is legally unbundled pursuant to the Second Energy Package. The provisions for unbundling of the transmission system operator provided in Directive 2009/72/EC are not implemented. Ukraine is in breach of Energy Community law in this respect.

Under the existing Electricity Market Law, distribution and supply are subject to legal and functional unbundling. In practice, distribution is not yet unbundled from the regulated supply of electricity. There is also no obligation for publishing unbundled annual audit reports.

### 2. Third Party Access

The existing law transposes provisions on the obligation to grant third party access to the transmission network. However, it is not in full compliance with the requirements of Articles 32 and 34 of Directive 2009/72/EC as the conditions for exemption, refusal of access and direct lines are missing. The law also fails to comply with all the requirements of the *acquis* with regard to cross-border capacity allocation and congestion management as required by Articles 16 and 17 and Annex 1 of Regulation (EC) 714/2009. In particular it still precludes eligible customers' participation in the capacity auctions, which is in breach of Article 32 of the directive.

Following the Secretariat's interventions in the course of 2013 and 2014, a new procedure was adopted for performing electronic auctions for allocation of interconnection capacities on the electricity networks in bilaterally coordinated auctions in February 2016. While it brought progress in electronic auctioning, it is still not applied in practice.

### 3. Eligibility

According to the existing law, all non-household customers and households are eligible from 1 January 2015. However, these provisions have never been applied and no rules for switching of supplier have been adopted. In practice, only large non-household customers can switch from the regulated supply to an independent supplier. The market model with mandatory sale of entire production to *Energorynok* effectively curtails the possibility for access of new suppliers to the market and prevents customers from exercising their eligibility rights.

### 4. Market Opening and Price Regulation

The single buyer model effectively forecloses the electricity market in Ukraine. Currently, only generation units with an installed capacity lower than 20 MW can sell electricity directly to final consumers.

Price formation is based on a bidding mechanism available to coal-fired thermal power plants only. State-owned nuclear and large hydro production is regulated below the market price, allowing for a margin which is used to subsidize electricity production from renewable and gas-fired CHP units and regulated supply of electricity to captive customers. The prices charged by independent suppliers are not regulated.

The existing law supports gradual abolishment of the non-compliant single buyer model and formally introduces bilateral trading, market-based balancing, and a day-ahead market in 2017. It also allows for a gradual phase-out of price regulation. However, it is not implemented in practice.

### 5. Balancing

The current law contains provisions for establishment of a competitive balancing mechanism. However, it has been neither spelt out in by-laws nor implemented. The applied system is not in compliance with Article 15 of Directive 2009/72/EC. It fails to ensure proper treatment of the costs of imbalance and provision of energy for network losses, which are estimated by *Energorynok* and implicitly included in the market price. The imbalances of suppliers and generators are netted out. The

suppliers (utilities) are responsible for imbalances above 5% of their nominations in the course of a month. This arrangement does not provide price signals for balancing services, true balance responsibility or incentives for accurate load nominations.



## Capacity Allocation on Electricity Interconnectors

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On 26 February 2013, the Secretariat sent an Opening Letter in Case ECS-1/12 to Ukraine. The Secretariat took the preliminary view that the Auction Rules adopted for the allocation of capacity on the country's electricity interconnectors with its Western neighbours and Moldova, as well as their application in practice by the system operator, fail to comply with Regulation (EC) 1228/2003 and the so-called Congestion Management Guidelines. By adopting new Allocation Rules in February 2015, NEURC and thus Ukraine rectified most of the breaches of Energy Community law identified in the Opening Letter. However, several breaches related to the prevailing market model in Ukraine could not be rectified by secondary legislation. The new Electricity Market Law, introducing a market model in compliance with the *acquis*, is under preparation in close cooperation with the Secretariat. However, the timeline for adoption of the new Electricity Market Law is not clear.

The Secretariat has also been addressed with another complaint against Ukraine related to allocation of cross-border capacity for transit of electricity.

### 6. Customer Protection and Protection of Vulnerable Customers

The current law does not contain provisions for customer protection compliant with Article 3(7) of Directive 2009/72/EC. It does, however, transpose Article 3 and Annex 1 of Directive 2009/72/EC related to household customer protection. There is no definition of vulnerability and no adequate support mechanism for such customers in the law. The Law on Social Welfare provides for general rights to subsidies from the state budget covering a certain percentage of the electricity bills of some categories of customers. However, it is not based on a sustainable and transparent mechanism targeting electricity consumption. Protection of household customers is currently performed by price regulation and funded through cross-subsidies.



### c. Conclusions and Priorities

Adoption of the new draft Electricity Market Law continues to be the highest priority for Ukraine. Its adoption will bring the legal framework into compliance with the Third Energy Package and provide the long-awaited starting point for the implementation of the reforms.

The authorities' approval of the secondary legislation compliant with the Third Energy Package as required by the new draft law is another priority. This is a prerequisite for unbundling and certification of the transmission system operator and implementation of the structural reforms in the domain of distribution and market operation.

There were no steps taken to unbundle *Ukrenergo* or the distribution network operators. The prices of the electricity produced by state-owned generators and the electricity supplied by the *Oblenergos* remain regulated and there are no measures to remove the cross-subsidies. A cross-border capacity allocation platform is under development and the possibility of coordinated auctions is under consideration. No activity for market integration is being considered yet.

The development of trading platforms and electronic technology for real-time balancing, day-ahead and intraday trading and settlement, as well as for electronic auctions for allocation of cross-border capacity, is another challenge which depends on the adoption of the new law. Supplier switching and retail market support mechanisms need to be established in parallel with the unbundling of distribution companies.



### New Electricity Market Law to Transpose the Third Energy Package

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A draft Electricity Market Law, aimed at transposing the Third Energy Package, is in parliamentary procedure. The law was developed by a Ukrainian inter-institutional working group together with the Secretariat. Once adopted, it should bridge the outstanding compliance gaps, in particular with respect to:

- Ownership unbundling model and certification of *Ukrenergo*;
- Access to transmission and allocation of cross-border capacities - coordinated auctions on all borders where applicable;
- Eligibility and switching requirements;
- Diverse market platforms for organized trading; market-based provision of balancing and network services; universal service/supply of last resort established through public service obligation; effective mechanisms for balance responsibility and imbalance settlement; and
- Protection of vulnerable customers as a responsibility for the Government of Ukraine.





## Ukraine

### 10.2 Gas

Description of data [unit]		2014	2015
Natural gas production [Bcm]		20,53	19,92
Import [Bcm]		19,47	16,45
Stock changes [Bcm]		2,49	-2,53
Total supply [Bcm]		42,49	33,84
Consumption in energy sector [Bcm]		3,80	3,54
	out of which: Energy transformation [Bcm]	7,07	5,88
Available for final consumption of natural gas [Bcm]		38,50	29,82
Interconnectors' capacity [Bcm]	Total	480,60	480,60
	out of which bidirectional	17,50	21,40
Storage working capacity [Bcm]		30,95	30,95
Length of transmission network [km]		38.796	38.800
Length of distribution network [km]		296.884	294.845
Natural gas customers	Total	13.473.727	12.294.262
	out of which: Non-households	168.124	99.546
	Eligible customers under national legislation	168.124	12.294.262
	Active eligible customers	n/a	n/a
	Households	13.305.603	12.194.716
Internal market	Gas supplied to active eligible customers [Bcm]	n/a	n/a
	Share of total consumption [%]	n/a	n/a
Final consumption of natural gas per sector [Bcm]		31,36	23,91
Consumption structure [Bcm]	Industry and commercial customers	16,31	12,63
	Households	15,05	11,28

Source: NEURC

#### a. Sector Overview

Gas market reform has had unprecedented influence on the diversification of Ukraine's supply sources, increased its overall security of supply, corrected distortions on the gas market and enabled more efficiency in gas consumption. Progress can also be noted in the fields of market opening and establishment of metering devices to customers, a long-standing problem in Ukraine.

Ukraine's gas demand continues to fall with 33,8 Bcm consumed in 2015. Demand is met by imports and domestic production. National production is stable at a level of 20 Bcm. *Ukrgezvydobuvannya* and *Ukrnafta* are the country's largest gas production companies controlled by *Naftogaz*. Independent producers account for 15 - 16% of Ukraine's total annual gas output.

The structure of import changed significantly during the last three years. In 2012, Russian gas represented 100% of imports, while this ratio dropped to 37% in 2015 and even to 0% since the winter season 2015 - 2016. Beside *Naftogaz*, around 20 new traders entered the Ukrainian gas market by importing gas from the EU using physical reverse flow via Slovakia, Poland

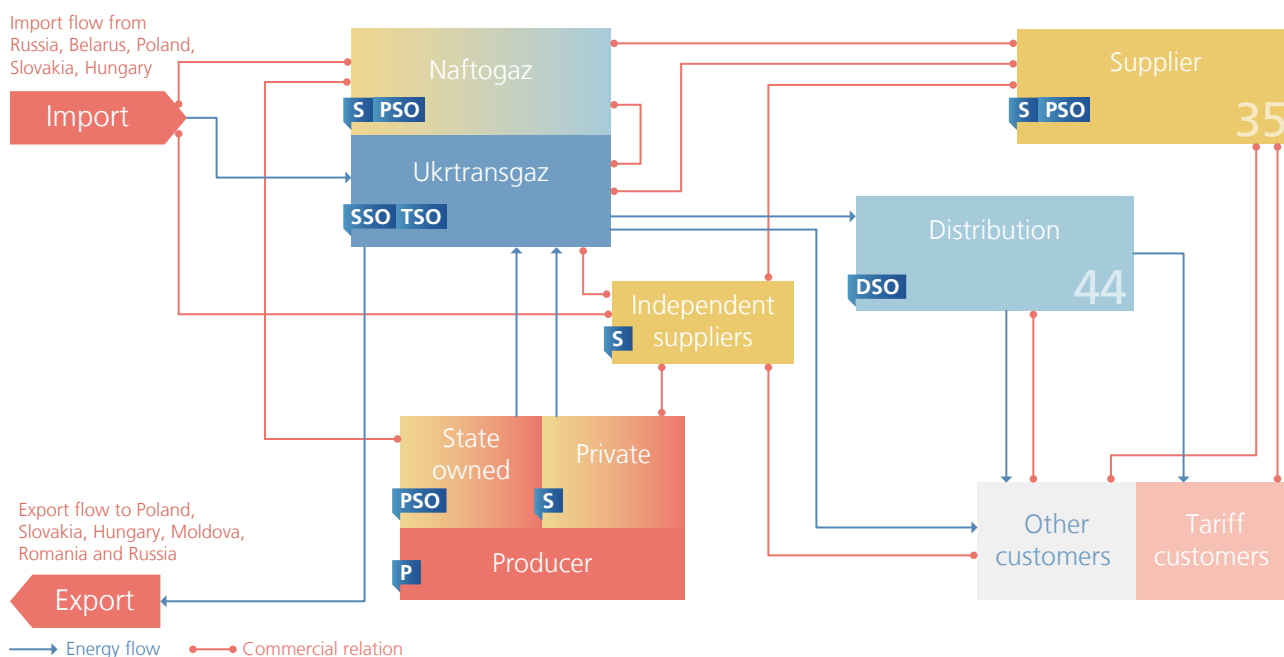
and Hungary.

This historical change has been triggered by a political and commercial dispute over supply and transit contracts between *Naftogaz* and *Gazprom*, which is subject to arbitration at the Stockholm international arbitration court. In addition, *Naftogaz* submitted a complaint which questions compliance of the so-called 'Nord Stream 2' pipeline project with Energy Community and EU law.

Currently, *Naftogaz* is the sole owner of the public joint stock company *Ukrtransgaz*, which operates the transmission system, including the transit pipelines passing through Ukraine for supply of Russian gas to Europe, and the storage system. Despite significant support of the Secretariat and the donors' community in Ukraine, the unbundling of *Naftogaz* has been delayed.

Interconnection agreements have been signed for all interconnection points with Hungary and for pipelines with physical reverse flow from Poland and Slovakia. However, the full implementation of the EU network codes, which will contribute to unlocking the unused capacity in both directions, is yet to be achieved.

## Ukraine's Gas Market Scheme



Source: National Energy and Utilities Regulatory Commission of Ukraine, compiled by the Energy Community Secretariat. Refer to the market schemes legends on page 191 for a more detailed description.

### b. State of Compliance

The Law on Natural Gas Market is in line with Directive 2009/73/EC and Regulation (EC) 715/2009. All secondary legal acts were to be prepared by the entry into force of the law on 1 October 2015. The majority of secondary acts, necessary to make the Law on Natural Gas Market functional, have been developed and adopted in the course of 2015. The government adopted a Decree on Public Service Obligation, Tender Procedure for Designation of Supplier of Last Resort and a procedure for creation of commercial gas stock reserves, whereas the ministry adopted Security of Supply Rules and a national action plan; all documents were adopted by November 2015 in line with the gas law. The majority of these acts are in general conformity with the Third Energy Package. Some documents, such as distribution and storage tariff methodologies, certification rules, licensing conditions or dispute settlement rules, still have to be

adopted by the regulator. What is still pending and is of crucial importance to complete the reform, is to amend a package of numerous old laws, including *inter alia* the Law on Licensing Economic Activities and the Law on Natural Monopolies.

#### 1. Unbundling

The unbundling requirements of Directive 2009/73/EC have been transposed by the Law on Natural Gas Market. *Ukrtransgaz*, a subsidiary legally unbundled from *Naftogaz*, is currently a combined transmission and storage system operator and not engaged in production or supply. However, functional unbundling as required already by Directive 2003/55/EC has not been accomplished in practice so far. Neither has unbundling under the Third Energy Package. *Naftogaz* has introduced corporate governance measures which aim at increasing transparency and independence of its management from the government.



## Adoption of the Naftogaz Unbundling Plan

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The Ministry of Energy and Coal Industry of Ukraine submitted a draft unbundling plan of *Naftogaz* to the Secretariat in February 2016, with a delay of several months as opposed to the deadline set in the 2015 Gas Sector Reform Implementation Plan agreed among Ukraine, the *World Bank* and the Secretariat. The Secretariat organised a public hearing on the draft plan in Vienna on 14 March 2016, which brought together stakeholders with direct interest in this process. Upon

the hearing and the ministry's amendments to the plan, the Secretariat issued its conditional approval of the unbundling model on 6 May 2016. The Secretariat requested that the ministry amends the plan to align it with the Secretariat's comments in order to fully meet Third Energy Package unbundling and independence requirements of the transmission system operator. The Government of Ukraine adopted the final plan in July 2016.

The Law on Natural Gas Market requires unbundling of storage, LNG terminal and distribution system operators if they are a part of a vertically integrated undertaking, and, in line with Directive 2009/73/EC, allows exemptions for distribution companies with less than 100.000 customers. Those that are above this threshold were required to unbundle by January 2016 as provided for by the law. In relation to unbundling distribution activities from supply, 42 licensed distribution system operators fulfilled the legal unbundling requirements. Functional unbundling needs to be verified upon the compliance programmes assessment.

## 2. Third Party Access

The Law on Natural Gas Market grants the right to connection and third party access under regulated conditions to all system users. The network operators are obliged to publish access tariffs set by the regulator. The new law removed the differentiation between national transmission and transit, which still existed in the Gas Law of 2010.

Rules for exemption of new infrastructure have been defined in line with Directive 2009/73/EC. Exemptions for “take or pay” contracts and access to upstream pipelines have been defined in line with Directive 2009/73/EC.

General principles for capacity allocation and congestion management, as well as the transparency requirements, have been transposed by the Law on Natural Gas Market and developed further by the Natural Gas Transmission System Code. They are generally in line with Regulation (EC) 715/2009. The code also introduced elements of the relevant EU network codes (daily capacities), but those principles have been implemented only at interconnection points at the western borders of Ukraine, while capacity of internal entry/exit points remain offered and allocated on a monthly or yearly basis. The new entry/exit transmission tariff methodology was adopted in November 2015 and implemented at the cross-border points, whereas the prices for access to domestic entry/exit points are still calculated based on the old methodology.

As prescribed by the Gas Market Law, the regulator has adopted the conditions on negotiated or regulated third party access to storages. The conditions in practice impose regulated access only. The Storage Code allows for reserving a part of the storages for balancing the system.

## 3. Eligibility

According to the law, all customers have the right to choose a supplier and switch the supplier free of charge. This is in line with the Energy Community requirements. The switching procedure is part of the Rules on the Supply of Natural Gas and is aligned with Annex I of Directive 2009/73/EC.

## 4. Market Opening and Price Regulation

The Law on Natural Gas Market foresees a fully open market

and deregulated prices. The Government of Ukraine may define public service obligations in line with Directive 2009/73/EC. A Public Service Obligation Decree, approved by the ministry in September 2015, allows a progressive increase of gas prices for households and heat producers to the market, as required by the agreement with the *IMF*. So far, prices were increased twice, in April 2015 and May 2016. The latter decision brought regulated prices to the market level for household customers and district heating companies even before the final deadline of April 2017. Upstream prices for gas produced by state-owned companies were also raised.

## 5. Balancing

The Law on Natural Gas Market sets basic principles for balancing and envisages imbalance charges or penalties. The balancing regime has been defined by the Transmission Code – on a daily basis for interconnection points and on a monthly basis for all internal entry/exit points. However, financial guaranties required for balancing services are disproportional and may constitute a barrier for market participants. The transparency of the balancing rules, as defined by the Transmission System Code, should be improved.

The balancing rules defined in the Distribution Code oblige distribution system operators to be responsible for balancing their systems. The balancing chapter of the Distribution Code is non-compliant as it fails to prescribe imbalance charges.

## 6. Security of Supply

The provisions of the Law on Natural Gas Market related to security of supply go beyond Directive 2004/67/EC and introduce many elements in line with Regulation (EU) 994/2010.

The existing Procedure for Creation of Commercial Natural Gas Stock Reserve imposes mandatory stock reserves on all suppliers. The procedure comprises requirements, such as maintaining stock reserves covering the entire consumption portfolio of the supplier’s customers instead of only those that are protected, which imposes a limitation on transmission services in case the supplier fails to keep a required stock reserve. Furthermore, keeping stock reserve in Ukrainian storages only might be considered not proportionate or in line with ensuring equal access.

## 7. Customer Protection and Protection of Vulnerable Customers

The Gas Market Law prescribes the minimum content requirements of contracts between service providers and consumers, based on which the regulator approved a standard supply contract. Consumers have the right to receive adequate notice in case of changes in the contractual conditions and to be informed about their right of termination of contract when this notice is given. In addition, consumers have the right to a wide choice of payment methods.



The notion of vulnerable customer is covered by Ukraine's general social protection schemes. Under the Law on Natural Gas Market, the government determined criteria for defining vulnerable customers, their categories, volumes of support and other special measures in case of disconnection.

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### c. Conclusions and Priorities

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Ukraine has followed up on the priorities set out in last year's Implementation Report successfully. The majority of secondary legal acts stipulated in the Law on Natural Gas Market were adopted before the deadline. The transparency of its gas sector has considerably increased.

The commitment so far suggests an irreversible path towards reform. The changes of the gas import structure testify to the benefits to be gained by following this path. However, these tremendous achievements should not mislead the Ukrainian authorities into thinking that the work is over. On the contrary, Ukraine must continue its efforts to improve secondary legislation, amend the relevant outdated laws and implement the reforms in practice. Many important steps, such as the correct unbundling of *Naftogaz*, are yet to be realized.







## Ukraine

### 10.3 Regulatory Authority

#### a. Organisation, Competences and Assessment of Independence

The National Energy and Utilities Regulatory Commission of Ukraine (NEURC) is the single authority for regulating gas and electricity. It is the only regulatory body in the Energy Community whose establishment is not solely based on legislation. Instead, it is established and can be liquidated by act of the president. The president has made use of this legal possibility already twice in the past as a tool for dismissing NEURC's management which proves the fragility of the pillars of independence the regulator is built on. NEURC is headed by six commissioners and a chairman. The term of board members is limited to six years, renewable once.

The regulator's organisation fails to comply with a significant number of independence criteria stipulated by Directives 2009/72/EC and 2009/73/EC:

- Commissioners are appointed by the President of Ukraine without a transparent procedure, a public vacancy announcement or involvement of an independent selection committee. Appointment criteria are defined by law but also include the vague and unspecified requirement of *"moral qualities [...] and health conditions"*.
- A rotation scheme is not in place.
- Legislation in principle grants NEURC independence in its activities. However, NEURC's decisions are not final but before adoption of any legal act, the regulator must agree it with the Antimonopoly Committee and the State Regulatory Service (in the latter case, if the document qualifies as a 'regulatory act'). At the same time, any legal act as adopted by the regulator is subject to so-called state registration. This procedure prepares a draft act adopted by the regulator for publication in the Official Gazette of the Ministry of Justice. Only after this publication the act becomes binding. In conducting this registration, the Ministry of Justice checks the act for a set of specified grounds, namely compliance with the constitution and the laws of Ukraine.
- A legal prohibition for top management to execute political functions exists but restrictions on having an interest in regulated utilities or having an employment relationship with the energy sector, including the sanction of dismissal in case of non-compliance, are not in place.

- NEURC does not have financial independence in setting and managing its annual budget and deciding about human resources. NEURC is financed from the state budget. Fees for licensed activities up to an overall limit defined by the Government of Ukraine are transferred to the state budget. The use of NEURC's budget is subject to decisions of the Ministry of Finance based on the budget code. NEURC's staff and management salaries are coupled with those of the public sector.

Ukraine has not yet transposed the Third Energy Package with regard to the regulatory authority. In light of this, NEURC's competences need to be extended to the complete set of regulatory powers and objectives foreseen under the Third Energy Package. A revision of the Law on the Regulator has been initiated in 2015 in close cooperation with the Secretariat. However, the draft law is yet to be adopted by parliament. To this extent no progress has been made since last year's Implementation Report.

#### b. Performance

Given the existing shortcomings in terms of independence from both politics and the regulated industry, NEURC has so far not demonstrated a pro-active approach to designing the market. With the legal reforms made in 2015 in the gas sector and the initiated discussions on revision of the Law on the Regulator as well as the Power Sector Law, the regulator's commitment to develop into an independent expert body has increased to some extent.

This includes activities on the regional level, where active participation of NEURC staff in the Energy Community Regulatory Board (ECRB) improved, including the delegation of deputy chairwomen to two ECRB Working Groups and reinforced cooperation with European neighbours in the ACER Gas Regional Initiative South South East.

#### c. Conclusions and Priorities

Compared to the assessment of the Secretariat's Implementation Report 2015, genuine progress has not been made. NEURC's competences still need to be expanded to the complete set of regulatory powers and objectives foreseen under the Third Energy Package to overcome the identified independence shortcomings. If the pending Law on the Regulator is not adopted anytime soon, the Secretariat will open infringement procedures.



## Ukraine

10.4 Oil

### a. Sector Overview

Ukraine is increasingly dependent on imports of petroleum products. Crude oil production was around 2,43 mt in 2015, 11,4% lower than in 2014. Crude oil exports were around 21 kt, having decreased by around 48% year-on-year. Imports decreased by 1,3% to 235 kt in 2015. As regards the domestic production of petroleum products, the volume of 1,27 mt of petroleum products processed in 2015 constitutes a decrease by 62% compared to 2014. The export of petroleum products decreased by 70% to 208 kt. The same goes for the import of petroleum products which decreased by 3,5% to a level of around 7,58 mt. The overall consumption of petroleum products in 2015 was 9,2 mt.

### b. State of Compliance

Currently, Ukraine has no legal framework in place for the establishment of emergency oil stocks. In April 2015, the government adopted an action plan which foresees that till December 2015 a legal act on a model for oil stocks will be developed and approved in cooperation with the Secretariat. This deadline has not been met.

In the reporting period, a working group led by the State Reserves Agency was established to develop a long-term action plan (2016 - 2022) for creating an emergency oil stockholding system to meet the directive's requirements. The working group is to present the action plan to the government for decision but there is no concrete timeline. The Secretariat's suggestions for an optimal stockholding model made in 2015 were taken into account by the working group but the immediate task of

this group to quickly submit to the Government of Ukraine (before year-end 2015) this proposal on the suggested model was not fulfilled.

The State Statistical Service of Ukraine (SSSU) receives monthly data on quantities sold (retail reporting) from oil companies and data on quantities imported/exported from the customs authorities. SSSU is responsible for reporting monthly oil data to the Joint Organisation Data Initiative (JODI) and will assume the responsibility for reporting the monthly oil statistics (MOS).

### c. Conclusions and Priorities

Despite ongoing preparation for adopting a complaint oil stock holding regime, no progress can be reported so far. None of last year's priorities were taken up, being delayed for an unspecified period of time.

The main priorities for Ukraine during 2016 - 2017 should be as follows:

- Approval of the oil stockholding model (expected by 3<sup>rd</sup>/4<sup>th</sup> quarter of 2016) and the action plan for building up emergency oil stocks to 90/61 days;
- Drafting of an emergency oil stockholding law and relevant secondary legislation; and
- Begin collection of monthly data necessary for operating the emergency oil stockholding system and meeting reporting requirements under the directive.





## Ukraine

### 10.5 Renewable Energy

	2014	2015
Total capacities of renewable energy (MW)	6.739	6.794
Hydropower, out of which:	5.854	5.884
- small hydropower (<10 MW)	80	87
- pumped storage	1.186	1.186
Wind	426	426
Solar	412	432
Biomass and biogas	47	52

Source:

#### a. Sector Overview

With the adoption of Directive 2009/28/EC, Ukraine committed to a binding 11% target of energy from renewable sources in gross final energy consumption in 2020 compared with a share of 5,5% in 2009. In 2014, according to energy balance published by *EUROSTAT*, the country has achieved a 3,8% share of energy from renewable sources, well below the second indicative trajectory of 7,2%. This is due to the delay in revision of biomass data based on a consumption survey to be conducted by the Ukrainian Statistical Office.

The revised Electricity Market Law that contains provisions on renewable energy integration into the market and the grids is not yet adopted. The main existing pieces of legislation are the Electricity Law, the Law on Alternative Energy Sources and the Law on Alternative Fuels. The main institutions responsible for the implementation of renewable energy policy are the State Agency on Energy Efficiency and Energy Savings (SAEE) under the auspices of the Ministry of Regional Development, Building and Housing and Communal Services of Ukraine and the National Energy and Utilities Regulatory Commission (NEURC).

The framework for renewable energy in the transport sector consists of the Law on Energy Savings, the Law on Alternative Energy Sources, the Law on Alternative Fuels, and the Order Arranging Production and Use of Biogas, but none of them transposes Articles 17 to 21 of Directive 2009/28/EC.

#### b. State of Compliance

Ukraine still has to complete the legislative and regulatory framework in accordance with Directive 2009/28/EC and regain investor confidence in renewable energy after a period of retro-active changes and uncertainties in the regulatory framework.

##### 1. National Renewable Energy Action Plan

Ukraine submitted an incomplete NREAP to the Secretariat more than one year past the deadline. The binding targets

following from Directive 2009/28/EC have not yet been transposed in the legal framework.

##### 2. Cooperation Mechanisms

The directive's provisions on cooperation mechanisms have not been transposed.

##### 3. Support Schemes

The promotion of renewable energy in Ukraine is in the form of feed-in tariffs based on "green coefficients" for various technologies. The basis for the feed-in tariffs is the Electricity Law of 2009, as amended for the last time in June 2015. It tasks the regulatory authority NEURC to approve a feed-in tariff for each generator of electricity from renewable energy sources per type of renewable energy source and per power plant until 1 January 2030. The system is not in line with the Guidelines on State Aid for Environmental Protection and Energy 2014 - 2020. Following the removal of non-compliant local content requirements upon infringement action by the Secretariat, a bonus system for renewable energy producers was introduced for supporting the Ukrainian manufactures and service industries.

##### 4. Administrative Procedures

The existing national measures are partially not in compliance with Article 13 of Directive 2009/28/EC as not all administrative procedures are streamlined and expedited at the appropriate administrative level. This is mainly due to the lack of coordination and communication between the authorities. There is no one-stop shop for permits and licenses, and pre-construction procedures may be lengthy.

##### 5. Access to and Operation of the Grids

Priority access to the networks and priority dispatch of electricity produced from renewable energy sources applies since 2009. A system of compensating for curtailments remains to be

implemented. Transmission and distribution system operators have to adequately clarify the technical specifications for grid connection, which are currently unclear. Network operators must develop network investment plans to be approved by the regulator in order to accommodate future increases of renewable energy. Compliance with Article 16 of Directive 2009/28/EC still remains to be achieved.

#### 6. Guarantees of Origin

There are still some ambiguities related to the institution in charge of issuing, transfer and cancellation of guarantees of origin. Despite the appointment of SAEE as the issuing body for guarantees of origin and the rules on issuing, transfer and cancellation of guarantees of origin adopted by the government in July 2013, the law concerning provision of competitive conditions for electricity generated from renewables adopted in June 2015 envisages the appointment of the market operator for implementing a system of guarantees of origin for energy produced from renewable sources. An accurate, reliable and anti-fraud system for the issuing, transfer and cancellation of guarantees of origin remains to be established by the institution in charge. The standard form of guarantee of origin, approved by the Government of Ukraine, is partially not in compliance with Article 15 of Directive 2009/28/EC, because it does not contain all the information required. Moreover, recognition of guarantees of origin issued by other Energy Community Parties and the obligation of electricity suppliers to make available information to consumers on the amount or share of energy from renewable sources when marketing energy are not provided.

#### 7. Renewable Energy in Heating and Cooling

Despite the introduction of measures for promotion of renewable energy in heating and cooling by private households, sufficient coherence to promote heat production from renewable sources in district heating does not exist yet. The adoption of the draft Law on Energy Efficiency in Public and Residential Buildings, which includes measures for the promotion of energy from renewable sources in the building sector, is pending. Ukraine is not fully in compliance with the Renewable Energy Directive in this respect.

#### 8. Renewable Energy in Transport

The current share of renewables in the transport sector is only at the level of 1%. Vast efforts will be required to reach the 10% renewable energy share by 2020.

The NREAP envisages bioethanol and biodiesel production in the long term as well as usage of renewable electricity and biogas.

Articles 17 to 21 of Directive 2009/28/EC have not been transposed. SAEE issues certificates for labelling of alternative fuels, including information on the type of biofuel and blending, but they are not in conformity with the sustainability criteria as defined by Article 17 of Directive 2009/28/EC. Moreover, requirements for monitoring, reporting obligations and information need to be addressed more consistently in the legislation and enforced.

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#### c. Conclusions and Priorities

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Besides the finalisation of the Electricity Market Law and the adoption by NEURC of the “green” electricity tariffs for private households that generate electricity from photovoltaic installations below 30 kW mounted on rooftops, the legal framework for the promotion of energy from renewable sources has not been strengthened during this reporting period.

Ukraine has to step up its efforts to create a comprehensive framework for the promotion of energy from renewable sources and to regain investor confidence, which was significantly affected in the last years due to the retroactive measures imposed.

The introduction of a market-based process for granting operational or investment support to renewable energy producers will ensure not only compliance with the competition *acquis* and internal market principles, but also bring the country towards its trajectory to 2020 in a cost-effective way.

A revised and complete NREAP in accordance with the required template and adequate policy measures in compliance with the State aid guidelines should be considered to ensure that Ukraine is on track to meet the 11% target in 2020. An energy consumption survey addressing especially biomass used for heating has to be conducted by the country’s statistical office to ensure reliability of the energy data.

For the promotion of renewable energy in transport, the utmost priority must be the establishment of a certification system in line with Directive 2009/28/EC. Without meeting the sustainability criteria and having an adequate certification system in place, biofuel production cannot count towards the target and cannot be exported to EU markets. It would be wise to explore in which voluntary schemes national biofuel crop producers are included and adapt the schemes in such a way as to ensure that the sustainability criteria are complied with.



# Ukraine

## 10.6 Energy Efficiency

Energy Efficiency Action Plan (EEAP)*						
Period covered by EEAP		2012 - 2020				
Overall energy savings target - Directive 2006/32/EC (ktoe / % / year)		6,501 / 9 / 2020				
EEAP status		1 <sup>st</sup> EEAP adopted in November 2015				
Achieved energy savings (ktoe / % / year)		Not elaborated (as this is 1 <sup>st</sup> EEAP)				
Key institution(s) in charge		State Agency on Energy Efficiency and Energy Saving of Ukraine (SAEE); Ministry for Regional Development, Building and Housing and Utility Services				
Main data and energy efficiency indicators**		2011	2012	2013	2014 ***	
<b>Total primary energy supply (TPES)</b>		ktoe	126.557	122.488	116.143	104.914
<b>Energy intensity (TPES/GDP)</b>		toe / 1.000 USD	1,33	1,28	1,19	1,16
<b>TPES/Population</b>		toe/capita	2,77	2,69	2,55	2,32
<b>Total final energy consumption (TFEC)</b>		ktoe	75.723	72.549	70.102	66.344
Share of TFEC by sector	Residential	%	31%	32%	33%	31%
	Services		7%	7%	8%	7%
	Industry		34%	33%	31%	38%
	Transport		17%	16%	17%	16%
	Others		3%	3%	3%	3%
	Non-energy use		8%	8%	7%	5%

\* Source: 1<sup>st</sup> EEAP of Ukraine

\*\* Source: *International Energy Agency* (May 2016)

\*\*\* Indicators calculated by the Energy Community Secretariat based on *EUROSTAT* energy balances for 2014

### a. Sector Overview

The final energy consumption in Ukraine continued to decline. Energy intensity in 2011 - 2014 decreased, while the gross domestic product is on a recovery path in 2016, after having contracted in 2014 and 2015 due to the economic crisis. Despite this, the Ukrainian economy is still the most energy intensive among the Contracting Parties.

The State Agency on Energy Efficiency and Energy Saving of Ukraine (SAEE) is the responsible authority for the implementation of state policy in the fields of energy efficiency and renewables in Ukraine. Its work is coordinated by the Ministry for Regional Development, Building and Housing and Utility Services.

According to Ukraine's commitments under the Energy Community Treaty, national legislation on energy efficiency should have been brought in compliance with Energy Community law by the end of 2012. Nonetheless, an outdated, non-compliant Law on Energy Conservation adopted in 1994 is still the main legal act on energy efficiency in Ukraine. The new Energy Efficiency Law, compliant with the Energy Efficiency Directive 2012/27/EU, was drafted by the Secretariat and discussed with the Ukrainian authorities already in 2015. Its adoption is pending. A draft Metering Law aimed at transposing provisions of Articles 9, 10 and 11 of Directive 2012/27/EU was developed by SAEE and commented by the Secretariat. Following its adoption

in government, the draft law was registered in the Parliament of Ukraine on 6 July 2016.

In addition, a draft law that aims to amend the Laws on Peculiarities of Public Procurement of ESCO Services was submitted to parliament. The draft law aims to align provisions of the new Law on Public Procurement, which was adopted in December 2015, with the Law on Introduction of New Investment Opportunities, Ensuring Rights and Legal Interests of Legal Entities to Conduct Large-Scale Thermo Modernisation (the so-called ESCO law) adopted in spring 2015. *Inter alia*, the draft law foresees an increase in the maximum duration of an ESCO contract from 10 to 15 years and tackles issues of property rights.

The draft Law on Energy Performance of Buildings that was submitted to parliament in December 2014 and returned for review in early 2015 was significantly improved with the support of the Secretariat to ensure its compliance with Directive 2010/31/EU. The draft law was approved by the government and registered in the parliament on 11 July 2016.

In parallel, Ukraine with the support of the donors community continues to develop technical standards and supporting tools in this area, for instance software needed for energy performance calculation, database of certified auditors and energy performance certificate registry.



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## b. State of Compliance

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Ukraine made several steps forward during this reporting period mostly by developing draft legal acts which are compliant with the *acquis*. However, the existing framework energy efficiency law is not compliant with the Energy Community *acquis*. Ukraine's overall state of compliance remains far from sufficient.

### 1. Energy Services Directive 2006/32/EC

The adoption of the law transposing the provisions of Directive 2006/32/EC is now pending for several years. The only concrete progress was Ukraine's adoption of its 1<sup>st</sup> EEAP for 2020 in November 2015. The plan, which foresees an overall national indicative energy savings target of 9% of final energy consumption (6,5 mtoe) till 2020, was evaluated positively by the Secretariat. The preparations to adopt a new law on energy efficiency to transpose Energy Efficiency Directive 2012/27/EU are ongoing.

### 2. Energy Labelling Directive 2010/30/EU

Ukraine continues to draft secondary legal acts under Directive 2010/30/EU in consultation with the Secretariat. The technical regulations for household tumble driers, vacuum cleaners and televisions, ovens and range hoods were sent for another round of inter-service consultations due to change of government and their adoption is pending. Therefore, Ukraine is short of compliance with the delegated regulations on labelling.

### 3. Energy Performance of Buildings Directive 2010/31/EU

Despite the progress in drafting secondary legislation, the Law on Energy Performance of Buildings aiming to transpose Directive 2010/31/EU has not been adopted yet. Ukraine is not in compliance with this directive.

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## c. Conclusions and Priorities

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During the reporting period, Ukraine adopted the 1<sup>st</sup> EEAP, thus fulfilling one of the priorities indicated in last year's Implementation Report. Adoption of the Law on Energy Performance of Buildings, the Energy Efficiency Law and the Metering Law is still pending, and thus they remain the key priorities for Ukraine in the coming period.

The adoption of the missing technical regulations for energy labelling and the regulations for transposition of the Energy Performance in Buildings Directive should follow.

Furthermore, the cooperation and coordination between governmental authorities and parliament need to be improved to ensure fulfilment of Ukraine's international obligations. SAE, as the leading national body for implementation of energy efficiency policy, should be better empowered to bring together authorities and stakeholders in order to ensure adoption of the drafted legislation.





## Ukraine

### 10.7 Environment

#### a. Sector Overview

##### 1. Environmental Impact Assessment Directive

Environmental impact assessments are carried out by a number of state and regional authorities, as assigned by the Law on Ecological Expertise.

##### 2. Sulphur in Fuels Directive

Ukraine has six refineries, out of which only one (Kremenchuk) is currently operational and produces heavy fuel oil and gas oil. Domestic consumption of heavy fuel oil amounted to 355.300 thousand tonnes in 2015.

##### 3. Large Combustion Plants Directive

Ukraine has 147 plants falling under the scope of the Large Combustion Plants Directive with a total rated thermal input of 107.778 MW. Most plants are coal-fired while a number of them are run on natural gas.

#### b. State of Compliance

Ukraine is currently subject to two dispute settlement cases in the environmental area. This makes it one of the worst performers in the Energy Community in this field.

##### 1. Environmental Impact Assessment Directive

A coherent legislative framework governing environmental impact assessment is missing in Ukraine. The Law on Environmental Protection sets out general rules on the monitoring of emissions and other impacts on the environment, while the Law on Ecological Expertise determines the rules by which a natural or a legal person is entitled to deliver an expert opinion on environmental matters and the procedures established for the approval of those opinions. The Decree on the List of Activities and Objects Which Pose Increased Environmental Danger of 2013 covers the energy activities listed in Annex I and II of the Environmental Impact Assessment Directive. These activities are, however, not linked to a systematic procedure like the one required by the Environmental Impact Assessment Directive.

With the aim of bringing national legislation into compliance with the Espoo Convention and Directive 2011/92/EC, a draft Law on Environmental Impact Assessment was developed in 2014 but has not been adopted by the Parliament of Ukraine. Given the lack of progress, the Secretariat started infringement action against Ukraine.



#### Non-Compliance with the Environmental Impact Assessment Directive

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The Secretariat submitted an Opening Letter in Case ECS-13/16 against Ukraine on 1 September 2016. The case addresses several instances of non-compliance of the Ukrainian legislation with the provisions of the Environmental Impact Assessment Directive. In particular, the Ukrainian legislation failed to fully transpose the general purpose of an environmental impact assessment, the information to be assessed during the procedure, the rules on public participation and the provisions on trans-boundary impact assessment. Furthermore, some activities required to be covered by an environmental impact assessment are missing.

##### 2. Sulphur in Fuels Directive

The Decree on the Requirements for Car Petrol, Diesel, Marine and Boiler Fuel of 2013 governs the issues regulated by the Sulphur in Fuels Directive. The thresholds stipulated by the resolution on the sulphur content of heavy fuel oil and gas oil do not comply with those of the directive. The issue is subject to an open infringement case. With the aim to comply with the provisions of the directive, the Ministry of Energy and Coal Industry drafted amendments to the decree and submitted those to the Government of Ukraine for approval. However, the draft decree was sent back due to change of government.



#### Non-compliance with the Sulphur in Fuels Directive

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On 13 May 2016, the Secretariat submitted a Reasoned Request in Case ECS-5/13 to the Ministerial Council after Ukraine failed to comply with the breaches identified in the Reasoned Opinion submitted by the Secretariat on 21 December 2015. The Secretariat concluded that Ukraine failed to transpose and implement Sulphur in Fuels Directive 1999/32/EC.

### 3. Large Combustion Plants Directive

Emissions from large combustion plants are regulated by a 2008 Ministerial Order on the Adoption of New Technological Standards for Permissible Emissions of Pollutants.

In 2015, the Ministerial Council adopted a decision allowing certain existing plants in Ukraine to use the opt-out mechanism for not more than 40.000 operational hours starting from 1 January 2018 and ending no later than 31 December 2033. According to the same decision, a National Emission Reduction Plan in Ukraine may be applied up to 31 December 2028 for SO<sub>2</sub> and dust and up to 31 December 2033 for NO<sub>x</sub>. At the same time, the ceilings for the year 2028 for SO<sub>2</sub> and dust and the ceiling for the year 2033 for NO<sub>x</sub> shall be calculated on the basis of the relevant emission limit values set out in Part 1 of Annex V of the Industrial Emissions Directive. Until then, the ceilings have to provide a linear decrease between 2018 - 2028 for SO<sub>2</sub> and dust and 2018 - 2033 for NO<sub>x</sub>.

Ukraine submitted its draft National Emission Reduction Plan in November 2015 to the Secretariat. Its assessment is currently underway.

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#### c. Conclusions and Priorities

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With the exception of the submission of its National Emission Reduction Plan to the Secretariat, Ukraine has not followed up on the priorities identified in last year's Implementation Report.

The legislative framework must be amended to ensure compliance with the provisions of the Sulphur in Fuels and the Environmental Impact Assessment Directives without delay.

Ukraine shall align its national law with the provisions of the Large Combustion Plants and Industrial Emissions Directives by the deadline of end 2017.





# Ukraine

## 10.8 Competition

### a. Sector Overview

The Antimonopoly Committee of Ukraine (AMCU) is the body in charge of enforcing competition and State aid law.

During the reporting period, legislative changes were adopted in order to comply with Ukraine's obligations under the Association Agreement between the EU and Ukraine. These amendments concern the compulsory publication of decisions of AMCU, an increase of the merger control thresholds and the establishment of more simplified merger control procedures. Furthermore, in order to ensure transparency and enforcement predictability as well as legal certainty for business, AMCU has elaborated and published updated Guidelines on Approaches for Calculation of Fines for Economic Competition Law Infringements.

AMCU continued its investigations of monopolistic entities active in the distribution of natural gas and electricity. On the natural gas market, AMCU considered five cases of potentially anticompetitive conduct and issued four recommendations to end anticompetitive behaviour. In January 2016, AMCU imposed a fine of EUR 3 billion on *Gazprom*, Russia's state-owned gas company, for the abuse of its dominant position on the Ukrainian gas transit market. *Gazprom* challenged this decision before the Ukrainian courts, claiming that it does not engage in business on Ukrainian territory. The Kyiv Commercial Court rejected *Gazprom's* claim for formal reasons. The case is currently pending before the Higher Commercial Court.

With regard to the electricity market, AMCU investigated an even higher number of cases of potentially anticompetitive conduct and issued recommendations for the termination of actions that indicated violations of competition law. Most of the cases related to abusive conduct, *i.e.* denial of independent suppliers' access to the electricity market and obstructing suppliers' access to electricity networks at unregulated tariffs. *SK Kharkivoblenergo* was fined EUR 1.800 for abusing its dominant position by refusing to approve independent suppliers' notifications if they did not have certificates for each consumer on the volume of connected capacity for each measurement platform.

In January 2016, AMCU conducted an investigation on the retail market of low octane fuel, high octane fuels and diesel fuel. In particular, an analysis of prices for light oil products was carried out. The investigation revealed that over a long period, entities on the market (almost) simultaneously changed (increased or reduced) the retail price for A-95 gasoline and diesel fuel posted on signboards. In May 2016, AMCU issued

preliminary conclusions on the case.

AMCU also investigated anticompetitive conduct on the market of aviation fuel trade. *LLC Lukoil Aviation* was found to abuse its dominant position by charging excessive prices. A fine of EUR 680.000 was imposed on *LLC Lukoil Aviation Ukraine*.

Furthermore, AMCU carried out a comprehensive market study on electricity and steam coal markets in Ukraine. The "*Preliminary results of the inquiry of electricity market of Ukraine*" presents the market players and undertakings active in the electricity markets as well as pricing mechanisms. However, neither are the questionnaires published, nor is the legal and regulatory framework analyzed. The report focuses on production of electricity and the wholesale market. Nevertheless, it does not identify concrete barriers to entry, nor does it propose remedies for such shortfalls.

### b. State of Compliance

#### 1. Competition Law

Ukraine's Law on Protection of Economic Competition transposes the competition *acquis*. AMCU is one of the most active and rigorous enforcers of competition law in the Energy Community. AMCU has mainly focused on investigating abuses of dominance, such as exclusionary conducts, which foreclose the market and harm consumers. AMCU should advance in the application of competition rules to anticompetitive agreements and practices.

#### 2. State Aid Law

Ukraine adopted the Law on State Aid for Business Entities in July 2014 after the Secretariat had initiated a case for non-compliance with the Energy Community Treaty. According to the law, the prohibition of State aid enters into force three years after the law's promulgation, that is, in August 2017. AMCU has begun to actively prepare for the establishment of State aid control in Ukraine and – upon the recommendation of the EU funded project Harmonisation of Public Procurement System of Ukraine with EU Standards – launched a pilot project on potential State aid measures in the energy sector which has resulted in an advisory note including a number of potential aid measures and their first assessment.


Several provisions of the new law are not in line with the *acquis*. According to its provisions, existing State aid has to be brought into compliance with the law within a timeframe established freely by the State Aid Authority in each individual case and



only after agreement with the State aid provider. This provision does not exist in the *acquis* and will lead to a delay in the implementation of decisions of AMCU. The law does not apply to aid granted for investments in infrastructure projects using state procurement procedures. This means that many infrastructure projects in the energy sectors could escape the application of State aid rules, which is also contrary to the *acquis*. Moreover, the law prevents AMCU from requiring the recovery of State aid after ten years following the effective date of the regulatory and legal instrument or an executive order under which such aid was granted.

### c. Conclusions and Priorities

AMCU continues to be a positive exception among the Contracting Parties as a strong enforcer of competition law. However, AMCU failed to strengthen its enforcement in relation to anticompetitive agreements and practices covered by Article 18(1)(a) of the Treaty. As recommended in last year's Implementation Report, in order for Ukraine to fully comply with the Energy Community rules on State aid, Ukraine's legislation and enforcement should be improved and brought in line with the *acquis*.

	Lack of State Aid Legislation
I N D I S P U T E	<p>In Case ECS-8/14, initiated with an Opening Letter on 22 April 2014, the Secretariat takes the view that Ukraine failed to fulfil its obligations under the Energy Community Treaty by not adopting and implementing legislation prohibiting State aid and enforcing that prohibition. The Law on State Aid to Business Entities adopted in July 2014 is to enter into force three years after its adoption, <i>i.e.</i> in July 2017. The Antimonopoly Committee of Ukraine with assistance from an EU funded project and with close involvement of the Secretariat initiated early implementation of the State aid rules by preparing a case inventory in the energy sector. Given these developments, the Secretariat decided not to take the next steps in the infringement procedure. However, the formal breach of Energy Community law due to the delayed entry into force of the State aid law remains and the Secretariat will not close the case before.</p>



## Ukraine

### 10.9 Statistics

#### a. Sector Overview

The Law on State Statistics creates the organizational structure for official statistics and governs relations between the relevant institutions. The State Statistical Service of Ukraine (SSSU) is the central statistical institution responsible for production of energy statistics in accordance with Regulation (EC) 1099/2008. The law imposes obligations on respondents to submit information in the format as defined in the statistical reporting documentation in a timely manner.

Data are collected from administrative sources such as the Ministry of Ecology and Natural Resources, the Ministry for Regional Development, Construction and Housing and Communal Economy, the Ministry of Health Security, the National Ecology Investment Agency and the State Agency for Forestry Resources. Information from the energy sector are also collected and/or required by the Ministry of Energy and Coal Industry, the gas incumbent *Naftogaz*, the *Association of LPG* in Ukraine,

the State Customs Service of Ukraine, the National Energy and Utilities Regulatory Commission (NEURC), and the State Agency on Energy Efficiency and Energy Saving of Ukraine (SAEE).

The Government of Ukraine adopted the Regulation on Approval of the Development Strategy of the State Statistics until 2017, which tasks SSSU to improve the quality of the state statistics, develop an integrated and effective national system of official statistics and bring it in compliance with the Energy Community standards. The concept of energy balance compilation was approved by a government instruction from 2007. The SSSU developed a methodological regulation on the design of the statistical surveying of uses of fuel and energy and a methodological regulation on compilation of the energy balance.

#### b. State of Compliance

Ukraine has taken major steps forward in its compliance with the statistics *acquis* with the exception of price statistics. While



certain progress was achieved with respect to gas price statistics and preliminary electricity price data collection, Ukraine has still not adequately implemented the *acquis* on gas and electricity price statistics.

### 1. Annual Energy Statistics

Annual statistics are compiled in accordance with Regulation (EC) 1099/2008 and 147/2013. SSSU collects data for the energy balance using statistical surveys collected from producers, traders and distributors of primary and transformed energy, importers and exporters, household surveys, administrative information, evidence-based data and expert evaluation. SSSU developed procedures to ensure the completeness and quality control of input data, conversion factors of natural units, checking and validation procedures.

SSSU publishes balances per product in December at the latest for the previous year and submits joint questionnaires to IEA. Consolidated data are published in the "*Statistical Yearbook of Ukraine*". In 2016 Ukraine began transmitting its annual questionnaires to EUROSTAT and the Ukrainian annual energy statistics are now available in the EUROSTAT database.

Thus, annual statistics are fully compliant with the *acquis*.

### 2. Monthly Energy statistics

SSSU compiles monthly energy statistics and ensures their timely dissemination. SSSU also compiles monthly Joint Organisations Data Initiative (JODI) questionnaires on oil and gas and submits them to the *United Nations Statistics Division (UNSD)*. Ukraine is working on further improving its monthly statistics, especially with respect to short term collections.

Ukraine presents JODI questionnaires regularly through the UNSD in the world JODI database.

### 3. Price Statistics

SSSU has started to establish a reporting system for electricity and gas prices as required by Directive 2008/92/EC. In July 2016, SSSU compiled the first sets of average gas and electricity prices charged to industrial customers and to households, disaggregated per taxation level from 2013 onward and submitted them to EUROSTAT and the Secretariat for review.

Following the adoption of the Gas Market Law in 2016, SSSU in cooperation with NEURC started preparing questionnaires to collect half yearly gas prices charged to industrial end-users and households. The same process is expected for electricity prices, after the adoption of the new Electricity Market Law. Current information on electricity prices refers only to supplies at regulated tariffs.

A clear designation of responsibility for the price collection compilation procedure will enable regular electricity and gas price reporting per consumption band in accordance with Directive 2008/92/EC and broken down per price component.

Ukraine still does not comply with the *acquis* on electricity and gas prices.

### c. Conclusions and Priorities

Ukraine has achieved major progress in establishment and timely transmission of annual energy data to EUROSTAT and monthly oil and gas data to UNSD.

The system of continuous data collection should be completed and permanently improved to adapt to the changes in the energy sector and in the reporting requirements, such as those imposed by Regulation (EU) 431/2014.

To implement Directive 2008/92/EC, the reporting and compilation system for electricity and gas prices should be established without delay.

SSSU will also have to pay due attention to quality reporting on energy statistics.





# 13<sup>TH</sup> MINISTERIAL COUNCIL

16 OCTOBER 2015

Sheraton Hotel  
Tirana, Albania





# Annual Report on the Activities of the Energy Community 2015 - 2016

This Annual Report on the Activities of the Energy Community outlines key Energy Community activities and achievements in the period from 1 September 2015 to 1 September 2016 following the requirements of Article 52<sup>1</sup> of the Energy Community Treaty. Over this period, the Energy Community Contracting Parties and institutions have worked intensively towards implementation of the Treaty *acquis*, as reflected in detail in the Annual Implementation Report 2015 - 2016.

## a. This Year's Highlights

### 1. A Competitive and Integrated Energy Market – Implementing the Third Package for Electricity and Gas

Following the transposition of the Third Energy Package in Serbia and Albania and in the gas sector in Ukraine, three additional Contracting Parties - Moldova, Montenegro and Kosovo\* - followed suit during this reporting period. The focus of these countries has now shifted to implementation via the adoption of secondary legislation. The Secretariat has continued to assist the Contracting Parties in the implementation stage. In several instances, this has meant stepping on untested ground as the Secretariat made use of its new competences under the Third Energy Package for the first time.



Hearing on draft unbundling plan of Naftogaz, Vienna, 14 March 2016

Prime examples include the Secretariat's first Opinion on the certification of the *Trans Adriatic Pipeline (TAP) AG* as transmission system operator under the Third Energy Package. The Secretariat also actively assisted in the preparation of the unbundling plan of Ukraine's gas incumbent *Naftogaz* by participating in working groups, parliamentary and government

meetings and organizing a stakeholder hearing in Vienna. The Secretariat conducted a compliance assessment and issued its conditional approval of the selected unbundling model, on the basis of which the Ukrainian authorities brought the plan in line with the provisions of the Third Energy Package.



## Rule of Law - A Precondition for TAP Investors

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"Not only does the *Trans Adriatic Pipeline (TAP)* increase Europe's security and diversification of gas supply, it brings real investments to the countries involved. The adoption of European rule of law in Albania was a key precondition for our engagement there. The Energy Community provides TAP and its shareholders the legal framework investors need. But rules which exist only on paper are no rules at all. We are very grateful to the Secretariat's team for taking these rules seriously, going out of their way to ensure compliance in day-to-day operations and being open and responsive to our input."

Lutz Landwehr  
Commercial Director  
*Trans Adriatic Pipeline*

Under a 150,000 GBP grant contract with the United Kingdom Secretary for State for Foreign and Commonwealth Affairs, the Energy Community Secretariat managed a seven-month project consisting of drafting secondary electricity legislation in compliance with the Third Energy Package and the relevant guidelines for Ukraine. For this purpose, the Energy Community Secretariat hired a team of three international experts based in Kyiv. The project team delivered 21 complete drafts of secondary legal acts and three conceptual drafts (out of 33 envisaged by the draft electricity law). The draft secondary legal acts were verified for compliance with the Energy Community *acquis* by the Secretariat.

Given the failure of Bosnia and Herzegovina and former Yugoslav Republic of Macedonia to adopt the Third Energy Package, the Secretariat has initiated a dispute settlement procedure against the two countries and submitted a Reasoned Request to the Ministerial Council following a new expedited procedure for non-transposition of the *acquis*.

<sup>1</sup> Article 52: The Ministerial Council shall submit an annual report on the activities of the Energy Community to the European Parliament and to the Parliaments of the Adhering Parties and of the Participants.





## Dispute Resolution in the Energy Community

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*"In the Republic of Moldova, electricity tariffs had not been adjusted to reflect real energy costs since 2012. This led to a huge tariff deficit (equivalent to circa 1.7% of the GDP of the country), increasing indebtedness in the sector and imminent risk of massive power interruptions. The state-owned power companies had also sued Gas Natural Fenosa (GNF) and, in turn, GNF was forced to launch an international arbitration to protect its interests in Moldova."*

*"To solve the situation in an amicable way, GNF and the Government of Moldova agreed to have the mediation of the Secretariat of the Energy Community, and with the facilitation of Deputy Director Dirk Buschle, the parties have been able to agree on a compromise. The deal will be implemented as of 1.1.2017 and should bring back financial stability to the energy sector, terminate the threat of power interruptions and help restore proper investment conditions in Moldova. Without the Secretariat's support, resolving that dispute would have hardly been possible."*

Jose Luis Gomez Pascual  
President & Country Manager  
Gas Natural Fenosa Moldova

implementation projects, and details of important technical solutions.



*Serbian representatives sign Western Balkan 6 Memorandum of Understandings, Vienna, 27 April 2016*

At the Western Balkan 6 Summit in Paris on 4 July 2016, the WB6 countries reiterated their commitments made under the Energy Community Treaty and at the WB6 Summit in Vienna in 2015.

In order to further assist the Western Balkan governments in achieving their goal of a regional energy market, the Secretariat and the European Commission signed a grant contract for technical assistance to facilitate the implementation of the energy soft measures that will remove the existing legislative and regulatory barriers and enhance the institutional structures necessary for the functioning of this market in line with the Treaty and relevant EU *acquis*. The budget of the "CONNECTA" project amounts to 1 mil. EUR.

### 2. Creating a Regional Electricity Market in the Western Balkans

Following the Western Balkan 6 Summit in Vienna, where leaders committed to implement a list of energy legal and regulatory "soft measures" to establish a regional electricity market, the Secretariat has played a key role in leading the development of that market and assisting the Contracting Parties in the implementation of these measures. The regional measures under the WB6 initiative consist of establishing power exchanges, a regional balancing market and making the best use of the already existing *Coordinated Auction Office in Southeast Europe (SEE CAO)* for regional capacity allocation. Via regular reporting, the Secretariat has tracked the progress made by the Contracting Parties in their implementation of the soft measures.

A Memorandum of Understanding of Western Balkan 6 on Regional Electricity Market Development and Establishing a Framework for Future Cooperation was signed by representatives of transmission system operators, national regulatory authorities, ministries of energy and power exchanges of the Western Balkan 6 countries on 27 April 2016 at the seat of the Secretariat in Vienna. The memorandum marks a milestone towards regional electricity market integration by setting out general principles of cooperation as well as concrete actions to develop the regional electricity market, governance of its

### 3. Western Balkan 6 Sign Up to Sustainability Charter

The six Contracting Parties from South East Europe agreed on a Sustainability Charter at the Western Balkan 6 Summit in Paris in July 2016. Underlining the need to improve the health situation and prosperity in the region, the WB6 countries agreed to upgrade their efforts to tap into their energy saving and renewable energy generation potential.

Each WB6 country committed to implementing specific measures by a set deadline to improve energy efficiency governance and implement smart support measures to improve sustainability of their energy systems.

They also agreed to work towards the implementation of robust domestic greenhouse gas emission monitoring and reporting systems in line with EU legislation.

### 4. Georgia to Join the Energy Community Family

Following two and a half years of negotiations, Georgia has now concluded its accession negotiations to join the Energy Community as a full-fledged member. Georgia is expected to join the Energy Community in early 2017, following a positive



decision by the Ministerial Council in October 2016 and ratification of the accession agreement. Georgia's membership will move the Energy Community's borders to the Caucasus.

#### 5. Energy Community Secretariat Takes Over Technical Assistance for Eastern Partnership Countries

In June 2016, the Energy Community Secretariat signed a grant contract with the European Commission for providing technical assistance to Eastern Partnership countries in the framework of the EU4Energy Project, which is a continuation of the previous INOGATE programme. The initiative covers six countries - Mol-

dova, Ukraine, Armenia, Georgia, Azerbaijan and Belarus and will focus on improvement of energy legislative and regulatory frameworks; implementation of policy recommendations and investment promotion for energy infrastructure strategic projects.

The four-year work programme with a budget of 6.8 mil. EUR will be built on the countries' obligations under the Energy Community Treaty, EU Association Agreements (when applicable) and national priorities. EU4Energy will cover gas, electricity, energy efficiency and renewables issues.



First Civil Society Day, Vienna, 21 June 2016

#### 6. Energy Community Holds First Civil Society Day

The inaugural Energy Community Civil Society Day brought together 24 non-governmental and civil society organisations from 11 countries at the premises of the Secretariat on 21 June 2016. Representatives of international financial institutions, academic institutions, government ministries as well as European Parliament and Commission also took part. The aim of the event, which will be organised on an annual basis, is to increase transparency of the Energy Community process and provide a forum for dialogue on issues which matter to civil society.

Participants received an insight into the latest policy developments in the energy efficiency and environmental areas. Opportunities, challenges and expectations for a reformed Energy Community were the focus of a roundtable discussion with Energy Community Permanent High Level Group (PHLG) Members.

#### 7. Building Modern Infrastructure to Connect Energy Markets

The selection procedure for Projects of Energy Community Interest (PECI) and Projects of Mutual Interest (PMI) in electricity, gas and oil infrastructure, as prescribed by the Regulation on

Guidelines for Trans-European Energy Infrastructure adopted in the Energy Community, took place in 2016. The preliminary list of projects was drawn up by stakeholder electricity and gas groups and the final list is expected to be approved by the Ministerial Council in October 2016. The projects having received the PECEI label will be entitled to a fast-track permit granting procedure within the host countries and be eligible to apply for grants for studies and works from the Instrument for Pre-Accession Assistance (IPA) framework and the Neighbourhood Investment Facility (NIF).

#### 8. All Energy Community Contracting Parties Now in EUROSTAT

Following the Secretariat's active engagement, the European Commission and *EUROSTAT*, the EU's statistical office, agreed to include in its statistical database data submitted not only by EU Candidate and Potential Candidate Countries, but also by any other current Contracting Party. Thus, all Contracting Parties of the Energy Community, including Moldova and Ukraine, are now able to submit their energy statistics to *EUROSTAT* for publication as obliged by the reporting rules of the statistical *acquis*.

In addition, for the first time all Contracting Parties compiled a set of information on gas and electricity prices charged to end-users in order to achieve compliance with the *acquis*.

These achievements follow two-years of technical assistance provided to the Contracting Parties to improve the completeness and quality of their energy statistics in order to comply with the Energy Community *acquis*.

#### 9. Energy Community Regulatory Board – Dismantling Regulatory Barriers to Regional Energy Market Development

As in previous years, customer issues, electricity and gas formed the backbone of the Energy Community Regulatory Board's (ECRB) activities. During this reporting period, ECRB published a recommendation paper on risk-related regulatory investment incentives for Projects of Energy Community Interest; a review of independence of national energy regulators in the Energy Community; a review of gas quality standards in the Energy Community and their convergence with European standards; a brochure on raising consumer awareness of their rights in a liberalised energy market as well as regular reports on the development of the electricity wholesale market in cooperation with the *Agency for the Cooperation of European Regulators (ACER)*.

ECRB also acted on its mandate to provide coordinated regulatory positions on relevant cross-border issues by issuing an opinion on the Albanian regulator's draft decision for certification of the *Trans Adriatic Pipeline*; performed a common review of the Auction Rules for the Coordinated Auction Office in South East Europe (SEE CAO) and presented a position paper on the treatment of interconnections between EU Member States and Contracting Parties.

#### b. Events

In the reporting period, the Energy Community organised more than 60 official events, which attracted around 2.600 participants. Apart from the regular institutional meetings, the Secretariat organised a number of thematic workshops to reflect the current policy priorities, including meetings on extending the *acquis* to include rules on public procurement and implementation of Network Codes. The cooperation among Energy Community Distribution System Operators for Gas was kicked off with the establishment of an ECDSO-g Coordination Platform.



### Bringing Together Gas DSOs

**I** The Energy Community Treaty set up a wide framework which enables the involvement of different stakeholders. However, gas distribution system operators have featured less prominently during the reform process of the national energy sectors up till now. To close this gap, the Secretariat initiated the establishment of an ECDSO-g Coordination Platform where distribution system operators can exchange best practices and discuss challenges for technical operation faced during the implementation of the Third Energy Package. The first meeting took place on 23 June 2016 in Prague where the group's work programme priorities such as unbundling requirements, cooperation/interface TSO-DSO, consumption profiles, tariff structure, gas quality, technical regulation and equipment standards were agreed.

As for the Energy Community's high level events, the fourth "Vienna Forum on European Energy Law" brought together over 150 experts from energy companies, regulators, governments, academia and legal firms on 14 - 15 April 2016. The Forum covered the most relevant issues on the agendas of both the European Union and the Energy Community, including emerging governance of the Energy Union, security of gas supply, renewables, energy efficiency and energy dispute resolution. For the first time the Vienna Forum featured a high level ministerial panel opened by Mr Dominique Ristori, Director-General for Energy at the European Commission.



Mr Dominique Ristori, Director-General for Energy, European Commission, Vienna Energy Law Forum, 15 April 2016

### c. Communication Tools

The Secretariat has continued to use its website and news/publication subscription services as a key communication tool with stakeholders. To better showcase latest *acquis* implementation progress by the Contracting Parties, the Secretariat has introduced a new "Implementation Monitoring" section on the homepage of the Energy Community website.

	<b>146.098</b> Website visitors	<b>in 2015</b>
	<b>3100</b> News subscribers	
	<b>94</b> News items	
	<b>14</b> Feature articles	

In 2015, 146.098 individuals visited the Energy Community website, representing a 15% increase from the previous year. The Secretariat published 94 news items/press releases. It has continued to regularly publish its "Country Brief – Spotlight on Ukraine", which outlines the country's latest developments and the Secretariat's work to support the implementation of the *acquis*.

Moreover, the Secretariat continued to maintain its excellent relationships with journalists and its experts frequently provided commentary to the media. Fourteen feature articles by the Energy Community Directors or its staff were published during this reporting period.

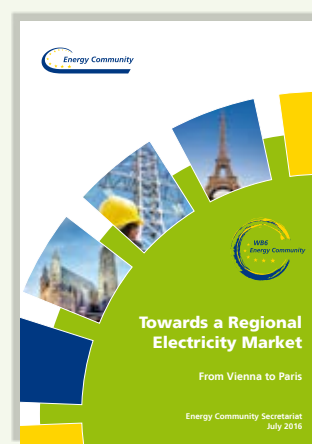
This year, the Secretariat has also widened its social media

presence, which now includes Facebook and LinkedIn, in addition to Twitter.

In the reporting period, the Secretariat carried out two public consultations – the first invited project promoters to submit candidate priority infrastructure projects and the second sought stakeholder views on the submitted projects.

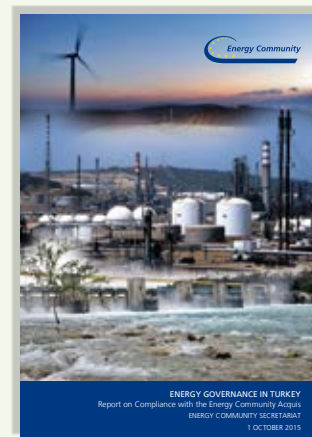
### d. Studies and Publications

As the monitoring authority for the Western Balkan 6 electricity market integration initiative, the Secretariat has issued three bi-monthly monitoring reports and a final report documenting the progress made by the six Western Balkan countries in implementation of the energy soft measures endorsed at the Vienna Summit. In parallel, the Secretariat has published, as part of its monitoring tasks, three bi-monthly monitoring reports that take stock of the progress achieved under the Central and South-Eastern European Gas Connectivity (CESEC) initiative.



The Secretariat has also issued Policy Guidelines "On the Promotion of Organised Electricity Markets in the Contracting Parties". The Guidelines aim at facilitating the establishment of organised market structures in the Contracting Parties by providing guidance on the harmonised development of the institutions, processes and compatible rules needed to reach the targets foreseen. In addition, the Secretariat published two Policy Guidelines on the granting of State aid - "On Reform of the Support Schemes for Promotion of Energy from Renewable Sources" and "On the Applicability of the Guidelines on State Aid for Environmental Protection and Energy 2014 - 2020".

For the first time, the Energy Community Secretariat conducted a comprehensive assessment of compliance with the Energy Community *acquis* of an Observer to the Energy Community Treaty – the Republic of Turkey. The report titled "Energy Governance in Turkey" was published in October 2015.



During the reporting period, the Secretariat published two studies titled *"Energy Community Cross-Border Gas Market Integration Study"* and *"Assessment of Renewable Energy Action Plan Implementation and Progress of Renewable Energy in Energy Community"*.

In addition, the Secretariat published a special edition of the Energy Community legal framework focused on energy efficiency. The publication brings together in one place the legal acts in force, relevant Ministerial Council decisions and procedural acts amending the original EU *acquis* as well as all implementing directives and delegated regulations on energy labelling currently in force in the Energy Community.

#### e. Staff

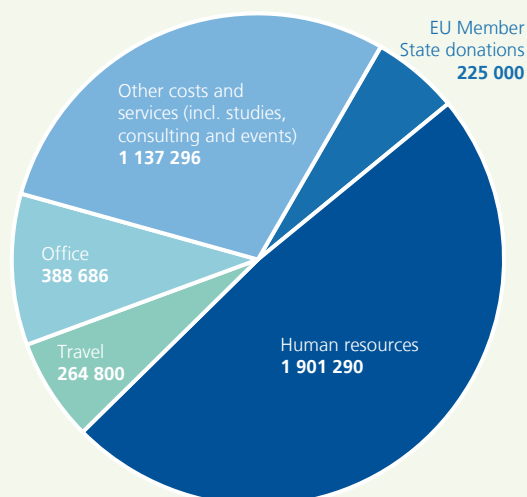
In the reporting period, the Energy Community employed 32 permanent staff members and two locally recruited staff members at its Secretariat in Vienna. Moreover, five secondees, six interns and three research fellows from the Energy Community member and observer countries gained valuable insight into the energy policies of the Contracting Parties and contributed to the Secretariat's work. Overall, 24 different nationalities were represented.

#### f. Energy Community Budget 2015

The Energy Community's revenue consists of members' contributions; donation from the Republic of Austria for payment of premises (in 2015 in the amount of 169.482 EUR), bank interest and other income (amounting to less than 1% of the total budget). The EU is by far the largest contributor, accounting for almost 95% of the contributions (total amount 3.517.786 EUR). On top of the regular contributions, the Energy Community received in 2015 donations from the Republic of Poland in the amount of 15.000 EUR and from the United Kingdom in the amount of 210.000 EUR.

The final budget for 2015 amounted to 3.917.072 EUR.

Final Budget 2015 (in EUR)



#### A View from Inside the Secretariat

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*"As research fellow at the Energy Community Secretariat for a two year period, I have an extraordinary opportunity to work on and observe activities across a huge field of expertise. Since it's an international organization where eight contracting parties, three observer countries and twenty-eight EU members meet, I interact with representatives of these countries and develop my interpersonal skills in a multinational and multicultural environment. I recommend to everyone who is interested in the energy sector to apply for a working experience at the Energy Community Secretariat because it offers great options to pursue one's research ambitions, gain practical work experience, increase knowledge and develop interpersonal skills in a dynamic and stimulating environment."*

Erkut Kirmizioglu  
Industry and Technology Expert  
Ministry of Science, Industry and Technology,  
Republic of Turkey



# Glossary

The report makes a reference to the following institutions, treaties, support programmes and energy policy related concepts and measurement units.

## 1. Methodology Used for Calculating Implementation Indicators

### *Background*

The implementation indicator graphs that are found throughout this Report are based on a methodology quantifying the Contracting Parties' success in transposing and implementing the *acquis*; following, applying and establishing rule of law; and having in place effective institutions. It is based on standardised assumptions and evaluations, indicators provided by other international organisations, cases under the Energy Community's dispute settlement mechanism, country missions, review of legislation, market analysis, expert interviews, and desk research. The quantification of all figures used to measure implementation was performed by experts of the Energy Community Secretariat

In addition, the Energy Community Secretariat made use of other well established methodologies and indicators, like the Western Balkan 6 project's logical framework, or other organisations' measures for rule of law (including the *EBRD*, the *World Justice Project*, or the *World Bank*), infrastructure adequacy or market concentration indexes, and followed the *OECD's Handbook on Constructing Composite Indicators* as best practice guidelines. Most of the indicators, however, were newly developed by the experts of the Energy Community Secretariat. The data set of the implementation indicators entailed more than 10.000 individual figures that were aggregated into the results displayed.

### *Approach*

Each indicator consists of a variety of other indicators that were aggregated using weighing factors taking into account regional comparative approaches (relative weighs) and/or absolute scoring approaches, where appropriate. All of the values are normalised to percentages between 0 and 100, where 100% implies e.g. full implementation or full transposition. Where a comparative approach is used, the ratio displays the relative ranking compared to the best scoring Contracting Party in a given dimension. In some duly justified areas, a bonus/malus system was used to reflect individual incidences impacting on the quantified implementation dimension.

The scoring of each Contracting Party is displayed in two dimensions, a performance dimension and a sectoral dimension. The weights used for aggregating along the two different dimensions are displayed in the following as values in brackets:

The performance dimension sorts the implementation indicators along the indicator groups:

- rule of law (making up 10% of the overall score),
- institutions (25%),
- transposition (35%), and
- implementation (30%).

The sectoral dimension aggregates the indicators to allow overall conclusions in the spheres:

- electricity (30%),
- gas (30%),
- oil (10%), and
- sustainability (30%).

For Contracting Parties where certain indicators are not applicable, for example due to the lack of gas infrastructure, no fall-back values were used, but the remaining indicators were increased in their weight, where justifiable.



## 2. Definitions on Energy, Electricity, Gas, Renewable Energy and Energy Efficiency (Facts and Figures Tables)

### Energy Definitions

Primary production of energy	Indigenous production of fuel and energy captured directly from natural sources in a usable form.
Fuel mix in primary production	Primary production of fuel and energy extracted or produced, including quantities captured directly from natural sources, and quantities of recovered, received and recycled products used as primary energy.
Final consumption of energy	Total energy delivered to the final consumer's door and consumed in the industry, transport, households and other sectors for all energy uses. It excludes deliveries for transformation and/or own use of the energy producing industries, as well as network losses.
Energy dependency	The extent to which an economy relies upon imports in order to meet its energy needs, calculated as net imports divided by the sum of gross inland energy consumption plus bunkers.
Energy intensity of the economy	The ratio between the gross inland consumption of energy measured in kilogram of oil equivalent (kgoe) and the gross domestic product (GDP) in 1000 EUR at constant prices with reference year 2005.
Tariff customers	Non-eligible customers and those eligible customers who are entitled to and have entered into a contract for supply of electricity and/or gas under regulated terms and conditions including regulated tariffs and prices of supplied electricity and/or gas.

### Electricity Definitions

Electricity production [GWh]	Annual domestic electricity production of all generation sets including pumped storage, measured at the outlet of the power plant to the transmission or distribution networks, excluding own consumption of electricity absorbed by the generating auxiliaries and the losses in the generator transformers of power plants.
Net imports [GWh]	Amount of electricity that has crossed political boundaries of the territory, whether customs clearance has taken place or not. Transit shall be reported as both an import and an export.
Net exports [GWh]	Amount of electricity that has crossed political boundaries of the territory, whether customs clearance has taken place or not.
Gross electricity consumption [GWh]	Total amounts of electricity consumed by all customers connected to transmission or distribution network, including network losses and electricity consumed by power stations, if supplied from the network. It is equal to total amount of electricity supplied by all power stations to the network, reduced for export and increased for imports from abroad.
Losses in transmission [GWh]	The difference between the amount of electricity entering the transmission network and the aggregated amount of electricity taken from the transmission network, registered at all customer meter points.
Losses in transmission [%]	Percentage of total losses in the transmission system (relative to the total electricity injected into the transmission network).
Losses in distribution [GWh]	The difference between the amount of electricity entering the distribution system and the aggregated consumption registered at customer meter points.
Losses in distribution [%]	Percentage of total losses in the distribution system (relative to the total electricity injected into the distribution system).
Consumption of the energy sector [GWh]	Amount of electricity taken from the power network and consumed by the energy industry to support power plant operation.
Final consumption of electricity [GWh]	Total consumption of end-users in industry, transport, commercial and public services, agriculture and residential sector.
Consumption of industrial, transport, services and other non-residential sectors [GWh]	Electricity consumed by industry, commercial customers (including small enterprises), governmental institutions and transport sector (public transportation services, transport utilities, private vehicles) including public lighting, excluding network losses.

Consumption of households [GWh]	Electricity consumed by the residential customers (households).	
Net maximum electrical capacity of power plants [MW]	Sum of net maximum capacities of all stations taken individually throughout a period of operation of 15 hours of continuous running, at the power plant outlet to the network, assuming the power to be solely active power.	
Net maximum electrical capacity of power plants [MW] per type:	Coal-fired	Sum of net maximum capacities of all stations powered on solid fossil fuels (coal, lignite, coke, peat), including multi-fired stations (stations using combined solid and liquid fuel or solid fuel and gas. (Multi-fired are units which can burn more than one type of fuel on a continuous basis).
	Gas-fired	Sum of net maximum capacities of all stations using natural gas as a fuel, including multi-fired stations using combined gas and oil fuels.
	Oil-fired	Sum of net maximum capacities of all stations using oil or oil product as a fuel, excluding multi-fired stations using combined oil and gas or oil and solid fuels.
	Nuclear	Sum of net maximum capacities of all stations using nuclear energy.
	Hydro, total	Sum of net maximum capacities of all stations using hydropower sources including storage, pumped storage and run-of-river plants of all types and sizes.
	Renewable energy sources	Sum of net maximum capacities of all stations using renewable energy sources, other than hydropower.
Transmission network	Substation capacity [MVA]	Sum of the nominal capacities of all substations in the transmission network (working on 380 kV, 220 kV and 110 kV) and HVDC convertors.
	Number of interconnectors	The number of all interconnection points between the national transmission system and neighbouring systems.
Electricity customers	Total number of customers	Number of all final customers of electricity who purchase electricity for their own use.
	Of which Non-households	Number of all non-household customers, i.e. natural or legal persons purchasing electricity for their business operation, including industrial, commercial and professional activities and public services.
	Eligible customers under national legislation	Number of customers eligible to choose supplier, according to the legislation in force, regardless of how many have exercised eligibility.
	Active eligible customers	Number of customers who have switched from their regulated incumbent supplier and are being supplied under market conditions.
Internal market	Electricity supplied to active eligible customers [MWh]	Quantity of electricity supplied to active eligible customers.
	Share of final consumption [%]	Electricity supplied to active eligible customers as a part of final consumption.

### Renewable Energy Definitions

Renewable energy sources	Renewable non-fossil energy sources namely wind, solar, geothermal, wave, tidal, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases.
Energy from renewable sources	Energy from renewable non-fossil sources, namely wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases.
Gross final energy consumption	The energy commodities delivered for energy purposes to industry, transport, households, services including public services, agriculture, forestry and fisheries, including the consumption of electricity and heat by the energy branch for electricity and heat production and including losses of electricity and heat in distribution and transmission.
Share of energy from renewable sources	The sum of the gross final consumption of energy from renewable sources in electricity, heating and cooling and final energy consumption in transport divided by the gross final consumption of energy from all energy sources, expressed as a percentage.
Binding target	The mandatory share of energy from renewable sources Contracting Parties committed to reach in 2020.
Indicative trajectory	The tracing path towards the achievement of Contracting Party final mandatory targets in 2020 calculated as in Annex I B. of Directive 2009/28/EC.

### Gas Definitions

Natural gas production [Bcm]	Amount of indigenous annual production of natural gas (all dry marketable production within national boundaries, including offshore production, measured after purification and extraction of NGLs and sulphur, excluding extraction losses and quantities reinjected, vented or flared).	
Imports [Bcm]	Amount of natural gas produced outside the national territory that has crossed the political boundaries of the territory for ultimate consumption.	
Stock changes [Bcm]	The difference between the opening stock level and closing stock level for stocks held on national territory. A stock build is shown as a negative number and a stock draw is shown as a positive number.	
Total supply [Bcm]	Amount of natural gas available for consumption calculated as indigenous production plus imports minus exports plus stock changes.	
Consumption in energy sector [Bcm]	Amounts of natural gas used for own consumption of gas sector for operation and for network losses, and for the transformation to derived energy products (heat and electricity).	
Available for final consumption of natural gas [Bcm]	The quantity of recorded consumption in surveys of end-use sectors (including energy and non-energy use and excluding transformation inputs and consumption of energy sector).	
Interconnector capacity [Bcm]	Total	Total annual capacity of all interconnectors.
	out of which bidirectional	Capacity of bidirectional flow, if possible.
Storage working capacity [Bcm]	Total working capacity of underground storages (without cushion gas).	
Length of transmission network [km]	Total length of transport network(s).	
Length of distribution network [km]	Total length of distribution networks.	

Natural gas customers	Total	Total number of final customers connected to transmission and distribution networks.
	out of which: Non-households	Number of all customers except households, i.e. customers eligible to choose supplier according to the acquis.
	Eligible customers under national legislation	Number of customers eligible to choose supplier, according to the legislation in force, regardless of how many have exercised eligibility.
	Active eligible customers	Number of customers who have switched their supplier and are being supplied under market conditions.
	Households	Number of households customers.
Internal market	Gas supplied to active eligible customers [Bcm]	Quantity of natural gas supplied to eligible customers from competitive market under market conditions.
	Share of total consumption [%]	Natural gas supplied from competitive market to eligible customers as a part of total consumption.
Consumption of natural gas per sector [Bcm]	Total annual consumption of natural gas for energy purposes.	
Consumption structure [Bcm]	Energy transformation	Amount of natural gas used for production of electricity. Amount of natural gas used for production of heat.
	Industry and commercial customers	Amount of natural gas consumed by industry, commercial customers (including small enterprises), governmental institutions and transport sector (public transportation services, transport utilities, private vehicles) excluding network losses.
	Households	Natural gas consumed by the residential customers (households).

### Energy Efficiency Definitions

Period covered by EEAP	year - year	Period set for implementation of the Energy Efficiency Action Plan and achievement of the overall energy savings target, as defined by Directive 2006/32/EC on Energy End-Use Efficiency and Energy Services.
Overall energy savings target - Directive 2006/32/EC	ktoe / % / year	National energy savings target calculated in line with Annex I of Directive 2006/32/EC on Energy End-Use Efficiency and Energy Services.
EEAP status	Status of adoption of the Energy Efficiency Action Plan (in development/drafted/adopted).	
Achieved energy savings	ktoe / % / year	Achieved intermediate national energy savings target for the first three-year implementation period.
Total primary energy supply (TPES)	ktoe	Amount of total energy necessary to satisfy inland consumption, made up of indigenous production, plus imports, minus exports, minus international marine bunkers and stock changes.
Energy intensity (TPES/GDP)	toe / 1.000 USD	Energy efficiency indicator representing ratio of the total primary energy supply divided by the gross domestic product of the country.
TPES/Population	toe/capita	Energy efficiency indicator representing ratio of the primary energy supply per head of population.
Total final energy consumption (TFEC)	ktoe	Sum of consumption in the end-use sectors: residential, services, industry (including manufacturing and mining), transport, non-energy consumption, and others (including agriculture).
Share of TFEC by sector	Residential	Residential sector share of total final energy consumption (in %).
	Services	Services sector share of total final energy consumption (in %).
	Industry	Industry sector share of total final energy consumption (in %).
	Transport	Transport sector share of total final energy consumption (in %).
	Non-energy use	Non-energy use sector share of total final energy consumption (in %).

### 3. Abbreviations

ACER	Agency for the Cooperation of Energy Regulators
CSE	central stockholding entity
CESEC	Central and South-Eastern European Gas Connectivity initiative
CHP	combined heat and power
CNG	compressed natural gas
COP21	Conference of Parties (COP) 2015 Paris Climate Conference
DSO	distribution system operator
EBRD	European Bank for Reconstruction and Development
EC	European Community
ECRB	Energy Community Regulatory Board
EEAG	State Aid Guidelines for Environmental Protection and Energy
EEAP	Energy Efficiency Action Plan
EIB	European Investment Bank
EnC	Energy Community
ENTSO-E	European Network of Transmission System Operators for Electricity
ENTSO-G	European Network of Transmission System Operators for Gas
ESCOs	Energy Service Companies
EU	European Union
EUROSTAT	Statistical Office of the European Union
GDP	gross domestic product
HPP	hydro power plant
HVDC	high-voltage direct current
ICJ	International Court of Justice
IEA	International Energy Agency
IMF	International Monetary Fund
INOGATE	An international energy co-operation programme between the European Union, the littoral states of the Black and Caspian seas and their neighbouring countries
IPA	EU's Instrument for Pre-Accession Assistance for countries engaged in the accession process
ITC	Inter-TSO Compensation
ITO	independent transmission operator
JODI	Joint Organisations Data Initiative (APEC, EUROSTAT, IEA, OLADE, OPEC, UNSD)
KfW	Kreditanstalt für Wiederaufbau
LNG	liquefied natural gas
MC	Energy Community Ministerial Council
MVP	Monitoring and Verification Platform
n/a	not available
NREAP	National Renewable Energy Action Plan
NIF	Neighbourhood Investment Facility
OHL	overhead electric line
PECI	Project of Energy Community Interest (EnC)
PHLG	Energy Community Permanent High Level Group
PMI	Projects of Mutual Interest (EU)
PPA	power purchase agreement
PV	photovoltaic
REEP	Regional Energy Efficiency Programme (managed by EBRD)

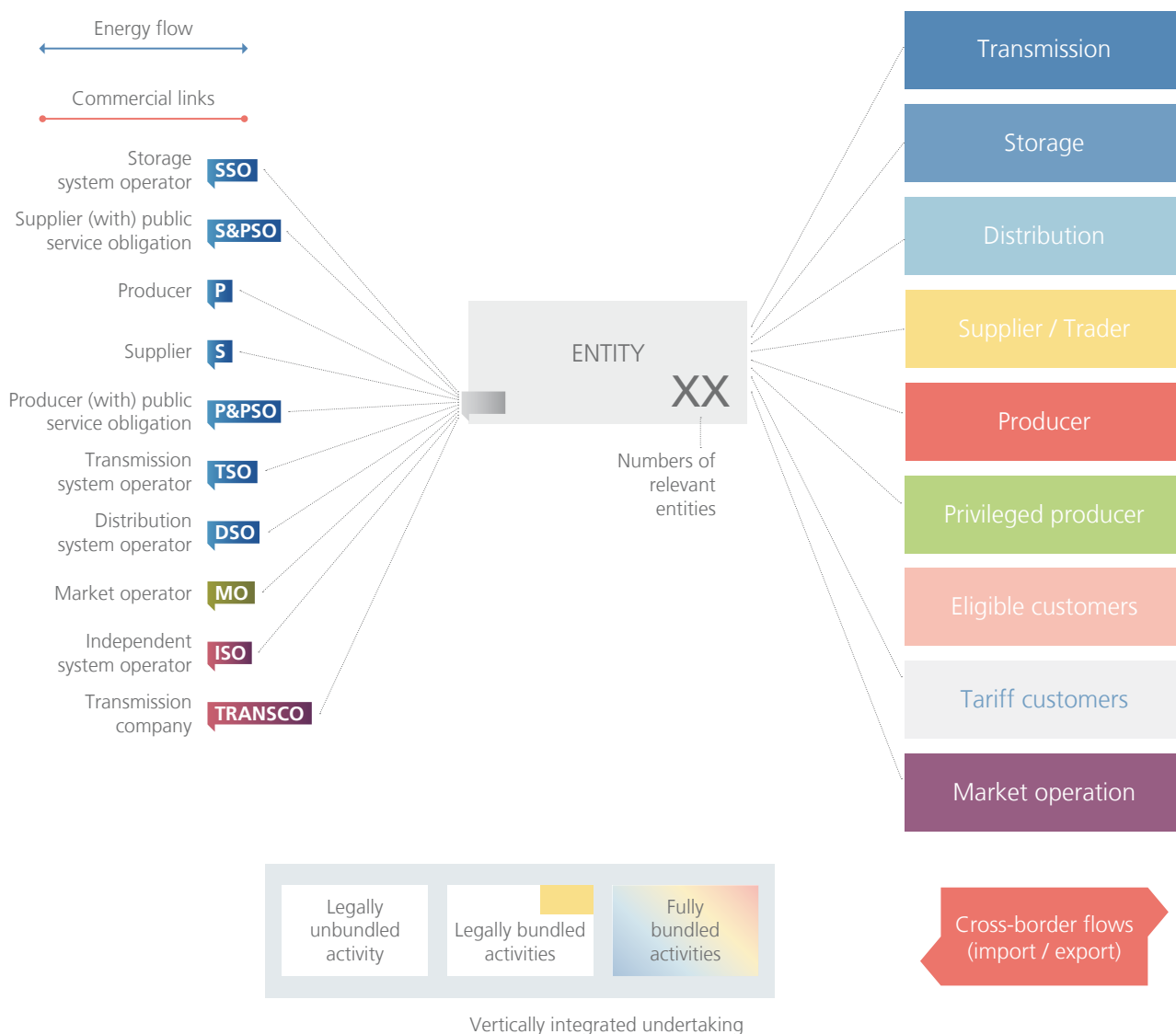


SEE CAO	Coordination Auction Office in South East Europe
SEEPEX	South East European Power Exchange
SS	substation
UNSCR	United Nations Security Council resolution
UNSD	United Nations Statistics Division
UPS	Unified Power System
TAP	Trans Adriatic Pipeline AG
TFEU	Treaty on the Functioning of the European Union
TPP	thermal power plant
TSO	transmission system operator
VAT	value added tax
WBIF	Western Balkans Investment Framework
WB6	Western Balkan 6 process

#### 4. Measurement Units

kilovolt	kV	joule	J
kilovolt-ampere	kVA	terajoule	TJ
kilowatt	kW	tonne (metric ton)	t
megawatt	MW	kilotonne	kt
megavolt-ampere	MVA	meter	m
gigawatt	GW	cubic meter	cm
terawatt	TW	million cubic meters	mcm
kilowatt hour	kWh	billion cubic meters	Bcm
megawatt hour	MWh	kilogram of oil equivalent	kgoe
gigawatt hour	GWh	tonne of oil equivalent	toe
terawatt hour	TWh		

## 5. Energy Market Scheme Legends







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