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# GAP ANALYSIS OF THE HOUSING SECTOR IN WESTERN BALKAN COUNTRIES: BOSNIA AND HERZEGOVINA, KOSOVO, NORTH MACEDONIA, AND SERBIA VS. SLOVAK REPUBLIC

PART 1. CROSS-COUNTRY BENCHMARKING ANALYSIS  
OF RESIDENTIAL ENERGY EFFICIENCY RENOVATION  
INVESTMENTS ENVIRONMENT

PART 2. COUNTRY GAP ANALYSIS REPORTS

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# GAP ANALYSIS OF THE HOUSING SECTOR IN WESTERN BALKAN COUNTRIES: BOSNIA AND HERZEGOVINA, KOSOVO, NORTH MACEDONIA, AND SERBIA VS. SLOVAK REPUBLIC

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## Abbreviations

ALDREN	Alliance for Deep Renovation in Buildings
ASHRAE	American Society of Heating, Refrigeration, and Air-Conditioning Engineers
ASHVE	American Society of Heating and Ventilation Engineers
BFEE	Budgetary Fund for Energy Efficiency
BiH	Bosnia and Herzegovina
BRS	Building Renovation Strategy
BoQ	Bill of Quantities
CGB	central government buildings
CRM	Credit Risk Management
EE	Energy Efficiency
EIB	European Investment Bank
EBRD	European Bank of Reconstruction and Development
EED	Energy Efficiency Directive
EIB	European Investment Bank
EPBD	Energy Performance in Buildings Directive
EPC	Energy Performance Contracting
ESCO	Energy Service Company
EU	European Union
EVCS	European Voluntary Certification Scheme
FEC	final energy consumption
FBiH	Federation of Bosnia and Herzegovina
GIZ	German Society for International Cooperation ( <i>Deutsche Gesellschaft für Internationale Zusammenarbeit</i> )
GGF	Green for Growth Fund
GSM	Global System for Mobile Communication
HFHI	Habitat for Humanity International
HO	homeowner
HOA	Homeowners Association
HVA&CR	Heating, Ventilation, Air-Conditioning, and Refrigeration
ISO	Independent System Operator

KCGF	Kosovo Credit Guarantee Fund
KfW	Kreditanstalt für Wiederaufbau
ktoe	kilotonnes of oil equivalent
kWh	kilowatt hour
LEUE	Law on Efficient Use of Energy
LOEE	Law on Energy Efficiency
LMC	Licensed management companies
MAB	multi-apartment buildings
MCC	Millennium Challenge Corporation
MOME	Ministry of Mining and Energy
MMB	Management and Maintenance company
MSME	micro, small, and medium enterprise
NBF	National Budgetary Fund
NEEAP	National Energy Efficiency Action Plan
NECP	National Energy and Climate Plans
NZEB	non-zero energy building
PIMO	Public Infrastructure Management Office
RBM	Residential building management
REELIH	Residential Energy Efficiency for Low-Income Households
REEP	Regional Energy Efficiency Program
RES	Renewable Energy Source
RS	Republic of Srpska
SDC	Swiss Agency for Development and Cooperation
SEEK	Subsidies for Energy Efficiency in Kosovo
SFRB	State Fund for Housing Development
SHDF	Slovakia Housing Development Funds
SME	small and medium enterprise
UNDP	United Nations Development Programme
US	United States
USAID	US Agency for International Development
WB	Western Balkans

## INTRODUCTION

Residential buildings are one of the largest energy end-users in all Western Balkan (WB) countries, consuming 30% to 60% of all final national energy consumption.<sup>1</sup> Such high energy demand and low energy performance is caused by several factors, including ageing building stock, decades of poor maintenance, legal-regulatory barriers, lack of clear ownership structure and responsibilities, and poor management of residential buildings.

The landscape for financing energy efficiency (EE) varies considerably across different sectors. The private sector (individuals, households, and businesses) appears to have well-functioning markets, where consumers can easily borrow funds for EE and other investments. The public sector is almost completely dependent on subsidized financing and grants, even though EE investments have the potential to generate savings and allow repayment of investments if properly structured. In most of the WB countries, the national governments engage in sovereign loans from international financial institutions, which are later invested in educational, medical, and other public institutions' buildings, while the loans are repaid from the state budget. Such examples are the Public Investment Management Office (PIMO), or the World Bank and Kreditanstalt für Wiederaufbau (KfW) loans for public building renovation in the Republic of Serbia (Serbia hereafter).

Multi-apartment buildings (MABs), however, remain the only energy-consuming sector that is underserved by the commercial market for EE investments. This is due to several factors, including low awareness of EE benefits among building occupants, long unattractive payback of EE investments due to low energy prices, poor organization and legal standing of homeowner associations (HOAs) to borrow money, and low confidence of banks in lending to HOAs.

Based on these findings, the residential MAB sector is estimated to be one of the areas with the greatest potential for energy savings and, respectively, reduction of greenhouse gas emissions in the WB, with conservative estimates of 30%–40% potential of reduction of primary energy use and import dependence. One of the major impediments to a meaningful level of investment in energy saving measures is an insufficient legal and regulatory environment governing all activities related to the operation and maintenance of MABs, adequate registration of property, and HOAs' poor financial standing, which in turn makes it difficult for the banks to provide loans to HOAs with acceptable risks. Under the current circumstances the MABs have neither an obligation, nor an incentive to invest in EE measures.

Housing legislation in WB countries has serious gaps in institutional and legal aspects governing the operation and maintenance of MABs, which creates obstacles to commercial financing of EE improvements, as well as general building renovation investments aimed at any structural, esthetic, or functionality improvements.

Lack of proper legal and regulatory environment leads to weak management and difficult and inefficient decision-making processes. HOAs also do not have assets subject to collateralization, nor do they have substantial cash flow to generate savings, which banks would use to secure future payments; thus, financing institutions do not currently provide loans to HOAs for capital improvements, including EE improvements, due to the lack of securities. Thus, amendment of the Housing Codes and other related legislation, while building up the capacities

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<sup>1</sup> IEA statistics, 2015.

of HOAs, is essential to make large portions of the urban housing stock ready for commercial financing. Establishment of effective Housing Legislation by adopting best practices from other neighboring countries with successful track records implementing similar reforms is a fundamental shift from existing housing legislation in WB countries. This represents a first step toward facilitating energy-efficient refurbishment, opening the MAB residential sector for commercial financing, and expanding the facilities management market. Subsequent steps will require capacity building in local institutions to strengthen the management capabilities of HOAs and build the confidence of the commercial banks for lending to HOAs with tailor-made financing products specifically designed for the needs of HOAs and economics of EE investments. Such experience exists in Slovak Republic (Slovakia hereafter) where legal reform, capacity building, and tailor-made financing lead to mobilization of HOAs and engagement of commercial banks in the delivery of financing solutions, with resulting renovation of the majority of MAB housing. The reform that was initially heavily supported with subsidized financing and institutional support gradually evolved to a fully commercial, self-driven and market-based framework in which nearly every local bank offers an HOA loan product, and every HOA can invest in renovations and repay from its own fees and savings.

All four countries targeted with this assignment—Bosnia and Herzegovina (BiH), Kosovo, Northern Macedonia, and Serbia—were part of former Yugoslavia and share common characteristics that determine the transition paths of ex-Yugoslav republics after independence. Management and maintenance of MABs is a huge challenge for all four countries. Although apartments have been privatized since the 1990s, a sustainable system for financing the maintenance of common areas in the buildings has not yet been established. Most of the new homeowners are not ready to take on responsibilities for the maintenance of common areas in the buildings and refurbishment of MABs. Commercial financing through banks and other financial institutions is scarce, leading to further deterioration of buildings that already have very poor energy performance because of the inadequate building standards used when they were constructed in the 1960s–1980s. Financial resources from the budgets of municipalities and state agencies are insufficient and are mostly used to support maintenance and emergency interventions.

The aim of the gap analysis is two-fold:

1. review the housing policies, institutional structures, EE policies, reform agendas, as well as the banking sector landscape in the selected four WB countries, and provide comparative gap analysis with the benchmarked best practices from the regions that have made substantial progress in MAB refurbishing (e.g., Slovakia); and
2. identify the opportunities for legislative and regulatory improvements, capacity building, and flexible financing in each WB country necessary for improvement of the housing operation and maintenance and for developing enabling the environment for EE investment lending to HOAs.

In addition to the present cross-country benchmarking analysis, the study produced individual country reports that will provide interested readers with more details on national-level policies and the institutional and market development contexts.



## EXECUTIVE SUMMARY

Thermal renovation of housing requires significant financial resources, which the market failed to deliver due to barriers rooted in national housing and EE policies and banking rules and practices. The lack of meaningful investment in the sector of modernization of MABs is affected by the complex institutional landscape, gaps in knowledge and capacities of various players in the market, and the generally low level of awareness and maturity of all engaged partners in the four reviewed countries including BiH, Kosovo, North Macedonia, and Serbia. The policy, institutional, financial and information barriers in housing, banking and EE spheres are analyzed in comparison with the outstanding forerunner in this field, Slovak Republic.

### HOUSING PERSPECTIVE

#### Legal/Regulatory Gaps

The WB countries have initiated housing policy reforms since 2009. All four countries passed laws that regulate maintenance and management of MABs in their legal systems in the past decade. Despite adopted legislation, the past decade has not seen sufficient growth of proper institutional capacities or developed the necessary processes for ensuring adequate enforcement of adopted policies. Furthermore, these laws still have shortcomings and are frequently modified, and thus are unstable. In contrast, the Slovak legal framework has been functioning for three decades (since 1993) with only few amendments. All except North Macedonia have a separate condominium law. With the exception of the Federation of Bosnia and Herzegovina (FBiH), they allow for registered HOAs to act as both legal entity and management entity for MABs.

**Gap:** Unlike the Slovak system—where HOAs are largely **self-regulated**, and the residential building maintenance and management sector functions has little state interference, control and oversight over the work of HOAs/licensed management companies (LMCs)—in all four countries, the policy makers intended to create frameworks that foresee robust institutional architecture (state regulation of the sector) to perform **control and oversight of the work of HOAs and management companies. This architecture consists of various regulatory bodies and/or** inspectorates. The practice of the past decade shows that these structures are too complex and, in reality, do not function productively and have not had produced visible effects in improved quality of management, maintenance, and modernization of MABs.

**Recommendation:** The current systems of oversight and control need to be simplified or abolished because they are not fulfilling their functions.

**Gap:** **Analysis of the adopted secondary legal framework** shows that most by-laws and guidebooks have been developed, and many other laws affecting the functioning of MAB management have been identified. However, there are many gaps and inconsistencies among the laws, with many existing provisions lacking enforcement.

**Recommendation:** Following the experience of Slovakia, a comprehensive and systematic analysis of impacts of other laws on HOA laws is necessary to identify and address gaps and loopholes in implementation. This will be an important step in making these systems functional; it will help eliminate inconsistencies, duplication, and barriers to implementation of the liabilities and obligations the law imposes. The gaps and

inconsistencies need to be properly addressed, preferably by amending the existing laws, as introduction of new laws would exacerbate the legislative instability.

Two key contributing factors in the effectiveness of the Slovak system of HOA regulation are (1) **ease of decision-making of homeowners (50% + 1 vote)** and (2) simple **and effective rules for collection of MAB fees** effectively enforced through legal lien and simplified court and collection procedures. Some level of development in this regard exists in the four WB countries.

A significant portion of the MAB stock in WB is already being managed either by HOAs or LMCs: 64% in North Macedonia, 40% in Serbia, and most buildings in Slovakia. With the exception of Kosovo, these countries all have a substantial number of HOAs, and FBIH, North Macedonia, and Serbia all have sizeable LMC markets.

**Gap:** The quality of maintenance service is still low in the four countries due to failure in proper collection of fees and dues. Combined issues of legal gaps, cumbersome decision-making, limited cash flow and insufficient payment enforcement lead to persisting deficits in investment funds and funds for general maintenance.

**Recommendation:** In addition to addressing the above gaps in the laws and accelerating their proper enforcement, steps are needed for generation of proper financial resources for building repair and maintenance. Access to internal and external financing must be ensured through facilitating collection of maintenance fees for routine maintenance, generation of reserve funds for capital renovation, and access to debt through (1) accumulation of “reserve funds” which can be committed as down-payments on the loan; (2) giving the HOA the power of lien, which the HOA can use to impose the payments through collection agencies, auctioning nonpayers’ apartments; and (3) using credit guarantees linked to HOA cash-flow, etc.

## **Housing Policy Gaps**

The renovation boom in Slovakia from 2000–2010 resulted from the combination of a solid legal framework, institutional support, and availability of financing options and tools for renovation of MABs. By 2016, 47.5% of the stock had been refurbished. While built on a generally better performing economy and higher average welfare of the population, the Slovak success story is largely anchored on simple, achievable regulation combined with good and affordable policy and market tools that were developed throughout the 1990s and 2000s. These factors gradually made MAB renovation projects technically easy and financially affordable for the HOAs.

**Gap:** The four countries lack legal simplicity and policy stability, and most of the policy instruments that are available to Slovak MABs are absent in the WB countries. Under the acting legal framework, both HOAs and residential building management (RBM) companies in the WB can apply for a loan, but only on behalf and on account of all the owners (without HOA members individually signing agreements). Despite legal provisions, the market does not offer commercial loans for HOAs. The banks may be willing to lend to HOAs only by collateralization for the loans (pledged an asset), a requirement that very few MABs can meet, because the buildings do not possess assets of their own other than the building common spaces, which do not represent a disaggregated asset that can be collateralized. The HOA common assets are usually inseparable parts of the building’s public space (e.g., stairwells, courtyards, entrances), are not registered with a separate asset (roofs, attics), and often represent no liquid value to banks.

**Recommendation:** In Slovakia, the Obligatory (Reserve) Fund for maintenance and repair is usually used as a collateral for a loan. Today, Slovak banks are comfortable providing loans to HOAs and only use these funds to collateralize/secure repayment of modernization loans. This scenario evolved as a result of several years of development of regularity and volume in payments of fees by HOAs; in the interim, other forms of guarantee (such as state guarantee programs) were used until banks developed interest and confidence in working with HOAs. WB countries should implement a similar mechanism with similar trajectory of milestones in promoting large-scale building renovations.

## **ENERGY EFFICIENCY PERSPECTIVE**

This analysis has further benchmarked BiH, Kosovo, North Macedonia, and Serbia against Slovakia and the Transposition Roadmap of Energy Community Contracting Parties in EE policy, legal/regulatory domain, active institutional capacities, and market readiness. The analysis revealed the following gaps and barriers to large-scale market uptake of EE investments in the residential building sector.

### **Legal/Regulatory Gaps**

While the legal/regulatory landscape, policies, and plans continue to be priority for these countries' governments, many gaps remain for providing a favorable policy environment for EE investments in residential buildings. The Energy Community and donors/international financial institutions (IFIs) have strongly supported these four countries in their efforts to set up a guiding policy framework and transpose the European Union (EU) Energy Efficiency Directive (EED) and the Energy Performance in Buildings Directive (EPBD). Despite all support and policy priorities, the effort has had mixed success in developing, adopting, and implementing favorable policy frameworks for building EE. Specifically, for the policy domain, it is important that the national governments and donor agencies provide technical assistance to accelerate the enforcement and implementation of legal/regulatory reform and progress monitoring, including the recommendations below.

**Gap: Energy prices lack incentives** for promotion and implementation of EE investment in (especially residential) buildings.

**Recommendation:** Transition social assistance and energy subsidies toward improved utility affordability through enhanced EE. This will create a more sustainable and long-term remedy to affordability problems, while creating incentives for EE investments and monetization of buildings, resulting in substantial energy savings and reduction of emissions.

**Gap: Laws on Energy Efficiency in Buildings** were adopted very recently in all countries; but lack enforcement.

**Recommendation:** Maintain transposition momentum for EED and EPBD; support implementation with continued development and enforcement of adequate secondary legislation covering EE of buildings.

**Gap: Delayed development and adoption of the regular **National Energy Efficiency Action Plans (NEEAPs)**.**

**Recommendation:** Reemphasize residential buildings sector in the NEEAPs. Accelerate adoption of the next NEEAP in BiH. Update the NEEAP and tracking implementation progress in the 4<sup>th</sup> NEEAP.

**Gap:** Delays in adopting a **Building Renovation Strategy (BRS)**.

**Recommendation:** Accelerate development and adoption of BRSs, in harmony with NEEAPs, allowing for a knowledge-based, technically, and financially prioritized course of tactical action in building renovation.

**Gap:** Lack of, or poor, enforcement of **mandatory building energy performance certification**.

**Recommendation:** Build the capacities of national authorities (particularly in BiH) to accelerate enforcement in energy performance certification, providing grant resources and technical assistance for popularizing these certificates among public and real estate players; ensure that they are transparent, credible, and methodologically uniform for all certified buildings.

**Gap:** Lack of proper **monitoring and verification** in housing sector needs, implementation of residential EE investments, comfort improvements, genuine affordability issues and subsidy needs, creating a limited information based for decision making on the effectiveness of investments, improved utility affordability, phase-out of subsidies, etc.

**Recommendation:** Require application of internationally recognized monitoring and verification protocols in pilot projects, programs, and credit lines with a centralized national reference database used to inform further decisions on phasing out subsidies, carefully calibrating concessionality of financing (interest rates, share of grant co-financing, grace periods, etc.), or planning scale-up.

**Gap:** Lack of formal regulation and enforcement of energy auditing and accreditation of **energy auditors**.

**Recommendation:** Ensure that energy auditing provisions are in accordance with the European norms/independent system operators (ISOs) to provide comparable and consistent quality and content of energy auditing reports, creating a reliable source for assessing technical and economic potential for EE investments.

The above regulatory provisions should be set as milestones to be achieved in the cooperation program between the national governments and donors/IFIs. The building renovation niche requires a solid fact-based policy roadmap that is comprehensively stipulated by EED and EPBD transposition requirements.

Furthermore, as the basic provisions are put in place for EE in buildings, national policies need to integrate the buildings sector into the broader low-carbon development agenda, including

- development and adoption of National Energy and Climate Plans (NECPs), and
- development and adoption of National NET Zero Energy Building (NZEB) Strategy and Roadmap.

### **Institutional and Financial Capacity Gaps**

**Gap:** **Limited capacities** of ministries, lack of energy agencies, and absence or poor capacity/scope of EE funds.

**Recommendation:** Given the limited staffing of ministries, governments and donors must seek to enhance the capacities of energy or housing agencies and EE funds to properly develop EE and renovation project portfolios for buildings. These efforts should include capacity-building of public officers' skills related to legislation, technical assessments, business planning, financing, contracting, management, commissioning, and monitoring and verification, among others. The efforts of government agencies, funds, and donors/IFIs must be better coordinated and combined through pooled financing, coordination committees, and leveraging of mutual efforts. These efforts should ensure development of an energy auditors' cadre, and should provide training, accreditation, and certification for auditors.

**Gap:** Limited engagement of **energy service companies (ESCOs) and energy performance contracting (EPC).**

**Recommendation:** Financiers (banks and funding entities for EE projects) must seek to customize financing terms to make them applicable to ESCOs/EPCs, including project finance, risk securing based on savings cash flow, and tripartite contracting, under which ESCOs could borrow financing backed by HOAs/household financing commitments.

## **BANKING AND FINANCE PERSPECTIVE**

### **Risk and Risk Perception Gaps**

**Gap:** Unlike in Slovakia where most banks offer loans to MABs, the analysis found that, in all four WB countries, banks still do not lend to MABs—however, residential building stock inventories have been conducted in all countries, indicating a huge potential market for investment. In all states, bankers report that HOAs are newly established and do not have previous credit histories or regular income (stable future cash flow) for loan repayment. Also, the common property of HOAs as collateral is insufficient. Another barrier for EE projects in some countries (Kosovo) is the lengthy and complex technical requirements to secure access to commercial funding. However, in North Macedonia, this factor is not recognized as a barrier. In Serbia, a crucial reason for the lack of bank financing is that banks still do not understand the legal status of HOAs; also, the financial discipline of homeowners (HOs) is not adequate. Therefore, the minimum required fees collected from HOs for maintenance and repair in obligatory or reserve funds are still not sufficient to be considered credible for loan repayment. Finally, higher operational cost for processing of credit and loan losses provisioning related to noncollateralized loan portfolio present additional barriers.

**Recommendation:** Streamline HOA laws and legal position of HOAs. Clearly define the income of HOAs, including obligatory collection of additional HO fees and reserve fund, which should be reserved for building renovations (can be valued based on the building stock performance). Increase the level of financial discipline, and/or target MABs with good financial discipline, to pilot lending on a commercial basis.

### **Provisioning Requirement Gaps**

**Gap:** The WB region has universal banking. Banks assess the creditworthiness of borrowers based on standard general criteria. The focus is on sources for loan repayment, previous credit history, certainty of future income, debtor reputation, and only then on collateral as secondary loan coverage. All banks meet strict risk-management standards to protect public deposits (savings). In accordance with the probable credit risk, banks are obliged to constantly impair

their assets in proportion to the risk's exposure in the amount of expected loan losses. Loan loss provisioning directly affects the profits of banks, so that banks often decide to finance only the best projects that meet all regulatory requirements. The financial systems of the countries in the WB region are banco-centered, which means that, within the overall financial system, commercial banks predominate. Also, non-banking institutions (NBI), which, by their nature, could be more flexible toward beneficiaries of financial services, are not significantly represented. Savings associations as NBIs do not exist or are not developed, although in the Balkans there has been a long tradition of savings and credit associations (railway, housing, postal services, etc.). These institutions played a pivotal role in developing the scheme for lending to MABs in Slovakia.

**Recommendation:** To motivate the banking system to lend to HOAs, raise the financial discipline of HOAs, introduce additional commission for investment maintenance that would be used for loan repayment, stimulate loan subsidies, provide guarantee schemes, and promote greater education of all stakeholders.

### **Possibilities for Guarantee Mechanism Gaps**

**Gap:** The analysis showed that guarantee funds and mechanisms are not developed in the region. Despite the episodic success in setting up guarantee funds, such as the Kosovo Credit Guarantee Fund (KCGF) and two guarantee funds in BiH, none fill the financial market gaps that commercial banking is reluctant to finance, nor recognize HOAs as users of guarantee services. Guarantee funds and guarantee schemes that focus on providing guarantees for HOAs are not available in Serbia and North Macedonia. Currently, North Macedonia has an initiative for establishing a mechanism to ensure repayment of the loan to the HOAs for EE financing, with the support of USAID and Habitat for Humanity International (HFHI) (50% guarantee for HOA lending).

**Recommendation:** Establish guarantee schemes and mechanisms for HOAs, guaranteeing loans to HOAs to reduce credit risk from the banking sector perspective.

### **Existing Banking Products Gaps, Including Development Banks**

**Gap:** Only BiH has a banking initiative to design special lending products for HOAs. In all other countries, the banking sector has avoided developing such products. In Kosovo, the Millennium Challenge Corporation (MCC) will provide Subsidies for Energy Efficiency in Kosovo (SEEK), with \$24 million in US Government financing that would include a loan component for HOAs—this would be the first such banking product for HOAs in Kosovo. A similar situation is being created at development banks—the European Bank for Reconstruction and Development (EBRD), KfW, World Bank—and bilateral donors—USAID, EU, and the Swiss Agency for Development and Cooperation (SDC)—which have helped develop commercial loans, but not specifically targeting HOAs.

**Recommendation:** Develop and introduce credit lines for HOAs, through international development and local institutions, that are specifically designed to support lending to HOAs through banks and other NBIs. Bank loans to HOAs should be partially secured by government grants to cover economically vulnerable groups (unemployed, single parents, people with disabilities, pensioners, etc.). State aid should include subsidizing the costs of preparing technical documentation and obtaining appropriate approvals and

permissions for renovation in accordance with the required technical documentation process.

A comprehensive overview of the cross-country benchmarking analysis is presented below. Conclusions and recommendations are drawn from the review of country-specific gaps, especially compared with best practices and solutions used in Slovakia. Recommendations and a path forward are offered to enhance the building renovation investment market in the four selected WB countries.

# PART 1. CROSS-COUNTRY BENCHMARKING ANALYSIS OF RESIDENTIAL ENERGY EFFICIENCY RENOVATION INVESTMENTS ENVIRONMENT

## HOUSING PERSPECTIVE

### Laws on Functioning of HOAs

All four countries have passed laws that regulate maintenance and management of MABs in their legal systems between 2009 (North Macedonia) and 2016 (Serbia); see Table 1. These laws are relatively new, frequently modified (e.g., 13 times in North Macedonia in less than 10 years), and unstable compared with the Slovak framework, which has functioned for three decades (since 1993) largely unchanged and has withstood the test of time.

**Table 1. Summary of Housing and HOA Legislation**

	Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina	
					FBiH	Republic of Srpska (RS)
<b>Law</b>	<i>Condominium Act (1993)</i>	<i>Housing Law (2009)</i>	<i>Condominium Act (2016)</i>	<i>Condominium Act (2014)</i>	<i>Law on Maintenance</i>	<i>Law on Maintenance</i>
<b>HOAs Legal Entity</b>	Yes	Yes	Yes	Yes, but very few exist	No	Yes
<b>Control Mechanism</b>	No, self-regulated sector	Yes, State Regulatory Committee & Municipal Inspectorate	Yes, Inspectorate	Yes, Inspectorate	Yes, Inspectorate	Yes

All countries except North Macedonia have a separate condominium law. With the exception of FBiH, they allow for registered HOAs as both legal entity and management entity for MABs, and in all countries, management companies exist (licensed in North Macedonia, the same process as in Slovakia) and the law provides an option to hire an individual manager. These solutions are similar in nature to the Slovak system and provide ample options for management and maintenance of buildings.

Unlike Slovakia, where the system is **self-regulated**, (i.e., very little state or institutional oversight of the work of HOAs and LMC sectors), in all four countries the framework foresees the establishment of an institutional architecture for **control and oversight**. This is done through inspectorates (communal in Serbia, commercial in Kosovo, and municipal in North Macedonia and BiH cantonal inspectors). At worst, these inspectorates are not really established entities (North Macedonia), and in most cases they have not produced any visible effect on the operational quality of the system. A further analysis of the need and function of control and oversight via inspectorates needs to be done, but at first glance they do not appear to be effective in ensuring that HOAs and managers perform their duties according to the law and that all MABs are managed, which are the two main stated goals for their establishment.



An analysis of the **secondary and associated framework** shows that, in most countries, many by-laws and guidebooks have been developed, aimed at operationalizing the main condominium law, in the period after the law was passed. In addition, a large number of laws affecting the functioning of MAB management have been identified. Unlike in Slovakia, where a comprehensive analysis of the impact of other laws on HOA laws has been used to address gaps and loopholes in implementation, no such effort has been systematically performed in any of the four countries. See **Table 2** for details.

**Table 2. Secondary and Associated Legislation Affecting MABs/HOAs**

	Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina	
					FBiH	RS
<b>Laws Affecting MAB Management</b>	75 Laws 31 Legal norms	9 Laws 13 By-laws	6 Laws 6 By-laws	2 Laws 5 By-laws	N/A	8 Laws
<b>Impact Assessment</b>	Yes	Initial	No	No	No	No

Two key features of effective HOA regulatory frameworks are (1) **ease of decision making by homeowners** and (2) **legal rules and processes that enable collection of MAB fees** and proper enforcement of financial obligations.

In Slovakia, both maintenance and **reserve funds fees are obligatory**, but the amounts are decided by HOs. Maintenance fees are legally obligatory in all systems except Serbia, where there is no specific clause; yet, in practice, municipalities set up minimum fees, making it also obligatory for all MABs. All countries except Kosovo set up a **minimum monthly amount per 1 m<sup>2</sup>**. HOs can decide to apply a higher amount. **Reserve funds are obligatory in all countries except Kosovo** and are collected with maintenance fees.

The fact that most buildings are managed indicates that, in the WB, there is already a practice of collecting maintenance fees. For example, 64% of the stock in North Macedonia is managed, and most buildings in Serbia have used one of the three forms (registered HOA, manager, or private maintenance company) of management prescribed in the law. About 40% of buildings in Republic of Srpska (RS) have HOAs, and 58% of buildings in FBiH have managers. The notable exception is Kosovo where, out of the 3,150 buildings, where the private maintenance companies dominate the residential buildings service sector, with only about 25 HOAs exist, and all are supported through a World Bank project.

Reserve funds are collected also in all four countries assessed in this report, but with various intensity and degrees of success. In the past 10 years, with the notable exception of Kosovo, the laws have been made operational to the extent that a sizeable percentage of the MAB stock is now either managed via HOAs or maintenance companies, which means that there is a sizeable market for management of buildings (in FBiH, it is estimated at about 10–15 million EUR).

**Table 3** lists the decision-making rules and the ability for HOAs and RBM companies to collect dues, by country. Significant gaps appear in red font.

**Table 3. Key Decision-making Rules on Housing Management and Identified Gaps**

	Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina	
					FBiH	RS
<b>Quorum for HOAs</b>	50% + 1 (1 apt = 1 vote) *	50% + 1 % votes	50% + 1 (1 apt = 1 vote)	100% <sup>2</sup> (1 apt = 1 vote)	50% + 1* mixed	50% + 1 (1 apt = 1 vote)
<b>Investment Decisions</b>	50% + 1 Except adding new units	50% + 1 Except installing video-surveillance	66% if HOA is borrowing, otherwise 50% + 1	50% + 1, Except redelegation	50% + 1	100%
<b>Obligation to Pay**</b>	All members, enforced	All members, but not enforced	All members	All members	Only those who vote	All members
<b>Method of Securing Payment***</b>	Legal, lien	Legal, execution, in conflict with other laws	Legal execution, obligation law	Legal, lien, but real collection against value is 25%	Individual	Individual

Source: Compiled by authors.

**Notes:**

\* The voting rights of homeowners are based on ownership of apartment units and not on the size of the apartment. So, the principle is 1 apartment equals 1 vote. This is the case in every country except NMK where votes depend on apartment area (similar to the stock or share percentages in companies).

\*\* Where shown, “all members” refers to situations where all households must pay HOA fees, even in cases when they do not support a given investment by their vote.

\*\*\* Every homeowner must provide personal collateral guarantee (essentially a bundle of individual loans, instead of a unified lending to the HOA, no HOA collateral is accepted on behalf of the apartment or building).

**Analysis of Gaps**

- The *Housing Law* in North Macedonia foresees a method of extrajudicial execution for HOs’ liabilities; however, in practice, this is difficult to enforce because it conflicts with other laws.
- The law in Kosovo foresees a 100% consent of HOs to organize HOAs. This makes it almost impossible to form HOAs (currently, there are only about 25 in Kosovo).
- Investment decisions, such as those involving façade and roof insulation in Serbia, require 66% consent, which is an excessively high threshold.
- In both entities in BiH, those HOs who do not vote for a decision do not have an obligation to pay; this is clearly a barrier to any major investment works.
- In FBiH, HOAs are not legal entities, and as such they cannot borrow any capital from the commercial sector.

**Conclusions and Recommendations on HOA Framework**

1. Although HOA legislation is largely in place, the past 10 years have shown that HOA frameworks are underdeveloped (with by-laws), too complicated (contradictory or inconsistent with other laws), and difficult to put into practice. The laws are also frequently amended or changed, creating an unstable HOA/RBM framework.
2. In Kosovo, RS, and FBiH, major legislative obstacles exist in the required percentages of HOAs involved in decision making, representing a bottleneck for renovations at scale.
3. The mechanisms for oversight and control prescribed in the law are not functioning.

<sup>2</sup> Gaps are shown in red font.

4. Significant gaps exist in HOA decision-making rules that make investment and collection and enforcement of debt difficult.
5. Payment of monthly fees and the payment on the costs of maintenance and management are irregular.
6. A sizeable part of the MAB stock remains unmanaged, especially in Kosovo and North Macedonia.
7. Large proportions of MAB residents lack comprehensive knowledge of HOA/condominium legislation, their rights and obligations within the HOA, and the potential tools they can use to launch comprehensive building renovation initiatives, including procurement of energy auditing or technical design services, business planning, etc.

## **Housing Policies and Financing of Building Renovations**

**Evolution of housing policy tools in Slovakia:** The renovation boom in Slovakia in 2000–2010 was the product of a solid legal framework and the availability of financing options and tools for renovation of MABs. By 2016, 47.5% of the building stock had been refurbished. Condominiums with nearly 325,000 housing units benefited from a favorable loan from the Slovakia Housing Development Fund (SHDF), and nearly 152,000 units benefited from a subsidy provided by the Ministry of Transport and Construction.

The *Slovak Condominium Act* stipulates that it is possible to apply for a loan for common parts of a building. Both HOAs and RBMs can apply for a loan, always on behalf and on account of all the owners. To this extent, the legal acts in most WB countries create a similar ability for HOAs and/or RBMs to apply for loans—what is different, however, is the availability of loans on the market for HOAs.

Banks in the WB ask for collateral for their loans, a requirement that very few MABs can meet. In Slovakia, the Obligatory Fund for maintenance and repair is usually used as collateral for a loan. A key role in lending to condominiums was given to the SHDF when the fund was established in 1996. The private commercial banks in Slovakia in the 1990s did not focus adequately on the HOA sector because of the problem of finding collateral for the loans offered. One of the attempts to minimize the problem with collateral was the introduction of the state guarantee program in 2000. The interest rates of commercial banks in that period were much higher than the interest rates offered by SHDF, and at the same time banks were not able to lend a longer-term loan and had no experience with this segment of the housing market. The experience of the SHDF has shown that loans for condominiums are low risk, and arrears are rare—thus, offering these loans also became attractive to private banks. Forerunners in this field were building savings banks (three exist in Slovakia). Currently, most of the banks offer specialized loan products for refurbishment and modernization of the housing stock. **A crucial impetus for private banks to provide loans for condominiums was the introduction of a rule by which the fund for maintenance and repair could guarantee the loan.**

The existing Slovak system of instruments for state support of housing development is implemented in the form of **direct and indirect support**. Most of its elements have been in place since the late 1990s. **Direct state support** is in the form of:

1. subsidies (introduced in 1998, known as the Program of Housing Development) provided by Ministry of Transport and Construction of the Slovak Republic according to *Act No. 443/2010 Coll. on Subsidies for Housing Development and on Social Housing, as Amended*;
2. the SHDF (1996); and

3. thermal insulation subsidies for single-family houses (2016).

Indirect state support is implemented through the following mechanisms:

1. Program of State Support for Refurbishment of the Housing Stock provides bank guarantees for loans (2005) but is not currently used because the fund for maintenance and repair became the most popular way to guarantee loans;
2. building savings scheme (1992), under which the state provides savers with a state premium; and
3. mortgage financing (1994), which has recently added an income tax bonus for people up to 35 years of age for the first 5 years of the duration of their mortgage.

### Situation in Four WB Countries

Almost none of the existing tools is at the disposition of HOAs in any of the four WB countries.

**Table 4** provides a comparison of financing tools in the selected countries.

**Table 4. Key Financing Tools Supporting MAB/HOA Investments in the Selected WB Countries**

	Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina	
					FBiH	RS
<b>Reserve Fund for Collateral</b>	Yes	No	No	No	No	No
<b>Municipal or Regional Subsidy</b>	No	Yes, 50%–100% co-funding	No	No	Selected cantons	No
<b>EU Grants</b>	Yes, JESSICA funds (SHDF 2013 onward)	No	No	No	No	No
<b>Guarantee Programs</b>	Housing guarantee programs 2000	Pilot program in North Macedonia 2020	No	No	No	No
<b>Commercial Loans</b>	Most banks offer loans for HOAs	No	No	No	No	No
<b>State</b>	About 220 million EUR in three schemes (grant, subsidy, and loan)	Demonstration projects of habitat provide loans in combination with municipal subsidies since 2012	No	No	Demonstration projects of HFHI provide loans in combination with municipal subsidies since 2012	No
<b>Other</b>	—	—		US Government and World Bank demonstration programs		

## Conclusions on Housing Policy

- All four countries (North Macedonia, BiH, Serbia, and Kosovo) lack a clear vision for housing policy platforms that will fund the renovation of their building stocks, something that the Slovak model has had since the beginning of the 2000s.
- Priorities have not been defined for refurbishment of the housing stock.
- Although some demonstration projects have clearly shown the potential and benefits of MAB refurbishment, no financial products (loans, guarantee funds) or scaled support or subsidy schemes exist to fund larger-scale investment in MAB retrofits.

## Housing Policy Recommendations

**Improving the regulatory framework:** Legislative frameworks for the housing sector have many gaps that need to be filled to improve the functioning of the sector and to de-risk investments.

- The general objective of improving the existing legal framework includes increasing or maintaining the value of existing and newly built housing stock and improving their EE and quality. In addition, a need exists to improve or even professionalize housing management as a necessary institutional prerequisite.
- **Simplify procedures** for decisions about and undertaking renovation works on buildings.
- Allow HOAs to have certain **enforcement recourse against owners who are not willing to take part in maintenance schemes or are otherwise unable to fulfill their obligations**. Adopt appropriate legal provisions that effectively deal with housing-cost defaulters.
- **Guarantee efficient supervision of the work of housing managers** and specifically define the obligations of the managers.
- **Simplify some of the legal solutions** as well as the institutional framework for enforcement of mandatory payments, considering good practices such as those of Slovakia, described in this comparative analysis.

**Policy reforms:** The housing sector in all countries must be reformed to support maintenance and management of MABs, a priority that is clearly lacking in all four WB countries studied. Without such reforms, it will be difficult to renovate the stock in a scalable and sustainable manner. At minimum, the following must be done:

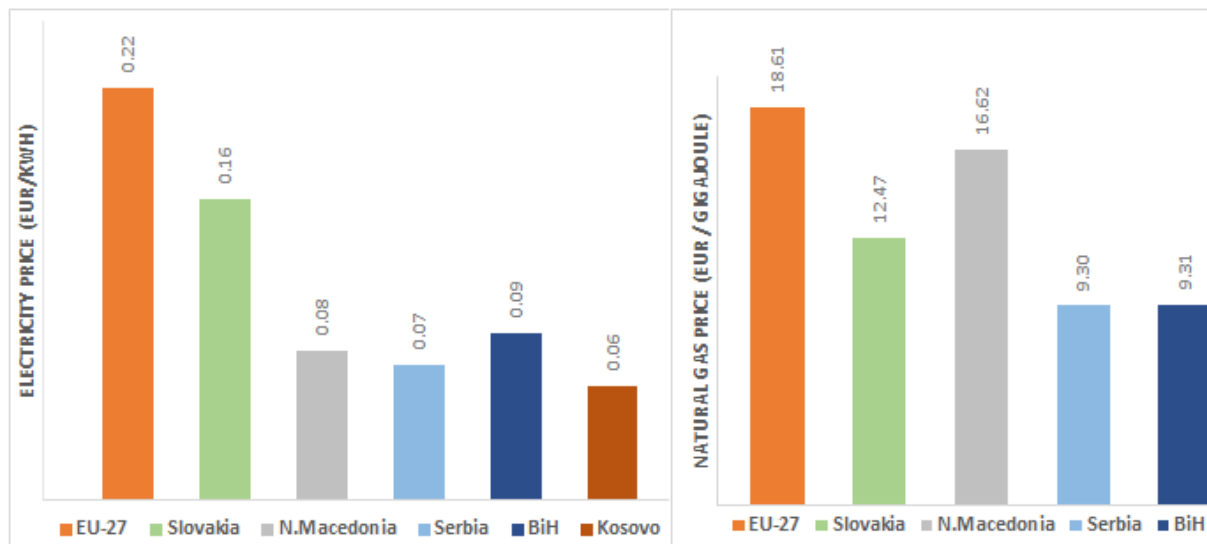
- Development of policies and strategies to improve the management of housing should be made a **political priority**, as well as providing social support for housing programs. This will increase availability of financing for housing and actual improvement of the residential building stock.
- Create specialized **credit funds for investment in maintenance**, as well as programs to address the technical (structural) problems in older multi-apartment housing to stop further deterioration of buildings.
- Develop **policy tools and support schemes for low-income households** (e.g., guarantee funds, income-related subsidies for refurbishments, social assistance for low-income households to be connected to existing housing allowances, etc.).
- Invite **participation of all stakeholders**, primarily HOAs, in designing and implementing reforms.

- **Simplify some of the legal solutions** as well as the institutional framework for enforcement, considering good practices used in Slovakia, described in this comparative analysis.

**Stakeholder facilitation and capacity building:** Focus on building the capacities of actors; provide more support to HOs and HOAs, and establish centers to support development not only of HOAs, but also municipalities and state institutions. The Slovak model for such programs from 1992–2000 can serve as a good example.

## ENERGY EFFICIENCY PERSPECTIVE

Dependence on imported gas is a concern for the WB region. The buildings sector is the single largest gas consumer, using up to 40% of the total national natural gas supply, on average. The energy consumption is also a major drain on public budgets—directly or indirectly governments subsidize energy consumption through tariff subsidies and low-income assistance. **Figure 1** shows electricity and natural gas prices in the four WB countries studied, Slovakia, and the average for 27 EU countries, for comparison. As seen from the chart, electricity prices remain substantially below both Slovakia and EU average prices. For natural gas prices, North Macedonia is the only country where prices are comparable to those in the EU, and even higher than Slovakia. In Serbia and BiH, gas prices are twice lower than in the EU (note that Kosovo is not supplied with natural gas). The low energy prices, while socially attractive to the population, create a major barrier to investments in EE, delaying the paybacks and commercialization of EE investments.



Source: Eurostat.

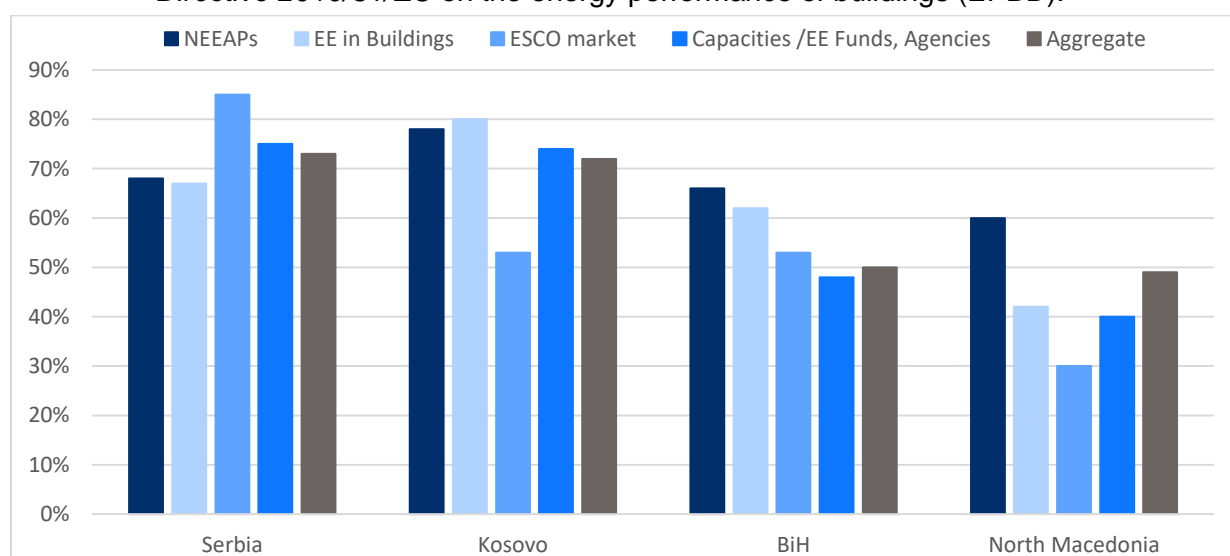
**Figure 1. Electricity and Natural Gas Prices in Sample Countries vs. EU (2019)**

Because most buildings are aged, poorly maintained, and have little thermal protection, EE integrated into the rehabilitation of buildings holds great promise to boost these countries' national energy security. Rehabilitation can also improve utility affordability, reduce buildings' carbon footprints, enhance indoor air quality, extend buildings' lifespans, and create jobs and provide other economic benefits. Public buildings have received moderate support in EE-integrated renovation through sovereign-backed loans and state budget injections. Individual

households have also benefited from a number of green credit lines supported by donors and IFIs for EE retrofits as part of home renovation loans/mortgages. In contrast, integrating EE into MABs is an effort that faces many barriers, such as legal gaps in housing policy, lack of properly designed financial instruments, and remaining gaps in the EE landscape.

As Contracting Parties to the Energy Community Treaty, all the WB countries have invested significant effort in transposing EU energy acquis with mixed success, as presented in **Figure 2**. Among the EU energy acquis, the directives that directly affect the market for building renovation are as follows:

- *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 (EED)*, requiring setting national energy-saving target and a cap on the consumption of primary and final energy; and
- *Directive 2010/31/EU* on the energy performance of buildings (EPBD).



Source: [Energy Community 2019 Annual Implementation Report](#).

**Figure 2. Progress in Transposition of EU Energy Efficiency Legislation for Buildings (EED and EPBD)**

The bottlenecks that limit the flow of investment funds into EE renovations are summarized below.

- Incomplete reforms on EE in buildings
  - Delays in adoption of the 4<sup>th</sup> NEEAP
  - Delays in development and adoption of building renovation strategies, including comprehensive building stock inventory, identification of worst-performing buildings, assessment of the technical-economic potential for EE, identification of priority policy and investment measures, as well as adoption, implementation, and monitoring provisions
- Lack of enforcement of adopted regulatory provisions on building energy certification
- Poor institutional capacities of state authorities, such as

- Understaffed ministries and agencies in charge of reforming and enforcing the primary and secondary legislation on EE in buildings
- Limited scopes and resources in the Energy Efficiency Funds to adequately target the MAB sector
- Limited engagement of ESCOs and third-party financing
- Lagging adoption/enforcement of mandatory energy auditing provisions
- Lack of awareness of various market players regarding the technical and economic benefits of EE investments

## Policies for EE in Buildings

The EED stipulates development of a nationwide vision for EE through the development of the NEEAPs and, more recently, development of integrated National Energy and Climate Plans (NECPs). These plans help countries assess their baseline energy consumption, current inefficiencies, and sectoral potentials for EE, and set long-term targets and develop EE improvement measures for an 8–10-year timeframe. As **Table 5** indicates, political ambition and national consensus has delivered mixed success in the four reviewed countries: Only the 1st NEEAP has been adopted in BiH, North Macedonia, and Serbia on their 3<sup>rd</sup> NEEAP up to 2018, whereas Kosovo is already pending adoption of its 4<sup>th</sup> NEEAP. The WB countries have developed between 8 and 14 measures in their NEEAPs just for residential housing, with average targets for EE aiming at 1% reduction of total primary energy consumption per year. Implementation of these measures includes not only investment and capacity building, but also policy and regulatory solutions, including those regulated by EPBD. The EPBD requires standardizing EE in buildings, including

- a unified system of calculating energy performance,
- minimum energy performance requirements, and
- compulsory energy performance certification.

Slovakia adopted its primary *Law on Energy Performance in Buildings* in 2005 and has been routinely amending it, transposing the new requirements of the recasts of EED and EPBD. The law stipulated mandatory building energy certification in case of new construction, reconstruction, rental, or sale since 2008. The national legislation transposing EPBD has been put in place in all countries. With the exception of the Republic of Srpska, all other countries have only recently adopted these laws (during 2017–2020), and thus, information on their enforcement and scope of application is limited. Consequently, many of the critical elements of EE legislation and regulatory provisions for buildings are either lagging or are poorly enforced.

The latest policy guidance from the Energy Community<sup>3</sup> mandates that the WB countries develop their NECPs. To date, only North Macedonia has drafted its NECP, pending adoption. NECPs are instrumental for harmonizing and integrating countries' EE policies with their long-term implementation, monitoring, and reporting protocols.

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<sup>3</sup> *Recommendation 2018/01/MC-EnC and the Policy Guidelines 03/2018-ECS.*



**Table 5. Status of Transposition of EPBD and EED into Primary Legislation and Policy Planning**

	Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina	
					FBiH	RS
	100%	42%	65%	80%	62%	
<b>EED: NEEAP 1</b>	1 <sup>st</sup> NEEAP for 2008–2010	Yes, adopted in 2011	Yes, adopted in 2010	Yes, adopted in 2010	Yes, adopted in 2017	Yes, adopted in 2017
<b>NEEAP 2</b>	2 <sup>nd</sup> NEEAP for 2011–2013	Yes, adopted in 2014	Yes, adopted in 2013	Yes, adopted in 2013	No (in progress, adoption pending by the end of 2020)	No (in progress, adoption pending by the end of 2020)
<b>NEEAP 3</b>	3 <sup>rd</sup> NEEAP for 2014–2016 with outlook to 2020	Yes, adopted in 2017	Yes, adopted in 2016	Yes, adopted in 2016	No	No
<b>NEEAP 4</b>	4 <sup>th</sup> NEEAP for 2017–2019 with outlook to 2020	No	No	Yes, prepared in 2019, not adopted yet	No	No
<b>Building Renovation Strategy</b>	1 <sup>st</sup> & 2 <sup>nd</sup> Long-Term Renovation Strategy (LTRS)	No, expected by February 2022	No	No (pending mid-2021)	No (pending end of 2020)	No (pending end of 2020)
<b>NECP</b>	NECP adopted	NECP draft	No	No	No	No
<b>EPBD transposed: Law on Energy Efficiency in Buildings in Place</b>	<i>Act on Energy Efficiency of Buildings, 2005.</i> <i>Act on Energy Efficiency, 2014.</i> Pending: <i>Transposition of 2018 Directive</i> recast.	Yes, <i>Law on Energy Efficiency, 2020</i>	Partially: (1) <i>Law on Planning and Construction</i> regulates energy efficiency in buildings; (2) <i>Law on Efficient Use of Energy</i> has some provisions on EE in buildings	Yes, <i>Law on Energy Efficiency, 2018</i> , replacing law of 2011	Yes, <i>Law on Energy Efficiency, 2017</i>	Yes, <i>Law on Energy Efficiency, 2013</i>

## Energy Auditing and Certification of Buildings

EED requires promoting energy audits in buildings. Audits are mandatory for buildings that exceed a specific size threshold. EPBD, in turn, stipulates the use of energy auditing for assessment and certification of building energy performance. Energy auditing and building energy certification requirements are critical regulatory instruments that not only help identify the EE potential, but also help commercialize and market energy performance through the real estate market. In Slovakia, mandatory energy auditing and building energy certification for rented or sold buildings have been enforced for the last decade, whereas the four WB countries either have not introduced mandatory energy auditing and certification provisions (Kosovo, BiH) or have not adopted them until quite recently and have not enforced them. See **Table 6** for details.

**Table 6. Energy Auditing and Building Energy Certification**

EPBD Transposed	Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina	
					FBiH	RS
<b>Building Energy Auditing Regulation in Place</b>	Yes	Yes	Yes, <i>Act on Energy Efficiency (2009)</i> stipulates mandatory energy audits; <i>Decree of Ministry of Economy (2010)</i> defines energy audit procedures	No	No (regulated by secondary legislation of the <i>Law on Planning and Construction</i> )	Yes, Administrative Instruction on Energy Audit and Energy Auditor's Certification
<b>Certification of Energy Auditors</b>	Yes, the District (Trade License) office acts as the point of single contact; aptitude tests for energy auditors are organized by the Slovak Innovation and Energy Agency. The list of energy auditors is published by the Ministry of Economy online at <a href="https://www.minv.sk/?performance-of-activities-of-energy-auditor">https://www.minv.sk/?performance-of-activities-of-energy-auditor</a>	Yes, <i>Law on Energy Efficiency of February 5, 2020</i> ; Energy auditors' certification has been offered since 2014	No	Yes	Yes, adopted in 2018	Yes, adopted in 2015
<b>Mandatory Energy Certification Provision in Force in Case of Rent or Sale</b>	Yes: Since 2010, the central register has stored records of energy performance certificates classified by building category and energy class achieved	Yes, <i>Article 33 of the Law on Energy Efficiency</i>	Yes	Yes	Yes, not enforced	Yes, not enforced
<b>Mandatory Energy Certification of Large Buildings</b>	Yes: Slovakia is part of ALDREN (Alliance for Deep RENovation in Buildings) for implementation of the European Voluntary Certification Scheme (EVCS) based on <i>EPBD Art. 11(9)</i> and EN/ISO standards.	No	Yes, above 50 m <sup>2</sup>	Yes, above 250 m <sup>2</sup>	Yes, above 50 m <sup>2</sup> , not enforced	Yes, above 50 m <sup>2</sup> , not enforced

### **Institutional Capacities: Ministries, Energy Agencies, and EE Funds**

Many of the transposed policies will remain unenforced if proper institutional capacities are not in place. Compared with Slovakia, all four reviewed WB countries significantly lack institutional capacities—their understaffed ministries have only one or two officials in charge of EE policy overall, and some countries do not have agencies; moreover, EE funds are stipulated by law in some countries but have small financial scopes or simply do not exist. This is a critical gap, because the role of the Slovakia Ministry of Economy and the Housing Agency has been critical

in facilitating financing, supporting HOAs, providing technical assistance for the development of housing renovation projects, streamlining investment flows through the banking sector, etc.

**Table 7** summarizes the institutional landscape in the four WB countries' EE and housing fields.

**Table 7. Institutional Capacities for Promotion of EE Investments in Buildings**

	Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina	
					FBiH	RS
<b>Ministry</b>	Ministry of Economy	Ministry of Economy	Ministry of Mining and Energy	Ministry of Economic Development	Federal Ministry of Spatial Planning	Ministry of Industry, Energy and Mining
<b>Agency</b>	Housing Agency	Energy agency	No, energy agency was closed	Kosovo Energy Efficiency Agency	No, but <i>Energy Efficiency Law 2017</i> provides for creation of energy efficiency agency	No
<b>Fund</b>	Yes, since 1993, the State Fund for Housing Development (SFRB), for MAB thermal insulation	No	Not yet, but provided in legislation for Energy Efficiency Budget Fund	Kosovo Energy Efficiency Fund	No, FBiH Environmental Protection Fund	Yes, Fund for Environmental Protection and Energy Efficiency
	130–160 million EUR/year	N/A	In 2020, 110 million EUR. There is a new <i>Law on State Budget</i> every year; energy efficiency (budget) fund is a part of state budget	5–6 million EUR/year on average	14.5 million EUR. 30% of all collected fees allocated for environmental, EE, & renewable energy sources (RES)	2.5 million EUR. 10% of all collected environmental fees for EE & RES
<b>Share of Grant Financing for Energy Efficiency Funds</b>	From 90% in 1990s to 10% at present	Not specified	100%, based on <i>Decree on Defining the Program of Financing Activities and Measures for Improvements Efficient Use of Energy 2019</i> ("Official Journal 4/19")	Grant amount will be up to 60%–70% from MCC-SEEK and about 20% from the municipalities	Grants and soft loans	—
<b>Investment Gap for EE in Buildings<sup>4</sup></b>		302 million EUR	1,636 million EUR	83 million EUR	783 million EUR	

<sup>4</sup> Estimated by Energy Community Secretariat's *WB6 Energy Transition Tracker Report*, July 2020.

## ESCO Markets

ESCOs and EPCs have the potential to accelerate investments in residential EE by helping share the investment risks and bringing access to third-party financing.

In countries where cities rely heavily on district heating (Serbia, North Macedonia), EPCs and ESCOs have been effectively applied, especially with microdistrict solutions that include heating substations, distribution networks, and connected buildings. Legally, ESCOs face no barriers to entering this market. Furthermore, capable small and medium enterprises (SMEs) and construction companies have been effectively delivering EE retrofitting services in all countries (see **Table 8**). Nonetheless, the limited application of ESCOs/EPCs is largely due to the inability of ESCOs to access affordable, tailor-made financing that would not require MAB co-signatures, and also because of the limited self-organization of households for collectively procuring EPC.

**Table 8. Potential for Application of ESCOs and EPC in MABs**

	Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina	
					FBiH	RS
<b>ESCOs/EPC Legally Applicable in MABs</b>	Legally acceptable; in practice, mainly used in public sector and/or utility-based EPC	Yes (Articles 26 and 27 of the <i>Law on Energy Efficiency</i> )	Yes	Yes	Yes	Yes
<b>Market Readiness to Deliver EE Renovations</b>	Excellent readiness based on nearly 20 years of service delivery	Yes, North Macedonia has enough local companies with experience in thermal modernization	Yes, over 10 years of stable renovation trend, market ready to serve	Yes, energy efficiency construction materials and capable SMEs available	Yes	Yes

## Conclusions and Recommendations on EE Sector

The benchmarking analysis has revealed the following key gaps and barriers to large-scale market uptake of EE investments in the residential building sector.

**Legal/Regulatory:** The legal/regulatory landscape, policies, and plans continue to be priority. A massive effort by governments, supported by the Energy Community and donor-funded technical assistance, has been mounted to develop and adopt legislation, NEEAPs, and reform programs. Development and adoption have been more successful than enforcement and implementation. The adoption of EE laws, establishment of EE funds, elimination of tariff subsidies, elimination of various barriers to municipal borrowing, and EPCs have taken over a decade to materialize since the development of the 1st NEEAP, but have achieved only limited success. There is still work ahead with the development of the Building Renovation Strategies, aimed at comprehensively assessing building sector priorities and workable remedies. Countries still need to adopt their NECPs. BiH entities have considerable work ahead to complete long-overdue milestones, including the 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> NEEAPs and transposition of other provisions from EED and EPBD.

**Market barriers:** In cities where district heating is the major heat supply option, residential EE cannot be viewed in isolation. Issues of district heating upgrades require more creative solutions involving EPC, leasing, and other flexible financing schemes. In addition, to ensure that investments in district heating will serve for a long time, the needs of the sector must be analyzed and strategically planned from the perspective of long-term competitiveness, the integration of low-carbon renewable alternatives, and maintenance of the market niche.

Given the low level of energy prices and, thus, long paybacks of EE investments—especially when then need to be coupled with major capital renovations—grant subsidies are often necessary to improve bankability of these investments. Such grant subsidies are instrumental in stirring initial market activity, but should be adequately planned with a transparent exit strategy to ensure that there is no lasting market distortion. Gradual phase-out of tariff subsidies and their replacement with low-income EE programs will ensure further improvement of the market environment.

**Institutional/Capacity building:** The capacity of key market players remains low. From understaffed ministry departments, insufficient number of energy auditors, and undertrained or missing municipal energy managers to weak HOAs, the human resources value chain for delivering EE investments is inadequate. Specifically, personnel need skills related to legislation, technical assessments, business planning, financing, contracting, management, commissioning, and monitoring and verification, among others.

## **BANKING: RISK AND RISK PERCEPTION**

The first precondition for the development of commercial financing is the existence of a regulatory legal framework that defines HOAs as legal entities and stipulates that HOAs can borrow money for financing their activities. In the last 10 years, such a legal framework has been established in Serbia, North Macedonia, and Kosovo. In BiH, only RS has such an arrangement, but in FBiH, HOAs are not defined as legal entities and cannot access commercial financing.

All WB countries have legal provisions that allow management and maintenance companies (MMBs) to borrow indirectly on behalf of and on the account of HOs, but the volume of financial resources obtained in this way is limited and not scalable, mainly because HOs have limited financial capacity to assume significant financial debt.

The gap analysis showed that, in all countries studied, banks still have not responded to the sizeable potential for lending, although residential building stock inventories carried out in all countries indicate a huge potential market for investment.

**Table 9** illustrates the comparative analysis by country, including Slovakia.

**Table 9. Comparative Analysis of Risks and Risk Perceptions**

Commercial Lending HOA						
Risk and Risk Perception of HOAs by Banking Sector	Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina	
					FBiH	RS
There is legal a framework for HOAs (please note the information available)	Yes	Yes. <i>Housing Law</i> , adopted in 2009	Yes. <i>Law on Housing and Building</i>	Yes. <i>Law on Condominiums</i> adopted in 2014	Yes.	Yes, adopted in 2011

in housing gap analysis)			Maintenance adopted 2016			
HOAs can legally borrow money from the banks	Yes	Yes	Yes	Yes	No	Yes
HOAs have their own property that can be used as collateral	Yes	Some (few) have	Yes, some (few) have	Yes	Usually No	Usually No
There is an existing demand of HOAs for credits	Yes	Yes	Yes	Yes	Despite interest, HOAs cannot legally borrow directly	Yes
HOAs have credit history or financial data in last 2 years	Yes	No	No	No	Yes	Yes
Banks have analysis of market demand for credit; HOAs have included it in their business plan	Yes	Some	None	No	None (because banks do not have a credit product for HOAs)	Some/None
Have banks satisfied the market demand, and to what extent?	Not yet, but the results of lending are significant	No	Fully. Availability of credit for real estate (repair, investment, purchase) and mortgage exceeds demand	No	No	Weak/No
Do banks grant loans to HOAs based on their creditworthiness or based on co-guarantees with members of HOAs/owners of property units?	Banks grant loans mostly with guarantee, program of state support for refurbishment of the housing stock in the form of provision of bank guarantees for loans (2005)	Banks avoid lending to HOAs; there is some lending to HOAs with owners serving as co-guarantors	Banks consider owners of property units as ultimate borrowers; HOAs can borrow but all property owners will be liable to the creditor	Directly/co-guarantees	In FBiH, banks lack a credit product for HOAs	Each area of creditworthiness is considered, and co-guarantees are used
Any other remarks important for improvement lending process given from banking sector side?		Banks consider lending to NGOs in general (not only HOAs) risky	Direct lending from banks to HOAs is not a realistic option; banks may consider financing service	Banks are reluctant to start financing HOAs based on their creditworthiness (no credit history or	Without regulating the HOAs' legal status, banks' lending to HOAs is unlikely	Banks are not aware of the scale and potential of the HOA market

			companies to support their lending to HOAs	stable cash-flow).		segment, which they consider highly risky
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There are numerous reasons that lending to HOAs has not yet been well developed. All countries state that HOAs are newly established legal entities that do not have previous credit history and regular income (stable future cash flow) for loan repayment. Also, the common property of HOAs that could serve as collateral is insufficient. Some countries (Kosovo) face the barrier of lengthy and complex technical requirements for EE financing to access commercial funds. In North Macedonia, however, this is not a barrier; and, in Serbia, a crucial reason for lack of bank financing is that banks are unclear about the legal status of HOAs.

Additionally, Serbia’s legal framework stipulates the obligation for cities and municipalities to include financial resources in their budgets for the repair and maintenance of MABs. From these funds, to support EE projects (retrofitting), some municipalities approve favorable loans to public utility companies for the renovation of private MABs. The existence of such funds encourages HOAs to seek these funds rather than considering other sources of funding such as bank loans.

Lack of belief in creditworthiness and lack of adequate collateral of HOAs are emerging as key challenges. In all countries, HOAs do have some additional income to present to banks as sources for loan repayment and can offer their property as collateral (revenue from rentals of common premises, advertising spaces, spaces for antennas and communication lines, etc.). However, these revenues are not significant, and the assets themselves as collateral are not attractive to banks because of the lengthy process of collecting receivables based on collateral, which is a secondary cover (Serbia). Also, in North Macedonia and Kosovo, there are almost no examples of commercial financing of HOAs. In FBiH, no significant amount of bank financing is provided to HOAs, and in RS lending is minimal.

The financial discipline of HOAs in paying regular maintenance fees and possible investment is not at the appropriate level. Therefore, an obligatory fund (minimum required fee), fees collected from HOAs for maintenance and repair, are still not sufficient to be considered credible sources for loan repayment. Additional barriers include the higher operational costs for processing of credit and the loan losses provisioning related to noncollateralized loan portfolios.

**Provisioning Requirements, Rules and Monetary Policy, and Banking Regulations**

The WB region has universal banking. Banks assess the creditworthiness of borrowers based on standard general criteria. The focus is on sources for loan repayment, previous credit history, certainty of future income, and debtor reputation, and only then on collateral as secondary loan coverage.

All banks meet strict risk management standards to protect public deposits (savings). In accordance with the probable credit risk, banks are obliged to constantly impair their assets in proportion to the risk’s exposure in the amount of expected loan losses. Loan loss provisioning directly affects the profits of banks; thus, banks often decide to finance only the best projects that meet all regulatory requirements.

Banking regulations recognize exceptions to the general criteria in cases when historical/statistical data on lending in certain areas (retail, small business, small loans, etc.) show that losses are insignificant and that risk is widely dispersed. Such loan portfolios are treated in banks as group portfolios, and special rules for risk assessment are established for them; this arrangement provides an opportunity for HOAs that can demonstrate financial discipline and gain the trust of banks.

**Table 10** summarizes the comparative analysis by country.

**Table 10. Comparative Analysis of Provisioning Requirements and Banking Regulations**

Analysis of provisioning requirement, rules and monetary policy and banking regulation (only relevant to financing of HOAs or can have some influence)							
Credit Risk Management (CRM) Rules	Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina		
					FBiH	RS	
<b>Loan Process</b>							
<b>Credit (exposure) Approval</b>							
<b>A credit institution shall assess debtors' creditworthiness at least based on the following general criteria</b>	Purpose of the loan and the sources for repayment of the loan	N/A	Yes	Yes	Yes	Yes	Yes
	Debtor's cash flows realized in the previous period and estimated future cash flows with reference to their obligations	N/A	Yes	Yes	Yes	Yes	Yes
	Debtor's liquidity and profitability	N/A	Yes	Yes	Yes	Yes	Yes
	Debtor's asset quality and value	N/A	Yes	Yes	Yes	Yes	Yes
	Debtor's indebtedness level, including the level and maturity of debtor's obligations, and an analysis of the guarantees issued	N/A	Yes	Yes	Yes	Yes	Yes
<b>Collateral requirements</b>	Banks assess the quality, marketability, availability and value, and legal validity of a collateral	N/A	Yes	Yes	Yes, combined with co-guarantees from members of HOAs	Yes	Yes
	Banks have a policy defining	N/A	Yes	Yes	Yes	Yes	Yes



	the types of collateral accepted						
	Maximum loan limit without collateral?	N/A	Depends on internal policies of the banks	About 15,000 EUR	Amount up to 5,000 EUR as average value	Usually maximum 25,000 EUR	Usually maximum 25,000 EUR
<b>Capacity for Repayment of Debt</b>	Banks establish a reliable process for assessing the debtor's ability to meet their obligations under the terms agreed, and review this process at regular intervals	N/A	Yes	Yes	Yes	Yes	Yes
<b>Exemption of General Criteria</b>	Do banking regulations recognize some exemptions from general criteria?	N/A	Certain exemptions may be related to the purpose of the loans (EE, etc.)	Yes	Yes  This is for loans with amount lower than 5,000 EUR	Yes	Yes
<b>Provisioning</b>							
<b>Exposure Classification into Credit Risk Levels Process</b>	Banks classify all credits into risk categories by credit risk level and determination of expected credit losses under the provision	N/A	Yes	Yes	Yes	Yes	Yes
<b>Classification of Exposures into Risk Categories</b>	All exposures are classified into category type by country	N/A	A-B-C based on the maturity of PAR	A-B-V classification based on source of funds	All exposures are classified into the categories 1-5	Exposures are classified as stage 1, 2, or 3	Exposures are classified as stage 1, 2, or 3
	Each level belongs to a percentage for asset impairment	N/A	N/A	All loans covered by insurance or collateral; own capital of the bank limits exposure	N/A	Depending on what stage the client is in and the rating of the client, different provisioning percentages apply	Depending on what stage the client is in and the rating of the client, different provisioning percentages apply

<b>Portfolio of Small Loans to SMEs</b>	What is legal limit of bank exposure toward loans that are not collateralized?	N/A	There is no legal limit of bank exposure toward loans that are not collateralized.	Own capital of the bank limits exposure	N/A	5% of bank's regulatory capital	5% of bank's regulatory capital
<b>Loans without Special Purpose</b>	Bank has legally limited amount of no-purpose loans	N/A	There is no legally limited amount for no-purpose loans; internal bank policies apply	15,000 EUR, 7 years	N/A	No-purpose loans for private individuals are capped at KM 50,000 and max 10/year	No-purpose loans for private individuals are capped at KM 50,000 and max 10/year

In all countries of the region, the banking sector recognizes loans that do not need to be secured by collateral and loans that are granted without a special purpose. However, in these cases, a reliable income source must be demonstrated to ensure repayment of the loan, and the strong financial discipline of the debtor must be established. The trust and reputation of the client are very important factors considered by banks when approving loans.

The financial systems of the countries in the WB region are banco-centered, which means that commercial banks predominate in the overall financial system. In addition, NBIs—which, by their nature, could be more flexible toward beneficiaries of financial services—are not significantly represented. Savings associations as NBIs do not exist or are not developed, although in the Balkans there has been a long tradition of savings and credit associations (railway, housing, postal services, etc.) These factors show that the region's banking sector has a uniform approach to all clients; HOAs, as nonprofit and nongovernmental institutions (NGOs) that do not have a built-in reputation, must meet strict regulatory requirements, which makes it difficult for them to access financing.

It is important to note that the quality of financial information provided by the borrower heavily influences a bank's decision. As banks gain greater trust in the financial discipline of HOAs that have a regular cash flow from rented space or other income for investments in building renovation projects (or that pay a fee for regular and investment maintenance), they may recognize that HOAs can be good candidates for lending. Lending to all households based on the results of a creditworthiness assessment of each family is an option; however, such arrangements increase the cost to banks for providing financing.

Changes in the legal framework and bank regulatory requirements in any country of the region are not assured. However, banks could be motivated to lend to HOAs if the financial discipline of HOAs could be improved; measures could also include introducing an additional commission for investment maintenance that would be used for loan repayment, stimulating loan subsidies, providing guarantee schemes, and enhancing the education of all stakeholders.

## Possibilities for Creating Guarantee Mechanisms for Lending to HOAs

The gap analysis showed that guarantee funds and guarantee mechanisms are not developed in the region. The Kosovo Credit Guarantee Fund (KCGF) is a local, independent, sustainable credit guarantee facility issuing portfolio loan guarantees to financial institutions to cover up to 50% of the risk for loans to micro, small, and medium enterprises (MSMEs). In BiH, guarantee funds in both entities exist, but the activities of these funds have almost stopped due to complex approval procedures; in FBiH, a guarantee fund has just been established to help mitigate the negative impact of the current coronavirus pandemic. None of these funds specifically supports the financial market gaps that commercial banking is reluctant to finance, nor do they recognize HOAs as potential users of guarantee services because they are in most cases focused on SME support. Guarantee funds and guarantee schemes that focus on providing guarantees for HOAs are also nonexistent in Serbia. In North Macedonia, no guarantee mechanisms exist for lending to HOAs. Currently, there is an initiative for establishing a mechanism to ensure repayment of the loan to the HOAs or EE financing: With the support of USAID and the HFHI Residential Energy Efficiency for Low-Income Households (REELIH) project, Habitat Macedonia is developing a guarantee fund for HOAs and residential building management companies. Habitat Macedonia’s guarantee percentage is 50%–70% of the guaranteed party’s net losses of principal with respect to qualifying loans.

**Table 11** summarizes the comparative analysis by country, including Slovakia.

**Table 11. Availability and Possibility to Set Up Guarantee Instruments**

Possibilities to Create Guarantee Mechanisms for Lending to HOAs	Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina	
					FBiH	RS
Do guarantee schemes or guarantee funds exist in the country?	Yes, state guarantee and Development Bank	No	No	Yes	Not currently, but it has been announced that there will be a credit guarantee fund for SMEs	Yes, to a limited extent <a href="https://garnifondrs.org/">https://garnifondrs.org/</a>
Level of development of existing guarantee mechanisms	The program started in 2000	Moderate; guarantee funds are created mostly by institutional donors and are focused on economic development	Minor	The KCGF established in January 2016 <i>Law # 05/1-057 on the Establishment of Kosovo Credit Guarantee Fund</i>	Weak	Weak limited funding targeting SMEs

<b>Which requirements guarantee mechanisms?</b>	–	There are no existing guarantee schemes for HOAs	No, there is no guarantee mechanism	Guarantee Fund. The aim of the KCGF is to support the private sector in Kosovo	FBiH credit guarantee fund is still not in function	Usually up to 50% of loan is covered by the guarantee
<b>Do the existing HOAs have access to guarantee fund services?</b>	–	Under development	No	No	No	No
<b>Are there any other initiatives for establishing a mechanism to ensure repayment of the loan to the HOAs or EE financing?</b>	–	Partnership between Habitat Macedonia and two banks	No for HOA; EE financing funds available on national and, to some extent, municipal level	No	No	No
<b>Do HOAs have access to any subsidy funds for housing support, EE, etc.?</b>	–	Some local governments/municipalities have annual programs with portions of the municipal budget allocated for subsidizing	Yes, in some municipalities and in Vojvodina province	These financial resources are available: Millennium Foundation Kosovo (MFK) grant and commercial bank loans supported by EBRD grant	Yes, some municipalities are subsidizing loans for EE renovation; international donors, including UNDP, GIZ, and USAID, provided limited cofinancing for residential EE measures	Yes, Environmental Fund in RS provides grant cofinancing for energy audits in MABs; international donors, including UNDP, GIZ and USAID, provided limited cofinancing for residential EE measures
<b>Any interesting ideas or initiatives to support development of guarantee schemes?</b>	–	Habitat Macedonia rationale and terms sheet for guarantee fund to HOAs and residential buildings management companies available on request	No ideas in the public domain so far		No knowledge of any initiative at this time	No knowledge of any initiative at this time

## Existing Commercial Banking Products Available to HOAs

Of the four reviewed countries, only BiH has a banking initiative to design special lending products for HOAs. In North Macedonia, where the banks avoid lending to HOAs, there are some cases of socially motivated development organizations lending to HOAs mostly for demonstration purposes. Their most common model includes lending to HOAs with either their members (i.e., owners of the apartment units) serving as co-guarantors or contracted rerouting of their extra income; some have premises (common ownership) for rent, others have income that might serve as collateral advertising panels (Global System for Mobile Communication base stations, etc.). Forms of stimulating financing by socially oriented financial institutions are also found in other countries, which is a positive development because these opportunities increase the capacity for commercial financing and raise awareness of the necessity of a market approach to financing HOAs. Finally, based on the gap analysis, it is not possible to confirm that any country has developed conditions for commercial financing of HOAs and that banking products are available for HOAs.

**Table 12** summarizes the comparative analysis by country, including Slovakia.

**Table 12. Commercial Banking Products Available to HOAs**

Existing Commercial Banking Products Available to HOAs		Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina	
						FBiH	RS
Do banks offer loan products for HOAs?		Yes, also <i>Home Saving Banks Act, 1992</i>	No	No.	No	No	Yes
Is it a specially designed loan product?		Yes	N/A	No	No	No	Yes
Do banks have data about volume of lending to HOAs or individuals whose role is financing projects in condominiums or MABs?		Yes	Of more than 3,000 legally registered HOAs, 909 are monitored	N/A	No	No, these data are not publicly available	No, these data are not publicly available
Main characteristics of the loan products to HOAs	Loan amount	Many different options available	N/A	N/A	N/A	Loan <25,000 EUR	Loan <25,000 EUR
	Purpose of loan					Purpose of loan: renovation, EE, building improvements	Purpose of loan: renovation, EE, building improvements
	Maturity					Maturity: up to 5 years	Maturity: up to 5 years.
	Collateral and Subsidy					Collateral: ≤5,000 EUR: bill of exchange, >5,000 EUR:	Collateral: ≤5,000 EUR: bill of exchange, >5,000 EUR:

						guarantee by 50% of HOs	guarantee by 50% of HOs
<b>Complex technical requirements and housing standards that HOAs need to meet</b>	Technical documentation	Yes	N/A	Yes, in theory	N/A	No	No
	Energy Audit		N/A	Yes	N/A	No	No
	% of the contribution (financial)		N/A	N/A	n/a	10%	10%
<b>Any special conditions offered, i.e., lower interest rate (subsidized), rebate on principal amount, technical assistance, etc.?</b>		Yes	No	No	N/A	Not currently	Not currently

The MCC-SEEK program, with \$24 million in US Government financing, will be used for rehabilitating 2,500 single-family houses and 25 MABs. Investments will receive a grant of up to 60% from the MCC-SEEK program—approximately 20% from the municipalities (for low-income apartment owners) and the rest covered by apartment owners. This could be the first case where part of an EE/RES investment will be credited by banks.

**Products Offered by Development Banks in the WB Countries and Their Availability to HOAs**

Analysis of products offered by development banks in these countries and their availability to HOAs showed that the countries do not have organized access to commercial financing of HOAs.

Involvement of country development banks in housing support and financing for HOAs is exclusively a matter of political will. Positive experiences from Slovakia, where commercial financing of HOAs is at an enviable level, confirm that the introduction of the SHDF (1996) played a key role in lending to HOAs. In Slovakia, as well as in the four WB countries reviewed, the commercial banks initially did not adequately consider this segment, mainly because it was difficult to secure collateral for the loans offered. The SHDF established a high standard of technical documentation—including a detailed budget for refurbishment—required to apply for a loan. This practice set a standard for financing these kinds of activities. One of the attempts to minimize the lack of collateral was the introduction of the State Guarantee and Development Bank (2000). The interest rates of commercial banks in Slovakia were much higher than the interest rates offered by state subsidy funds. Now, the banks offer specialized loan products for refurbishment and modernization of the housing stock. In the meantime, the fund for maintenance and repair has become reliable collateral, enjoys high credibility, and is considered by banks as a guarantee for the loans used in the reconstruction of buildings.

**Table 13** summarizes the comparative analysis by country, including Slovakia.

**Table 13. Development Banks' Credit Lines Available to HOAs**

Existing Commercial Banking Products Available to HOAs from Development Banks	Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina	
					FBiH	RS
Do development banks have specialized loan products or credit lines to finance HOAs?	Yes, since 1996, loans have been available from SHDF	There are no specialized loan products for HOAs	No	No	No	No
What is the method for distribution of loans: Directly to HOA or by whole selling to financial institutions?	State Guarantee and Development Bank (since 2000)	N/A	N/A	N/A	N/A	N/A
Do government and local communities fund housing support and social funds through development banks?	Yes	N/A	N/A	N/A	N/A	N/A
Do development banks implement some project or credit line of international development institutions that is connected to EE financing?		Yes	N/A	N/A	N/A	N/A
Do development banks commit to finance market failures in housing and EE, and do they have access to some EU financial instruments?	Yes	Yes	N/A	N/A	N/A	N/A
Does funding come with any strings attached, i.e., complex technical requirements and housing standards, that HOAs need to meet?		N/A	N/A	N/A	N/A	N/A
Are there any special conditions offered, i.e., lower interest rate, rebate on principal, technical assistance, etc.?		N/A	N/A	N/A	N/A	N/A

In the absence of favorable credit lines from domestic development institutions, international financial and development institutions are active in all four countries reviewed, supporting reconstruction and EE of MABs to a limited extent through the banking sector.

In BiH, for example, the EBRD, KfW, and the Green for Growth Fund (GGF) offer credit resources. Some international donors, including the United Nations Development Program (UNDP), German Society for International Cooperation (GIZ), and USAID have provided limited co-financing for residential EE measures. Several municipalities, including Centar Sarajevo, subsidize loans for residential EE renovations. Environmental funds in FBiH and RS provide grant co-financing for energy audits in MABs.

## Findings and Conclusions on Bank Financing for HOAs

The comparative analysis showed that commercial financing for HOAs in BiH, Serbia, Kosovo, and North Macedonia is almost nonexistent. In BiH, financing of HOAs is not possible due to legal constraints and because HOAs are not recognized as legal entities. In other countries, including RS, a legal framework recognizes that HOAs are viable for commercial financing but, in practice, financing is limited or nonexistent.

The commercial banks have strict regulations and requirements for borrowing, and HOAs cannot meet these requirements. No specialized credit lines are available in the market that follow special criteria for lending to HOAs or provide guarantee mechanisms to reduce credit risk and encourage banks to create specialized credit lines for HOAs' needs.

Other key obstacles to financing HOAs are summarized as follows. Banks perceive that HOAs lack creditworthiness, mainly due to irregular cash flow, but also because they lack viable collateral. The minimum required fee for maintenance of the common areas of the HOA buildings is not sufficient for borrowing for renovation and subsequently repaying the credit. Typically, in all countries the minimum fee payments by HOAs is very low and irregular. The mechanisms for reinforcing the payments are not efficient or enforceable. Even when an HOA has a good track record of payments and is ready to invest in building renovation, there is no consistent way of reporting or documenting its financial reliability.

In the absence of domestic governmental initiatives and determination to develop a clear vision and policy for renovation of the building stock, development financial institutions and other financial service providers support initiatives for commercial financing for HOAs; however, many of these entities are currently in the early stages of their development, and thus are not yet functioning to full capacity.

## Conclusions and Recommendations on Banking: Risk and Risk Perception

**Improving the regulatory framework:** Legislative frameworks for housing and EE have many gaps that need to be filled to improve the functioning of these sectors and to de-risk investments.

The general objective of improving the existing legal framework includes increasing or maintaining the value of existing and newly built housing stock and improving their energy performance and resilience, minimizing their carbon footprint, and improving the quality of life for occupants. This needs to be accompanied with proper legal regulations for standardized housing management and institutionalization of housing maintenance services. Specific recommendations are as follows.

- **Simplify procedures** for collective decision making and undertaking renovation works on buildings.
- **Ensure efficient supervision of the work of housing managers** and specifically define the obligations of the managers, without creating massive bureaucratic workload.
- **Simplify the institutional framework** for enforcement of HOA performance oversight, following the good practices used in Slovakia, for example. Specifically, in countries where designated inspectorates were established to oversee HOA management, these are impractical and/or nonfunctional.



- **Define HOAs as a proper legal entity**, or any other legal form that would enable HOAs to access financing.
- Allow HOAs to have certain **enforcement recourse against owners who do not agree to take part in maintenance project, fail to pay, or are otherwise unable to fulfill their obligations** toward the common maintenance expenses. Adopt appropriate legal provisions that effectively and expediently deal with housing-cost defaulters.
- **Clearly define the assets and revenues of HOAs**, including obligatory collection of additional maintenance fees, that will be reserved for building renovations (can be valued based on the building stock performance).
- Increase the financial discipline of HOAs through increasing the responsibilities of housing unit owners for timely fulfillment of obligations, **including establishment of simplified, expedited, legally enforceable mechanisms (e.g., expedited collection processes without court processing, power of lien to HOA, etc.)**.
- Improve the **quality of financial information** and reporting provided by HOAs.
- Develop social housing policy provisions that (1) offer a **“social fund/mechanism” scheme (subsidy plan) for low-income tenants** who cannot pay their obligations to the HOA, and (2) provide partial or full coverage of low-income households’ share in building-level investments, as well as partial co-financing to improve economic viability of non-bankable investments (especially those including not only EE, but also structural reinforcements, safety and accessibility upgrades, other non-revenue investments.).
- Continue reforms in providing legal requirements for **building energy certification**, updating building energy codes for renovated buildings, and eliminating legal barriers to engagement of **ESCOs and EPC** in residential EE investments.

**Policy reforms:** A general need exists for reform in the housing and EE sectors. The aim should be to provide ways to support maintenance and management of MABs, a priority that is clearly lacking in all four WB countries studied. Without such reforms, it will be difficult to renovate the stock in a scalable and sustainable manner.

- The development of policies and strategies to improve the management and renovation of housing should be made a **political priority**, as well as providing social support for housing programs. This will increase financing for housing.
- Create specialized **credit funds for investment in maintenance**, as well as programs to address the technical (structural) problems in older multi-apartment housing to stop further deterioration of buildings.
- Develop **policy tools and support schemes for low-income households** (e.g., guarantee funds, income-related subsidies for refurbishments, social assistance for low-income households to be connected to existing housing allowances, etc.).
- **Invite participation of all stakeholders**, primarily HOs and HOAs, in designing and implementing reforms.
- Create a solid fact-based policy roadmap for the building renovation niche. This is comprehensively stipulated by the EE Directive and Energy Performance in Buildings Directive transposition requirements. The steps for this are summarized as follows:
- Update the National EE Action Plans (NEEAPs) and tracking implementation progress
- Develop building renovation strategies, including:

- Update detailed building stock inventory
- Describe planned policies and measures
- Identify solutions for renovation
- Develop overview of share of RES and nearly zero energy buildings (NZEB)
- Develop objectives and targets summary of financial decisions
- Draft long-term strategies for building renovations
- Create a roadmap for long-term strategies

Furthermore, as the basic provisions are put in place for EE in buildings, national policies need to integrate the buildings sector into the broader low-carbon development agenda, including:

- Development and adoption of NECPs
- Development and adoption of National NZEB Strategy and Roadmap

The sample WB countries have high rates of energy poverty despite generally high levels of direct and hidden energy subsidies largely to residential consumers (mostly targeted toward coal and natural gas); this situation delays the development of renewables. Moreover, fossil fuels used for heating and electricity production result in substantial health threats related to urban air pollution. The phase-out of utility subsidies is critical to improve economic viability of retrofit investments, while redirecting the subsidy resources to incentivize bank financing.

#### **Introduce mechanisms for commercial financing support:**

- Establish a guarantee scheme and mechanisms for guaranteeing loans to HOAs to reduce the perception that HOAs are a great credit risk to banks.
- Develop and introduce HOA credit lines offered by international development and local institutions that are specifically designed to support lending to HOAs through banks and NBIs, calibrated to financial economics of common EE-integrated building renovation projects given the current interest rates, energy prices, and HOA cash flows.
- Partially secure bank loans to HOAs by government grants to cover economically vulnerable groups (unemployed, single parents, people with disabilities, pensioners, etc.).
- Provide technical assistance in programming, project development, and implementation. While design costs should be borne by HOAs/beneficiaries as the first expression of commitment to the project, professional support is necessary to advise HOAs on procurement and oversight of energy audits, design, and monitoring and evaluation of results. These are often supported by donors and state-funded programs. Given the limited experience of engaged partners in construction projects, local and national authorities could help with the issue of design and construction permits, commissioning, etc.

**Technical assistance, institutional support, and capacity building:** Focus on building the capacities of key actors; provide more support to HOAs and HOAs and establish centers to support development not only of HOAs, but also municipalities and state institutions. The Slovak model for such programs from 1992–2000 can serve as a good example. Additional actions are recommended as follows:

- **Plan regulatory provisions as milestones** in the cooperation program between the national governments and donors/IFIs, allowing for coordination of efforts, leveraging of state financing with IFI loans and donor grants.

- **Establish EE funds, housing agencies, or other institutional arrangements** to support the delivery of technical assistance and provide services to help accelerate commercialization.
- **Establish/recruit institutions for supporting HOAs and banks**, serving as intermediaries and advisors in project identification, energy auditing, project design, development of financial applications, liaison with the banks, implementation oversight, monitoring, and reporting. Such resource/advisory centers or agencies are usually supported by donor grants and state support, and have a temporary role while the market and institutional capacities mature.
- **Develop cadre of energy auditors and EE building design professionals** through training, accreditation, and certification. Professional enhancement programs can be supported through local academia, in conjunction with international experts, with support from the state and donor/IFI resources covering the training and certification of sectoral experts. Such programs serve temporarily until a cadre of experts is available to serve the needs of building renovation programs.
- Improve coordination among government, donors, and IFIs. **Key ministries and donor/IFI-supported initiatives should be jointly monitored and aggregately reported for adequately tracking progress of NEEAP-related measures (i.e., those in charge of energy policy and NEEAP monitoring).** Because commercial banks cannot prioritize or commit resources to national policy coordination, it is ultimately the task of donors to ensure not only formal but actual coordination and elimination of market distortion. The Ukrainian Energy Efficiency Fund development process offers a good example, in which all donors and IFIs have come under one multi-donor cooperation umbrella, each contributing to the development and implementation of a uniform and effective financing scheme.

**Raising awareness and promoting the concept of commercial financing for HOAs:** Public campaigns are needed to raise awareness and educate all stakeholders (governmental agencies, banks, and HOAs) about renovation of residential buildings through commercial lending. This campaign can include the following activities.

- Raise HO awareness about taking full ownership for the maintenance and renovation of common parts of HOA buildings (typically, HOs look to government to provide the investment rather than take responsibility on their own).
- Raise awareness in the banking sector about the market potential for financing HOAs in their efforts to renovate residential buildings.
- Establish a dialogue/platform between banks and HOAs to close the gaps in understanding on both sides (each side currently lacks understanding of the other's needs, demands, and potential).
- Disseminate and promote information among key decision makers (governmental agencies, banks, HOAs) about adopting Eastern European (Slovakian) best practices for financing.

## PART 2. COUNTRY GAP ANALYSIS REPORTS

### SLOVAK REPUBLIC

#### **Comparative Analysis of the Slovak System as a Benchmark for Gap Analysis of Housing Codes Regulating Private Sector Housing Associations of Apartment Owners in Balkan Countries**

#### **Process of privatization after 1989 and its impact on MAB refurbishment: Broader context**

Energy efficiency (EE) has become a buzzword of the last decade in the context of sustainable development. Residential buildings are among the largest energy end-users in many countries. To that end, it is in the common interest to introduce interventions that decrease energy consumption. Success of such efforts in MABs depends on several aspects: legal framework for operation and management of these building types; ownership structure of the housing stock in general; awareness of the owners regarding EE; availability of financial resources; and technical knowledge and skills for refurbishment and modernization.

Slovakia made substantial progress in refurbishment and modernization of MABs in the last two decades. To understand the strengths and weaknesses of the Slovak experience, it is necessary to take a broader view on the development of individual elements of the regulatory environment, but also of the perception of the roles and responsibilities of the actors in these processes. To do so, it is important to briefly summarize development of the housing sector during the last 30 years. As a result of the Velvet revolution in November 1989, substantial changes in the social, economic, and legal environment took place. These changes deeply affected the lives of the citizens. Slovakia came into being on January 1<sup>st</sup>, 1993, when the Czechoslovak Federal Republic was peacefully split into two independent states. The greatest challenge, however, was the need to transform the citizens' behaviors and ways of thinking.

One of the changes was in housing policy. There was a decline in public investments in housing as the State stepped back from its direct support of housing construction. While 33,437 new dwellings were constructed in 1989, there were only 6,709 dwellings in 1994. At the same time, during the transition period, the government shifted responsibility to private owners by privatizing dwellings (public rental and cooperative sector). The owner-occupied tenancy (occupant owns the real estate) soon became, by far, the most dominant in Slovakia. According to data from Census 2011, from the total number of dwellings in Slovakia, 93.5% were owner-occupied, while only 3.5% of dwellings were owned by cooperatives, and about 3% of dwellings were in public ownership (compared to 1991, when private ownership accounted for only to 51%; 27% of housing stock was municipal, formerly State-owned, and 22% was cooperative). The process of privatization for the municipal sector ended by 2016, but is still in progress for the cooperative sector.

The situation in the housing provision changed. The old subsidy schemes were abandoned. The new elements of a housing finance system were developed. The massive privatization has literally wiped out the rental housing stock. New housing policy documents formulated a new, more market-oriented attitude to housing. *The Concept of the State Housing Policy* (1995) was formulated as one of the priorities for improvement of housing standards through modernization of the existing housing stock. The deterioration of housing had to be prevented through the development of efficient maintenance and management practices,

implementation of special programs (thermal insulation, energy conservation). The rehabilitation of prefabricated housing in the urban housing estates was recognized to be critical. The *Concept* introduced the “enabling approach,” where individuals assume primary responsibility for the provision of housing, while the State and municipalities create favorable conditions for private investment and initiative. Recognizing the social responsibility of the welfare state, housing assistance was supposed to be targeted to low-income households and economically disadvantaged groups (young families, pensioners, persons with disabilities).

Further, the housing policy framework emphasized the need to regulate the developments in the sector through economic incentives—subsidies, loans, taxes, and financial incentives. The creation of an autonomous State Housing Development Fund (SHDF) was considered the most important step in that direction. An integral component was a policy for rent liberalization.

Several housing reforms were initiated. The emphasis was on privatization of municipal and cooperative housing, reduction of subsidies, and deregulation of housing markets.

A system of economic incentives supporting housing development was introduced. Slovakia was the first of the countries to introduce the German Building saving system (contract saving Bausparkasse)<sup>5</sup> in 1992. It became very popular and later played an important role in financing housing refurbishment. The SHDF was established in 1996 and, since then, has had a substantial role in housing development in Slovakia. It was created as a revolving fund to finance state support for expanding and construction of housing. SHDF was initially financed purely from the state budget with the plan to become self-sustaining over time. SHDF is a separate legal entity regulated by a special *Act on SHDF* and superintended by the Ministry of Transport and Construction of the Slovak Republic (MTCSR). The *Mortgage Loans Act* (since 1997) introduced a new instrument aimed at leveraging private investment in the sector through limited public support in a form of so-called bonification of interest rates.

Although one of the main reasons for privatization was to shift responsibility for housing (acquisition, maintenance) to individuals without State support, it soon became clear that this has been infeasible. New owners in MABs were not prepared for their new responsibilities and usually not aware of hidden debt in neglected maintenance. People were also reluctant to participate in decision making about the common areas of buildings. Typically, they did not understand why they must care for common spaces. Housing management companies facing the new situation lacked an active approach to maintenance, preparation of repairs, and improved energy management. Most of the housing stock suffered of neglected repair and maintenance in the past and needed general repair, including complete necessary reconstruction, thermal insulation of entire building envelopes, or new installations.

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<sup>5</sup> Contractual savings schemes are another type of deposit finance used in a number of countries to provide funding for home purchases. In principle, the provider obtains deposits from the applicants, generally at a below-market interest rate, and extends the housing loan to them at favorable terms once the deposits taken have accumulated to a certain level. The system is termed as contractual, as it is based on prior savings by the potential borrower whom these savings entitle to obtain a loan at predetermined conditions, which are generally more favorable than market conditions. The German and Austrian Bausparkassen are derived from the idea of a mutual credit based on collective savings. This is a “closed” collective system, that is, the loans are financed only by means of mutual savings and consequently the date of granting the loan is not set in advance. More details in: UNECE (2005). *Housing Finance Systems for Countries in Transition: Principles and Examples*. Geneva: United Nations.

A major part of the Slovak housing stock was built from 1960–1990 in reinforced concrete panel technology, in line with the trend for industrialization of the construction industry.

Design, technical, and technological parameters corresponded with the standards of that period. There were no energy consumption limits or technical codes set by standards applied from 1960–1980; nearly half of MABs in Slovakia were built in that period. A new Czechoslovak National Standard was adopted only in 1984. The multi-family housing stock was, at time of privatization, in poor physical and technical condition, with high-energy-consuming systems and aged technical infrastructure. The ownership structure, the condominium, made it even more complicated to come to an agreement on what, when, and how to repair and modernize. It was on the decision of the owners to set the monthly amount, which should be paid to the Fund for maintenance and repair. Shared ownership made it rather difficult:

- to inform the owners about the needs of repair,
- to achieve the common agreement concerning then necessary repairs and investments, and
- to find affordable financial schemes enabling implementation of plans of refurbishment and modernization.

It was necessary to assess technical condition, energy consumption, and user quality standards, to propose proper modernization steps and activities. Assessment and evaluation of the requirements for rehabilitation and EE improvement of MABs across Slovakia were carried out in a survey financed by the ministry. An inventory of all the MABs in terms of age, size, type of construction was prepared with details on technical conditions and expected cost for general repair and EE improvements in 1998. In 1999, the government adopted the *Concept of refurbishment of buildings, with focus on residential buildings*. Back then, the costs of the necessary general repair of the multifamily housing stock were estimated to be 13 billion SK (approx. 430 million EUR). It was estimated that, through energy savings measures, energy consumption could be reduced by 30%.

In 1999, the experts of the United Nations Economic Commission for Europe prepared an extensive study, the *Country profile on the housing sector in Slovakia*, including conclusions and recommendations.<sup>6</sup> Many of them helped in policy making in the following years.

The refurbishment process started modestly in some individual buildings about 1995, with small, self-made repairs. When some own resources were accumulated, bigger repairs and more daring renovations started to be discussed. The owners, facing the challenge to understand necessity of repairs, consulted expert assessments of the building condition, including cost estimates. After this kind of information was available, it was possible to search for financial resources.

Financing of necessary works proved to be exceeding own resources. Banks in mid-1990s were not able to provide suitable loans to condominiums. Interest rates were high (15%–20%) and longer-term loans were not available. Thus, two financial instruments were introduced by the State.

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<sup>6</sup> UNECE (1999) Country Profile on Housing Sector: Slovakia; <https://www.unece.org/index.php?id=36282>

The first was a subsidy scheme, Programme of Housing Development in 1998. It was a grant scheme. One of the supported activities was the “elimination of systemic failures”<sup>7</sup> of MABs. The conditions and rules for subsidy provision were determined in the Bylaw of the Ministry. The aim of this program was to provide subsidies for the elimination of those failures of multifamily houses that were not caused by deferred maintenance or repairs, but by the construction technology used. The program provided a subsidy up to 70% of the acquisition construction costs, while limiting the absolute amount of the subsidy depending on type of construction failure per m<sup>2</sup> (i.e., 1 m<sup>2</sup> of external cladding, 1 m<sup>2</sup> of the thermally insulated area). The program exists till today, with some changes. It was at the beginning this high subsidy for limited types of systemic interventions that motivated the owners to refurbishment. Over time, the proportion of subsidy decreased and was substituted by favorable loans for deeper reconstruction and renewal.

Another instrument was a loan program funded by SHDF. It is a program for the renewal of multifamily houses older than 10 years, which started in 1999. The renewal of multifamily houses means simultaneous reconstruction, energy savings achieved by thermal insulation, and the elimination of static shortcomings. Within this program, it has been possible to obtain very affordable loans with submarket interest rate with a repayment period of up to 25 years with 80%–100% loan to value ratio.

With the aim to involve more resources of private banks in the housing funding, the government approved a housing loans guarantee program in 2000. The implementation of this program was secured by the public Slovenská záručná a rozvojová banka, a.s. (Slovak Guarantee and Development Bank). Privatization of the municipal and cooperative housing started in 1993 by the adoption of the *Act on ownership of residential and non-residential premises (Condominium Act)*. Soon, the State housing policy recognized the need of housing refurbishment as a priority, confirming its role in all consecutive updated documents (1995, 2000, 2005, 2010, 2015). Economic instruments, both State and market, were introduced to enable necessary activities. Inventory of housing stock in MABs was carried out. New technical codes were adopted with higher requirements for EE. An important role to popularize and start refurbishment and thermal insulation was played by the SHDF and subsidy program, as well as the guarantee program for commercial (so-called consumer) loans from private banks.

Much attention was paid to the new owners and their attitudes, expectations, way of thinking, and perception of their roles, responsibilities, and behavior. There was a permanent communication of the ministry with the umbrella organizations of managers and HOAs, expert dialogue, which in the long run brought about a new *Act on housing managers* in 2015, and led to improved professional performance of managers. Conferences were organized on a regular basis, bringing together all stakeholders. The Ministry published several brochures describing necessary technical, legal, and economic aspects of condominium management. In the early stages an important role was played by the nongovernmental educational initiative targeting

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<sup>7</sup> Systemic or structural failures are such failures of multifamily buildings which have not been caused by the neglected maintenance and repairs, but which have occurred due to the improperly designed materials and details, the improperly used construction technology, or the violation of the proposed construction process.

newly established HOAs. It was supported by USAID from 1994 to 1998 and carried out by the Housing Institute, a private research and advisory NGO.

Management companies went through a process of privatization of formerly State-owned/municipal companies; cooperatives provided more and more management services.

Deregulation of energy prices led to changes of owners' considerations of possible renewal activities. Learning through best practices also brought a kind of social pressure, leading to broad interest in refurbishment and EE measures in MABs. The most important development, however, was the stabilization of the legal and financial framework.

### **Analysis of legal position and functioning of HOAs in Slovakia**

Although, in the ToR for the study, the term HOAs (homeowners associations) is used, it would be better to speak about condominiums in general, as a form of shared ownership of the MAB. In the Slovak legal system for condominiums, there is a legal obligation to ensure proper management. That can be done in two ways: Create an HOA or contract with a professional manager.

### **Legislation**

Based on the analysis of housing legislation conducted by the Ministry of Transport and Construction of the Slovak Republic, there are 75 laws and other 31 legal norms that directly or indirectly affect the housing sector. Many of them influence the HOAs activities but the main ones are:

1. Act no. 40/1964 Coll. Civil Code
2. Act no. 182/1993 Coll. on the ownership of residential and non-residential premises as amended – Condominium Act
3. Act no. 246/2015 Coll. on managers of residential buildings
4. The Civil Code as *lex generalis* defines civil relations and their protection, as well as participants in these relations: natural persons, protection of personality, legal persons, legal acts, conclusion of a contract, acceptance of a proposal, consumer contracts, ownership and co-ownership, etc. The HOAs' activities are not regulated by the Civil Code.
5. Act no. 182/1993 Coll. (Condominium Act) is the most important piece of legislation in defining the housing stock management mechanisms. It regulates the way and conditions of acquisition and transfer of ownership of dwellings and nonresidential premises in a residential building, regardless of whether it is owned by the state, municipality, or by natural or legal persons. It also defines the rights and obligations of the owners of these residential buildings, the rights, and obligations of the owners of dwellings and nonresidential premises, their mutual relations, and rights to the land. The Act also defines the association of owners of dwellings and non-housing premises (HOA) and professional managers of residential buildings, their status, the regulation of rights and obligations towards owners, the regulation of rights and obligations arising from the contract concluded between the manager and owners of dwellings and nonresidential premises. The Act does not have control mechanisms; only few areas are controlled by The Slovak Trade Inspection, which is according to the Act No. 128/2002 Coll. on State Control of Internal Market in the Consumer Protection Issues as amended, an authority of internal market surveillance; it is independent in its inspection and decision-making activities. The Slovak Trade Inspection only checks



certain provisions of the Condominium Act, concerning compliance with the duties of the professional managers of residential buildings.

### **Voting**

Ownership right also means an obligation to maintain and manage property. The ownership of a dwelling or nonresidential premise is linked to the ownership of a residential building; these rights and obligations cannot be limited just to a dwelling. Management and maintenance of buildings are decided individually and exclusively by their owners. When deciding on the management and maintenance of common parts and common facilities of the building, built-up and adjacent land, the owners decide jointly according to individual voting quorums specified in the *Condominium Act*. Each owner of dwelling or nonresidential premise has one vote for each dwelling or nonresidential space owned in the building, regardless of the size of the common property share. Voting in writing procedure is allowed. Votes can be challenged in court within 15 days from the announcement of the decision.

Owners make decisions by an absolute majority of votes of all owners of dwellings and nonresidential premises in the building, if they vote on:

- contract of association of owners of dwellings and nonresidential premises,
- election or dismissal of the chairman,
- the principles of the association management,
- the amount of remuneration to the chair and the members of the board and the amount of the monthly payments for administration of the association,
- contract on the performance of administration of a residential building (management contract),
- the amount of the management fee,
- changing the form of administration of apartment building,
- the amount of representatives' remuneration,
- amount of payment to maintenance and repair fund,
- consent to the reconstruction of the apartment or nonresidential premises in the house, which may endanger or disturb other owners, or may change the appearance of the house and interfere with common parts and equipment of the house,
- filing an application for execution or a voluntary auction,
- renting of common nonresidential premises, common parts of the house, common facilities of the house and accessories, and
- adoption of House rules (the concept of "House rules" is very new, and there are doubts about their enforceability).

Owners make decisions by 2/3 votes of all owners if they vote on:

- changing the purpose of using common parts of the house and common facilities of the house;
- loan contract; lease and purchase contract to anything that the owners of flats and nonresidential premises in the house use;
- contract for the construction or superstructure of a flat or nonresidential premise in the house;

- construction or superstructure of a new common part of a house, a new common house or a new accessory, or a change of them (if deciding on a construction or a superstructure in an attic, the consent of all owners of flats and nonresidential premises in the house that are direct neighbors to the construction or superstructure is also required); and
- establishment of easement for common parts of the house, common facilities of the house, accessories, and adjacent land.

The consent of all owners is required when deciding on the contract of:

- transfer of ownership of nonresidential premises, adjacent land, accessories, which are co-owned by the owners of dwellings and nonresidential premises in the house; and
- construction of a new common part of the house, a new common house equipment or new accessories, which will extend the house in ground plan and which will relate to the house or its change.

### **Payments and Fund**

The owners have a duty to pay monthly advance payments for the services connected with the use of the dwellings. The payments are determined on the basis of the previous year data according to the consumption metered in those cases where the meters are installed (water and heat meters) or the costs are calculated according to the number of people living in the apartment (cleaning of common spaces, payments for waste collection and liquidation, lift operation, lighting of common spaces, etc.). The advance payments for the services are settled based on the actual values settled by not later than May 31<sup>st</sup> of the next year.

The *Condominium Act* requires creation of a maintenance and repair fund in the amount determined by the majority vote of the owners. The legislation or administrative acts do not set the amount of payment to the fund (not even minimal), which owners should determine according to the technical conditions of the building and owners' financial situation. It is always defined in the contract of association of the owners or in a contract with professional manager. The law defines purposes for which the fund can be used and what other income is acceptable in addition to total owners' income fund (e.g., interest on bank account, arrears, penalties, rental fees from common parts, etc). The Maintenance and Repair Fund enjoys high credibility and banks or other institutions (e.g., building societies) currently take this fund as a guarantee for the loans used in the reconstruction of building.

In order to protect the property of owners of dwellings and nonresidential premises in the house, the professional manager or the HOA shall publish a list of owners who have an aggregate amount of arrears in advance payments to the house's operation, maintenance, and repair fund at least three times their current monthly allocation. The list includes the name and surname of the owner and the amount of arrears. The list is published in the usual place for the communication of information in the house, creating moral pressure for regular payments.

### **Legal Lien under *Act no. 182/1993 Coll.***

The right of legal lien arises by law against each dwelling and nonresidential premise in the house. The legal lien arises in favor of the association of owners or in favor of all owners in the house *ex lege* to secure claims arising from legal acts relating to the house and accessories, as

well as securing claims arising from legal acts relating to the dwellings or nonresidential premises in the house made by the owner of the dwelling or nonresidential premises in the house. It secures both existing and all future claims. This type of lien has priority over other types of liens even if it is not registered as first in the cadastre.<sup>8</sup> Therefore, the legal lien does not serve to secure debts to suppliers of heat, electricity, internet, gas, etc. The law explicitly stipulates that a lien is established only for the other owners and, thus, can only secure their claims, not those of energy suppliers. Furthermore, the law specifies that the lien applies only to debts incurred in connection with the house (e.g., the obligation to pay an amount to the maintenance and repair fund). If the all conditions are met, the legal lien can be exercised. The exercise of the legal lien is made by selling a dwelling at auction.

Although this provision was included in the *Condominium Act* since 1993, it only become effective in 2002, when the *Act on voluntary auctions* was adopted. Before that, the process of claiming debts in the courts was very lengthy. The *Act on voluntary auctions*<sup>9</sup> allowed for more effective execution of a lien. Experience has shown that this provision serves as a preventive psychological and social tool for achieving responsible behavior. It is applied very rarely. The arrears must be at least 2,000 EUR. Majority votes of all homeowners is required to start the process, which happens only in unique cases. There are no official statistics on number of these cases; the estimate of the managers and HOAs is well below 1%.

## Types of management

The association of owners (HOA) or the professional manager carries out the management of the house. The owners are obliged to ensure the management of the house by one of these forms already on the day of the first transfer of ownership to the dwelling and nonresidential premises in the house. The management of the house must not be agreed on several forms at the same time. For management in one house, the owners may make a contract with only one professional manager or make a contract of association of owners. So-called double management by both types is forbidden, but there is not any type of sanction for breaking this rule. The professional manager and the association have essentially the same obligations to the owners regarding the management of their ownership (i.e., in particular, to keep separate accounts for each house/building managed, to keep analytical accounts, to make annual accounts for the performance and maintenance and repair fund until May 31<sup>st</sup> of calendar year for previous period, etc.).

Association of owners of dwellings and nonresidential premises

The stakeholders in the association of owners of dwellings and nonresidential premises are:

1. chairman
2. board
3. general assembly

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<sup>8</sup> The Real Estate Cadastre is a public register and at the same time an information system containing geometric determination, inventory and description of real estates and data about rights to them (property rights, liens, pre-emptive rights, easements, tenancy rights)

<sup>9</sup> <https://translate.google.com/translate?hl=en&sl=sk&u=https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2002/527/&prev=search>

The chairman is a statutory body elected by the general assembly by absolute majority of all votes of the apartment and nonresidential premises owners for a period of 3 years. The chairman manages activities of the association and acts on behalf of the association. Only a natural person who is competent for legal acts is the owner or co-owner of a dwelling or nonresidential premise in the house and is irrefragable may be elected as chairman. The board is a supervisory body of the association with at least three members. The board members are authorized to see any documents and reports on the activities of the association, and they verify that the association acts in accordance with the laws, association contract, or articles of association.

The general assembly is composed of all dwellings and nonresidential premises owners in the house. The assembly is convened by the board as needed at least once a year, or may be convoked by the chairman or by at least one-fourth of the dwellings and nonresidential premises owners in the house.

#### *Professional manager of residential buildings*

According to § 8 Act no. 182/1993 Coll., a professional manager can be a legal person or a self-employed person who has the administration and maintenance of the housing stock in the subject of business activity; the manager who manages apartment buildings must also meet the conditions of a special legislation, Act no. 246/2015 Coll. on managers of residential buildings. The manager must be registered in the list of professional managers (kept by the Ministry of Transport and Construction of the Slovak Republic) and meet the conditions for the performance of this activity under this Act. These conditions are as follows:

- Professional competence acquired through the completion of accredited education pursuant to Act no. 568/2009 Coll. on lifelong learning and on amendments to certain acts, provided by the responsible representative. One responsible representative can perform this function as an employee or as a member of the company's statutory body just for one professional manager.
- Establishment of an office to enable better application of the rights of owners of dwellings and nonresidential premises; this office has to be open at least 2 days in a week, continuously for 4 hours without a break, and should be situated in an accessible place.
- Liability insurance for which the manager is responsible; the Ministry of Transport and Construction of Slovak Republic do not set the amount of insurance.

§11 of Act no. 246/2015 Coll. defines certain facts about which the managers are obliged to inform the Ministry of Transport and Construction of Slovak Republic within 30 days of the occurrence: change in the person providing professional competence, establishment or cancellation of the office, change of office address, office hours, contact details, and changes in insurance. The manager must notify the Ministry about changes of all facts that are part of the list of professional managers. The Ministry imposes a fine up to 1,000 EUR on the manager for failure to fulfil his/her obligations; if this happens repeatedly in 24 months, the fine is up to 5,000 EUR.

The Ministry of Transport and Construction of the Slovak Republic will remove the manager from the list:

- on the request of the manager (no reason must be given),

- if his business license/subject of business activity “administration and maintenance of the housing stock” was cancelled,
- if there was no insurance for more than 2 months in a row,
- if he failed on repeated accredited education ordered by the Ministry of Transport and Construction of the Slovak Republic,
- fails to demonstrate professional competence more than 3 months in a row,
- if he has been fined more than three times in the last 24 months for failing to inform the Ministry of Transport and Construction of the Slovak Republic of changes in the company, or
- does not have an office established more than 2 (or 3) consecutive months.

The inspection body is the Ministry of Transport and Construction of the Slovak Republic and its task is to check the fulfilment and compliance of the conditions for business activity of professional managers. It does not control compliance with the obligations required by special regulations in the conduct of business. Ministry employees usually carry out control in the form of a personal visit to the office during office hours. From January 1, 2016 to March 31, 2020 there were 659 professional managers on the list. Only 19 were removed, all of them on their own request (ending of business). No manager was fined during those years.

### Analysis of State housing policies and regulatory framework

State administration has paid a lot of attention to the conditions of MABs since the 1990s. Improvement of technical conditions of existing housing stock, measures for EE, and general repairs have been among priorities of official policy documents. During the accession process to the EU, which ended in 2004 by accession of Slovakia to the EU, EU directives were included in Slovak legal framework.

Inspiration from best practices across Europe was used to inform our development. An important role was played by our active participation in the UNECE Committee on Housing and Land Management. Expert assessment of technical conditions in MABs carried out in late 1990s helped in formulating well-informed practical programs. Existence and experience of the SHDF enabled the creation of a revolving fund in 2013 known as JESSICA<sup>10</sup> financed from structural funds of the EU (European Regional Development Fund – ERDF), using SHDF as a financial institution carrying out this task. Stability of available State support speeded up extensive refurbishment of existing housing stock. In combination with resources of condominium owners and with support of building saving loans and other commercial loans, Slovakia can today report over 60% of renewed housing stock in MABs.

**Table 14. Housing Refurbishment in Slovakia**

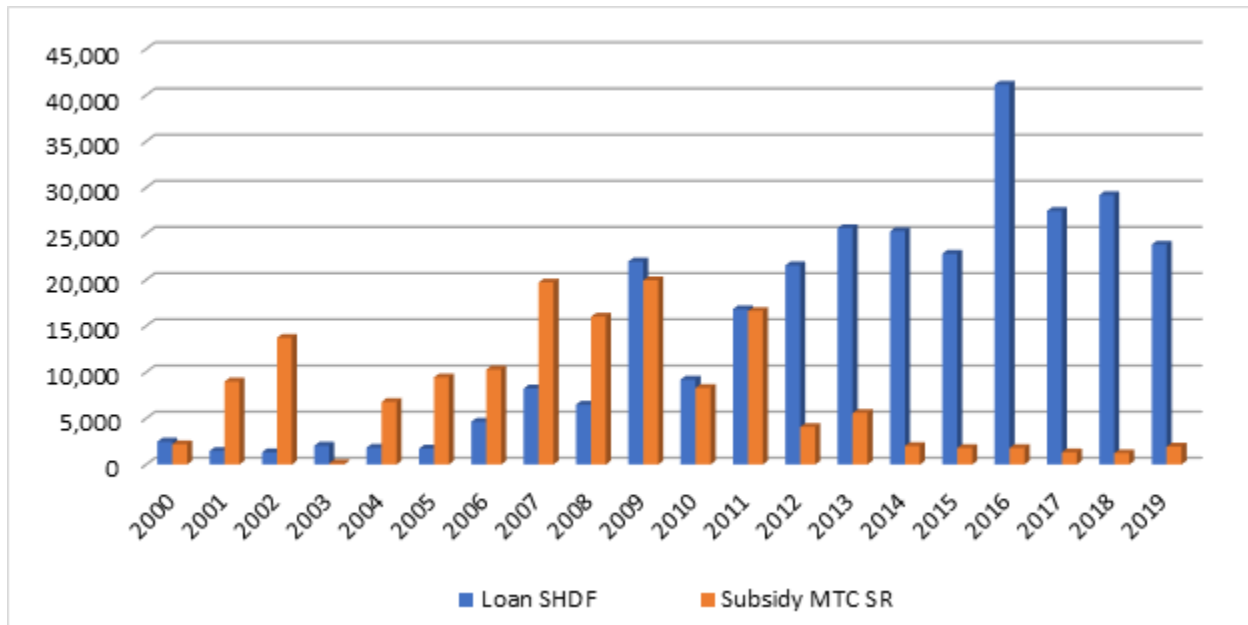
	Dwellings in Residential Buildings	Dwellings in Family Houses	Total
<b>Census 2011</b>	931,605	1,008,795	1,940,400
<b>Refurbished dwellings to 12.31.2013</b>	469,319	336,415	805,734
<b>Share of refurbishment %</b>	50.38	33.35	41.52

<sup>10</sup> Joint European Support for Sustainable Investment in City Areas in programming period 2014-2020  
[https://ec.europa.eu/regional\\_policy/archive/thefunds/instruments/jessica\\_en.cfm](https://ec.europa.eu/regional_policy/archive/thefunds/instruments/jessica_en.cfm)

<b>Refurbished dwellings to 12.31.2016</b>	543,406	378,271	921,677
<b>Share of refurbishment %</b>	58.33	37.5	47.5

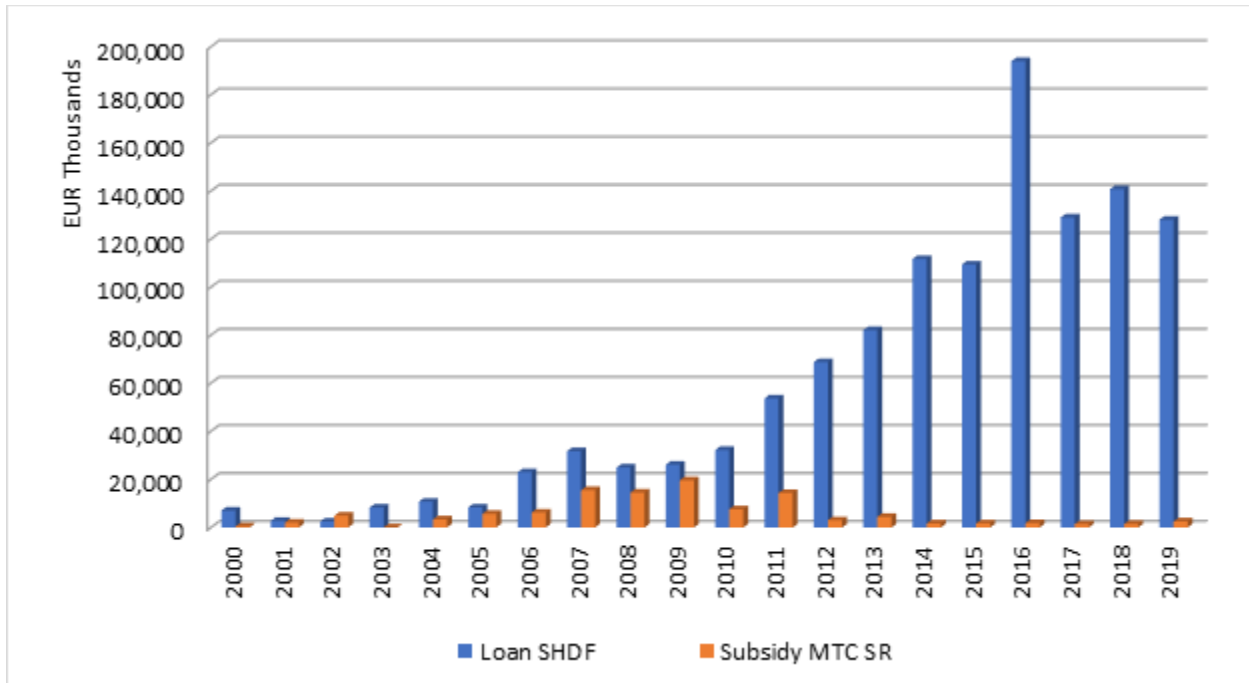
Source: *Update of the Strategy for the renewal of residential and nonresidential buildings in Slovakia, 2017*

During the last two decades, public funds have helped to refurbish in a complex way significant parts of MABs. Condominiums with nearly 325,000 housing units benefited from a favorable loan from the SHDF and nearly 152,000 from a subsidy provided by the Ministry of Transport and Construction, as illustrated in **Figure 3** and **Figure 4**. This support also leveraged private sources in the funds for maintenance and repair, but mainly from private banks and saving societies, described in **Table 15**.



Source: MTCSR

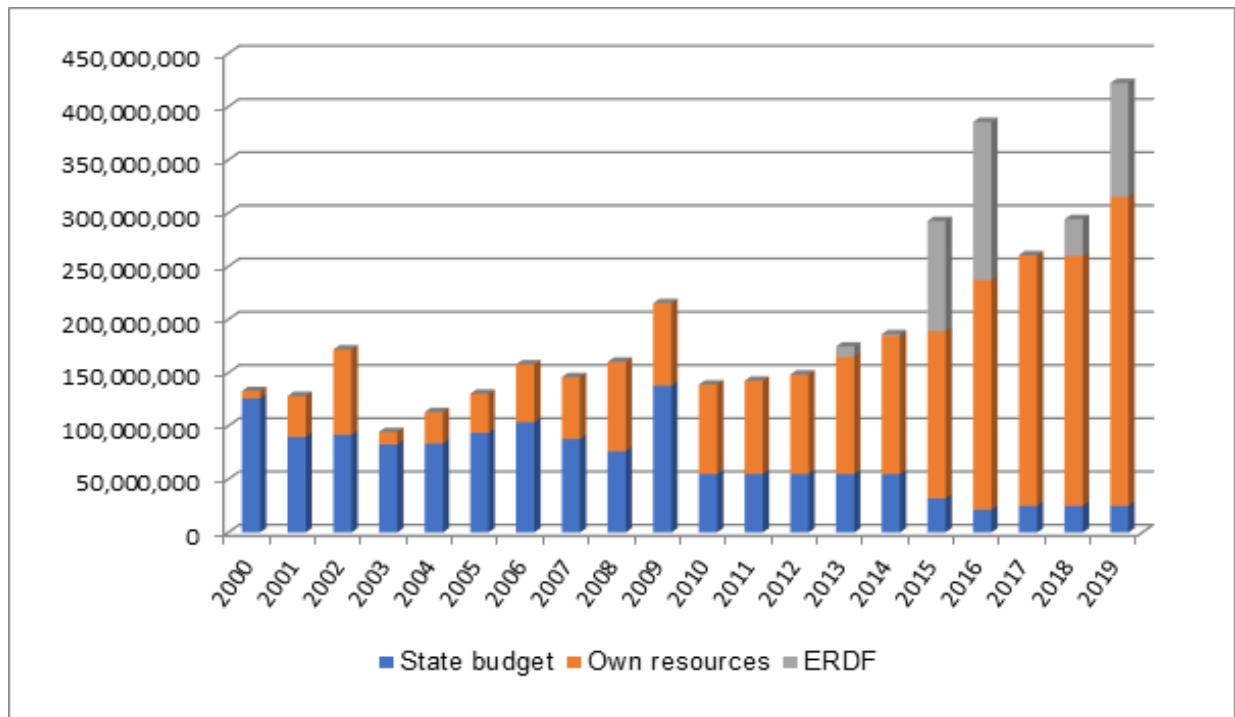
**Figure 3. Number of Renewed Dwellings with Direct State Support**



Source: MTC SR

**Figure 4. Loans and Subsidies Provided from Public Funds**

SHDF always had an important role in modernization of housing stock. Because of its revolving character, recently yearly allocation from the State budget represents only 5%–10% of its disposable resources, as shown in **Figure 5**.



Source: MTC SR

**Figure 5. Budget of the State Housing Development Fund (in EUR)**

## Review of functioning of facilities (residential) management companies

Pursuant to the *Act on the Municipal Property*, after transfer of State housing ownership to municipal ownership in 1991, municipalities were obliged to manage these facilities in accordance with the law. Up to the end of 1992, dwellings, as part of the property of municipalities, were managed by municipal housing enterprises (similar to State enterprises), which were governed by the municipalities. As of January 1, 1993, they had to be transformed either to municipal organizations receiving contributions from the State budget or business organizations. Some municipalities preserved the State budget option up to now. From 1991 up to the present, the process of the transformation of the organizations responsible for management of municipal housing stock and producers of heat has continued. A great number of municipalities separated maintenance from the housing management and heat supply from production and created two independent subjects.

The *Condominium Act* gives two options for ensuring proper management, maintenance, and repair. It is allowed to create an HOA as a legal entity or individually sign a contract with a management organization—usually cooperative, private management organization, or municipal company. In general, there is little difference in performance among the different types of organizations. In the past, most criticized was lack of transparency in accounting, calculation of costs for heating and hot water, where there were no individual meters for consumption of households. In the meantime, the situation has improved due to installation of individual meters and increased professional performance of management companies, which must since 2015 meet the conditions of the *Act on managers of residential buildings*.

Recently, one of the biggest groups is represented by cooperatives, formerly developers, now mainly maintenance-oriented organizations (some 130 in Slovakia). Unfortunately, there have been some negative experiences with administration of some of these cooperatives: Funds for repair were spent for other buildings, or not spent for housing at all, or the staff changed often with no real responsibility for any mischief. That has decreased the credibility of cooperatives somewhat. The situation has recently improved.

Management of a condominium refers to all tasks and duties concerning administration, operation, and maintenance of the condominium, irrespective of the method of management chosen. It requires a complex set of knowledge and skills from different sectors—legal, economic, and technical. To improve performance of managers, the *Act on housing managers* was adopted in 2015 (see the section on legal framework). The Act contributed to increasing the professional quality of provided services.

There are several umbrella organizations for RBMs:

- Union of Slovak Housing Cooperatives (Slovenský zväz bytových družstiev - SZBD<sup>11</sup>) – 80 organizations, 240,000 flats, from 300 to several thousand. Organization funds its activities through membership fees.
- Association of the housing managers (Združenie bytového hospodárstva Slovenska – ZBHS<sup>12</sup>: historical name, literally housing economy) established in 1990 – some 80 member organizations, 150,000

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<sup>11</sup> <http://www.szbd.sk>

<sup>12</sup> <http://www.zbhs.sk>



- flats, average number of managed housing units 2,000. Association funds its activities through membership fees.
- Union of Associations of Homeowners established in 1996 (Združenie spoločenstiev vlastníkov bytov – ZSVB<sup>13</sup>). The first 2 years of its operation and functioning were funded through USAID program. From then on, the organization funded its activities through membership fees. The mission of the Union is to deal with the issues relevant to HOAs and to advocate for their rights.

All these umbrella organizations are relevant partners with State administration in the process of policy making and legislative processes.

### **Analysis of lending practices to HOAs**

The *Condominium Act* stipulates that it is possible to apply for a loan for common parts. Both HOA and RBM can apply for a loan, always on behalf and on account of all the owners. Obligatory Fund for maintenance and repair is usually used as a collateral for a loan.

As described previously, a key role for lending for condominiums was played by the introduction of the SHDF in 1996. A high standard for technical documentation, including detailed budget for refurbishment, required to apply for a loan set a sort of standard for financing of these kind of activities also from commercial financial sources. The private commercial banks at first did not pay enough attention to this segment mainly because of the problem of finding collateral for the loans offered. One of the attempts to minimize the problem with collateral was the introduction of the State guarantee program in 2000. The interest rates of commercial banks were then much higher than the interest rates offered by SHDF, and at the same time banks were not able to offer longer-term loans and had no experience with this segment of the housing market. Experience of the SHDF has shown that loans for condominiums are of low risk, and arrears were rare. That made this business attractive also for private banks. Forerunners in this field were building savings banks (there are three in Slovakia). Currently most of the banks offer specialized loan products for the refurbishment and modernization of the housing stock. A crucial impetus for the interest of private banks in providing loans for condominiums was introduction of a possibility to guarantee the loan by the Fund for Maintenance and Repair.

In the meantime, the Fund for maintenance and repair became a reliable collateral, enjoys high credibility and banks accept this fund as a guarantee for the loans used in the reconstruction of buildings.

The building savings scheme (1992), contractual savings with State premium was considered also as a capacity-building measure for owners, and was effective at teaching people to save money for housing (not only new, but for renovation of existing). In 2009 a possibility to participate in the scheme, including obtaining state premium, was introduced also for HOAs. This increased the popularity of condominiums. Over 1,300 HOAs recently participated in building saving (**Figure 7**).

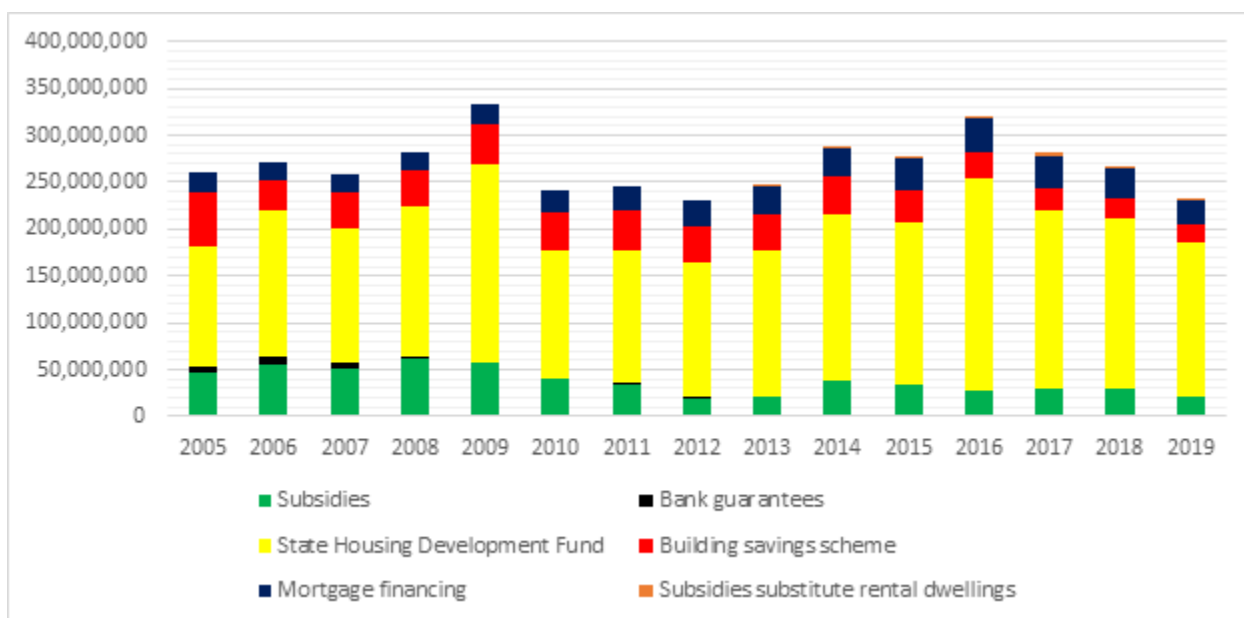
Currently, the existing system of instruments for the State support of housing development is implemented in the form of direct and indirect support. Most of its elements have been in existence since the late 1990s. Direct State support is provided (1) as subsidies (introduced in

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<sup>13</sup> <http://www.zsvb.sk>

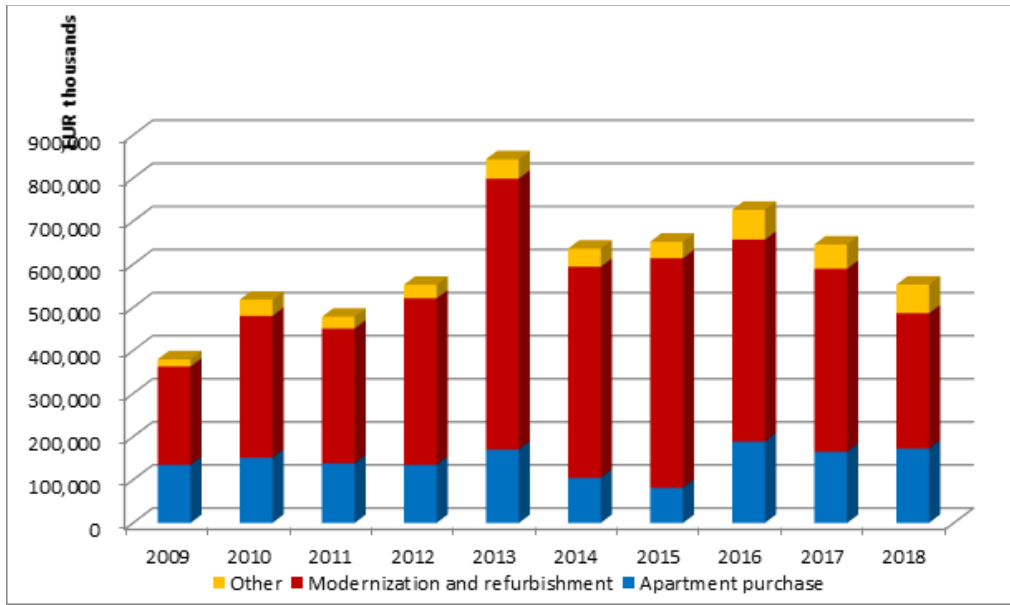
1998, known as the Programme of Housing Development) provided by Ministry of Transport and Construction of the Slovak Republic according to the *Act No. 443/2010 Coll. on subsidies for housing development and on social housing*, as amended, (2) through SHDF (1996), and (3) as single family house thermal insulation subsidies (2016).

Indirect State support is implemented through (1) program of state support for refurbishment of the housing stock in the form of provision of bank guarantees for loans (2005) (not used anymore, as the Fund for Maintenance and Repair became the most popular way to guarantee loans; (2) building savings scheme (1992), where the State provides savers with a State premium; and (3) mortgage financing (1994) (an income tax bonus for young people up to 35 years for first 5 years of the duration of mortgage). Yearly allocations from the State budget are shown in **Figure 6**.



Source: MTCSR

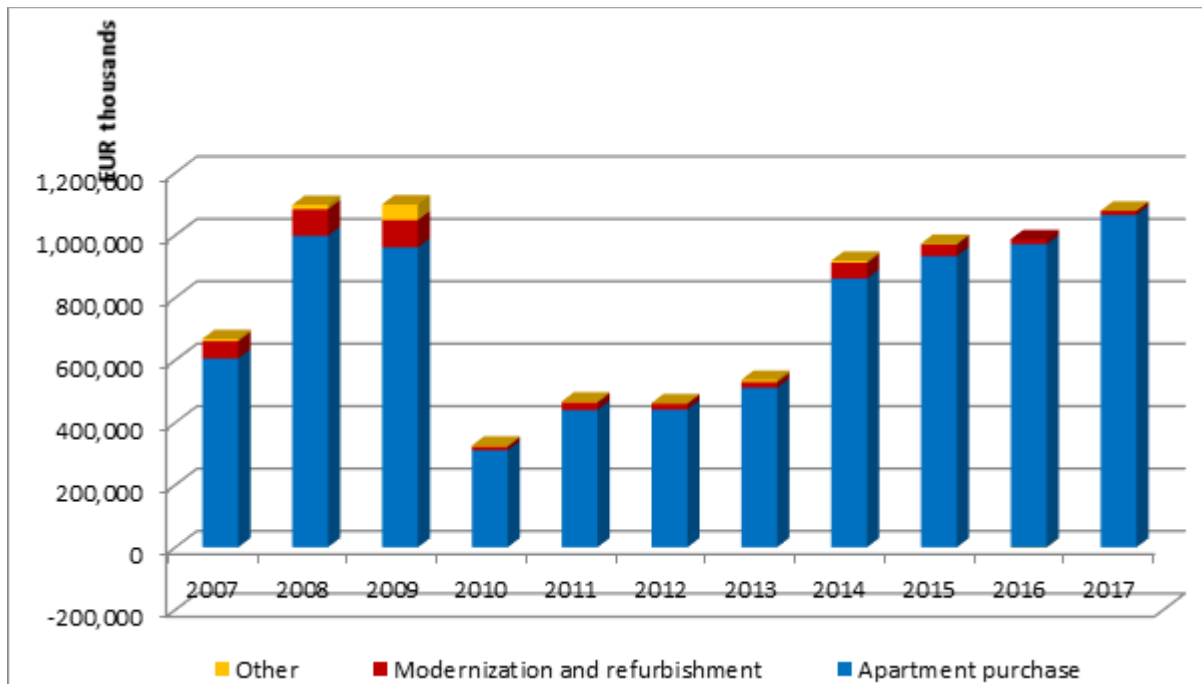
**Figure 6. State Budget Allocations for Housing**



Source: Ministry of Finance SR, MTCSR

**Figure 7. Building Saving Scheme – Provided Loans**

Mortgage loans in general are not an important element in financing of MABs. More usual are so-called non-purpose loans from commercial banks (usually with higher interest rates and shorter maturity period), which are used for refurbishment (**Figure 8**).



Source: Ministry of Finance SR, MTCSR

**Figure 8. Mortgage Loans**

## **Analysis of energy-related support programs for building rehabilitation in line with the EU EPBD and EE Directive**

All previously described support programs for modernization and refurbishment of MABs include EE aspects. However, there is one special successful experience with using finances from European Regional Development Fund (ERDF) for EE in form of the JESSICA revolving fund operated by the SHDF.

### **Implementing JESSICA in the SHDF<sup>14</sup>**

The discussions on implementing JESSICA instruments (revolving fund) in Slovakia and making use of ERDF funding in housing started in 2007.

After 4 years of preparations, the following were considered:

- possibility to implement financial engineering instruments directly or as a separate block of finance within a financial institution in accordance with the Regulation (EC) No 1828/2006;
- priorities of the State housing policy and need of urgent general repair and modernization of 600,000 dwellings in residential buildings;
- need to strengthen financial resources of the housing policy priorities; and
- available ERDF funding: 18 million EUR.

The Slovak Government in 2011 decided to implement JESSICA as an instrument to support the improvement of EE in existing residential buildings within the existing SHDF. In that time, there was no foreign experience with JESSICA yet to make it possible; it was necessary to make changes in the SHDFs legislative. SHDF was defined as a financial institution in accordance with the EU legislation. The JESSICA instrument has been implemented through SHDF from 2013.

### **Characteristics of JESSICA instrument in the context of SHDF**

Target: Improving the energy efficiency of existing housing stock in cities and urban districts by providing long-term favorable loans (under the EU De minimis rules<sup>15</sup>)

Implementation phases: JESSICA I, II, III

#### **JESSICA I**

**Activity:** insulation of residential buildings in urban areas

**Eligible applicants:** owners of dwellings represented by an administrator or association of owners of residential and non-residential premises

**Loan:** maturity up to 20 years, max. 75 % of the acquisition costs, 1,5% interest rate

<sup>14</sup> This chapter is based on non-published paper by Veronika Rehakova, MTC SR

<sup>15</sup> <http://www.statnapomoc.sk/?p=698>

## JESSICA II and III

**Activity:** deep refurbishment of residential buildings in urban areas

**Eligible applicants:** association of owners of residential and non-residential premises, owners of dwellings represented by an administrator, municipality (town status), urban area, self-governing region, another legal entity with its domicile in the Slovak Republic

**Loan:** maturity up to 20 years, max. 75 % of the acquisition costs, combining particular purposes, eligible applicants may reach 0% interest rate

Table 15. Overview of the Outcomes within the Initiative JESSICA

	ERDF Allocation (million EUR)	Spent - Signed Contracts in Bank (million EUR)	No. of Projects	No. of Dwellings
JESSICA I (2013-2014)	11,529	10,964	72	3,072
JESSICA II (2015)	103,540	84,849	388	17,750
JESSICA III (2015-2016)	130,000	148,562	702	31,929

Source: SHDF

## Energy Consumption Monitoring System

One of the general conditions for acquisition of allocations from the structural funds is monitoring energy consumption and savings in residential buildings. On behalf of SHDF this activity is provided by SIEA – the Slovak Innovation and Energy Agency.<sup>16</sup>

Eligible applicants must:

- show actual heat consumption data for 2 annual accounting periods before submitting the application,
- after completion, provide data on actual heat consumption for the next 5 years,
- show a 35% minimum level of energy savings for heating.

## New programming period (2014–2020)

In 2017, SHDF signed a new financing agreement with the managing authority of the Integrated Regional Operational Program to implement a financial instrument to support the improvement of EE in existing residential buildings across Slovakia for the next 8 years. Total allocation for that period is 139 million EUR. The conditions are very similar to the JESSICA II and III implementation phase.

## Final analysis of key strengths and weaknesses of the Slovak model and policy recommendations for WB

The cornerstones of the strengths of the Slovak model can be summarized as follows:

<sup>16</sup> <http://www.siea.sk>

- The clear vision and stability of priorities of the State Housing Policy<sup>17</sup> are fundamental for success in refurbishment of MABs.
- Legal framework for condominiums is in place, with obligation to have an HOA and/or professional management in MABs.
- The possibility to borrow on behalf and on account of the owners is offered.
- Fund for Maintenance and Repair is a guarantee for loans.
- Auction for owners in arrears (more than 2,000 EUR, proposal by manager, approved by owner's assembly).
- Loans from SFRB – required technical project, proper technological processes of insulation as a prerequisite for granting the loan.
- Description of the roles and responsibilities of all actors, their ability and willingness to perform their tasks.
- Refurbishment, EE measures, and modernization as a priority of the State housing and EE policies.
- Inventory and technical assessment of existing housing stock in condominiums.
- Incentives in the form of subsidies.
- Communication with owners and managers.
- Professionalization of managers.
- Permanent exchange of experiences on EU and UNECE<sup>18</sup> level, enabling well-informed evidence-based policy making.

## **Recommendations**

When implementing any legal or economic instrument in housing, it is necessary to:

- have a clear vision of what should be achieved;
- have political support;
- be patient and persevering, as it takes time to make difference;
- create stable legislative and financial framework, with minimal changes thereafter;
- communicate with all stakeholders; and
- create a simple system for applicants.

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<sup>17</sup> State Housing Policy Concept to 2020 available on <http://mindop.sk/ministerstvo-1/vystavba-5/bytova-politika/dokumenty/koncepcie/state-housing-policy-concept-to-2020-pdf-628-kb>

<sup>18</sup> UNECE Committee on Urban Development, Housing and Land Management is an intergovernmental body of 56 member states. Its work is focused on practical aspects of policy making. Recently it published the study "Guidelines on the Management and Ownership of Condominium Housing" developed by the UNECE experts, intending to assist national and municipal authorities, as well as new unit owners by providing timely guidance on issues requiring legal-regulatory intervention, capacity-building, design of financing schemes, and best practices. The study builds upon its predecessor document "Guidelines on the Management and Ownership of Condominium Housing for Countries in Transition", produced by UNECE in 2003, and expands its scope to address contemporary challenges and this time, covers the entire UNECE region.

# BOSNIA AND HERZEGOVINA

## HOUSING SECTOR ANALYSIS

### Section 1: Legal position and functioning of HOs/HOAs

**FEDERATION OF BiH (FBiH):** In the Federation of Bosnia and Herzegovina (FBiH), the *Law on Property Rights* and the *Laws on the Use, Management, and Maintenance of Common Parts and Devices at the Cantonal level* regulate homeowners (HOs) and the management of common parts of residential buildings.

**REPUBLIC OF SRPSKA (RS):** In the Republic of Srpska (RS), the *Law on Property Rights* and the *Law on Building Maintenance of RS* regulate the management of common parts of residential buildings.<sup>19</sup>

#### *Section 1.1 Legal framework for the housing sector (analysis of RS, FBiH, Sarajevo Canton and Tuzla Canton)*

*In both FBiH and RS,* the **Law on Property Rights** defines necessary conditions of existence of common property, while other laws include more detailed regulations for the housing sector. Article 43 of the *Law on Property Rights* of RS states, “Common property is the property of two or more persons on the same good whose shares are not determined but are determinable.”<sup>20</sup>

The use, management, and maintenance of the common parts of a building are regulated at the entity level in RS and at the cantonal level in FBiH.

**FBiH:** Each canton has its own law that regulates the management of common parts of buildings, which are all based on the *Law on Property Rights* of FBiH. This analysis addresses the following laws:

- The *Law on the Management of Common Parts of the Building in Sarajevo Canton*<sup>21</sup>
- The *Law on the Use, Management, and Maintenance of Common Parts and Equipment of Buildings in Tuzla Canton*<sup>22</sup>

The *Law on the Management of Common Parts of the Building in the Sarajevo Canton* determines the common parts of the building, mutual relations of apartment owners, obligations to maintain separate parts of the building, the management of common parts of the building, the decision-making of apartment owners, the obligations of public companies, the City of Sarajevo, municipalities, owners of newly built buildings, investors and other persons in the management and maintenance of common parts of the building, supervision over the application of this law, and penal provisions.<sup>23</sup>

The *Law on the Use, Management, and Maintenance of Common Parts and Equipment of Buildings in Tuzla Canton* regulates the use, maintenance, and management of common parts and devices of residential and residential-commercial buildings, mutual relations of apartment owners, building management, fees for the maintenance and management of common parts

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<sup>19</sup> *Law on Building Maintenance of RS (Official Gazette of RS 101/11).*

<sup>20</sup> Article 43 of the *Law on Property Rights* of RS.

<sup>21</sup> *Official Gazette of Sarajevo Canton 19/17 and 17/18.*

<sup>22</sup> *Official Gazette of Tuzla Canton, 14/15.*

<sup>23</sup> Article 1 of the *Law on the Management of Common Parts of the Building in Sarajevo Canton.*

and devices of the building, obligations of the city and municipality in the maintenance of common parts and devices of the building, and other issues in this area.<sup>24</sup>

*According to both cantonal laws, HOs are not required to form an HOA.* Both laws prescribe mandatory hiring of an RBM company: In Sarajevo Canton, it is mandatory to choose an RBM company in a building with three or more HOs, while in Tuzla Canton, it is mandatory in a building with two or more HOs. Both laws define the main terms of the housing sector in a similar way for condominiums, HOs, residential buildings, and residential-commercial buildings, special parts of buildings, and apartments.

**RS:** In RS, the use, management, and maintenance of a residential building is regulated by the *Law on Building Maintenance of RS*<sup>25</sup> (LBMRS). This law defines the maintenance of residential-commercial buildings, commercial buildings, residential buildings with garages, and office buildings.<sup>26</sup> LBMRS also regulates housing associations as legal persons. Owners of separate parts of a MAB have a legal obligation to form and register their HOAs through the HOA Register, organized by municipality. LBMRS clearly defines the key property definitions for the housing sector, such as: **residential building**,<sup>27</sup> **residential commercial building**,<sup>28</sup> **apartment**,<sup>29</sup> **business premises**,<sup>30</sup> **common parts of a building**,<sup>31</sup> **homeowner (HO)**,<sup>32</sup> and **homeowner's association (HOA)**.<sup>33</sup>

### *Section 1.2. Legal obligation to form an HOA or engage an RBM company*

**FBiH:** In this part of Bosnia and Herzegovina, homeowners are not required to register an HOA. Instead, they regulate their relationships based on obligatory contracts. According to the *Law on Property Rights in FBiH*, the **contract of HOs** regulates the scope and manner of use and maintenance of special parts of real estate and parts of real estate that serve the building as a whole or some of its special parts.

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<sup>24</sup> Article 1 of the *Law on the Use, Management, and Maintenance of Common Parts and Equipment of Buildings in Tuzla Canton*.

<sup>25</sup> *The Law on Building Maintenance of RS (LBMRS) (Official Gazette of RS 101/11)*.

<sup>26</sup> Article 1 of LBMRS.

<sup>27</sup> **Residential building** is a building in which at least one special part is intended for housing and which forms a building or functional whole (Article 3, Paragraph 1, Point A of LBMRS).

<sup>28</sup> **Residential-commercial building** is a building in which one part is intended for housing and the other for performing business activities and together they form a construction unit (Article 3, Paragraph 1, Point B of LBMRS).

<sup>29</sup> **Apartment** is one or more rooms intended and suitable for living, with auxiliary rooms which, as a rule, form one building unit and have a separate entrance (Article 3, Paragraph 1, Point F of LBMRS).

<sup>30</sup> **Business premises** are one or more premises intended for the performance of business activities, which, as a rule, form a construction unit and have a separate entrance (Article 3, Paragraph 1, Point F of LBMRS).

<sup>31</sup> **Common parts of the building** are considered parts and devices that serve the building as a whole or specific parts of the building, in particular: the foundations, main walls, roofs, stairs, chimneys, elevators, facades, basements, attics, hallways, skylights, laundry and drying rooms, garbage rooms, rooms for associations of apartment owners, electricity, lightning, sewage, water supply and telephone networks, gas and hot water installations and television antennas (Article 3, Paragraph 1, Point Z of LBMRS).

<sup>32</sup> **Homeowner (HO)** is the owner of an apartment, business premises, or garage as a separate part of the building. The homeowner is also the holder of the right to dispose of a separate part of the State-owned building (Article 3, Paragraph 1, Point Z of LBMRS).

<sup>33</sup> **Homeowner's Association (HOA)** is a special form of organization of homeowners, which is established by contract to manage common parts of the building as common property and shared use of joint ventures (Article 3, Paragraph 1, Point I of LBMRS).



Furthermore, HOAs may agree to entrust the management of the matter to a designated person, such as the manager, who acts as their representative. One or more HOAs may be selected as the manager, or HOAs may entrust management to another legally capable physical or legal person.

Both Sarajevo Canton and Tuzla Canton laws require mandatory hiring of RBM companies.

**RS:** In this part of Bosnia and Herzegovina, based on the *Law on the Building Maintenance*, HOAs are required to form HOAs.

HOAs are regulated as a special form of condominium organization established by contract to manage common parts of the building. An HOA is a legal entity in the affairs related to the management of the building and is listed in the register of associations with the municipal or city administration body in charge of housing.

In RS, the Assembly of HOAs (hereafter referred to as the Assembly) manages buildings. The Assembly consists of all HOAs with equal rights and obligations, regardless of whether they were signatories to the contract establishing the HOA.<sup>34</sup> The President of the Assembly convenes and chairs the sessions of the Assembly. The Assembly elects the President of the Assembly for a period of 4 years.

An HOA with more than 10 HOAs may have a manager and may form a steering committee of HOAs. HOAs may outsource the building's maintenance work to a public entity, company, or registered entrepreneur.

### *Section 1.3 Voting rights of homeowners and decision making for renovation decisions*

**FBiH:** In the two largest cantons of BiH (Tuzla and Sarajevo), cantons' regulations are similar in situations involving a decision that goes beyond the regular management of buildings. In both cantons, HOAs decide on the maintenance of common parts of the building at a meeting of HOAs. However, in Tuzla Canton, HOAs can also decide about these issues by the representatives of HOAs, while in Sarajevo, Canton HOAs can also decide by collecting signatures, which provides somewhat more flexibility, and makes decision making easier because no physical meeting is required.

In Tuzla Canton, a 50%+1 majority vote of all HOAs is required to decide issues related to managing common parts of the building.<sup>35</sup> In Sarajevo Canton, decisions on the regular maintenance of common parts of the building require a majority decision by HOAs whose combined percentage of co-owned square meterage makes up more than half of the total area of the property.<sup>36</sup> In Tuzla Canton, **all HOAs must consent to a decision related to the improvement of common parts of the building, i.e., investment works**. This represents a major gap in the regulation, as it is almost impossible to reach 100% consent. The consent of all HOAs is not required if apartment owners who together have the majority of co-ownership parts decide to make improvements themselves and will bear the costs themselves, or if maintenance and management fees can cover these costs without sacrificing the intended regular uses of such funds, and provided that these improvements will not be to the detriment of HOAs who

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<sup>34</sup> Article 24, Paragraph 1 of LBMRS.

<sup>35</sup> Article 12, Para 2 of *Law on the Use, Management, and Maintenance of Common Parts and Equipment of Buildings in Tuzla Canton*.

<sup>36</sup> Article 50, Para 4 of *Law on the Management of Common Parts of the Building in Sarajevo Canton*.

voted against such improvements. In practice, for Sarajevo Canton, the only difference from the system of Tuzla Canton is that these costs can be covered from the reserve fund.

**RS:** In RS, 50%+1 of HOs (quorum) is required to hold an Assembly. For the Assembly to make decisions on regular management of the building, **consent of more than half of the total number of HOs is required.** All HOs must consent to any decision that does not pertain to the duties of regular management when the Assembly goes beyond the regular management of buildings. Examples include changing the purpose or renting common rooms, establishing mortgages and easements, extending and upgrading the building, or making major repairs or alterations.

#### *Section 1.4 Method of creation of maintenance fund and reserve funds*

**FBiH:** The *Law on the Management of Common Parts of the Building in Sarajevo Canton* regulates in more detail the issue of creating a **reserve fund**. The Law defines that the Government of Sarajevo Canton, at the proposal of the Ministry of Physical Planning, Construction, and Environmental Protection of Sarajevo Canton, makes a decision on the minimum amount of monthly fees per 1 m<sup>2</sup> of usable area in the apartment or other independent premises, in order to ensure the smooth management and maintenance of common parts of the building. This minimum amount of the monthly fee is used, among other things, to form a reserve fund. HOs must pay this fee by the end of the month for the current month.<sup>37</sup>

The *Law on the Use, Management, and Maintenance of Common Parts and Equipment of Buildings in Tuzla Canton* does not contain any provision regarding reserve funds.

**RS:** There is no provision in RS about the creation of a maintenance fund. This is clearly a regulatory gap that needs to be addressed.

The *Law on Property Rights in FBiH and RS*<sup>38</sup> defines that a reserve fund consists of monetary contributions paid by the HOs based on decisions made on the basis of a majority of co-ownership shares or based on a decision which is at the request of an HO, brought by court, considering the anticipated costs and taking into account the financial situation of all HOs.<sup>39</sup>

#### *Section 1.5 Method of creation and structure of fees for maintenance and reserve funds*

**FBiH:** A minimum fee in FBiH is regulated by cantons. In both Cantons, all HOs are required to pay a fee for the maintenance and management of common parts of the building. However, the amount of the fee varies.

In **Sarajevo Canton**, it is regulated by the Decision on the Minimum Amount of the Monthly Fee for Management, and Maintenance of Common Parts of the Building,<sup>40</sup> so the minimum fee for buildings without hydro-flex and elevator is 0.25 BAM/m<sup>2</sup> and for buildings with hydro-flex or elevator is 0.38 BAM/m<sup>2</sup>.<sup>41</sup> In **Tuzla Canton**, it is regulated by the *Law on the Use, Management, and Maintenance of Common Parts and Equipment of Buildings in Tuzla Canton*,

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<sup>37</sup> Article 30 of the *Law on the Management of Common Parts of the Building in Sarajevo Canton*.

<sup>38</sup> *Law on the Property Rights of RS (Official Gazette of RS, 124/08, 3/09, 58/09, 95/11, 60/15, 18/16, and 107/19)*.

<sup>39</sup> Article 102, Para 1 of *Law on Property Rights in RS* and Article 102, Para 1 of the *Law on Property Rights in FBiH*.

<sup>40</sup> *The Official Gazette of Sarajevo Canton, No. 26/17*.

<sup>41</sup> Article 2, Para 1 of the *Decision on the Minimum Amount of the Monthly Fee for Management, and Maintenance of Common Parts of the Building (Official Gazette of Sarajevo Canton, No. 26/17)*.

so the minimum fee for housing and office space is 0.3 BAM/m<sup>2</sup> and for a garage within the building the minimum fee is 0.15 BAM/m<sup>2</sup>.<sup>42</sup>

**RS:** LBMRS stipulates that HOs are obligated to pay, as an advance payment for maintenance costs, for the improvement of building quality and the creation of a fund reserve, no later than the 15<sup>th</sup> day of each month, a monthly amount to the community account, determined by the Assembly, which cannot be less than 0.2 BAM/m<sup>2</sup> of usable area.<sup>43</sup>

### ***Section 1.6 Legal obligation to pay maintenance and reserve funds fees and analysis of practical enforcement***

**FBiH:** In Tuzla and Sarajevo cantons, this is regulated by laws stating that HOs have an obligation to pay fees for the management and maintenance of common parts of the building.

The establishment of reserve funds are defined in more detail in **point 1.4 of this study**.

**RS:** LBMRS provides that HOs must bear the costs of investments and regular maintenance and emergency interventions on common parts of the building in proportion to the share of the areas of their separate parts of the building, according to the costs actually incurred, unless otherwise specified in the contract of the establishing HOA.<sup>44</sup>

### ***Section 1.7 Enforcement of LHBM and related legislation in practice***

**FBiH:** The Ministry of Physical Planning, Construction, and Environmental Protection of Sarajevo Canton and the Cantonal Administration for Inspection Affairs of the KS is responsible for supervision over the application of the *Law on the Management of Common Parts of the Building in Sarajevo Canton*. In Tuzla, the Ministry of Physical Planning and Environmental Protection supervises the implementation of the *Law on the Use, Management, and Maintenance of Common Parts and Equipment of Buildings in Tuzla Canton*, while supervision of the execution of obligations under this law is performed by the city or municipality.

**RS:** The Ministry of Physical Planning, Construction, and Ecology is responsible for the administrative supervision of the implementation of LBMRS and related legislation. Inspection supervision is carried out by competent urban-construction inspectors and the communal police in the local government unit, as follows:

- urban-construction inspection for inspection supervision over the construction and use of buildings in terms of the provisions of the *Law on Inspections in RS*<sup>45</sup> and special provisions on supervision from the *Law on Spatial Planning and Construction*; and
- communal police for control over the maintenance and use of a special part of the building or parts and devices of the building that serve the building as a whole, relating to the sewerage and water-supply networks, gas and hot-water installations, electrical and lighting installations, chimneys, the maintenance of room hygiene, green areas, rooms for garbage and garbage collection, and more.

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<sup>42</sup> Article 33, Para 1 of the *Law on the Use, Management, and Maintenance of Common Parts and Equipment of Buildings in Tuzla Canton*.

<sup>43</sup> Article 35, Para 1 of LBMRS.

<sup>44</sup> Article 34, Para 1 of LBMRS.

<sup>45</sup> *Official Gazette of the Republika Srpska*, No. 74/10.

## **Section 2. Analysis of supportive regulatory conditions for HOA functioning, including but not limited to law(s) on the operation of HOAs, Civil Codes, Commercial Codes, all relevant government decisions, and legal definitions**

### ***Section 2.1 Legislation supportive to HOA functioning***

There are two other categories of legislation that support the functioning of HOAs.

**RS:** First, RS has regulations in the secondary legislation of LBMRS. There is a rulebook adopted directly based on LHBM provisions, including, for example, entry into the register of communities of buildings for the uniform application of the law on the maintenance of buildings.<sup>46</sup>

Second, there is legislation by which an HOA does not function directly for a subject but indirectly regulates legal relations linked to its own functioning. This legislation includes the *Law on Property Rights of RS*, the *Law on Obligations*,<sup>47</sup> the *Law on Spatial Planning and Construction*,<sup>48</sup> the *Law on Communal Activities*,<sup>49</sup> the *Law on Inspections in RS*,<sup>50</sup> the *Law on Energy Efficiency*,<sup>51</sup> the *Law on Enforcement Procedure*,<sup>52</sup> and others.

**FBiH:** As stated in Section 1.2 of this document, in FBiH, HOs regulate their relationships based on contracts. They may also register as associations; however, this is not mandatory according to the law. In Sarajevo Canton, secondary legislation of *Law on the Management of Common Parts of the Building* includes: the *Rulebook on Conditions for Performing the Work of the Manager*,<sup>53</sup> the *Rulebook on the Determination of Forced Representatives of HOs*,<sup>54</sup> and the *Decision on the Minimum Amount of the Monthly Fee for the Management and Maintenance of Common Parts of the Building in Canton Sarajevo*. In Tuzla Canton, secondary legislation of *Law on the Use, Management, and Maintenance of Common Parts and Equipment of Buildings in Tuzla Canton* includes the *Rulebook on Conditions for Performing the Work of the Manager*.<sup>55</sup>

As in RS, there is legislation that regulates legal relations between HOs, such as: the *Law on Cooperatives of BiH*<sup>56</sup>, the *Law on Property Rights of RS*, the *Law on Obligations*, the *Law on Spatial Planning and Land Use at the Level of the FBiH*, the *Law on Energy Efficiency in the FBiH*, the *Law on Spatial Planning of Sarajevo Canton*, the *Law on Inspections of Sarajevo Canton*,<sup>57</sup> the *Law on Communal Activities*,<sup>58</sup> the *Law on Inspections of Tuzla Canton*,<sup>59</sup> the *Law*

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<sup>46</sup> *Official Gazette of RS*, No 27/12.

<sup>47</sup> *Official Journal of SFRJ* No. 9/78, 39/85, 45/89, 57/89, *Official gazette of RS* No. 17/93, 3/96, 37/01, 39/03, and 74/04.

<sup>48</sup> *Official Gazette of RS* No. 40/13, 106/15, 84/19, 3/16, and 84/19.

<sup>49</sup> *Official Gazette of RS*, No. 124/11, and 100/17.

<sup>50</sup> *Gazette of RS*, No. 18/20.

<sup>51</sup> *Official Gazette of RS*, No. 59/13.

<sup>52</sup> *Official Gazette of RS*, No 59/03, 85/03, 64/05, 118/07, 29/10, 57/12, 67/13, 98/14, 5/17, 58/18, and 66/18.

<sup>53</sup> *Official Gazette of Sarajevo Canton* No.30/17.

<sup>54</sup> *Official Gazette of Sarajevo Canton* No.30/17 and 47/19.

<sup>55</sup> *Official Gazette of Tuzla City* No. 1/16.

<sup>56</sup> *Official Journal of BiH*, 18/03.

<sup>57</sup> *Official Gazette of Sarajevo Canton* No. 02/17.

<sup>58</sup> *Official Gazette of Sarajevo Canton* No. 14/16, 43/16, 10/17, 19/17, 20/18, and 22/19.

<sup>59</sup> *Official Gazette of Tuzla City* No. 10/12, 13/15, and 9/16.

on *Spatial Planning of Tuzla Canton*, the *Law on Communal Activities*,<sup>60</sup> the *Law on Enforcement Procedure*,<sup>61</sup> and others.

### ***Section 2.2 Bylaws that regulate management/maintenance of MABs***

**RS:** By-laws of LBMRS that regulate the management of HOAs are the *Rulebook on entry into the register of communities of buildings for the uniform application of the law on the maintenance of buildings*.

**FBiH:** In Sarajevo Canton, by-laws of the *Law on the Management of Common Parts of the Building* that regulate relations between HOAs are the *Rulebook on Conditions for Performing the Work of the Manager and the Rulebook on the Determination of Forced Representative of HOAs*. While in Tuzla Canton, by-laws of the *Law on the Use, Management, and Maintenance of Common Parts and Equipment of Buildings in Tuzla Canton* that regulate relations between HOAs include the *Rulebook on Conditions for Performing the Work of the Manager*.

### ***Section 2.3 Analysis of the institutional infrastructure of the enforcement of laws and bylaws that regulate the management of multi-apartment properties***

**RS:** The National Assembly of RS adopted LBMRS. In terms of enforcement, there are many levels of LBMRS.

The Ministry of Physical Planning, Construction, and Ecology, which is entitled to regulate housing activities, has a responsibility to define and regulate (1) housing relations; (2) the maintenance and management of buildings and apartments; and (3) administrative inspections of the implementation of the LBMRS and its secondary legislation, and others.

Inspection supervision and control over the implementation of LBMRS and regulations adopted based on this law shall be performed by competent urban and construction inspectors and communal police in the local self-government unit through the following:

- Urban-construction inspection
- Communal police
- Upon the indicated need or at the request of the communal police, the inspection may be performed by another inspection

**FBiH:** In Sarajevo Canton, the *Law on the Management of Common Parts of the Building* was adopted by Sarajevo Canton Assembly.

In Sarajevo Canton, the Ministry of the Physical Planning and Environmental Protection regulates housing activities and has responsibilities to supervise the application of the *Law on the Management of Common Parts of the Building* and other regulations: managing common parts of the building, the lawful conduct of the manager, compulsory manager, representative of HOAs, forced representative of HOAs, and HOAs. Competent inspectors perform inspection supervision through the Cantonal Administration for Inspection Affairs of the Sarajevo Canton.

In Tuzla Canton, the Tuzla Canton Assembly adopted the *Law on the Use, Management, and Maintenance of Common Parts and Equipment of Buildings*. In Tuzla Canton, the Ministry of

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<sup>60</sup> *Official Gazette of Tuzla Canton* No. 11/05, 7/07, 8/12, and 14/13.

<sup>61</sup> *Official Gazette of FBiH*, No. 32/03, 52/03, 33/06, 39/06, 39/09, 35/12, and 46/16; and *Official Journal of BiH*, No. 42/18.

Physical Planning and Environmental Protection, which regulates housing activities, has several responsibilities: (1) implementation of housing policy, (2) implementation of policies in the field of use, management, and maintenance of common parts and devices of the building, and (3) the preparation of analyses, information, and other professional and analytical materials from the residential area, areas of use, management, and maintenance of common parts and devices of the building and communal areas, etc. Competent inspectors and municipal authorities carry out inspection supervision.

### ***Section 2.4 Analysis of Law on Obligations and its effect on (1) payment of fees and (2) security of payment***

HOAs in RS and HOs or HOAs in FBiH may make payments voluntarily or may be forced to pay through claims.

Voluntary payments—i.e., fulfilling the contractual payment for the performed service—involve a regular settlement of contractual obligations for the performed services.

Forced payment is realized if HOA and/or HOs of a separate part of building have no funds or do not wish to continue to make the payment to the manager, or to the providers of other services/goods.

In RS, LBMRS defines that HOAs regulate the responsibilities of the HOAs through contracts for the establishment of the HOA, which regulates the mutual rights and obligations of the HOs.<sup>62</sup> HOs are secondarily responsible for the maintenance obligations assumed by HOAs in accordance with the criteria for the payment of maintenance costs established by LBMRS.<sup>63</sup>

Because there are more owners of separate parts of a building, a person who must collect a claim against an HOA can compensate that claim through any other owner of a separate or independent part of building. In this way, owners of separate parts of buildings are primarily liable among themselves if a case were to arise in which the HOA does not complete its payment. In such a case, the owner of a separate part of a building who has fulfilled contractual obligations of the housing community, or who has compensated damages caused by the HOA, has the right of regress from other owners. This regress must be proportionate in accordance with the method of determining the amount of proportionate parts of each individual owner of the separate parts of building, in accordance with internal rules of the HOA.

In Tuzla and Sarajevo Canton, the HO is obliged to take care of the apartment and maintain it in good condition so that other HOs incur no damage to their parts. For all damage that other HOs incur in connection to the performance of the obligation referred to above, or due to the HO's nonperformance, the HO with the obligation is the responsible party, and if it was the obligation of several HOs, they are primarily liable for damages.

Primary and secondary obligations are defined by the *Law on Obligations in RS* and the *Law on Obligations in FBiH*.<sup>64</sup> The *Law of Obligations* defines relations between contractual parties, whether they are legal entities or persons.

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<sup>62</sup>Article 20 of LBMRS.

<sup>63</sup> Article 33 of LBMRS.

<sup>64</sup>Article 1004 and 1005 of the *Law on Obligations* as well as Article 414, Para 1, and Article 423, Para 1 of the *Law on Obligations in RS*.

In RS and FBiH, the execution of the unpaid obligations of an HOA and/or HOs of separate parts of a building are regulated by laws on enforcement procedures,<sup>65</sup> which are made by Executors.

### ***Section 2.5 Analysis of the enforcement of HOAs and housing-related laws and by-laws***

There are two main procedures for the enforcement of HOA- and housing-related laws and bylaws.

#### **2.5.1. Administrative procedure enforced by Inspectors**<sup>66</sup>

**RS:** Ministry of Physical Planning, Construction, and Ecology supervises and administers the application of LBMRS and regulations adopted based on it.

Inspectors supervise inspections, provide expertise, and take preventive measures, including informing the subject of an inspection about the obligations outlined in legislation and the need to eliminate the causes of illegalities that may arise in the future.

The *Law on Inspections in RS*<sup>67</sup> applies to the treatment, rights, and obligations of inspectors that are responsible in each case.

Articles 46 of LBMRS defines in detail each responsibility of the communal police for the enforcement of LBMRS. The responsibility of communal police is also defined in the *Law on Communal Police*.<sup>68</sup>

The Ministry of Physical Planning, Construction, and Environmental Protection of Sarajevo Canton and the Cantonal Administration for Inspection Affairs of the KS is responsible for supervising the application of the *Law on the Management of Common Parts of the Building in Sarajevo Canton*.

**FBiH:** In Tuzla, the Ministry of Physical Planning and Environmental Protection supervises the implementation of *Law on the Use, Management, and Maintenance of Common Parts and Equipment of Buildings in Tuzla Canton*, while the city or municipality supervises the execution of obligations under this law.

The laws on inspections of Sarajevo Canton and Tuzla Canton<sup>69</sup> apply to the treatment, rights, and obligations of inspectors that are responsible in each case.

In RS and FBiH, inspection supervision and procedures are defined in Section 1.7 and Section 2.3 of this document, respectively.

#### **2.5.2. Enforcement of commercial regulation**

**In RS, Sarajevo, and Tuzla Cantons,** there are no specific provisions for the execution of commercial regulations of HOAs and the owners of separate or independent parts of buildings.

LBMRS includes a rule specifically defining the secondary liability of owners of separate parts of buildings for HOA's obligations. A party may demand the individual homeowners fulfillment of an

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<sup>65</sup> *Official Gazette of RS*, No 59/03, 85/03, 64/05, 118/07, 29/10, 57/12, 67/13, 98/14, 5/17, 58/18 and 66/18 and *Official Gazette of FBiH*, No 32/03, 52/03, 33/06, 39/06, 39/09, 35/12 and 46/16 and *Official Journal of BiH*, No. 42/18

<sup>66</sup> Article 122 of LHBM.

<sup>67</sup> *The Law on Inspection Supervision (Official Journal of RS*, No. 36/15, 44/18 – other law and 95/18).

<sup>68</sup> *Official Gazette of RS*, No. 28/13.

<sup>69</sup> *Official Gazette of Tuzla City* No. 10/12, 13/15 and 9/16 and *Official Gazette of Sarajevo Canton* No. 02/17.

obligation only after the HOA, as the principal debtor, fails to fulfill it within the term specified in the written summons.

In RS, Sarajevo and Tuzla Cantons, the principle of primary liability of the owners of the separate parts of the building is based on the provisions of *Laws on Property Rights in RS* and *FBiH*. Both laws define that the joint owners (HOs) bear jointly the costs and burdens related to the common thing (common parts of the building).<sup>70</sup> The obligation of the holder of the claim against the HOA or manager will, thus, shift entirely to one owner of a separate part of the building—with the additional burden that a "randomly selected" owner of a separate part of the building—to collect each proportional part from the other primary debtors. This owner of a separate part of the building then bears the risk of exercising his or her right to collect from each other owner of a separate part of the building a proportionate part of the claims, including the additional interest on the period from the time when the claim against the HOA/manager was calculated until all regress receivables are collected.

### *Section 2.6 Existence of a lien on property execution and its functioning*

The LBMRS, the *Law on the Use, Management, and Maintenance of Common Parts and Equipment of Buildings in Tuzla Canton*, and the *Law on the Management of Common Parts of the Building in Sarajevo Canton*, do not define existence of a lien on property execution and its functioning legal relations more precisely.

**RS:** To secure credit receivables, banks often seek real-life loan collateral, such as a mortgage or a pledge. A pledge is a more practical means of collateral, given that it is of less value and it is assumed that an HOA has previously obtained certain movable property that may be the subject of the pledge. A mortgage is not practical in this regard, since placing a mortgage on the common parts of a building implies that they are divided and can be sold in relation to the entire building. On the other hand, real security for loans cannot be based on the property of an HOA unless an HOA has previously acquired adequate funds, including money in the account or certain movable or immovable property, through its commercial activity.

Only a limited number of HOAs have commercial revenue (i.e., rent) that demonstrate creditworthiness to banks.

**FBiH:** The situation is similar in Sarajevo and Tuzla Canton. The most common pledge given by HOs or HOAs is a pledge in cash, and it is much less common for real estate to be pledged. A cash pledge is an option that suits the HOs due to the simplicity and flexibility of the procedure and because it allows for easier collection of receivables in case of debt.

### **Section 3: Analysis of Governments Housing policies and regulatory framework (e.g., on rehabilitation of multi-story housing stock)**

There is ongoing work on the 4<sup>th</sup> National Energy Efficiency Action plan (NEEAP) in BiH and its submission is expected by the end of 2020. The Roadmap for Implementation of the Energy Efficiency Directive requirements, which is an integral part of the third NEEAP, contains obligation for the development of the Building Renovation Strategy in BiH. Although the Strategy is drafted, it has not yet been published and its adoption is expected by the end of this year.

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<sup>70</sup> Article 45, Para 3 of the *Law on Property Rights in RS* and Article 45, Para 3 of the *Law on Property Rights in FBiH*.



The development and funding of the building stock renovation mechanism is foreseen in the drafted Renovation Strategy; however, since it has not been adopted yet, the funding mechanism is currently missing. The development banks in BiH (IRBR<sup>71</sup> and RFB<sup>72</sup>) currently do not have specialized loan products or credit lines to finance HOAs. Guaranty schemes and Guaranty funds currently do exist in the country, but none of them are focused on the housing sector or providing guarantees for loans to HOAs. Renovation is only sporadically financed on the municipality level, which mostly includes pilot projects. However, in some parts of the country there are financing mechanisms in place including Sarajevo, Tuzla, and central Bosnia cantons, but with limited funding. Environmental Funds in FBiH and RS also provide grant co-financing for energy audits in MABs. As mentioned, the renovation activities in BiH can be classified as pilot projects, therefore very few MABs have been renovated up to the EU standard so far. According to the information available, the total number of renovated MABs in BiH is less than 100.

*Section 3.1: Review of the functioning of RBM companies, regime of functioning (licensed or not), market characteristic of RBM, analysis of market key actors, size of companies and main characteristics*

**FBiH:** HOs may agree to entrust the management to a designated person as manager, who will act as their representative. One or more HOs may be selected as the manager. The management may be entrusted to another physical or legal person. However, some cantonal laws require mandatory hiring of an RBM company. In **Sarajevo Canton**, it is mandatory to choose an RBM company in a building with three or more HOs. In **Tuzla Canton**, it is mandatory in a building with two or more HOs. Minimum maintenance fee in FBiH is regulated by cantons. In Sarajevo Canton, minimum fee collected by RBM for MABs without hydro-flex and elevator amounts to 0.25 BAM/m<sup>2</sup>, and for buildings with hydro-flex or elevator, the fee amounts to 0.38 BAM/m<sup>2</sup>. In Tuzla Canton, the minimum fee is 0.3 BAM/m<sup>2</sup>.

**RS:** In the accordance with the *Law on building maintenance*, HOs are required to register to form HOAs. In accordance with this law, HOA is a special form of condominium organization that is established by contract to perform the management of common parts of the building. The performance of the building maintenance work may be outsourced to a public or other company or registered entrepreneur to carry out this type of activity, or in any other way that ensures their organized performance (homemaker, housekeeper, etc.). However, in practice RBM companies are not engaged in the RS market. In RS, the minimum fee is 0.2 BAM/m<sup>2</sup>.

The exact information on the size of the RBM market in BiH is not publicly available. However, according to our estimate, it is around 10–15 million EUR per year. The largest RBM companies in BiH are operating in Sarajevo market including Sarajevostan, OKI, and Hetig.

Considering that in the RS it is mandatory to register HOAs, the percentage of MABs in BiH which are managed by HOAs is presumably 41.6%, which is the percent of buildings in the RS out of the total BiH stock. Also, since the buildings in the FBiH are obligated to choose RBM for maintenance, the percentage of the total BiH building stock under RBM management is 58%.

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<sup>71</sup><https://www.irbrs.org/azuro3/a3/>

<sup>72</sup><http://www.rfbbih.ba/bih/index.php>

However, it should be noted that not all the buildings in the RS have registered HOAs, nor have all the buildings in FBiH taken RBM; however, there is no exact available data on that.

Regarding the possibility of bank financing being directed to HOAs through RBMs, **HOAs in FBiH** do not have legal status, so cannot be financed from the banks directly. However, bank financing could be obtained only via RBMs, but this approach would not be fully in line with banking practices. Since there is a legal obstacle for HOAs to be financed directly, some banks have explored the option of financing MMB, which would then use this funding to lend to HOAs. However, RBMs are reluctant to use this mechanism since, in that case, MMBs would be taking a credit risk.

In the **RS entity, HOAs are legal entities** that can borrow from the banks directly and HOAs are not obligated to engage RBMs.

### **Conclusions and Recommendations for the Housing Sector**

- The problem of managing common parts of residential buildings is complex and multilayered. It is generally understood that there is a need for reform in the sector of maintenance and management, especially in FBiH.
- There are many differences in the legislative frameworks for the housing sector between the two entities of BiH. This can be seen in the ways that MABs are managed and maintained.
- A major legislative obstacle in both RS and FBiH is the legal requirement that major renovation work must be carried out on a MAB only with the unanimous (100%) consent of HOs. This is unlike the countries where there is major stock renovated, such as Slovakia, and it represents a bottleneck for renovation at scale. A single HO may withhold the execution of urgent renewal by refusing to give his or her consent. While there is a legal provision that allows every HO to enforce the execution of renewal work in the event of a failure to secure unanimous consent, only a court of law may order such an enforcement, a complicated and risky procedure not many HOs would be willing to undertake.
- HOAs are recognized as legal entities through the legislative setup in RS, while this is not the case in the FBiH.
- The development of policies and strategies to improve the management of housing is not a political priority, and social support for housing is marginal. The low level of financing, lack of specialized credit funds for investment in maintenance, and lack of programs to address the technical problems in older multi-apartment housing contribute to further deterioration.
- The general objective of reforming the existing legal framework includes increasing or maintaining the value of existing and newly built housing stock and improving their EE and quality.

**FBiH recommendation:** Change existing legislative frameworks and prescribe the legal obligation to establish HOAs. There must be mandatory provisions for setting up collective coordinating bodies, such as HOAs, for which legal obligations for maintenance should be established.

**General BiH recommendation:** Taking into consideration the differences in legal solutions in RS and FBiH, the following general recommendations are proposed:

- Improve or even professionalize housing management as a necessary institutional prerequisite.

- Establish budgetary funds at the entity and local levels for refurbishment and maintenance programs.
- Provide support schemes for low-income households (e.g., income-related subsidies for refurbishments, social assistance for the low-income to be connected to the existing housing allowances, etc.).
- Prescribe a legal manner of bookkeeping and reporting of common reserves (funds) for transparency. Based on the provisions of LBMRS and cantonal laws on the use, management, and maintenance of common parts and devices of the building, HOs can use these funds to pay for the maintenance and management of common parts and devices of buildings.
- Simplify procedures for undertaking renovation works on buildings.
- Allow HOAs to have certain enforcement recourse against owners who are not willing to take part in maintenance schemes or are otherwise unable to fulfill their obligations.
- Guarantee efficient supervision of the work of housing managers and define specifically the obligations of housing managers.
- Invite the participation of all stakeholders, primarily HOs, in designing and implementing reforms.
- Adopt appropriate legal provisions that effectively deal with housing-costs defaulters.

## ENERGY SECTOR ANALYSIS

### Section 4: Analysis of energy-related support programs for building rehabilitation in line with the EU Energy Performance of Buildings Directive (EPBD) and Energy Efficiency Directive (EED)

#### *Section 4.1: EE targets and building renovation strategies*

Responsibility for EE in BiH lies mainly with the two entities of the Federation, both the Federation of Bosnia and Herzegovina (FBiH) and the Republic of Srpska (RS). The legal framework for the EE sector consists of laws serving the entities, specifically the following:

- In the FBiH: The *Law on Energy Efficiency of the FBiH*<sup>73</sup> (LOEE)
- In the RS: The LOEE,<sup>74</sup> the *Law on Spatial Planning and Construction* (LSPC),<sup>75</sup> and the *Law on Energy*.<sup>76</sup>

These laws of the two entities of the country have been established to transpose EU regulations and directives, the EED (2012/27/EU) and the EPBD (2010/31/EU), but currently, the imposition of the directives is accomplished only partially. There are several challenges that must be addressed that are discussed in the following analysis.

**FBiH:** The LOEE in FBiH was adopted in 2017. This law regulates EE in final consumption, adoption, and implementation of plans for improving EE, and measures to improve EE. Measures to improve EE include energy services and energy audits; public sector obligations;

<sup>73</sup> *Law on Energy Efficiency of the FBiH (Official Gazette of FBiH, No. 22/17).*

<sup>74</sup> *Law on Energy Efficiency of the RS (Official Gazette of RS, No. 59/13).*

<sup>75</sup> *Law on Spatial Planning and Construction (Official Gazette of RS, No. 40/13, 106/15, 3/16, and 84/19).*

<sup>76</sup> *Law on Energy (Official Gazette of RS, No. 49/09).*

obligations of consumers of large amounts of energy; and the rights and obligations of end consumers, who comprise the public, housing, and commercial sectors, regarding the implementation of EE measures, the method of financing EE improvements, and other issues important for EE. Through the by-laws from 2018 and 2019, the obligation to perform energy audits, secure building energy certification, and ensure a building's energy performance is prescribed and updated. The building energy certification requirement is fully enforced for new buildings, but only partially enforced for public buildings and buildings that are being sold.

**RS:** The LOEE in RS was adopted in 2013. This law regulates EE in final consumption, adoption of plans for EE improvement and their implementation, organization of work on EE improvement, measures for EE improvement, and ways of financing EE.

The *Law on Spatial Planning and Construction in RS* and by-laws from 2015 within that law prescribe obligations related to building energy performance, energy audits of buildings, and energy certification of buildings. The building energy certification requirement is fully enforced for new buildings, but only partially enforced for buildings that are reconstructed and buildings that are being sold.

**National (both entities):** The *Law on Spatial Planning and Land Use in RS* and by-laws from 2015 within that law prescribe obligations related to building energy performance, energy audits of buildings, and energy certification of buildings. The building energy certification requirement is fully enforced for new buildings, but only partially enforced for buildings that are reconstructed and buildings that are subject to sale.

These laws on EE, **in both FBiH and RS**, prescribe each entity's development of an **EE Action Plan**, at the level of each of the FBiH and RS.

EED requires the adoption of the NEEAP for each member of the Energy Community. BiH has not adopted the 1st and 2nd NEEAP, but has adopted the 3rd NEEAP for the period 2016 to 2018, in 2017, at the national level.

The NEEAP includes EE action plans for each of the entities: The EE Action Plan in FBiH from 2016 to 2018 and Amendments to the Action Plan for Energy Efficiency in RS until 2018. Measures and programs anticipated by these plans are elaborated and planned in detail, and their implementation is within the capacity of both entities. The 3rd NEEAP contains measures and programs whose implementation is within the capacity of FBiH, RS, and Brčko District.

There is ongoing work on the fourth NEEAP, but its submission to the Energy Community Secretariat is delayed; submission is currently expected by the end of 2020 (deadline was June 30, 2019).

The roadmap for implementation of EED requirements, an integral part of the 3rd NEEAP, contains the exact activities that must be undertaken for development and establishment of the Building Renovation Strategy in BiH. According to the roadmap, the deadline for drafting the Strategy was October 2018, and its publication was scheduled for the end of November of the same year. However, the Building Renovation Strategy has not yet been published, although its adoption is expected by the end of 2020.

According to the 3rd NEEAP for BiH, the target of savings in final energy consumption (FEC) in BiH for 2018 was 12.47 PJ (0.3 million tons of oil equivalent [Mtoe]), or 9% of the average FEC for the period 2006 to 2010. The overall goal is divided into four sectoral goals for the housing,

services, industry, and transport sectors. Most savings are expected in the housing and industry sectors.

According to the Framework Energy Strategy of Bosnia and Herzegovina through 2035 (FESBiH), the long-term vision in BiH is to create a competitive and long-term sustainable energy system, with a focus on the security of the energy supply. The FESBiH is a key strategic document for long-term planning of the energy sector, and EE has been identified as a priority component. The strategic goals are energy savings in final consumption; the process of transformation, transmission, and distribution of electricity, gas, and heat; the creation of conditions for highly efficient cogeneration, and promotion and expansion of efficient district heating systems; and the improvement of the legal and regulatory framework for EE, defining financial measures and the institutional framework for implementation, and conducting information campaigns, education, and training. According to the FESBiH, total savings in FEC of 15.25 PJ are expected by 2020, and by 2035, total savings of 31.31 PJ are expected.

Sectoral total final energy consumption (TFEC) trajectories for the building, industry, transport, and other sectors were not originally provided in the NEEAP and were determined for the purposes of the Third Annual Report under the EED for 2018, based on participation of each sector in the TFEC according to the official statistics for 2016 (**Table 16**).

**Table 16. Division of Targets per Sector and per Article of the EED<sup>77</sup>**

	Target 2018	Target 2019	Target 2020
EED Article 3 (kilotons of oil equivalent [ktoe] or another unit)	297 (TFEC)		964 (total primary energy consumption [TPEC])
EED Article 5 (ktoe or another unit)	Article 5 targets not adopted		
EED Article 7 (ktoe or another unit)	30.94	52.52	77.33
FEC (ktoe)	4,056	4,048	4,038
FEC—Buildings	1,833	1,830	1,825

#### **Section 4.2: EE fund establishment**

Various fees for environmental protection are collected at the **entity level**, in the FBiH through the entity's Environmental Protection Fund and in the RS through that entity's Environmental Protection and EE Fund.

**FBiH:** The Environmental Protection Fund of FBiH was established in 2003 by the *Law on the Environmental Protection Fund of the FBiH*.<sup>78</sup> The implementation of EE measures can be partially financed using money from the Environmental Protection Fund, which are also used to finance environmental protection activities, including activities related to improving EE. FBiH disburses Environmental Protection Fund financing in the form of grants and loans, under

<sup>77</sup> Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina. (2019 July). Third Annual Report under the Energy Efficiency Directive for 2018. Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina; p 6. Available at [https://www.energy-community.org/implementation/Bosnia\\_Herzegovina/reporting.html](https://www.energy-community.org/implementation/Bosnia_Herzegovina/reporting.html)

<sup>78</sup> *Law on the Environmental Protection Fund of the FBiH* (Official Gazette of FBiH, No. 33/03).

conditions favorable to the Fund. The *Rulebook on the Allocation of Funds from the Revolving Fund* established the Revolving Fund in the Environmental Protection Fund of FBiH for financing EE projects. Funds, in the form of loans, from the Revolving Fund can finance projects, programs, and activities for the purpose of investing in EE improvements, among other projects, in residential buildings, which may include measures related to the improvement of the building envelope; heating, ventilation, and air conditioning system; and lighting system.

**RS:** The Environmental Protection and EE Fund of RS was established in 2011 by the *Law on the Fund and Financing of the Environmental Protection of RS*.<sup>79</sup> Besides the fees collected for environmental protection, the Fund collects 10% of funds raised for stimulation of renewable electricity production and efficient cogeneration, in order to implement measures to improve EE and stimulate energy production from renewable sources. The Environmental Protection and EE Fund of RS disburses funds solely in the form of grants.

**National (both entities):** According to available data from the draft Building Renovation Strategy of BiH, in 2018, 108 million EUR were allocated in BiH to finance EE projects. Most of the funds were from domestic commercial sources of financing (funds of commercial banks and microcredit organizations) and international sources of financing (EBRD, KfW, WBG, EU funds, UN funds, etc.).

However, the funds available to the Environmental Protection Fund of FBiH and the Environmental Protection and EE Fund of RS are insufficient to achieve EE in BiH; additional funds and fees are needed.

#### **Section 4.3 EE obligation (EEO) scheme (utility-based residential EE investments)**

**National (both entities):** The EED (Directive 2012/27/EU) introduces legally binding measures for the countries of the EU Energy Community, of which BiH is a member, and obligates those countries to introduce EEO schemes. EEO schemes are policy instruments that require obligated parties (distributors and/or energy suppliers) to achieve certain energy savings on the part of their customers.

Current legislation in BiH does not mandate the implementation of EEO schemes. BiH has expressed its commitment to including such a mandate in legislation, and proposals for amendments to the *EE Law* have been made. Adopting amendments to the law would enable further steps in the establishment of the EEO schemes.

Through its Energy Investment Activity, USAID has provided technical assistance in creating an EEO model in BiH. A Working Group consisting of relevant representatives of state and entity ministries, institutions, and regulatory commissions has been established, and a framework model for EEO in BiH has been defined. According to this framework model, suppliers and distributors of electricity and heat charge end-users on the basis of the EEO, and then invest the collected funds in EE improvements at their end-users, i.e., household owners, in accordance with strategic goals defined by the relevant authorities (The Ministry of Foreign Trade and Economic Relations of BiH, Ministry of Energy, Mining and Industry in FBiH, and Ministry of Energy and Mining in RS).

The actions taken so far are detailed below.

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<sup>79</sup> *Law on the Fund and Financing of the Environmental Protection of RS (Official Gazette of RS, No. 117/11)*.

- Producing the *Draft EEO Scheme Framework for BiH (2015)*: The Draft Obligation Scheme Framework presents a proposal for a comprehensive structure for an EEO scheme in BiH. The document proposes characteristics of the model that should be taken into account when establishing the EEO scheme, namely: calculation method and target size, commitment period, prescribing target body, administrative body, energy and sector selection, obligated parties, acceptable measures, reporting, monitoring, and verification.
- Producing the *EE Action Plan in BiH for 2016–2018 (2017)*: In the EE Action Plan, four actions were scheduled: (1) preparation and adoption of amendments to the entity's EE laws; (2) formulation of a methodology for calculating EEO schemes; (3) adoption of regulations for implementation of EEO schemes; and (4) adoption of detailed implementing regulations or guidelines. In BiH, there are four key stakeholders involved in setting up the EEO mechanism: legislative bodies, state and entity ministries, governments, and regulators.
- Producing the *Framework Energy Strategy of Bosnia and Herzegovina through 2035 (2018)*: It is crucial for the success of EEO schemes and/or other financing measures that adequate mechanisms for their implementation are in place. The Framework Energy Strategy sets guidelines for the development of a financial framework with the aim of financing EE projects by introducing EEO schemes and finding the optimal mix of EEO schemes and alternative measures.

For BiH, the Framework suggests that in the first 2 years of implementation, savings of 0.5% will be achieved, and in the second 2 years of implementation, savings will increase to 0.7%.

BiH is currently working on the development of an EEO scheme model that will be appropriate for the specific situation in BiH and constitutional jurisdictions at all levels of government. The EEO Working Group, which consists of all relevant representatives of state and entity ministries, institutions, and regulatory commissions, continues to work on the scheme. A proposal for the EEO scheme model for financing EE measures in the housing sector was made in 2019 by USAID.

Activities to introduce the EEO scheme are underway through the assistance of a new USAID project, the Energy Policy Activity (EPA) program. The framework of the model has been defined and agreed to by the state and entity institutions that are members of the EEO Working Group. The implementation of the obligation schemes is expected in the period of 2021–2024.

### ***Section 4.3 Building energy certification for existing MABs***

**FBiH:** The process of energy certification of buildings in FBiH began in 2009–2010, when regulations regarding the EE of buildings become mandatory. The first EE certificates were issued in 2011, and all new buildings since 2018 have energy certificates.

Since 2017, ordinances regarding energy certification of buildings have been updated; once the law on EE was adopted, new rulebooks were adopted as well.

Building energy certification for existing MABs is regulated by legislation on the energy, mining, and industry sectors. The umbrella legal act is the LOEE.<sup>80</sup> By-laws relevant to energy certification for existing MABs are the *Decree on Conducting Energy Audits and Issuing Energy*

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<sup>80</sup> *Law on Energy Efficiency in the FBiH (Official Gazette of FBiH, No. 22/17).*

*Certificates*<sup>81</sup> and the *Rulebook on Minimum Requirements for Energy Performance of Buildings*.<sup>82</sup>

The energy performance of buildings is the actual amount of energy consumed or calculated that meets the various needs related to standard use; it particularly relates to energy for heating, hot water preparation, cooling, ventilation, and lighting. Energy performance is determined by an authorized organization, which issues a certificate on the energy performance of buildings according to criteria described below. The certificate is issued through the central register of energy certificates, which was maintained by the ministry responsible for spatial planning until the establishment of the EE Agency.<sup>83</sup>

In accordance with EU regulation, particularly with EPDB (2010/31/EU), the *Rulebook on the conditions, content, and method of issuing a certificate on energy performance of buildings* lays out the classification—or energy performance certification (an “energy passport”)—of new and existing buildings into eight different energy performance classes, ranging from A+ (best) to G (worst), that are differentiated by building type (e.g., single-family vs. multilevel residential buildings, commercial buildings, education buildings). The energy passport must be issued by a certified engineer. The legislation requires new buildings to have an energy class of at least B; renovations must improve existing buildings’ rating by at least one class. A building’s energy performance is calculated based on a maximum allowable energy consumption for heating, expressed as a ratio of its consumption relative to the maximum amount, Category B, in kilowatt hours per square meter (kWh/m<sup>2</sup>) annually.

Buildings that are subject to EE certification are (1) new buildings; (2) buildings or parts of buildings that make up a technical-technological or functional unit, which are sold or leased; as well as (3) public buildings that have a usable area of more than 500 m<sup>2</sup>.

The need to obtain energy certification is the same for MABs as it is for other buildings.

Buildings that do not require an energy certificate are (1) new and existing detached buildings for sale or rent, which have a usable area of less than 50 m<sup>2</sup>; (2) buildings from the list of buildings referred to in Article 25, Para. 3, of LOEE; (3) buildings with an estimated useful life of 2 years or less; (4) temporary buildings constructed within the framework of preparatory works for the needs of the construction site organization, with a shelf-life of 2 years or less; (5) workshops, production halls, industrial buildings, nonresidential agricultural buildings with low energy consumption, and other industrial complexes which, in accordance with their purpose, must be kept open for more than half of the working hours if they do not have built-in air curtains; (6) buildings used as religious facilities or places for religious services; (7) buildings that are under a certain regime of protection and in which the fulfilment of EE requirements would be contrary to the conditions of protection; (8) residential buildings that are used or intended for use for a period shorter than 4 months per year or for limited annual use and with

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<sup>81</sup> *Decree on Conducting Energy Audits and Issuing Energy Certificates (Official Gazette of FBiH, No. 87/18).*

<sup>82</sup> *Rulebook on Minimum Requirements for Energy Performance of Buildings (Official Gazette of FBiH, No. 81/19).*

<sup>83</sup> Article 5 of the *Law on Energy Efficiency in FBiH (Official Gazette of FBiH, No. 22/17).*



an expected energy consumption of less than 25% of the year-round use; and (9) buildings that are not heated or heated up to +12 °C.<sup>84</sup>

**RS:** The process of energy certification of buildings in RS began on January 1, 2016, when EE regulations for buildings became mandatory. The first energy performance certificate was issued on August 5, 2016.

Building energy certification for existing MABs in RS is regulated by legislation on the planning and construction sectors. The umbrella legal act is the LSPC.<sup>85</sup> By-laws relevant to energy certification for existing MABs are the *Rulebook on Performing Energy Audits of Buildings and Issuing Energy Certificates*<sup>86</sup> and the *Rule Book on Minimum Requirements for Energy Performance of a Building*.<sup>87</sup>

Again, the energy performance of buildings is the actual amount of energy consumed or calculated that meets the various needs related to standard use, and particularly relates to energy for heating, hot water preparation, cooling, ventilation, and lighting. Energy performance is determined by an authorized organization, which issues a certificate on the energy performance of buildings according to criteria described below. The certificate is issued through the register of authorized organizations, maintained by the Environmental Protection and EE Fund of RS.<sup>88</sup>

In accordance with EU regulations, as in FBiH, particularly with EPDB (2010/31/EU), the *Rulebook on energy audits* lays out a classification, or energy performance certificate (an “energy certificate”), of new and existing buildings into eight different energy performance classes, ranging from A+ (best) to G (worst), differentiated by building type (e.g., single-family vs. multilevel residential buildings, commercial buildings, education buildings). The energy certificate must be issued by a certified engineer. The legislation requires new buildings to have an energy class of at least C; renovations must improve existing buildings’ rating by at least one class. A building’s energy performance is calculated based on a maximum allowable energy consumption for heating, expressed as a ratio of its consumption relative to the maximum amount, Category C, in kWh/m<sup>2</sup> annually.

Buildings that are subject to EE certification in building sectors are: (1) new buildings; (2) new buildings or parts of new buildings that make up a technical-technological or functional unit, which are sold or leased; and (3) buildings that will be reconstructed, upgraded, renovated, adapted, (energy) rehabilitated, only when it is economically viable and if it is technically possible to ensure that the performed works achieve the prescribed energy characteristics for every type of building determined by the LSPC and other applicable regulations.

The need to obtain energy certification is the same for MABs as it is for other buildings.

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<sup>84</sup> Article 8 of the *Decree on Conducting Energy Audits and Issuing Energy Certificates* (Official Gazette of FBiH, No. 87/18)

<sup>85</sup> *Law on Spatial Planning and Construction* (Official Gazette of RS, No. 40/13, 106/15, 3/16, and 84/19)

<sup>86</sup> *Rulebook on Performing Energy Audits of Buildings and Issuing Energy Certificates* (Official Gazette of RS, No. 30/15 and 93/16 other law)

<sup>87</sup> *Rulebook on Minimum Requirements for Energy Performance of a Building* (Official Gazette of RS, No. 30/15)

<sup>88</sup> Article 4 of the *Rulebook on Performing Energy Audits of Buildings and Issuing Energy Certificates* (Official Gazette of RS, No. 30/15 and 93/16 other law).

Buildings that are not required to obtain an energy certificate are: (1) buildings that are under a certain regime of protection and in which the fulfilment of EE requirements would be contrary to the conditions of protection; (2) buildings intended for holding religious ceremonies; (3) buildings with an estimated useful life of 2 years or less; (4) workshops, production halls, industrial buildings, and other commercial buildings which, in accordance with their purpose, must be kept open for more than half of their working hours if they do not have air curtains installed; (5) residential buildings used or intended to be used less than 4 months a year or one limited time of year, where expected consumption of energy is less than 25% of the amount needed for year-round use; and (6) detached buildings with a total gross construction area of not less than 50 m<sup>2</sup>.<sup>89</sup>

In RS, energy certification has been performed mostly for new buildings because the certification is a prerequisite for securing a use permit for the buildings. For public buildings, energy certification has been sporadic so far, mainly for public buildings being renovated soon.

#### *Section 4.4 Possibility of ESCO/EPC in residential buildings*

**National (both entities):** One of the ways to finance EE measures is through energy services and energy performance contracts (EPCs), i.e., the ESCO model. Although this model is provided for by the entities' EE laws, both the LOEE and the LSPP, the market of energy services has not been developed yet. One of the reasons is that by-laws prescribed by the entity EE laws have not been adopted.

In BiH, the entity EE laws regulate establishment of ESCOs, but they do not completely regulate EPCs. EE laws in FBiH and RS define "energy service" as activities and actions that lead to measurable EE improvements of buildings and other facilities, technical systems and production processes, or energy savings that can be expressed in money, using energy efficient technology (i.e., actions that achieve energy savings). The energy service is provided by the ESCO or another legal entity, (i.e., an energy service provider), based on the EPC. The offer of energy services must contain data on the energy service provider, measures to improve EE, prices, financing mechanisms, the contract model, and other information.

There are several ESCO pilot projects in BiH. One of the best examples is in Livno. In 2013, the public-private partnership between the Municipality of Livno and a private company was formed, with an ownership ratio of 10% and 90%, respectively. The Municipality's share refers to the cession of the existing building of the city heating plant and the land in which the heat pipes are laid. All investments have been made using funds from the private partner. So far, the reconstruction of the existing heating plant has been completed; a 6-megawatt (MW) heating plant has been installed, which uses wood biomass as an energy source. In all buildings (residential and public) connected to the central heating system, calorimeters were installed to measure the consumption of thermal energy for each consumer separately.

Currently, there are no preconditions for the further development of the ESCO market (due to the lack of by-laws that will define the conditions for concluding the EPC). Changes to the legal framework are needed to facilitate implementation of the ESCO model and open the energy

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<sup>89</sup> Article 96 of the *Law on Spatial Planning and Construction (Official Gazette of RS, No. 40/13, 106/15, 3/16, and 84/19)*.

services market in BiH. Such measures aim to create a larger number of EE projects in buildings and to achieve greater market efficiency and effectiveness.

#### ***Section 4.5 Accreditation of energy auditors/building energy assessors and certifiers***

Accreditation of energy auditors is regulated by the LOEE in FBiH and by the LSPC in RS.

The LOEE and LSPC mandate that an authorized energy auditor performs energy audits. An authorized energy auditor is a natural or legal person, registered in the register of authorized energy advisers maintained by the Federal Ministry of Spatial Planning in FBiH and Energy and Mining of the Republic of Srpska<sup>90</sup> in RS.

An authorized energy auditor is obliged, after the completed energy audit, to submit to the Federal Ministry of Spatial Planning in FBiH and EPA and EE of the Republic of Srpska in RS, the information on the completed energy audit within the deadline, in the manner and form defined by the Federal Ministry of Spatial Planning in FBiH and Ministry of Industry, Energy and Mining in RS. The authorized energy auditor prepares and signs the report on the implementation of the energy audit, with proposals for EE measures.<sup>91,92</sup>

The Federal Ministry of Spatial Planning issues licenses for engineers responsible for EE in buildings in FBiH<sup>93</sup>; the Ministry of Industry, Energy and Mining issues those licenses in RS.

#### **Conclusions and Recommendations on the Energy Sector**

For the successful renovation of MABs, it is necessary to develop efficient and adequate strategic frameworks that include institutional changes, capacity-building, modification of existing and adoption of new regulations, and development and adoption of financing plans for renovation programs while ensuring sustainable financial mechanisms. It is also necessary to create preconditions and establish a mechanism for informing legal and natural persons about the need for and benefits of implementing EE improvement measures. To improve the energy sector, it is necessary to amend existing and adopt new legal regulations and create efficient financial models for financing the renovation of buildings in BiH.

Following are general recommendations for successful implementation of building renovation, drawn from this analysis:

- Establish new and strengthen existing capacity of institutions responsible for EE in BiH (capacity-building).
- Develop a Building Renovation Strategy and update it every 3 years; it should be prescribed by entity EE laws.
- Establish an EEO scheme by drafting and adopting bylaws that would define the issues of implementation of the EEO, a methodology for determining target savings from the establishment of EEO, and a methodology for calculating EEO fees.
- Adopt by-laws that will define the conditions and risks for concluding the EPC between household owners and ESCOs that will stimulate financing of building

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<sup>90</sup> Article 92 of the *Law on Spatial Planning and Construction (Official Gazette of RS, No. 40/13 and 106/15)*.

<sup>91</sup> Article 6 of the *Decree on Conducting Energy Audits and Issuing Energy Certificates (Official Gazette of FBiH, No. 87/18)*.

<sup>92</sup> Article 11 of the *Rulebook on Performing Energy Audits of Buildings and Issuing Energy Certificates (Official Gazette of RS, No. 30/15 and 93/16)*.

<sup>93</sup> *Decree on Conducting Energy Audits and Issuing Energy Certificates (Official Gazette of FBiH, No. 87/18)*.

renovation through the conclusion of contracts in form of the repayment of investment in renovation through the achieved energy savings, an EPC between households and ESCOs.

- To initiate the renovation of buildings, amend relevant laws introducing additional fees and charges to finance EE projects. Energy and CO<sub>2</sub> taxes must be introduced to provide funding for EE, but in combination with support for socially vulnerable categories.
- Introduce consumption-based billing (heating energy) in buildings with a district heating system, and determine the legal obligations related to the introduction and operation of this system.

## **BANKING SECTOR ANALYSIS**

### **Section 5: Analysis of major nonlegal obstacles to commercial lending to HOAs, such as risk perceptions among commercial bankers, and suggested approaches for removing such obstacles**

#### *Section 5.1: Analysis of HOA risk and the banking sector's perception of risk*

In both FBiH and RS, the legal framework on HOAs is based on laws that regulate wider property rights.<sup>94</sup> Among these rights are the joint and shared ownership of properties, common areas of buildings, and structure management and maintenance. Based on the *Law on Property Rights of the FBiH*, each canton also has its own law that regulates the management of the common areas of multi-owner buildings.<sup>95</sup> Similarly, in RS, the *Law on Building Maintenance*<sup>96</sup> defines in detail the role of HOAs in managing and maintaining a building's common areas.

**FBiH:** HOs are not required to register individually to form an HOA. According to the *Law on Property Rights of the FBiH*, the HOs' purchase or lease contract regulates the scope and manner of use and maintenance of special parts of real estate and portions of the property that serve the building occupants. Therefore, HOs regulate their relationship with each other based on that contract and not on the registration of an HOA as an entity that could engage a legal representative. Therefore, in the FBiH, because HOs are not represented through a standard legal entity, it is not possible for them individually or collectively to open a bank account or to borrow money from a bank for renovations or improvements, as HOAs might do.

There is no legal obstacle, however, for HOs to agree among themselves to register an association, according to the *Law on Associations in FBiH*.<sup>97</sup> An HOA formed in that way would be able to open a bank account and possibly borrow. However, because this step is not mandatory or automatic according to the law regulating joint property management and maintenance, it is difficult for HOs to take advantage of this option. Also, the law requires associations to have a formal management body (supervisory board) and accounting functions, which introduces additional costs not suitable for HOAs.

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<sup>94</sup>*Law on Property Rights of the FBiH* (Official Gazette of FBiH 66/13, 100/13 and 32/19), *Law on Property Rights of RS* (Official Gazette of RS, 124/08, 3/09, 58/09, 95/11, 60/15, 18/16, and 107/19).

<sup>95</sup>*Law on the Management of Common Areas in Buildings in Sarajevo Canton* (Official Gazette of RS 19/17 and 17/18).

*Law on Use, Management, and Maintenance of Common Areas and Equipment of Buildings in Tuzla Canton* (Official Gazette of TK, 7/00 and 14/02 and 14/15).

<sup>96</sup>*Law on Building Maintenance of the RS* (Official Gazette of RS 101/11).

<sup>97</sup>[http://www.fbihvlada.gov.ba/bosanski/zakoni/2002/zakoni/47\\_bos.htm](http://www.fbihvlada.gov.ba/bosanski/zakoni/2002/zakoni/47_bos.htm)

Also, in accordance with the law in the FBiH, HOs may jointly agree to entrust property-related management to a designated person who will act as their representative. One or more of the HOs may be selected as the manager, or the management may be entrusted to another legally capable physical or legal person. Some cantonal laws mandate the hiring of a maintenance management company (MMB). In Sarajevo Canton, for example, it is mandatory for the occupants of a building with three or more HOs to choose an MMB. In Tuzla Canton, it is mandatory in a building with two or more HOs. In this way, HOs are legally represented through the MMBs, which maintain separate sub-accounts for each HO, collect maintenance fees on the overall account, and pay the maintenance costs. However, the sub-accounts of buildings are part of the main business bank account of the MMBs.

**RS:** In accordance with the *Law on Building Maintenance*, HOs of conjoined properties are required to register to form an HOA. In accordance with this law, the HOA is a special form of condominium organization that is established by contract to manage the common areas of the structure. The HOA is a legal entity in terms of building management and is entered into the register of communities with the municipal or city administration body in charge of housing. Building maintenance may be outsourced to a public or private company, to a registered entrepreneur, or to some other assistant (e.g., homemaker, housekeeper) that ensures regular maintenance. This requirement has enabled banks in the RS to respond to a developing market demand and to offer loan products to HOAs. However, it has not answered all questions related to the development of tailor-made solutions that specifically address HOAs as borrowers.

**One key issue is that, typically, HOAs do not have their own property that can be used as collateral.** Under law, common properties not subject to collateralization include building foundations, outside walls, attic, stairs, corridors, elevators, electrical installations, sewage system, water, telephone networks, etc. That said, in some cases, buildings do have spaces that could be collateralized or that produce a revenue stream that could be directed to loan repayment. For example, some buildings have basement areas (or ground floors) that are common property but can be rented or sold. Banks can accept those common spaces as collateral because they can hold a separate pledge on those properties.

HOAs have been slow to borrow from banks in the RS because of the number of limitations. Apart from the collateral issue, HOAs may have a confusing credit history. For example, most of the multi-dwelling apartment buildings built during the Socialist period house pensioners and other low-income families. As a result, the maintenance fee collection rate and discipline also may be mixed, depending on the socioeconomic status of the various HOs in each building.

Without an HOA, to pass a decision on renovations, all the HOs must agree unanimously. However, in general, it is difficult to get all HOs to agree to take a loan and commit to repayment, because most buildings have mixed social groups and some people are not well positioned to assume an additional financial burden. In these cases, loans also need to be supported by grants to cover economically vulnerable groups (the unemployed, single parents, persons with disabilities, pensioners, etc.).

Also, for joint properties that collect a maintenance fee from all occupants, that amount usually is enough to cover only the costs of regular maintenance. Few or no additional funds accumulate that could be used to finance loan repayments for carrying out reconstruction and for implementing EE measures. Therefore, although HOAs have separate accounts that can be credit checked, the banks' usual type of credit history analysis would seldom result in

satisfactory findings leading to loan approval. The HOAs would have to start collecting additional fees specifically for reconstruction before applying for a bank loan, to demonstrate capacity to repay the loan.

Procedures for repossessing collateral are very lengthy and complicated (i.e., must proceed through the courts). For this reason, banks typically rely instead on both the creditworthiness of the HOA as an applicant and on credit risk guarantees such as additional personal guarantees from the individual HOs. This additional layer of protection for the banks complicates the loan procedure because of the limited number of people who are willing or able to offer required guarantees due to existing personal loans and financial obligations. In short, with this approach, the banks avoid the high risk that they would have to assume to issue unsecured loans, but they also reduce potential borrowers' interest in the products.

Banks' technical requirements of borrowers are not stringent. Typically, the banks request only a list of planned construction or renovation tasks and a pro-forma invoice or estimate (an energy audit is not mandatory). Also, the HOAs' required up-front financial contribution is usually 10%, which is quite moderate.<sup>98</sup>

To accelerate the process, banks operating in the RS need to be educated and supported in further developing their loan products for HOAs. Judging by the results they have achieved so far, the banks are not fully aware of the scale and potential of the HOA market segment for property-improvement loans. They also have a perception of excessive risk that needs to be managed.

As discussed, the main obstacle in the FBiH is that HOAs do not have legal status and thus cannot be financed directly by the banks. However, if the HOAs could be made liable for loans in the FBiH, all the points discussed above regarding the situation in the RS would apply to the FBiH, given that the banking systems and the housing and social situations are basically the same. The legal obstacles for HOAs to receive direct financing have led some banks to explore the option of financing MMBs, which would then use this funding to lend to HOAs. However, MMBs are reluctant to use this mechanism because they would then have to assume the credit risk. Therefore, it can be concluded that, without giving the HOAs regulatory legal status in the FBiH, it is not realistic to expect a bank lending market for HOAs in FBiH.

### ***Section 5.2: Analysis of provisioning requirements and rules, monetary policy, and banking regulations***

Banks in both the RS and the FBiH assess debtors' creditworthiness based on standard general criteria, including the following:

- Purpose of the loan and sources for repayment of the loan
- Debtor's status, personal and economic characteristics, management expertise, and quality of plans and programs
- Debtor's cash flow in the previous period and estimated future cash flows with reference to their obligations
- The debtor's character, integrity, and reputation
- The debtor's liquidity and profitability

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<sup>98</sup><https://www.novabanka.com/Kreditni-za-pravna-lica/1689/Kreditni-za-zajednice-etaznih-vlasnika.shtml>

- The level of capital and reserves held by the debtor and their share in the balance sheet
- The debtor's asset quality and value
- The debtor's indebtedness level, including the level and maturity of the debtor's obligations, and an analysis of the guarantees issued
- The terms on which the debtor operates and the debtor's fiscal outlook, and their market position, as well as the position of the entire sector or industry that the debtor is in.

The banks assess the quality, marketability, availability, value, and legal validity of proposed collateral and have policies defining the types of collateral that they will accept. Loans without collateral are capped at 25,000 EUR. Banks are also required to have a reliable process for assessing debtors' ability to meet their obligations under the terms agreed and to review such process at regular intervals.

The banks classify all potential creditors into risk categories and determine average expected credit losses for each category. Their methodology for assessing balance sheet asset impairment and probable losses on off-balance sheet items depend on whether loan loss provisioning is done on a collective or individual basis; those thresholds are defined differently.

All potential lender exposures are classified as stage 1, 2, or 3, depending on parameters such as type of loan, sector or industry, and days past due. Provisioning percentages are tied to a client's assigned stage and credit rating. The legal limit of bank exposure for noncollateralized loans is 5% of the bank's regulatory capital. Also, non-purpose loans for private individuals are capped at 25,000 EUR and a maximum 10-year duration.

### *Section 5.3: Analysis of possibilities to create guarantee mechanisms for lending to HOAs*

**FBiH:** Guaranty schemes and guaranty funds currently do exist in the FBiH. However, none of them focuses on the housing sector or provides guarantees for loans to HOAs. In other words, no guarantee mechanisms specifically designed for HOAs are currently available in the FBiH; moreover, there are no announced initiatives for establishing a mechanism to ensure repayment of HOAs' financing of EE improvements.

**RS** has a credit guarantee fund<sup>99</sup> that operates since 2010 closely with the RS investment development bank to provide credit guarantees to small and medium enterprises (SMEs) for up to 50% of loan amounts. In the FBiH, in June 2020 the FBiH Government committed financial resources credit guarantee fund for SMEs would be established by the Federal Investment Development Bank,<sup>100</sup> while such a system has already been in place for Sarajevo since 2006. Both of these guarantee funds are government sponsored.

Among the international financial institutions active in financing credit lines to FBiH banks for renovations and EE measures in MABs are the European Bank for Reconstruction and

<sup>99</sup><https://garantnifondrs.org/>

<sup>100</sup><http://www.rbfbih.ba/bih/txt.php?id=49>

Development,<sup>101</sup> KfW,<sup>102</sup> and the Green for Growth Fund.<sup>103</sup> Some international donors, including the United Nations Development Programme, GIZ, and USAID have provided limited co-financing for residential EE measures. Several municipalities, including Općina Centar Sarajevo,<sup>104</sup> are also subsidizing loans for residential EE renovations. Environmental funds in the FBiH and RS also provide grant co-financing for energy audits in MABs.

#### *Section 5.4: Analysis of existing commercial banking products available to HOAs*

**FBiH:** HOAs are not registered as legal entities and cannot directly open bank accounts and borrow money from banks. In theory, they could borrow through MMBs, which already hold bank sub-accounts for HOAs; however, the MMBs would be liable to the banks, and the HOAs would be directly liable to the MMBs. Thus, although this arrangement is possible, MMBs are not financial institutions and do not have the same capacity as banks to manage loans. This option therefore remains theoretical in the absence of a proper legal framework that would enable HOAs to borrow directly.

In light of legal obstacles, the banking sector in the FBiH has not developed loan products for HOAs and the banking borrowing market for HOAs in FBiH is virtually nonexistent, although many HOAs are capable of and interested in borrowing. The way in which banks in the FBiH have responded to the demand for building renovations is to offer retail loans to individual HOAs. Considering that each multi-owner building requires multiple individual loans, this approach has had only limited success and potential for scaling up.

**RS:** Legally HOAs can be registered as legal entities, can open bank accounts, and can borrow money from banks. Although the first bank loans to HOAs were offered in 2016,<sup>105</sup> only a few banks took that path, so currently most of the banks in the RS do not have designated loans to HOAs. The data on the amount and number of loans issued to HOAs are not publicly available; however, judging by the low overall level of renovation activities in the multi-apartment housing sector in RS, it is safe to assume that very few loans to HOAs have been issued.

Typical characteristics of loans currently offered by banks in the RS are described below:

- Purpose of loans: Renovations, EE measures, and building improvements
- Maximum loan amount: Up to 25,000 EUR
- Maturity: Up to 5 years
- Collateral:
  - Up to 5,000 EUR: bill of exchange
  - Over 5,000 EUR: guarantee by 50% of HOs
- Documentation: The list of planned works and pro-forma invoice or estimate
- Up-front financial contribution: 10%

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<sup>101</sup><https://ebrdgeff.com/>

<sup>102</sup><https://balkangreenenergynews.com/kfw-signs-eur-18-5-million-financing-agreement-with-raiffeisen-to-fund-energy-efficiency-projects/>

<sup>103</sup><https://www.ggf.lu/portfolio>

<sup>104</sup><http://www.centar.ba/novost/16144/zajednicki-projekt-bbi-banke-i-opcine-centar-na-smanjenju-zagadenosti-u-sarajevu>

<sup>105</sup><https://www.capital.ba/sberbanka-nova-kreditna-linija-za-zajednice-etaznih-vlasnika/>



- The maximum monthly loan repayment annuity is 50% of the total monthly maintenance fee paid into the account of the HOA

### *Section 5.5: Analysis of products offered by development banks in the country and their availability to HOAs*

The development banks in the FBiH (the IRBRS<sup>106</sup> (Investiciono-Razvojna Banka Republika Srpske (Republic of Srpska Investment–Development Bank) and RBFbIH<sup>107</sup> (Razvojna Banka Federacije Bosne i Hercegovine (Development Bank of the FBiH) currently do not have specialized loan products or credit lines to finance HOAs. So far, it has not been publicly discussed or announced that the development banks have any plans to launch such products.

### **Conclusions and Recommendations on the Banking Sector**

As discussed, differences in the legislative frameworks governing the housing sector in different parts of the FBiH have caused corresponding differences in the banking sectors' development of loan products for financing EE measures through HOAs. In the RS, because HOAs are legislatively recognized as legal entities, the banking sector did start offering basic loan products targeting HOAs several years ago. However, in the FBiH, given that HOAs are not recognized as legal entities, the banking sector has never developed any banking products targeting them.

Therefore, regarding the FBiH, the key conclusion is that, for the banking sector to start developing any loan products targeting HOAs, the legal framework must first be amended such that HOAs become legal entities, similar to the solution in the RS. If that regulatory change can be accomplished, the recommended next steps for both the FBiH and the RS, as drawn from this gap analysis, are as follows:

- **Legal exemptions:** Renovating MABs for improved EE is in the public interest. These buildings should be exempted from the legal obligation to obtain the consent of all HOAs to pass a binding decision of the HOA to undertake renovations.
- **Government grants:** Bank loans to HOAs should be partially underwritten by government grants that would cover economically vulnerable groups (the unemployed, single parents, persons with disabilities, pensioners, etc.).
- **Fee reserves:** HOAs need to be educated to start collecting additional fees and reserving those funds for reconstruction before they apply for a bank loan. These reserves will facilitate the lenders' credit analysis and indicate the HOAs' capacity to repay the loan.
- **Institutional awareness raising:** The banks need to be educated and supported in further developing their loan products for HOAs. Currently, they do not fully recognize the scale and potential of the HOA market segment, and the level of risk they perceive is excessive.
- **Loan guarantees:** Schemes that guarantee loans to HOAs should be developed to reduce the credit risk of the banking sector.
- **International credit lines:** International financial institutions should be encouraged to develop credit lines to FBiH banks. The credit lines should be dedicated to supporting the HOA market for bank loans.

<sup>106</sup><https://www.irbrs.org/azuro3/a3/>

<sup>107</sup><http://www.rbfbih.ba/bih/index.php>

- **National or regional development banks:** The national development banks in the FBiH should offer specialized loan products or credit lines to finance HOAs.

## KOSOVO

### HOUSING SECTOR ANALYSIS

#### Analysis of legal position and functioning of HOs/HOAs

##### *Legal framework for the housing sector*

There is no general housing law in Kosovo, although there has been a law on condominiums since 2015.

Housing is regulated through a very complex set of laws, by-laws, rules, and regulations of various aspects of housing including construction, repair, use, property rights, treatment of illegally building units, etc. Several laws regulate ownership and limited real rights, possession, security rights, and rights of use. *Law no. 04/L-061 On the sale of apartments for which the right to housing exists* regulates the conditions and manner of sale of public and communally owned apartments in which there is a tenants' rights or right to tenancy (pay rent) indefinitely, along with common parts and building equipment. It also regulates ways to determine the selling price of the apartment and termination of right to tenancy. This law applies to communally owned apartments and public housing in which there is a right to tenancy.

The most important law dealing with MABs issues is **Law No. 04/L-134, On the Condominium (Kosovo Civil Code, No. 09/18, dated 11.03.2015).**<sup>108</sup> **HOA activities are regulated by this law.**

Additionally, the Kosovo Civil Code defines civil relations and protection, as well as participants in these relations, although HOA activities are not regulated by the Civil Code specifically.

Among the secondary legislation or by-laws related to condominiums are the following:

- *Administrative Instruction No. 01/2014 on Determining the Form, Content, and Manner of Keeping a Register of Condominium Buildings and Administrators of Condominiums*
- *Administrative Instruction No. 06/2014 on Certification of Managers of Condominium Residential Buildings*
- *Administrative Instruction No. 10/2014 on the Content of the Location Plans*
- *Regulation of the Ministry of Environment and Spatial Planning (MESP) No. 03/2016 on the Minimum Technical Norms for Residential Buildings in Co-ownership (repealed Reg. MESP No. 04/2014)*

According to the *Law on the Condominium*, "common property" is defined as:

*Part of a property that is not owned individually and is not public property, but in which an indivisible interest is held by unit owners. The ownership of a dwelling or non-residential premise is linked to the ownership of a residential building, (ownership rights and obligations cannot be limited just on a dwelling). Management and maintenance of*

<sup>108</sup> [https://mmph.rks-gov.net/assets/cms/uploads/files/Legjislacioni/pdf-test%20\(51\).pdf](https://mmph.rks-gov.net/assets/cms/uploads/files/Legjislacioni/pdf-test%20(51).pdf)

*buildings are decided individually and exclusively by their owners. Each owner of a dwelling or non-residential premise has one vote for each dwelling or non-residential space owned in the building, regardless of the size of the common property share.*

This definition is important because it establishes that the property belonging to a building and creates a one unit = one vote system, as in the Slovak system. It simplifies voting and decision-making for normal operation of HOAs.

However, since there are only a handful of HOAs in Kosovo, this law produces few practical consequences in the management and maintenance of MABs in the country.

### ***Legal obligation to form an HOA or engage an (RBM) company***

MABs are not obligated to establish HOAs as a legal body; however, they are obliged to establish HOAs as decision-making bodies. While the law describes this obligation well, it also sets the bar too high, at 100% of homeowners required to sign a condominium agreement. Not many buildings can reach this threshold.

A MAB is defined as “a residential structure (condominium) with several individual apartments and one common entrance and staircase.” If two or more MABs are attached on one or two sides, it is defined as a MAB Complex. Normally, there is one HOA per one building; however, the Law allows HOAs to own more than one building. In cases of MABs with multiple entrances (or sections), an HOA may represent one or more than one entrance. HOAs can be registered as nongovernmental organizations (NGOs) with the Ministry responsible for Public Administration (**Department of NGOs**) or as **legal entities (or companies)** with the former Ministry of Trade and Industry (the Business Registration Agency).

The *Condominium Law* offers two options for ensuring proper management, maintenance, and repair. The MAB can form an HOA as a legal entity, or individually sign the contract with a building management organization. Such an organization is usually an NGO, RBM company (private management organization), or a municipal company. This situation represents a problem, as households are not very clear about their decision-making criteria on forming an HOA and managing the building themselves or outsourcing to a management company. Furthermore, the legislation does not have provisions obliging the MABs to choose one option.

The *Law on the Condominium* regulates ownership rights for apartments as well as common areas in MABs, the management and maintenance of MABs, the responsibilities of apartment owners, and the fundamentals for decision-making in MABs.

The scope of the Law on the Condominium includes MABs with commercial and other additional (e.g., utility) premises within them, owned by two or more owners.

Article 8 contains provisions for the creation of the condominium, covering “old” condominiums that were constructed before the Law and in other circumstances, and “new” condominiums or new construction, where the sale of individual units is ongoing.

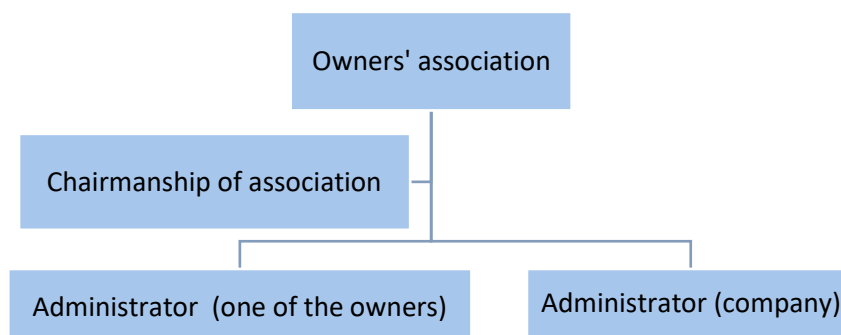
An important document, based on this law, is the **Condominium Agreement (CA)**. Through the CA, owners define the ownership divisions; participation in common spaces; the condominium participation quota, which is important for participation in the reserve fund (determined through the amount of the administration fee); the design of the building and all stories; mutual rights and obligations; any short-time prohibition in property; and all other provisions that owners consider needed.

In both cases, for old and new condominiums, the *Law on the Condominium* requires registration of the CA in the Immovable Property Rights Registry and the Cadaster, which is:

- Signed by all unit owners in the building in old MABs. This is a major obstacle in the implementation of the law due to some owners' lack of interest in signing, either because they do not understand the importance or they live abroad, for instance.
- Under the name of the developer that transfers the ownership of individual units together with the condominium participation quota to the new buyers or owners, in new MABs.

HOAs may assign a chairmanship **of the board of trustees** of the HOA or hire an individual administrator for carrying out management activities.

**Figure 9** illustrates the organization of the management bodies within an HOA.



**Figure 9. Management of an HOA**

An HOA administrator may contract a private management company for the condominium, though the administrator remains responsible.

### *Voting rights of homeowners and decision-making percentages for renovation decisions*

**Membership of the HOA always shall consist exclusively of all unit owners.** The 100% threshold for signatures represents a significant bottleneck in forming HOAs.

The share of households needed to attend a general assembly to make the meeting legitimate (or to achieve a quorum) will be 50% unless the regulations of the HOA provide differently.

The *Law on the Condominium* provides that any decision of an HOA assembly requires more than 50% of the vote, except the decision to enter into an agreement for the redesignation of the building, which requires the approval of all individual unit owners.

Owners make decisions by a 50% + 1 vote on: election or dismissal of the chairman; **the amount of the management fee, maintenance fee, and reserve fund**; and renting of common nonresidential premises, common parts of the building, common facilities of the building, and accessories.

The *Law on the Condominium* does not contain any provision specifying different thresholds of votes for various investment decisions, except for a 100% threshold for redesignation of a building—the same as in Slovakia. There remains no secondary legislation related to this law, thus there is no practical implementation of most of its provisions.

The responsible decision-making bodies for the administration of a condominium are

- the HOA, and
- the HOA board of trustees, which has the power to delegate certain functions to an administrator (Article 21). Such an administrator can be either one of the apartment owners or a representative of an external company. When the HOA considers construction, activity needed for some mutual benefit (including EE measures), it can decide to proceed in HOA meetings with the approval of owners of more than 50% of the shares in the condominiums. Decisions approved in the HOA meeting apply to all owners, whether they voted against the measure or were not present at the meeting. An owner can sue the HOA or any other owner if they do not agree with any activity and/or decision.

### ***Method of creation of the maintenance fee and reserve fund***

The maintenance fee is decided through discussion among all apartment owners by a 50% + 1 vote. This covers the amount of the management fee and amount of payment to the maintenance and repair fund. There is no minimum, and it is important to introduce a proper methodology, such as is used in other countries, for defining the minimum amount for these purposes.

The MESP is in the process of drafting an amendment to the existing law, aimed at increasing interest in, reducing the requirements, reducing the time, and easing the procedures of HOA establishment.

The most criticized issues in the past were lack of transparency in accounting and calculation of costs for all services including cleaning, maintenance, water supply (due to collective water meters), heat supply (due to collective meters), according to interviews carried out by the World Bank Establishment of HOAs, 2016–2018, project. Typically, the total average monthly payment is from 10 EUR per apartment (in old MABs, for poor families) up to 40 EUR per apartment (in new multi-story houses, for wealthy families). The participation fee is usually determined by the percentage ratio of the individual unit area of the whole building surface designated for housing—although this method of determination is not prescribed by law. There is no political or social limitation or ceiling on the maintenance fee amount.

### ***Percentage of residential MAB stock (number of buildings) managed via HOAs***

An inventory of residential building stock was carried out in 2012 with the support of the World Bank. The total number of MABs was 3,140; as of the writing of this report, there were only about 15–20 HOAs, and 9 of them were from the World Bank project of 2018 Establishing HOA for MABs in Kosovo (first phase). The World Bank project is ongoing, with 12 new HOAs, and the Millennium Foundation Kosovo (MFK)/Millennium Challenge Corporation (MCC) will establish another 25 HOAs implemented via partial grants for EE and renewable energy service (RES) measures at 25 selected MABs.

The only active public housing enterprise in Kosovo is the Pristina Public Housing Enterprise (PPHE), which could be considered an RBM. PPHE has public capital, and the Municipality of Pristina is the only shareholder. As such, this enterprise aims at proper management and preservation of its property, which consists of real estate including apartment buildings, business premises, warehouses, garages, and land.

PPHE is rehabilitating building facades, including installation of external wall thermal insulation for 22 buildings as well as rehabilitation of elevators.

The number of buildings managed by management companies is very small. An approximate observation carried by the World Bank project put the figure at about 2%–3% of the total number of MABs. There are approximately 50–55 MAB management companies (all of them for new MABs built in recent years), which is a very small number compared to the large number (3,400) needed for the total MAB stock. There is a significant gap for Kosovo in its very small number of RBM companies, compared not just to Slovakia but to all countries of the region.

There is a legal obligation to constitute a decision-making body of HOAs, but not an obligation to form or hire an entity. Even though using a professional decision-making entity is not prohibited, such companies remain unused, which results in a very small number of HOAs. The new draft law on condominiums, currently being drafted, should take this important conclusion into consideration.

### *Management companies*

There are no real RBM companies in Kosovo, outside of the new apartment complexes, and only the PPHE could be considered an RBM, as it manages many state-owned apartments.

### *HOA borrowing*

Article 39(1.1) of the *Law on the Condominium* implies that HOAs may get loans for implementing their activities. In addition, Article 10(1) on NGOs allows NGOs to seek financial resources in or out of the country or from international organizations to achieve their objectives and activities. An important note: RBMs are also allowed to borrow.

### *Lien*

Article 46 of the *Law on the Condominium* states that an owners' association may record a lien on a unit for any fee levied against that unit or fines imposed against the unit owner. The association's lien may be foreclosed in the same manner as a mortgage on real estate. The right of legal lien arises by law against each apartment owner. It secures both existing and all future claims. This type of lien has priority over other types of liens, even if it is not registered as first in the cadastre.<sup>109</sup> At the same time, it is important to note that enforcement of payment of fees is very low. The average rate of collection based on approximate lien values is 20%–25%.

### *Housing policies and investment programs*

Based on consultative meetings with the European Bank for Reconstruction and Development (EBRD) and Kosovar local banks (participants under the Green Energy Financing Facility (GEFF) EBRD program, including TEB Bank), 72 million EUR were available for investing in the residential sector in all Balkan countries, including Kosovo, and for retrofitting MABs for EE/RES. The Kosovo share will be about 15–16 million EUR; as of the writing of this report, about 5.8 million EUR has been disbursed (all for implementation of EE/RES measures at the individual houses).

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<sup>109</sup> The Real Estate Cadaster is a public register and at the same time an information system containing geometric determination, inventory and description of real estate, and data about rights (property rights, liens, preemptive rights, easements, and tenancy rights).

Only Lipjan Municipality has granted 100% and has rehabilitated two MABs based on the World Bank study of 2018. MFK/MCC will establish 25 HOAs and will implement, through partial grants (up to 60%), EE/RES measures on 25 selected MABs. Meanwhile, municipalities will grant up to 20%, and apartment owners will pay (or take loans) for the remaining costs. The MCC Subsidies for Energy Efficiency in Kosovo (SEEK) Program has \$24 million in US Government financing. This fund will be used for rehabilitating 2,500 single-family houses and 25 MABs. Investments will include a grant of up to 60% from MCC SEEK and approximately about 20% from the municipalities (for poor apartment owners); the rest will be covered by apartment owners. This could be the first case in which part of the EE/RES investment will be credited by banks.

The World Bank program Establishing HOA for MABs in Kosovo (second phase), in March 2020, started a second phase and planned to establish 12 new HOAs, along with the 25 HOAs established by MFK/MCC. MFK/MCC began preparations (the steps are outlined below) and will start implementation of EE/RES measures for the 25 selected MABs in September 2020.

***Legal and institutional oversight and enforcement of the HOAs (local/central level, authorities that oversee the law)***

According to the *Construction Law* in territories under the competence of the Ministry, inspection and supervision will be carried out by the Inspectorate of the MESP. The municipalities are involved in managing condominiums based on Article 36 of the *Law on the Condominium*. More specifically, the role and responsibilities of the municipalities are defined in Article 36 as follows:

1. Municipality, through urban regulatory plans, shall define the common land and public areas in the functions of the condominium, common electrical, water supply and sewerage as well as central heating installations by respecting the minimal norms for areas in the function of a condominium.
2. If the condominium is in a building complex that is fully or partially municipal property, the municipality should agree, during the process of condominium registration, to entitle the apartment owners on common areas in the function of the building regulated upon paragraph 1 of this Article.
3. Municipalities, respectively, the competent municipal body, shall maintain the register of condominiums and administrators that practice this activity in their territory managed by the municipality.
4. The form, content, and manner of keeping the register shall be determined by sub-legal act prepared by the Ministry.
5. The municipality shall initiate the establishment of the Owners' Association through projects depending on budgetary possibilities.
6. The Ministry, in cooperation with the Municipality, shall provide education and training to the buildings' owners and HOA chairmen regarding the governance and functioning of the condominium.

In addition, according to Article 45, municipalities are responsible for supervising inspections of the implementation of the *Law on the Condominium* and will authorize municipal housing inspectors to do so. The World Bank's Establishment of HOAs project has found that inspection has started to function properly in the last 3 years.

## Conclusions and Recommendations for the Housing Sector

The following conclusions are derived from this analysis.

1. The total number of MABs is approximately 3,140, and there is a market for EE/RES-integrated building retrofitting of many MABs. Investment needs are estimated at 301 million EUR, which clearly shows that there is a good market for international financing institutions and Kosovar commercial banks.
2. Significant gaps in the *Law on the Condominium* must be filled, especially the obligation to have 100% support of a CA. There is a legal obligation to constitute a decision-making body of HOAs, but not an obligation to form or hire an entity. A very small number of HOAs hire an entity. The new draft law on condominiums, which is under preparation, should consider this.
3. The current legislation does not provide the most favorable and adequate options for HOA formation; the only options are as an NGO or RBM company. Best case examples from Eastern European countries showed that establishment of the HOA as a legal entity, which acts on behalf of the owners, is an imperative for renovation projects. As mentioned earlier in this report, HOA registration as an NGO, which is a usual practice in Kosovo, has resulted in noncompliance between the *Law on the Condominium* (in particular, provisions related to the CA and membership as preconditions for HOA registration) and the *Law on Freedom of Association in NGOs in Kosovo*. Moreover, electronic registration is the only possible method, requiring the provision of numerous documents through the online system, which has proven complicated for apartment owners with minimal computer skills and Internet or e-mail experience.

## Recommendations

MESP should utilize the best experiences from the region and from this pilot and follow up with activities for establishing a practical methodology for HOA and RBM company creation and functionalization. These may include, but are not limited to, the following steps:

- Introduce the necessary changes in the *Law of the Condominium* to address all legal, regulatory, and bureaucratic bottlenecks regarding HOAs' and RBM companies' effective establishment and operation:
  - Provide additional modalities for HOA and RBM company organization and registration.
  - Provide options for establishing a CA without 100% membership. After registration in the Cadaster, automatically all unit owners should become members of the HOA or RBM company and bear full responsibilities for the CA.
  - Impose measures in case of non-creation of an HOA RBM company.
  - Include penalty provisions.
  - Include financing tools for implementation and incentive mechanisms.
- Perform harmonization of the *Law on the Condominium* with various related laws that might affect its implementation (*Law on Freedom of Association in NGOs, Law on Property and Other Real Rights, Law on Construction, Law on Treatment of Constructions without Permit, Law on Cadaster, Law on Energy Performance in Buildings*).
- Bearing in mind the complexity of the law amendment process, MESP should secure involvement of all relevant stakeholders, including institutional, civil society



- organizations (those dealing with housing), the business community, banks, existing HOAs and RBM companies, and apartment owners.
- There is a need for continued support for the establishment of HOAs and professional RBMs, as the sector really does not exist. Several donor programs are working toward that goal. It is a way of developing a practical interest of homeowners. The total number of HOAs established up to now is minimal—only about 20, and most of them were established by the World Bank. In March 2020, the World Bank started its program’s second phase and plans to establish 12 new HOAs; MFK/MCC will establish 25 HOAs and will implement EE/RES measures at 25 selected MABs through partial grants.

## ENERGY SECTOR ANALYSIS

### Analysis of energy-related support programs for building rehabilitation in line with the EU EPBD and EE Directive

#### *EE targets and building renovation strategies*

Legal and regulatory frameworks for residential buildings include (1) basic legislation that directly pertains to such buildings and (2) associated laws that relate to and indirectly affect relevant regulations. Basic legislation and regulations include:

- *Law No. 04/L-110 on Construction*
- *Law No. 04/L-024 on the Treatment of Illegal Buildings*
- *Law No. 06/L-033 on Construction Products*
  - Administrative Instruction (MTI) No. 03/2019 on basic requirements for construction works, the declaration of the performance of construction products, systems of assessing and verifying the performance consistency of construction products, and making the declaration of performance available on a website
- Administrative Instruction MESP No. 08/2017 on Spatial Planning Technical Norms
- *Law No. 04/L-134 on Condominiums*
  - Administrative Instruction No. 01/2014 on determining the form, content, and method of keeping a register of condominium buildings and administrators of condominiums
  - Administrative Instruction No. 06/2014 on the certification of managers of condominium residential buildings
  - Administrative Instruction No. 10/2014 on the content of the location plans; and
  - Regulation MESP No. 03/2016 on the minimum technical norms for residential buildings in co-ownership (repealed Reg. MESP No. 04/2014)

Associated legislation:

- *Law No. 03/L-154 on property and other real-estate rights; and*
- *Law No. 04/L-061 on the sale of apartments for which the right to housing exists.*

The Government of Kosovo (GoK) adopted a new *Law on Energy Efficiency*<sup>110</sup> on December 5, 2018. Prior to this law, the *Energy Efficiency Law of July 22, 2011* guided EE policy. The new *Law on Energy Efficiency* sets deadlines for development and adoption of the secondary legislation. The existing secondary legislation on EE will be in effect until the government prepares the new secondary legislation and provides more details.

The new *Law on Energy Efficiency* includes key EE improvements for the residential sector. One of its objectives is to increase EE in housing and construction by improving the energy performance of buildings.

The report expects that the Ministry of Economic Development will propose the national EE targets for the GoK to adopt through a decree. These newly revised country EE targets refer to the final energy savings for a 10-year period. GoK will include the EE targets for each sector (including the residential building stock in general and MABs in particular) under four Kosovo Energy Efficiency Action Plans (KEEAPs) that GoK will approve by the end of 2020.

In April 2017, GoK adopted the National Energy Development Strategy until 2026.<sup>111</sup> This strategy includes a measure for retrofitting existing residential buildings according to the KEEAPs. Total residential stock structure is presented in **Table 17**.

**Table 17. Kosovar Total Residential Building Stock**

Residential Building Sector	Total Living Area (million m <sup>2</sup> )
Single houses	25.93
MABs	8.791
Total residential stock	34.72

There is a market to integrate EE/RES into the building retrofitting of many MABs with an area of approximately 4 million m<sup>2</sup>. In 2012, with the support of the World Bank, the Complete Residential Building Stock Inventory was carried out by the Ministry of Economic Development and the total areas of MABs that need rehabilitation was 4 million m<sup>2</sup>, whereas investment needs were estimated at 301 million EUR.

The estimated simple payback period for the EE/RES measures is 7 to 10 years, and might be reduced further after increasing energy prices to cover the full cost of supply, transmission, and distribution, as part of electricity market liberalization reforms. The 2012 ENSI and World Bank Report on EE in buildings suggest that the estimated investment needs for MABs in Kosovo are greater than 301 million EUR for an estimated building stock area of about 4,000,000 m<sup>2</sup>.<sup>112</sup>

By mid-2021, the Ministry of Economic Development will prepare the Building Renovation Strategy as laid out in the new *Law on Energy Efficiency*. The strategy will include the

<sup>110</sup> *Law on Energy Efficiency*, adopted December 5, 2018 (available in <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18216>): <http://www.economy.gov.mk/Upload/Documents/Zakon%20za%20energetska%20efikasnost.pdf>

<sup>111</sup> National Energy Development Strategy until 2026: [https://mzhe-ks.net/repository/docs/Strategjia\\_e\\_energijise\\_2017-26\\_-.pdf](https://mzhe-ks.net/repository/docs/Strategjia_e_energijise_2017-26_-.pdf)

<sup>112</sup> ENSI Final Report, Energy Efficiency in Buildings in the Contracting Parties of the Energy Community (p. 79): [https://www.energy-community.org/dam/jcr:8182c20a-7b31-45e5-ae75-456c919131ce/ENSI\\_2012\\_EE\\_Contracting\\_Parties.PDF](https://www.energy-community.org/dam/jcr:8182c20a-7b31-45e5-ae75-456c919131ce/ENSI_2012_EE_Contracting_Parties.PDF)

renovation of residential, public, and other nonresidential buildings for a period of at least 10 years. The Kosovo Energy Efficiency Agency (KEEA) will monitor the implementation of the strategy and, every 3 years, will report to the Energy Community Secretariat about its progress, as part of the KEEAP.

The third KEEAP<sup>113</sup> gives an overview of 45 policies and measures for which most implementation happens at a lower level (excluding public buildings, which are implemented completely based on the World Bank program). The measures are divided into seven sectors: commercial/private buildings, public services buildings, households/residential buildings, industry, energy, transport, and agriculture.

In 2018, projections estimated that most energy savings would come from enhancements in residential, public service, and industry buildings, with less savings from transport. Estimates further showed that the household and public sectors are important for energy savings, with a share of 40% (41 ktoe) and 30% (12 ktoe), respectively. The third KEEAP includes the target to reduce the final energy consumption in Kosovo by at least 9% by 2018, with a focus on the residential sector for single-family houses and for MABs.

KEEA started preparations for the fourth KEEAP, and plans to complete it by the end of 2020.

### *EE fund establishment*

Based on the *Law No. 06/L-079 (2018) on Energy Efficiency (LOEE)*, GoK established the Kosovo Energy Efficiency Fund (KEEF) as an independent, autonomous, and sustainable entity to support the policy objectives on EE by promoting, supporting, and implementing EE measures as well as attracting and managing financial resources.

The EU granted 10 million EUR and the World Bank is supporting Kosovo through a \$31 million loan with the goal to make KEEF effective. GoK will use KEEF to reduce energy consumption and fossil-fuel use in public buildings. Through this investment, the World Bank also supports Kosovo in enhancing its policy and regulatory environment for RES and EE. As of April 2020, GoK has achieved the following results:

- 45 public buildings, mainly health clinics and university buildings, have been upgraded by implementing EE improvements.
- Works have started in another 20 buildings; the aim is to have over 100 public buildings improved for EE by the end of the project.
- These EE renovations benefited over 7,500 employees and users and led to significant comfort level improvement for the building users.
- Based on energy audit reports, energy consumption in the improved buildings was reduced by 49%, or 19,775 MWh/year compared to baseline.

Until 2025, KEEF expects to use short- to medium-term funding to introduce EE/RES measures only for public buildings.

The US Government provided \$24,000,000 to the MCC-SEEK Program to rehabilitate 2,500 single houses and 25 MABs. For these investments, the grant amount will be up to 60%–70% from the MCC-SEEK Program.

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<sup>113</sup> <https://konsultimet.rks-gov.net/viewConsult.php?ConsultationID=40094>

### *EE obligation scheme (utility-based residential EE investments)*

Article 6 of the *Law on Energy Efficiency* requires the adoption of a Decree for Energy Efficiency Obligation Scheme (EEOS) for achieving final energy savings that distribution system operators and energy suppliers are obligated to implement. The *Law on Foreign Investments* defines a “large customer” as an enterprise that employs 250 persons or more. The decree will determine the targets in final energy savings, the methodology for the calculation of targets, and the reference period for setting up the targets. According to the new *Law on Energy Efficiency*, GoK will adopt the decree by the end of 2020.

GoK can develop alternative policy measures for achieving the savings targets and determine which portion of the targets distribution system operators and energy suppliers will achieve. The report expects that the funds for implementation of the alternative measures will become available through donations, the government’s budget, and other financial sources.

KEEA is authorized to monitor the implementation of the EEOS. Under the EEOS, Kosovo Statistical Office will provide the list of enterprises for all economic activities, which will be needed by KEEA for implementation of the monitoring scheme.

Large enterprises<sup>114</sup> in the country are obligated to carry out energy audits every 4 years, as stipulated in the *Law on Energy Efficiency*. The mandatory energy audits must include assessments of the current state and opportunities for EE improvements and greenhouse gas (GHG) emissions reductions.

On an annual basis, KEEA is obligated to publish on its website the planned and achieved savings in final energy consumption for each of the obligated parties under the EEOS. The obligated parties must submit annual data on the total energy sales to KEEA by March 31 each year for the preceding year. The data must be aggregated by categories of customers, according to NACE 2 (EUROSTAT), and must include measures aimed at improving EE.

The Energy Strategy sets a horizontal measure for EE-obligation schemes for the entire period of 2017–2023. The savings target is foreseen to be 15% of the final energy demand.

### *Building energy certification for existing MABs*

GoK is a member of the Energy Community Treaty, which aims to address obligations originating from international treaties, memoranda, and other obligatory documents. Based on EU directives and with the strong support of EU, GoK drafted the long-term Kosovo Energy Efficiency Action Plan (KEEAP) 2010–2018, and three short-term plans covering periods 2010–2012, 2013–2015, and 2016–2018. **Table 18** presents Kosovo EE targets, indicative levels, and realizations for 2012. This is the only full monitoring report prepared by KEEA, which is also preparing the second full monitoring report for the 2013–2019 to present under the fourth KEEAP. Results presented in the table show the achievement of targets only in the residential sector, which is related to the EE financial program.

**Table 18. Kosovo EE Targets and Indicative Levels and Their Realization (ktoe)**

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<sup>114</sup> A large enterprise is defined as an enterprise that employs two hundred fifty (250) persons or more, per the *Law on Foreign Investments*.

Targets/Sectors	Targets according to sectors		Savings achieved from application of EE measures in 2012 (ktoe)	Savings targets to be achieved from the application of EE measures in 2020 (ktoe)
	2012, ktoe	2020, ktoe		
Residential	12.40	30.64	28.06	46.98
Services	9.30	12.26	3.865	18.91
Industry	7.90	24.84	Not evaluated	14.00
Transport	1.395	24.15	Not evaluated	12.00
<b>Total, ktoe</b>	<b>31.95</b>	<b>91.89</b>	<b>31.925</b>	<b>91.89</b>
<b>Total, GWh</b>	<b>360.53</b>	<b>1,068.68</b>	<b>371.29</b>	<b>1,068.68</b>
<b>Savings in % regarding the basic consumption</b>	<b>3%</b>	<b>9%</b>	<b>3.1%</b>	<b>9%</b>

Source: Second KEEAP prepared by KEEA (approved in 2013 with no. 07/159 (date 03.12.2013)).

Notes:

- The indicative target for the year 2020 equal to 97.56 ktoe
- The indicative target for the year 2012 equal to 31.00 ktoe
- The agricultural sector is included in the industrial sector

The last developed document, which GoK has not adopted yet, is the fourth KEEAP, which covers the period 2019–2021. The final distribution of intermediate energy savings targets for each sector are presented in **Table 19**.

**Table 19. Intermediate Targets for Energy Savings for 2020**

Indicative Targets for Energy Saving			
Sector	%	ktoe	GWh
Residential	32.96	30.64	356.28
Service	12.26	12.26	142.56
Industry	24.84	24.84	288.84
Transportation	24.15	24.15	280.81
Agriculture	1.06	1.06	12.33
Other	4.73	4.61	53.66
<b>Total</b>	<b>100.00</b>	<b>97.56</b>	<b>1,134.47</b>

During 2016–2019, Kosovo made considerable progress in terms of developing and adopting adequate EE legal frameworks and becoming among the first contracting parties to transpose Directive 2017/27/EU. The *Energy Efficiency Law* and the *Law on Energy Performance in Building and Construction* are the primary laws pertaining to the EE of buildings. The new *Energy Efficiency Law* and the *Law on Energy Performance in Buildings* require the adoption of plans and programs on EE, monitoring system development, obligatory energy audits for buildings and building units, certifications for buildings, and labeling of energy-related products. The *Construction Law* requires submitting a certification by developers for meeting the minimum energy performance requirements of building to the permitting authority for the issuance of the

construction permit. The *Construction Law* further requires the energy performance certificate for issuance of the building usage permit.

Since 2016, Kosovo has adopted the following laws and regulations:

- *Law No. 05/L-101 on Energy Performance of Buildings* which transposes Directive 2010/30/EU, and which was adopted with by-laws on December 15, 2016
  - Regulation MESP No. 02/18 on National Calculation Methodology for Integrated Energy Performance of Buildings
  - Regulation MESP No. 03/18 on the Procedures on Energy Performance Certification of Building
  - Regulation MESP No.04/18 on Minimum Requirements for Energy Performance of Buildings
  - Regulation MESP No. 01/2018 on Inspections of Heating and Air-Conditioning Systems
- *Law No. 06/L-079 on Energy Efficiency*, which transposes the Directive 2012/27/EU, and which was adopted on July 11, 2018
  - Secondary legislation for the establishment and operation of the Kosovo Energy Efficiency Fund (KEEF)
  - The Administrative Instruction for the promotion of energy end-use efficiency and services

The *Energy Performance Law* requires the development of the reference-building database for the residential sector in Kosovo, which the MESP designed and the typology study supported. Also, it requires the preparation of the National Calculation Methodology (NCM) and corresponding software for the calculation of the energy performance of buildings (iSBEMxK). The latter was adopted in Kosovo in 2019. Additionally, a National Building Stock Inventory is part of the law, but its implementation is pending, due to delays in the approval of other sub-legal acts (e.g., subsidiary legislation).

GoK is in the process of developing and approving Municipal Energy Efficiency Action Plans (MEAAPs) for the 38 municipalities of Kosovo. The EU-funded project, Support on Implementing the 3rd Energy Package with focus on Renewables and Energy Efficiency, as well as the Kosovo Energy Efficiency Project (KEEP), sponsored by GIZ, support this activity. Development of MEEAPs will enable municipalities to apply to the Kosovo Energy Efficiency Fund (KEEF), which was established according to the *Law No. 06/L-079*, as well as to other donors to implement EE measures and reduce energy consumption.

While additional new secondary EE legislation is in development, the Administrative Instruction on the Energy Performance of Buildings and the *Rulebook on Energy Auditing* are enforced. The national building certification scheme, as described in the *Rulebook on Energy Performance of Buildings* sets the baseline for residential and nonresidential buildings.

Since January 1, 2018, the energy certification of buildings in Kosovo has been mandatory. Currently, the national methodology determines the energy performance of buildings based on energy indicators for space heating.

Most energy-efficient construction materials, such as windows, insulation materials, and other types of equipment, are available in Kosovo, although they are not always competitively priced

in comparison to similar products that can be imported from the SEE region. However, there is no system in place for the verification of the stated quality of these products in relation to actual energy performance. Promotion of local suppliers, consultants, and service providers is not only beneficial in terms of EE but also for the growth of the country's economy. In general, the provision of EE measures is labor-intensive and will, therefore, contribute to improved employment opportunities. Several of the EU schemes established for promotion of EE in buildings have been specifically launched with consideration for their positive effects on economic growth and employment.

Most companies working in this area are SMEs and could benefit from financial schemes for business expansion and capacity building in technical standards and energy performance requirements. An example could be the Danish support scheme for professionals, which provides advice on the installation of equipment, maintenance, and performance levels. An information service to provide updates on the new energy performance in buildings requirements would be an effective mechanism for raising awareness among professionals working in EE, such as installers, architects, and engineers. Such a service should be delivered by KEEA in cooperation with the newly trained auditors, supported by technical assistance from bilateral donors or others, and organized by a professional organization, such as the Chambers of Commerce.

### *Possibility of ESCOs and EPCs in residential buildings*

In 2012, GoK carried out the Complete Residential Building Stock Inventory with the support of World Bank. The total number of MABs was approximately 3,140, which will be potential market for future ESCO activities. According to Article 15 of the *Law on Energy Efficiency*, “energy service” shall be performed by specialized ESCO equipment installers, building companies, heating companies, energy auditors, building assessors (that are registered in the ministry responsible for businesses registration or in any member of the EU), or any member of the Energy Community.

There are no legal obstacles for ESCOs to enter into EPCs in residential buildings in Kosovo. According to Article 15 of the new *Law on Energy Efficiency*, the energy services can be provided by ESCO based on energy service contract. The services may include construction, renovation and maintenance, installation of efficient heating, cooling, lighting, ventilation equipment, and implementation of energy management systems. KEEA is responsible for maintaining records of active ESCOs.

According to the new *Law on Energy Efficiency*, by mid-2021, GoK will adopt a Decree for Energy Performance Contracting. The decree will include models of EPCs, including provisions for scope-of-energy services, baselines, guaranteed savings, documentation, financing, and reimbursement of services.

Through the new *Law on Energy Efficiency*, EPCs for the renovation of MABs is promoted; however, the law's implementation is still in the early stages of development. The MCC-SEEK Program, which the US Government finances with \$24 million, as described above, is a valuable opportunity for the promotion of EPCs for MABs. This program may grant up to 60%–70% of total investment required, while approximately 20% can be financed from the municipalities (for poor apartment owners) and the rest will be covered from apartment owners.

### *Accreditation of energy auditors/building energy assessors and certifiers*

Accreditation of energy auditors is made by KEEA. Energy auditing of buildings can be conducted by a licensed energy auditing company that employs at least one accredited energy auditor. The Energy Auditor's license has a 5-year duration and is issued by KEEA. According to available data received verbally by the agency, there are about 80 accredited energy auditors in the country.

Energy auditors have educational backgrounds in formal electrical, mechanical, civil, or architectural engineering. Knowledge in energy auditing of buildings increased while practical experience has been limited due to lack of policy implementation and enforcement mechanisms for issuing energy certificates over the past 5 years.

The existing Administrative Instruction No. 01/2012 on Energy Audit and energy auditor's certification shall be replaced by the secondary legislation expected to be adopted based on new LOEE.

### **Conclusions and Recommendations for the Energy Sector**

The major legal regulatory elements promoting EE in the country are in place, energy auditing and building energy certification provisions are adopted, and the construction market offers both the materials and services necessary for EE renovation. Most EE standards have been adopted recently (2018) and lack proper enforcement. The National Energy Efficiency targets have been set and updated with the regular development and adoption of the NEEAPs (4<sup>th</sup> one pending). With 4 million m<sup>2</sup> of the MABs in need of renovation, there are still policy provisions that will help pave the way for investments in the sector. With the 2012 building stock inventory, the next important step is the development of a National Building Renovation Strategy, which will identify the worst-performing buildings, assess the technical and economic potential for investments in EE, and propose solutions to reach the noted targets, including the related reform in multi-apartment housing sector, as well as development of customized financing products to tap banking sector potential. Other important pending policy provisions still necessary for promoting EE in buildings is the regulation on energy performance contracting, capitalization of the EE Fund, NZEB regulations and implementation strategy, etc.

## **BANKING SECTOR ANALYSIS**

### **Analysis of major nonlegal obstacles to commercial lending to HOAs**

#### *Analysis of risk and risk perception of HOAs by banking sector*

There is no general housing law in Kosovo. Construction of houses or other buildings is governed by *Law No. 04/L-110 on construction*,<sup>115</sup> dated May 31, 2012. Housing construction is also supported by

- *Law No. 04/L-024 on the treatment of illegal buildings*; and
- *Law No. 06/L-033 on construction products*.

Article 39(1.1) of *Law No. 04/L-134 on the condominium* implies that HOAs may get loans for performing activities. In addition, Article 10(1) of *Law No. 06/L-043 on nongovernmental organizations (NGOs)* allows NGOs to seek financial resources in or out of the country or from

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<sup>115</sup> [https://mmph.rks-gov.net/assets/cms/uploads/files/Legjislacioni/pdf-test%20\(53\).pdf](https://mmph.rks-gov.net/assets/cms/uploads/files/Legjislacioni/pdf-test%20(53).pdf)



international organizations for achieving their objectives and activities. The HOAs have their own property that can be used as collateral property, or all apartments owned by members (apartment owners) can be used as collateral. A complete residential building stock inventory was carried out in 2012 with the support of the World Bank for MABs stock, and investment needs were estimated at 301 million EUR (4 million m<sup>2</sup> of the total 8.8 million m<sup>2</sup>). A share of residential MABs will be renovated by 2030.

Total residential stock is shown in **Table 20**.

**Table 20. Total Residential Stock**

Residential Building Sector	Total Living Area (million m <sup>2</sup> )
Single houses	25.93
MABs	8.791
<b>Total residential stock</b>	<b>34.72</b>

It is important to mention that there is no HOA credit history or financial record to date in Kosovo. Noteworthy related investment initiatives are described below.

The MCC-SEEK Program, with \$24 million in US Government financing, will be used for rehabilitating 2,500 single-family houses and 25 MABs. Investments will receive a grant of up to 60% from the MCC-SEEK Program, approximately about 20% from the municipalities (for poor apartment owners), and the rest will be covered by apartment owners. This could be the first case where part of an EE/RES investment will be credited by banks.

Banks have no analysis of the market demand for credit from HOAs and no plans to include them in their business plans. The only analysis was conducted under the World Bank project, indicating a massive market size (as noted above, the investment needs for MABs with 4 million m<sup>2</sup> in stock total 301 million EUR).

The World Bank program in March 2020 has started a second phase and plans to establish 12 new HOAs, and MFK/MCC will establish 25 HOAs and implement EE/RES measures on 25 selected MABs via partial grants. MFK/MCC has carried out preparatory work (the steps for this are listed below) and will start implementing EE/RES measures for the 25 selected MABs in September 2020. It is important to note that banks do not engage with this sector, and no studies have been carried out related to its market potential.

Consultants have carried out approximate calculations related to the market, and they are presented in this report. Banks are reluctant to start financing loans to HOAs based on their creditworthiness, so for MCC projects the banks are considering financing the 30%–40% of the retrofitting costs not funded by grants based on co-guarantees from apartment owners.

There are many obstacles to developing commercial lending to HOAs, and the most important ones are as follows:

- Lack of central and local government initiatives and institutional capacities to address HOA issues.
- Low awareness among apartment owners on issues related to building management, maintenance, and retrofitting.

- Establishing HOAs for all citizens living in MABs should not be voluntary basis should be an obligation; to do this, the *Condominium Law* needs to be changed. The building management policy must be synchronized with social policies to ensure that the socially vulnerable families are supported in their obligations to pay the mandatory HOA service fees, if needed.
- Establishing HOAs takes at least 60 days, and newly established HOAs have no company history or creditworthiness.

HOAs established in Kosovo are still in an early stage of development (20 HOAs have been established for the time being, and most of them—as mentioned—are done based on the technical assistance of the World Bank and MFK/MCC).

HOA credit capacity is limited, and they have unstable sources for credit repayment (HOAs cannot meet banking requirements). Twenty of the HOAs were only established 6–12 months before and, for the time being, they regularly only pay 5–10 EUR/month for regular cleaning and light maintenance, and they have not dealt with loans. They do not have any experience dealing with banks and financial obligations. It is very important that central government and local government reduce the documentation needed to establish HOAs. Establishing an HOA requires a minimum 2 months, and apartment owners are reluctant to establish HOAs, which is why Kosovo has had a very small number of HOAs up to now. The banks require that each HOA member provides guarantees for the loans by pledging their apartments. Banks show reduced interest in HOA loans because of their high operating costs and provisioning costs caused by the length of time; regular disagreements between apartment owners cause banks to have higher operating and provisioning costs. There are complex technical requirements and housing standards that HOAs need to meet (see the list below), based on the actual legislation, with complex technical requirements and housing standards related to sanitation, regular repair, disinfection, pest/rodent control, and fire safety. Also, rehabilitation permission is required because of the following:

- *Directive 2010/31/EU of May 19, 2010 on the energy performance of buildings (EPBD)*; and
- *Law No. 05/L-101 on EPBD (OG No. 2016/42)*.

These complex requirements and lengthy preparatory processes to get rehabilitation permission prevents banks from distributing more credits.

### ***Analysis of provisioning requirement, rules and monetary policy, and banking regulation***

The banks assess the creditworthiness of loan applicants based on potential debtor's cash-flow records and estimated future cash-flows (including formal and informal revenues), compared to the potential debt service obligations. Banks assess the quality, marketability, availability and value, and legal validity of a collateral. This is very important, and it is needed to be used as co-guarantees from HOA members.

The maximum loan limit without collateral is, on average, up to 5,000 EUR. Consultants assess combined credit exposures classified into risk categories on a collective basis (portfolio of small loans) if the gross exposure does not exceed some amounts, which is different. Small loans are all loans that do not exceed 5,000 EUR.

A lengthy technical document governed by *Law No. 04/L-110 on construction* is required to get rehabilitation permission.

Analysis shows that there is a long list of steps for the preparation of building rehabilitation works, including building inspection/audit, preparation of technical documentation compliant with national standards, application for construction permit, etc. On the other hand, substantial paperwork is also needed for the loan application to acquire financing for the rehabilitation investments. The preparation, permitting, and financing process is so complex, costly, time-consuming, and technically challenging, that HOAs are often demotivated.

There is a need to change the perceptions of the banking sector about HOA lending, while seeking optimal solutions for near-commercial financing (market financing). If banks fully understanding the true risks, while HOAs better understand the bureaucratic processes, both players might be more willing to participate in such a crediting market.

For starting up a market for introduction of EE/RES measures for MABs/HOAs, a lot of technical assistance will be required for HOAs, municipalities, Energy Auditors, companies for detailed architectural and engineering design, banks, and grant-supporting programs needed in Kosovo.

An important document, based on *Law No.04/L-134* is the Condominium Agreement where the owners define the ownership divisions, the participation in the common spaces, the definition of the condominium participation quota (which is important for participation in the reserve fund—the administration fee amount), the designs of the building and all stories, the mutual rights and obligations, any short-time prohibition in property, and all other provisions that owners consider necessary to the Condominium Agreement.

In both cases, for old and new condominiums, the law requires registration of the Condominium Agreement in the Immovable Property Rights Registry and the Cadaster, which is signed by all unit owners in the building in old MABs. This is an obstacle in implementing the law because of the lack of interest of some owners who do not understand the importance of common property registration as a formal asset, its potential for possible loan collateralization, and securing loans risks. In some cases, the HOA members may live abroad, or real estate may be the developer who transfers the ownership of individual units together with the condominium participation quota to the new buyers/owners in new MABs only when these are sold. It is important to mention that for the time being, banks have not shown any flexibility because of their limited knowledge of financing HOAs.

In summary, there are many obstacles to development of commercial lending to HOAs, and the most important are as follows:

- Awareness among apartment owners is very low and this needs to be tackled first from central and local government.
- Establishment of HOAs for all citizens living in MABs should not be voluntary, but should be obligatory; to do this, condominium law needs to be changed.
- Establishing an HOA requires at least 60 days, and newly established HOAs have no company history or creditworthiness.

### ***Possibilities to create guarantee mechanisms for lending to HOAs***

The Kosovo Credit Guarantee Fund (KCGF) is a local, independent, sustainable credit guarantee facility issuing portfolio loan guarantees to financial institutions to cover up to 50% of the risk for loans to micro, small, and medium enterprises (MSMEs). The KCGF was established in January 2016 under the *Law on the Establishment of the Kosovo Credit Guarantee Fund*. The aim of the KCGF is to support the private sector in Kosovo by increased access to finance for

MSMEs, thereby creating jobs, increasing local production, improving the trade balance, and enhancing opportunities for underserved economic sectors.

It is very important to mention that KCGF is not for private individual borrowers. HOAs with an existing registration as an NGO are, in principle, qualified for a guarantee from KCGF, but for the time being the KCGF scheme is used only for private (industrial and private services) small and medium enterprises (SMEs).

The following financial sources exist: MFK grant and commercial bank loans supported by European Bank for Reconstruction and Development (EBRD) grant. The grants from the MFK program that would potentially be available for 25 MABs are a good financial source for residential EE investments, whereas the current applicable scheme of the green economy financing facility (GEFF) loan from Türk Ekonomi Bankasi (TEB) Bank, including GEFF/EBRD grant offers for financial solutions mainly for single-family houses are currently eligible also for such loans/grants to the MABs through HOAs. Also, it is important to mention that through the MFK foundation, MCC is granted \$24 million in EE housing.

### ***Existing commercial banking products available to HOAs***

The following are the technical documents required and the main steps for implementing EE/RES measures at different MABs for retrofit works. The preparation process is lengthy, and includes the following:

- Regulation for inspection of heating and air-conditioning system (February 27, 2018);
- National Methodology for Calculation of Energy Performance (December 11, 2018);
- Regulation for minimum requirements for the energy performance of buildings (December 11, 2018);
- Regulation of the procedures on energy performance certification of buildings (December 11, 2018);
- Carrying out (walk-through) energy audits by certified energy auditors by preparation of list of possible EE/RES measures (including provision Bill of Quantities [BoQs]) and the rough estimation of cost per selected measure, like a provisional financial plan);
- Presenting EE/RES measures and related investment costs to HOAs/MABs with an attempt to reach an agreement on the chosen EE/RES retrofit measures (selection done by HOAs);
- A provisional financial plan will be prepared only for EE/RES measures selected by the apartment owners (or HOA if established);
- Energy auditor assists apartment owners and supports them in negotiations with financial institutions related to loan conditions (if loan is needed/requested by the apartment owners);
- Energy auditor, selected from HOA, assists HOA in carrying out the selection process and contract company for detailed architectural and engineering design for MAB and the related final BoQs for accepted EE/RES measures;
- Energy auditor prepares the detailed architectural and engineering design and the final BoQs for accepted EE/RES measure for the MAB;
- Company for detailed architectural and engineering design prepares application dossier (for the renovation permit) with all technical and legal requirements for accepted EE/RES measures for receiving the renovation permits;

- Company for detailed architectural and engineering design prepares tender dossier for procurement of contractor for construction works;
- Contractor will organize the retrofit works and the implementation of EE/RES measures per contract terms, and will organize the construction site and works and implement all necessary works per provisions of the construction works contract;
- Company for detailed architectural and engineering design carries out the supervision of the work and signs all invoices to be paid from the HOA/bank; and
- Company for detailed architectural and engineering design carries out the final acceptance of works and after it, the HOA.

The total cost of preparing all above-mentioned documentations is approximately 10% of the EE/RES investment to be carried out on MABs.

MFK is securing all the above-mentioned documents via grants for HOAs for the first 25 MABs in Kosovo, which will serve as piloting for potential replication under commercial lending projects in the future.

### *Analysis of products offered by development banks in the country and their availability to HOAs*

As noted earlier, the only investments available for MABs/HOAs as of 2020 are strongly supported by donors and IFIs (MFK, EBRD, GEFF). Despite formal eligibility of HOAs under the GEFF loans, no cases of lending to HOAs have been registered. Furthermore, should a MAB seek a commercial loan, under current lending conditions all individual households would need to borrow independently, even if they intend to spend the funds on the common-space renovations. The GEFF/EBRD representatives' express interest in developing a scheme that would enable HOAs to benefit from green loan with grant cofinancing of up to 35% if the borrowers chose to invest in two EE/RES measures simultaneously. EBRD first carries out due diligence for all banks that would like to participate in the GEEF program. After the loan is signed between EBRD and commercial bank, EBRD does not intervene on loan condition policies toward borrowers, and these are independently set by the commercial banks.

Two possibilities exist: The borrower can either be the HOA, or these could be the MAB owners collectively or individually. The grant scheme for individual borrowers is 20% of the overall borrowed principal meanwhile, when they borrow collectively as an HOA, which will make them eligible for a 35% grant.

Municipalities are responsible for the development and implementation of urban planning, including housing policy, by issuing retrofit (renovation) permits for individual houses and MABs. Also, they prepare, approve, and implement the MEEAPs, which include EE measures in municipally owned buildings, including selected MABs (in the middle to long term). They are also in charge of planning the development of the building sector that is under the municipality's jurisdiction. Municipalities, through the urban regulatory plans, shall define the common land and public areas in the function of condominiums. Through the competent municipal body, they shall maintain the register of condominiums and administrators that practice this activity in their territory. Municipalities have a major role regarding initiation of HOA formation through their information offices.

The financial model prepared by MFK will include all possible available financial resources (MFK, seven municipalities participating in the MCC program, HO, KEEA, commercial banks

loans for different AOs) and assist them in securing financing for total investment required based on the EE/RES measures agreed on by the HOA. Major international funding comes with some strings attached, like complex technical requirements and housing standards that HOAs need to fulfill. They also need to fulfill all Kosovo primary and secondary legislation, including the following:

- Regulation for inspection of heating and air-conditioning system (February 27, 2018);
- National Methodology for Calculation of Energy Performance (December 11, 2018);
- Regulation for minimum requirements for the energy performance of buildings (December 11, 2018); and
- Regulation of the procedures on energy performance certification of building (December 11, 2018).

### **Conclusions and Recommendations for the Banking Sector**

The MAB sector remains poorly organized, with many institutional, legal, awareness, and financial gaps posing barriers to the potential mobilization of investments in multi-apartment housing renovations. The HOA institutional capacities and self-organization are quite low, and consequently, the banks' perception of HOA borrowing risk is quite high. Most EE lending is for individual households only. With the GEF credit line formally eligible for HOA borrowing, the banks still expect that each household pledges their property for HOA group lending, which makes the process cumbersome, administratively costly, and undesirable for households. Despite the 35% grant co-financing available for HOAs, the requirement of individual pledges and the poor organization of HOAs has not resulted in any HOA loans disbursed.

The MFK/MCC program is the first investment initiative specifically targeted at MAB renovation for a pilot 25 buildings with 60% grant co-financing involved. The need for a larger grant share indicates that the market is still far from commercialization. In this light, the following actions are recommended:

- **Legal/regulatory:** The housing legislation requirement of 100% consent of all households' threshold must be reduced to simplify reaching legitimate consensus for going forward with investment plans. If nearly 70% of the households agree to pursue the investment, this decision must be enforced for opposing households as well. At the same time, if the any households within the opposing minority are socially vulnerable and/or noncreditworthy, the grant resources could be provided to cover those socially challenged families to allow their participation in the overall investments with grant support.
- **Financial:** Given the high perception of risks and reluctance of banks to lend to HOAs as a legal entity, part of the resources can be mobilized to establish a guarantee fund, which, in the long-run, can help build the banks' confidence in lending to HOAs, while the market matures and HOAs build a track record with commercial loan servicing.
- **Institutional/capacity building:** Given the large technical and bureaucratic effort required to prepare for comprehensive building renovations, donor support should focus not only on grant co-financing of the capital investments, but also on project identification, community mobilization, development of energy audits, technical documentation, procurement of EE renovation services, as well as monitoring and publicizing the results. In the meantime, the HOAs' capacities need to be gradually increased to allow for independent project management in the long-term future.

# NORTH MACEDONIA

## HOUSING SECTOR ANALYSIS

### Section 1: Legal position and functioning of HOAs/HOAs

The *Housing Law*, enacted in 2009, is a complex and comprehensive housing legislation. It covers most areas of housing, and it regulates the management of MABs. The Law introduced a set of regulations for the management of MABs as a basis for quality housing. Compared with previous housing laws, the 2009 law has stronger regulatory and economic dimensions and is more market oriented than socially oriented. The 2009 law regulates a wide range of housing issues, including building typology, management of residential buildings, relationships between HOAs and third parties; the functions of HOAs, the Register of Apartments, rental relationships in housing, the model of management and maintenance of buildings, the rights and the obligations of the state institutions and the municipalities in the housing sector, and inspections and administrative supervision.

#### *Section 1.1 Legal framework for the housing sector*

The Law establishes a **Regulatory Commission for Housing**, a national-level oversight authority, and sets the legal obligation to establish a reserve fund and to allocate funds intended for maintenance and investment in residential buildings. It also creates a relatively clear legal position for HOAs and tax status and obligations for registered HOAs as active entities in the trade register at the Central Register of Macedonia.

The *Housing Law* defines the management of residential buildings as monitoring and enforcing the decisions of tenants, as decided by the HOA, and providing, maintaining, and preserving common spaces in the building.

#### *Section 1.2. Legal obligation to form an HOA or engage an RBM company*

The *Housing Law* prescribes that HOAs have two alternatives, both of which were newly introduced in 2009. The two models for MAB management are (1) HOA and (2) licensed management company (LMC). Both are legally regulated and have the same rights and obligations in the management of the MABs.

The requirement for organized management refers to residential buildings with more than two owners of separate apartments (HOs) and more than eight separate apartments. The decision to appoint a manager or register an HOA requires agreement of 51% of the owners of the apartments.

All MABs are obliged to have a **Mutual Relations Contract** among HOAs. This contract regulates all aspects of housing in the building: maintenance, decision making, costs for maintenance and investments of the common areas, and reserve fund. The mutual relations contract is required for both models of building management and is in a prescribed format (by the Regulatory Commission); its content can be tailored by HOAs to include additional elements based on consent of HOAs.

If the building is managed by an LMC, the manager signs a management contract with the authorized representatives of the building (1 person elected by homeowners). Some HOAs in MABs establish supervisory boards, consisting of several HOs.

When the HOs select a model of management through an HOA, it is considered a legal entity and is registered as such in the central register. HOAs can only perform management services of the residential building and cannot perform any other activity. The HOA President undertakes all matters related to the management of the residential building on behalf of and at the expense of the HOA, and has the same rights and obligations as the LMC.

In both management models, during an owners' meeting, HOs adopt a maintenance plan for 1–5 years. The plan contains measures and activities for regular maintenance of and investments in the residential building.

### *Section 1.3 Voting rights of homeowners and decision making for renovation decisions*

The *Housing Law* defines the minimum criteria for establishing an HOA or hiring an LMC: the entirety of a residential building with more than eight apartments and two owners. In practice, HOAs and LMCs are established or engaged to manage only one entrance in bigger residential buildings and condominiums. Therefore, residential buildings with four entrances, for example, could all have chosen different management models and HOAs or LMCs for each entrance separately. This situation complicates maintenance, management, and investments in the MABs, especially larger EE measures, which have the greatest impact if they are applied to the entire building—therefore, the legal framework should address this in future amendments of the law, as it clearly represents a regulatory gap.

Decisions on management of the residential building are made by HOAs of the special parts<sup>116</sup> on a meeting or by signing a statement on which the draft decision is (pre)written. The owners' meeting may be organized by the Manager, the group of HOs who together own at least one-fifth of the separate parts of the building, or the supervisory board.

Decisions for all matters of common interest in the residential building are made with 51% of the votes of the HOs, except when it comes to the installation of video surveillance of the residential building, which requires 100% consent of the homeowners. In the recommended Mutual Relations Contract format, one section declares the number of votes for each HO, based on the area of the apartment; HOs of larger apartments have more votes than those of smaller apartments. In practice, this system is not fully respected, and it is common to decide votes as “one homeowner, one vote,” **rendering decision making complex and difficult to implement.**

**A practical problem in decision making in MABs is the difficulty in reaching a majority for decision making** due to inactivity or absence of many HOs. The decisions are made by HOAs with 51% of the vote, yet in practice, the 51% threshold is difficult due to the absence of some owners at these meetings. The experience of Habidom, the daughter LMC of Habitat Macedonia, shows that, after 10 years of practicing the *Housing Law*, the owners sidestep the law to make more efficient decisions. Sometimes, HOAs in the mutual relations contract authorize the owner's representative to decide on urgent and necessary matters in the building.

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<sup>116</sup> In the *Housing Law*, HOs of the apartments are titled “owners of a separate parts of the building,” whereas all HOs use common areas of the building.



Others authorize the supervisory board to decide. The owner's representative must collect signatures for the consent of at least 51% of the owners for each decision, which in practice is easier than organizing a meeting of the owners. These meetings are inefficient, and the necessary quorum for work cannot be secured; therefore, decisions are not legitimate.

One of the proposed amendments to the *Housing Law*, made by Habitat Macedonia, will eliminate decision-making blockades for which 51% of HOs are required, and is as follows: *After two properly summoned owners' meetings, the law should allow for the third consecutive summoned meeting decision to be taken by a majority of the present owners.*

#### ***Section 1.4 Method of creation of maintenance fund and reserve funds***

Regarding LMCs, for general maintenance of the residential buildings, the *Housing Law* prescribes to establish two funds: a regular maintenance fund and a reserve fund. The LMC must keep accounting records of the funds intended for operation and maintenance that have been collected on a separate account, for each residential building and for each MAB separately.

The assets from the regular maintenance fund and the reserve fund are used exclusively for the needs of the residential building or the owners of the special parts who have contributed to these two funds. The fee for management services is calculated separately.

The *maintenance fund* is based on costs for regular operation of the building, like electricity, elevators, cleaning of common areas, current repairs, etc. The amount for the *reserve fund* is determined based on (1) number of apartments; (2) age of the building; and (3) type of material from which the residential building is constructed.

#### ***Section 1.5 Method of creation and structure of fees for maintenance and reserve funds***

The *Housing Law* provides freedom to determine the amount of the fee that needs to be paid in the reserve fund, and the by-laws set the minimum that needs to be determined based on the assessment of the value of the residential building and other listed criteria. Currently, the minimum amount for the reserve fund is **1 Macedonian denar/m<sup>2</sup>** per apartment.

The management fee is paid monthly and is prescribed to be 10% of the maintenance costs for the recent month. Some LMCs calculate fixed amounts as their management fee. According to the *Housing Law*, the LMC oversees the reserve fund, but the decisions for its use are made at the HOs' meetings. The reserve fund can be used only for maintenance costs and necessary improvements in the maintenance plan.

#### ***Section 1.6 Legal obligation to pay maintenance and reserve funds fees and analysis of practical enforcement***

Payment of the fees is legally required, and there is a procedure for enforcing payment. In case of nonpayment, the manager submits a warning, and an extrajudicial procedure is available for easier collection of the debt. However, due to the collision with the *Law on Personal Data Protection*, this method of forced collection and execution is difficult to implement. This represents a major gap in the implementation of the entire system.

### ***Section 1.7 Enforcement of LHBM and related legislation in practice***

The *Housing Law* offers a wide solution to many of the issues related to the management of residential buildings, but its full implementation is conditioned by several by-laws and compliance with the other regulations.

According to the *Housing Law*, the rights, obligations, and competencies of the involved entities in the field of housing in North Macedonia are described below.

The **Government** determines and implements housing development policy; adopts the state housing strategy and annual programs for construction, sale, and maintenance of state-owned housing; provides for measures and instruments to stimulate housing construction; stimulates the citizens for residential construction by providing loans with favorable interest rates and fiscal measures for construction and renovation of residential buildings and apartments, etc.

The *Housing Law* gives the **Municipalities** the authority to monitor and plan housing needs in their area, for which they must adopt annual programs and take measures and activities to implement, like providing communal infrastructure needed for the normal functioning of the residential space; New to the 2009 *Housing Law* is the obligation for municipalities to establish and maintain a Register of Residential Buildings and Apartments and a register of managers of residential buildings. The introduction of **municipal housing inspectors** is important to the successful implementation of the *Housing Law*.

The **Regulatory Commission for Housing** is independent in its operation and decision making within the framework and competencies determined by the *Housing Law*, such as satisfying the housing needs of the population; categorizing apartments and residential buildings; issuing, extending, and revoking the licenses of the managers for performing the management services of the residential buildings; registering managers of the residential buildings; adopting laws and other regulations in the field of housing; and mediating the resolution of disputes. The Commission's task is to ensure long-term, standardized, and harmonious development of housing in accordance with modern standards of quality of life and environmental protection.

The *Housing Law* does not fully prescribe the obligations of the State and the municipalities in the field of housing or the rights and obligations of HOs in the residential buildings. Also, the obligations regarding the maintenance of common parts and premises in residential buildings and the obligations of state bodies and municipal bodies in housing are not precisely regulated and are generally disregarded or not implemented. Therefore, in reality, the established obligations have insignificant application.<sup>117</sup>

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<sup>117</sup> Habitat Macedonia started a discussion about the challenges in implementation of the *Housing Law* and initiated a process of legislative changes, officially addressing the Ministry of Transport and Communication, which is responsible for the *Housing Law*. The working group established by Ministry, representative of different stakeholders in the multi-family apartment housing sector, started work in June 2018. The group held a set of workshops to discuss all problematic issues in the *Housing Law*. The proposed solutions were prepared and proposed to the authorities in the Ministry for further decision making. The process is not yet finalized.

## **Section 2. Analysis of supportive regulatory conditions for HOA functioning, including but not limited to law(s) on the operation of HOAs, Civil Codes, Commercial Codes, all relevant government decisions, and legal definitions**

### ***Section 2.1 Legislation supportive to HOA functioning***

Many laws are related to the *Housing Laws* and have an impact on the management and maintenance of MABs directly or indirectly. These are the *Law on Construction*,<sup>118</sup> *Law on Spatial and Urban Planning*,<sup>119</sup> *Law on Construction Land*,<sup>120</sup> *Law on Property and Other Real Rights*,<sup>121</sup> *Law on Obligations*,<sup>122</sup> *Law on Local Self-Government*,<sup>123</sup> *Law on the Territorial Organization of Local Self-Government in the Republic of Macedonia*,<sup>124</sup> and *Law on Financing of Local Self-Government Units*.<sup>125</sup>

### ***Section 2.2 Bylaws that regulate management/maintenance of MABs***

In addition to basic housing legislation that guides implementation of the *Housing Law*, 11 by-laws have been adopted:

1. *Rulebook on the number of separate parts in the reserve fund (Official Gazette of RM No. 36/2011)*
2. *Rulebook on the form and content of the identification card of housing inspectors and its issuance and revocation procedures (Official Gazette of RM No. 27/2010)*
3. *Rulebook on the issuance and revocation procedures of the license for manager for performing the activities of management of a residential building, as well as the format and the content of the license template (Official Gazette of RM No. 153/2009)*
4. *Rulebook on housing norms and standards in residential buildings (Official Gazette of RM No. 27/2010)*
5. *Rulebook for amending the rulebook on housing norms and standards in residential buildings*
6. *Rulebook on the format and content of the notification for no decision on the submitted appeal (Official Gazette of RM No. 73/2011)*
7. *Decree on amending the decree on methodology for determining the value of an apartment, and methodology for determining the amount of rent, the amount of the not-for-profit rent, the way of payment of rent, spacious norms, the way of using the apartment, the procedure for awarding not-for-profit apartments, apartments for governmental needs, temporary lease and lease of apartments for a specific purpose (Official Gazette of RM No. 30/2010)*

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<sup>118</sup> *Official Gazette of RM* No. 130/2009, 124/2010, 18/2011, 36/2011, 54/2011, 13/2012, 144/2012, 25/2013, 79/2013, 137/2013, 163/2013, 27/2014, 28/2014, 42/2014, 115/2014, 149/2014, 187/2014, 44/2015, 129/2015, 217/2015, 226/2015, and 31/2016.

<sup>119</sup> *Official Gazette of RM* No. 199/2014, 44/2015 и 193/2015, 31/2016 and 163/2016.

<sup>120</sup> *Official Gazette of RM* No. 15/2015, 98/2015, 193/2015, 226/2015 and 31/2016.

<sup>121</sup> *Official Gazette of RM* No. 18/2001, 92/2008, 139/2009 and 35/2010.

<sup>122</sup> *Official Gazette of RM* No. 18/2001, 78/2001, 04/2002, 59/2002, 05/2003, 84/2008 and 81/2009 and 161/2009.

<sup>123</sup> *Official Gazette of RM* No. 5/2002.

<sup>124</sup> *Official Gazette of RM* No. 55/2004, 12/2005, 98/2008 and 149/2014.

<sup>125</sup> *Official Gazette of RM* No. 61/2004, 96/2004, 67/2007, 156/2009, 47/11, and 192/2015.

8. *Decree for criteria and methodology for categorization of apartments and residential buildings (Official Gazette of RM No. 58/2010)*
9. *Decree on the methodology for determining the value of the apartment and methodology for determining the amount of rent, the amount of the not-for-profit rent, the procedure of payment of rent, spatial norms, how an apartment is used, the procedure for awarding not-for-profit apartments, apartments for governmental use, and temporary lease and lease of apartments for a specific purpose (Official Gazette of RM No. 13/2010)*
10. *Decree on amending the decree on the methodology for determining the value of the apartment and methodology for determining the amount of rent, the amount of the not-for-profit rent, the way of payment of rent, spatial norms, how an apartment is used, the procedure for awarding not-for-profit apartments, apartments for governmental use, and temporary lease and lease of apartments for a specific purpose (Official Gazette of RM No. 151/2011)*
11. Guidelines on the preparation of calculations for the costs incurred in the previous month for payment of current and regular maintenance and for the reserve fund by the manager or the association of owners

### ***Section 2.3 Analysis of the institutional infrastructure of the enforcement of laws and by-laws that regulate the management of multi-apartment properties***

As described in Section 1.7 of this report, the proper functioning of the law should be enforced via the **Regulatory Commission for Housing** and the municipal services of **housing inspection**. On the policy level, the state government and municipalities have competencies in housing and support to the maintenance and management of the buildings stock. In practice, much of the enforcement of oversight does not function.

### ***Section 2.4 Analysis of Law on Obligations and its effect on (1) payment of fees and (2) security of payment***

The *Housing Law* enables forced collection, and in this respect is well linked with the instruments of the obligation law that enable enforcement in the payment of dues by the HOs that arise from maintenance and management of their building. However, difficulties arise from the *Law on Personal Data Protection* and the fact that the personal numbers (IDs) of citizens are protected data. Namely, during the regular operation and especially in the procedures for collection of debts of nonpayers of maintenance fees, HOs cannot be identified by force, resulting in administrative issues and inability to start the forced-payment procedure, which is a major problem for the managers of residential buildings and HOAs.

### ***Section 2.5 Analysis of the enforcement of HOAs and housing-related laws and by-laws***

Housing legislation is well developed, but its enforcement is limited. Given the many laws and by-laws that have an impact on the housing sector, the following inconsistencies and conflicts in the legal framework have been noted:

- Differences in the definition of a residential building in the *Housing Law*, the *Law on Construction*, and the *Rulebook on standards and norms for urban planning*.<sup>126</sup> With

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<sup>126</sup> New rulebook on standards and norms for urban planning is under preparation and is expected to be adopted by August 2020.

- this solution, housing buildings with less than eight units do not have legal obligation for regular maintenance.
- Although the *Housing Law* enables forced collection, difficulties arise from the *Law on Personal Data Protection*, as described above.
  - The *Rulebook on Regular and Investment Maintenance* was adopted in 1998 based on the old, now invalid law. The definitions and distinctions among different terms is difficult to follow, as they are not related to the new *Housing Law*. In practice, experts' opinions are divided on whether to work according to this rulebook.
  - Although the obligations of the LMCs are clearly prescribed in the *Housing Law*, in practice there are examples where LMCs are delaying paying electricity bills for common areas of residential buildings. If the HOs are not paying the maintenance fee (and other management costs), the LMC cannot fill all payment obligations toward external service providers.
  - The *Housing Law* does not contain a clear provision for the purpose of the assets from the regular and reserve funds of residential buildings, resulting in difficulties in accounting for each residential building. These difficulties are related to the different interpretations of what falls under current/regular character and what items are investments in nature and therefore related to the *Rulebook on Regular and Investment Maintenance*.

### **Section 3 Analysis of Government housing policies and regulatory framework (e.g., on rehabilitation of multi-story housing stock)**

The Housing Strategy for North Macedonia (2007–2012) has been outdated for many years and is still the only national-level document that refers to the long-term, harmonized, and standardized approach to housing.

The strategy focused on the maintaining existing residential buildings; supporting new residential construction; supporting and strengthening cooperation among local and national institutions, civil society organizations, private construction companies, market, etc.; enhancing economic, social, and legal mechanisms for housing; enabling free access to housing; increasing civic participation in creating housing policies, etc.

There is ongoing preparation of a National Strategy for Building Renovations, led by the Ministry of Economy. For this purpose, the Ministry of Economy works to develop building typology for the housing sector based on the successfully developed, EU-funded TABULA project that was carried out in more than 20 countries, including an assessment of Serbia and BiH as countries in the WB. The project is based on a national classification of the country's residential building stock, differentiating buildings by construction year, building size classes, level of energy consumption, and CO<sub>2</sub> emission reduction. Habitat Macedonia has a key role in this process.

In the absence of structured government policy or programs, Habitat Macedonia—with the support of USAID since 2010—became involved in the renovation (with EE features) of more than 60 apartment buildings with over 1,900 apartments. Through the program, HFH Macedonia implemented hard measures (e.g., replacement of windows and doors, roofing, thermo-facades) that led to overall p.a. energy savings of 7,910 MWh and p.a. reductions in CO<sub>2</sub> emissions of 3,670 t. Although they are demonstration projects, they speak to the necessity to bring more information, better stimulation, more practical regulation, and enforcement of the HOAs in apartment buildings to implement EE measures.

### *Section 3.1 Review of the functioning of RBM companies, regime of functioning (licensed or not), market characteristics of RBM, analysis of market key actors, size of companies, and main characteristics*

The 2002 Census (the last official census) registered 564,296 households in the country and 698,143 housing units/dwellings, meaning there are 133,847 more dwellings than households. Many of these dwellings are in rural and abandoned areas and are not used for housing. Despite this difference, the number of available housing units in North Macedonia is among the lowest in Europe; during the 1990s, the number was fixed at about 275 dwellings per thousand inhabitants, and according to the 2002 Census, this number has increased to 345 dwellings per thousand inhabitants. According official statistics data, from 2003 to 2018, 89,094 apartments were built in North Macedonia, amounting to 786,623 apartments or dwellings with a total area of 57,134,415 m<sup>2</sup>.

According to Habitat Macedonia's data and analysis, there are about 12,000 residential MABs and about 770,000 dwellings. Most of these buildings are 30 to 50 years old, lack thermal insulation, and have poor energy performance. About 11.8% of total households are connected to district heating in Skopje, the capital. There is no consumption-based billing for district heating, while the bills are based on apartment area. Low-income households, living in apartments that have connections to district heating, are disconnecting from the system. The most vulnerable groups in terms of energy poverty are pensioners and single-parent families. They are living in less energy-efficient buildings and spending the most of their family budget for heating.

According to the Commission on Housing Regulation, 64% of residential buildings in North Macedonia in 2019 were managed, which is a significant jump from 20% in 2011; 84 companies have a management license, but only 58 are active service providers. These companies operate in 16 cities and cover 3,783 residential buildings with 87,214 apartments.

2,736 registered HOAs exist, and in 2019, 783 ceased their operations. LMCs are taking over the work of HOAs. The Law prescribes a Register of Apartments, but there was no action to enforce this obligation by any authority. Therefore, HFH Macedonia started a project for a Register of Apartment Buildings and Apartments (RABA). As of April 2020, the register has information (construction and energy data) for 3,838 apartment buildings with 115,440 apartments in 30 municipalities.<sup>127</sup>

Only 11% of these buildings are renovated.<sup>128</sup> The renovation usually involves changing windows and balcony doors in the apartments and, less often, renovating common areas in the buildings. The data show that the largest percentage of residential buildings in the municipalities where the register was completed (31%) were built between 1965 and 1980, whereas 28% were

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<sup>127</sup> Macedonia has 80 municipalities, 10 of which are part of the City of Skopje. The Register covers municipalities of Karposh, Aerodrom, Cair, Kisela Voda, Gazi Baba, Prilep, Veles, Kavadarci, Negotino, Kumanovo, Gjorce Petrov, Kriva Palanka, Bogdanci, Makedonska Kamenica, Demir Hisar, Dojran, Probishtip, Radovish, Makedonski Brod, Berovo, Ohrid, Valandovo, Butel, Delcevo, Pehchevo, Vinica, Sveti Nikole, Kochani, Kratovo, and Vevchani.

<sup>128</sup> The questions of renovation of the buildings are addressed most often by the HOA President or another representative of the building, and the answer is subjective and most often refers to the renovation of the common areas. The data on changed windows and balcony doors on more than 70% of apartments in the residential buildings (which provides some energy efficiency of the building) show that the percentage varies from 49% in more developed municipalities (e.g., Kisela Voda, Karposh in the city Skopje) to 5% in the smaller and less economically developed municipalities (e.g., Makedonska Kamenica).

built after 1990. In terms of management, the data show that 40% of MABs have not selected any form of management, whereas 23% have hired a specialized management company, and 37% are managed by HOAs.

A survey was conducted in 2019 in the municipalities of Veles and Gjorce Petrov (which is an integral part of the City of Skopje) on the socioeconomic situation of apartment building tenants. The survey covered 930 households, 480 in the municipality of Gjorce Petrov and 450 in the municipality of Veles. The survey showed that 66% of residential buildings have done nothing to improve the common areas. The tenants are not willing to invest in the common areas, mainly due to the poor economic situation and uncertainty of the family income. However, those who have stated that they want to invest can set aside 1,600 MKD (about 30 EUR) per month for renovation. Due to insufficient funds for heating the entire apartment in the winter, the households use just over half of the living space in those months.

### **Conclusions and Recommendations for the Housing Sector**

The legal framework for housing is developed in detail in the country and is based on the *Housing Law*. However, the practice of the past 10 years has shown that the law is complicated, inconsistent, and difficult to put in practice, and it contradicts other relevant laws as described above. The *Housing Law* went through more than 10 changes and amendments between 2009 and 2016. Although 11 by-laws are enacted, there is still a lack of clarity and adequate guidance in implementation of Law. In 2018, there was a collaborative process of amending the *Housing Law*, in which HFH Macedonia was a lead, but the procedure has not been finalized.

Below is a summary of the key issues:

- Low quality of management and maintenance services with the services of maintenance and treatment due to poor oversight of the work of LMCs by the regulator
- Disregard for the prescribed amounts of payment of monthly fees and irregularity of the payment on the costs of maintenance and management
- Complications from the fact that there are alternative methods of management (HOAs and LMC), which causes lack of clarity among HOAs
- Complications that arise from obtaining majority votes for various HOA decisions
- Serious problems with enforcement of payment of dues, because of inconsistencies with several other laws, and mostly with the *Law on Protection of Personal Data*
- Failure of state institutions to comply with the proposed policy model provided for in the Law, including appointing municipal housing inspectors (very few such inspectors are appointed and/or are performing their duties as legally prescribed)

In addition to the gaps in the regulatory framework, the following issues exist:

- Homeowners are apathetic, reluctant, and lack initiative for quality management of the residential buildings and improvement of the conditions. Because most MABs were built in the 1970s and 1980s, inadequate management is becoming a highly important factor for quality and energy-efficient housing.
- Only 64% of MABs are managed. Most are managed through LMCs. There is a trend to increase the number of buildings managed by LMCs and the number of HOAs who are deleted for the central register.
- The EU Directive 2018/844 of May 30, 2018, requires that all EU member countries, including member countries to the Energy Community like North Macedonia, develop

and implement a long-term strategy for building renovations until 2050. Based on the directive, the Ministry of Economy is starting a process of preparing the strategy for buildings renovation. Prior to this directive, a typology of buildings will be prepared using the TABULA method.

The recommended legislative and systemic changes should focus on:

- Addressing each one of gaps in the legal elements in the *Housing Law* and by-laws as outlined in this gap analysis;
- Synchronization with the housing legislation and other laws;
- Simplification of some of the legal solutions as well as the institutional framework for enforcement, considering good practices, such as those in Slovakia, as presented in the comparative analysis; and
- Capacity building of actors, including setting up more support for HOs and HOAs, and setting up centers to support development of HOAs, municipalities, and state institutions.

## ENERGY SECTOR ANALYSIS

### Section 4 Analysis of energy-related support programs for building rehabilitation in line with the EU EPBD and EED

#### *Section 4.1: EE targets and building renovation strategies*

In February 2020, North Macedonia adopted a new *Law on Energy Efficiency*<sup>129</sup> that transposes EPBD and EED. Prior to this law, EE was governed by the *Law on Energy*. The new *Law on Energy Efficiency* sets deadlines for the development and adoption of secondary legislation; existing secondary legislation on EE will govern until new secondary legislation is prepared and adopted. The target deadlines for new secondary legislation, as stipulated in the *Law on Energy Efficiency*, range from 3 months to 1 year from the law's adoption. The decree for adoption of EE targets and the *Rulebook on Information Systems for Energy Management of Public-sector Entities* are to be adopted within 3 months, while the *Rulebook on Energy Performance of Buildings*, the *Rulebook on Energy Audit of Buildings*, and the *Decree for establishing an EE obligation scheme* are to be adopted within 6 months. However, given early parliamentary elections in North Macedonia, scheduled for July 15, 2020, as well as the ongoing health and social challenges caused by COVID-19, the target deadlines as stipulated in the *Law on Energy Efficiency* are likely to be delayed.

The residential sector is one of the key targets for EE improvements in the new *Law on Energy Efficiency*. One of the objectives of this law is to increase EE in housing and construction by improving the energy performance of buildings.

The national EE targets are established by decree from the Ministry of Economy, and adopted by the government. The decree is made in accordance with the law's provisions and the adopted National Energy Development Strategy. The national EE targets refer to primary and

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<sup>129</sup> *Law on Energy Efficiency*, adopted February 5, 2020 (available in Macedonian language only): <http://www.economy.gov.mk/Upload/Documents/Zakon%20za%20energetska%20efikasnost.pdf>



final savings in energy or energy intensity,<sup>130</sup> and are established for a period of at least 10 years.

The National Energy Development Strategy (until the year 2040<sup>131</sup>) was adopted in December 2019. This strategy includes a measure for retrofitting existing residential buildings (with an annual renovation rate of 1%) while meeting the minimum required standard energy performance (“C” energy class.<sup>132</sup>) The estimated budget for this measure ranges from 941.8 million EUR, under the reference and moderate scenarios, to 1,708.2 million EUR, under the green scenario. The expected final energy savings by 2030 amounts to 27.9 ktoe<sup>133</sup> under the reference and moderate scenarios and 42 ktoe under the green scenario.

The reference scenario referred to in the above paragraph is based on a transition from conventional energy relying on current policy and least-cost principles; the moderate scenario is based on a progressive transition from conventional energy relying on new policy and least-cost principles; and the green scenario is based on a radical transition from conventional energy relying on new policy, advanced technologies, and lignite phaseout. The 2012 ENSI Report on EE in buildings suggests that the estimated investment needed for MABs in North Macedonia exceeds 416 million EUR, for an estimated building-stock area of about 21.5 million m<sup>2</sup>.<sup>134</sup>

As provisioned in the new *Law on Energy Efficiency*, the Building Renovation Strategy must be prepared by February 2022. This strategy will provide for the renovation of residential, nonresidential, and public buildings over a period of at least 10 years. The Ministry of Economy will monitor implementation of the strategy and will report every 3 years to the Energy Community Secretariat on progress made as part of NEEAP.

The 3<sup>rd</sup> NEEAP<sup>135</sup>, covering 2016–2018, included an indicative target to reduce final energy consumption in North Macedonia by at least 9%, relative to reference consumption<sup>136</sup>, with cumulative final energy savings of 147.2 ktoe. Along with measures from the 2<sup>nd</sup> NEEAP, the 3<sup>rd</sup> NEEAP included two new measures that contributed to cumulative energy savings of 148.7 ktoe by 2018. This represents a 9.09% reduction compared to reference consumption, slightly above the indicator target of 9%.

The 3<sup>rd</sup> NEEAP provides an overview of 31 policies and measures, the majority of them implemented as planned. These measures are divided across seven sectors: buildings, households, public, commercial, industry, energy, and transport. One-third of the measures were partially implemented, and only one was not implemented (heat-cost allocators). Most of the energy savings in 2018 came from enhancements in transport and industry, respectively contributing 28.7% (42.7 ktoe) and 27.8% (41.4 ktoe) in reductions, but the household and

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<sup>130</sup> Energy intensity is a measure of energy inefficiency of an economy. It is calculated as units of energy per unit of GDP.

<sup>131</sup> National Energy Development Strategy until 2040: <http://www.economy.gov.mk/doc/2759>

<sup>132</sup> Heating energy of up to 100 kWh/m<sup>2</sup> per year.

<sup>133</sup> ktoe = kiloton of oil equivalent. It is a unit of energy defined as the amount of energy released by burning one tonne of crude oil. It is an internationally accepted unit of energy and widely used for comparison.

<sup>134</sup> ENSI Final Report, Energy Efficiency in Buildings in the Contracting Parties of the Energy Community (p. 79): [https://www.energy-community.org/dam/jcr:8182c20a-7b31-45e5-ae75-456c919131ce/ENSI\\_2012\\_EE\\_Contracting\\_Parties.PDF](https://www.energy-community.org/dam/jcr:8182c20a-7b31-45e5-ae75-456c919131ce/ENSI_2012_EE_Contracting_Parties.PDF)

<sup>135</sup> Third National Energy Efficiency Action Plan 2016-2018: [http://www.economy.gov.mk/Upload/Documents/Tret%20NEEAP\\_V02%20\(MKD\).pdf](http://www.economy.gov.mk/Upload/Documents/Tret%20NEEAP_V02%20(MKD).pdf)

<sup>136</sup> The reference consumption is the average energy consumption in the period 2002–2006.

public sectors also contributed to energy savings, at 19.6% (29.2 ktoe) and 10.4% (15.54 ktoe), respectively. The 3<sup>rd</sup> NEEAP also set retrofitting measures for existing residential buildings, with projected energy savings of 12.14 ktoe by 2018 and an estimated budget of 22.86 million EUR from 2016–2018.

The 4<sup>th</sup> NEEAP is currently under preparation by the Macedonian Academy of Sciences and Arts (MANU), and its adoption was originally planned for June 30, 2020. However, as of the start of June 2020, the COVID-19 crisis and early parliamentary elections scheduled for July 2020 may delay the preparation and adoption of the 4<sup>th</sup> NEEAP.

The *Law on Energy Efficiency* stipulates that the Ministry of Economy must adopt a plan to increase the number of nearly zero-energy buildings (NZEB) by February 2021. At present, however, there is no national NZEB strategy in place. The 3<sup>rd</sup> NEEAP identified projects focusing on the education and training of designers and contractors, with the aim of introducing NZEBs into North Macedonia.

The government also promotes the use of EE and RES in households under the annual National Program. The Ministry of Economy, in implementing this program, created the following support schemes: up to 30% reimbursement (not more than 300 EUR) of the costs of purchasing and installing solar thermal collector systems; up to 50% reimbursement (not more than 500 EUR) of the costs of purchasing and installing PVC or aluminum windows; and up to 50% reimbursement (not more than 500 EUR) of the costs of purchasing pellet stoves.

The interest in this program is obvious, given the increase in the overall number of applicants each year. When the National Program started in 2007, 500 approved applicants for solar thermal collector systems received a total of 98,000 EUR in subsidies. That same level of subsidies for solar thermal collector systems was provided each year up to 2016. However, in 2017 and 2018, the government budget increased to 748,000 EUR and 813,000 EUR, respectively, and the government granted to 3,122 and 1,955 approved applicants. Besides solar thermal collector systems, the program also included subsidies for pellet stoves and PVC or aluminum windows.

Support schemes for the promotion of EE and RES have also been implemented at the local level. The city of Skopje is leading by example, with a program subsidizing residents who buy pellet stoves. This support scheme, begun in 2016, offers partial reimbursement of up to 70% of the stove's value (not more than €500). Some local governments also have annual programs that devote portions of the municipal budget to subsidizing EE interventions in MABs, typically ranging from 20% to 70% of the cost for EE façades or roof insulation.

#### ***Section 4.2 EE fund establishment***

No EE fund has yet been established in North Macedonia. The *Law on Energy Efficiency* stipulates that an EE fund could be established to enable the achievement of national EE targets and policies. The establishment, competencies, operation, and financing of the EE fund would be regulated by a separate law.

In 2019, the Macedonian government initiated a public sector EE project<sup>137</sup> financed by the World Bank, which does not include the residential sector. The project has three components:

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<sup>137</sup> <http://documents.worldbank.org/curated/en/616851580698875411/pdf/North-Macedonia-Public-Sector-Energy-Efficiency-Project.pdf>

(1) EE investment in the public sector; (2) technical assistance and project-implementation support; and (3) initial capital for an EE fund. The objectives are to reduce energy consumption in the public sector and support the establishment and operationalization of a sustainable financing mechanism. The project covers retrofits of public facilities, including municipal buildings, central government buildings, and public lighting. It is expected that these subprojects will generate demonstrable cost savings and social co-benefits, which would form the basis for developing a sustainable mechanism under the proposed EE fund. The component focusing on renovation of large buildings with high energy consumption supports the preparation of energy audits and technical designs, renovation work, construction supervision, and final energy-performance certificates. The project includes initial capital of \$5.5 million, which would be used to support EE fund staff, operating costs, and marketing, as well as initial audits, designs, and investments. The overall project cost from 2020 to 2026 is estimated at \$27.4 million.

### ***Section 4.3 EEOS (utility-based residential EE investments)***

Article 14 of the *Law on Energy Efficiency* is a decree for an EE Obligation Scheme (EEOS) to achieve final energy savings, which distribution-system operators and energy suppliers are obligated to implement without any sector limitations; hence, MABs could also be eligible. Targets for final energy savings, methodology for calculation of targets, and the reference period for setting up targets is determined by the decree. According to the *Law on Energy Efficiency*, the decree must be adopted by the end of early 2021.

The government can prescribe alternative policy measures for achieving savings targets and determine what portions of the targets are expected to be achieved by distribution-system operators and energy suppliers. Funds for implementation of alternative measures are expected to become available through donations, government budgets, and other sources.

The Energy Agency is authorized to monitor the implementation of EEOS. The Energy Regulatory Commission provides data needed by obligated parties under EEOS for implementation monitoring.

Large enterprises<sup>138</sup> in the country are obligated to carry out energy audits every 4 years, as stipulated by the *Law on Energy Efficiency*. These mandatory energy audits include assessments of current conditions and opportunities for EE improvements and reductions in GHG.

The Energy Agency must publish on its website the planned and achieved annual savings in final energy consumption for each of the obligated parties under EEOS. The obligated parties submit annual data on total energy sales to the Ministry of Economy and the Energy Agency by January 31 of each year, for the preceding year. The data are aggregated by geographical distribution, customer category, and measures aimed to improve EE.

The National Energy Development Strategy of North Macedonia (NEDS) sets a horizontal measure for the EE obligation scheme. Final energy savings targets are expected to be 0.7% in

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<sup>138</sup> Large enterprises are entities established in accordance with the *Law on Trade Companies* that, in each of the last 2 accounting years, have met at least two of the possible three criteria as follows:

- a) average number of employees based on working hours exceeds 250,
- b) annual income exceeds 10 million EUR, and
- c) average value (at the beginning and at the end of the accounting year) of total assets of the company exceeds 11 million EUR.

2018–2020, 0.35% in 2021–2030, and 0.2% in 2031–2040 (as a percentage of average annual energy sales to end users from 2014–2016). This excludes customers in the transport and industry sectors, according to Annex I of Directive 2003/87/EC. Final energy savings by 2030 are expected to amount to 44.4 ktoe, with a total estimated budget of about 182 million EUR. Obligated parties are expected to cover 30% of program costs.

#### ***Section 4.4 Building energy certification for existing MABs***

The *Energy Efficiency Law* and the *Construction Law* are the primary legislation for EE in buildings. The new EE Law requires the adoption of plans and programs for EE, development of monitoring systems, obligatory energy audits for buildings and building units, certification of buildings, and labeling of energy-related products. The *Construction Law* requires the certified submission of minimum energy-performance requirements to obtain a construction permit, and the submission of an energy-performance certificate to obtain a building-use permit.

While new secondary EE legislation is under development, the *Rulebook on Energy Performance of Buildings* and the *Rulebook on Energy Audit of Buildings of 2013* are being enforced but have not been revised since the EPBD recast. The national building certification scheme, as described in the *Rulebook on Energy Performance of Buildings*, sets the baseline for residential and nonresidential buildings. The minimum performance requirement for newly constructed residential buildings is energy class “C”, while for renovated residential buildings is energy class “D”.

Energy certification of buildings in North Macedonia has been mandatory since January 1, 2015. Energy performance certificates for new residential buildings are issued based on the *Rulebook on Energy Performance of Buildings of 2013*. At present, the national methodology determines the energy performance of buildings based on specific thermal energy per heated space.

Only a small portion of buildings has been certified since 2015. By April 2019, only about 40 energy performance certificates for new residential buildings were classified as “A”, “B” or “C” and submitted to the Energy Agency. This is mainly due to a lack of policy implementation and enforcement mechanisms for issuing energy-performance certificates, a lack of adequate training of municipal staff regarding mandatory requests for energy-performance certificates, and non-issuance of building-usage permits to investors after the completion of new residential buildings.

In the 2002 Census, there were 10,000 MABs<sup>139</sup> in North Macedonia; the estimated number for 2020 is about 12,000. The majority of existing MABs are 30 to 50 years old and lack thermal insulation. About 6% of residential buildings meet the requirements of energy class “C” (new buildings) or “D” (major renovation of existing buildings), while all other residential buildings can be classified under energy classes “E”, “F”, or “G”.<sup>140</sup>

In recent years, newly constructed residential buildings in North Macedonia meet national energy certification requirements. The annual increase in the rate of newly constructed apartments in North Macedonia is about 0.9%, and this trend is expected to continue.

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<sup>139</sup> Multi-apartment building (MAB) is defined as a residential building with more than three (3) legally registered dwellings.

<sup>140</sup> Expert judgement.

### ***Section 4.5 Possibility of ESCO/EPC for residential buildings***

There are no legal obstacles to applying ESCO and energy-performance contracting to residential buildings in North Macedonia. According to Articles 26 and 27 of the new *Law on Energy Efficiency*, energy services can be provided by ESCO based on energy service contracts. These services include construction; renovation and maintenance; installation of efficient heating, cooling, lighting, or ventilation equipment; and implementation of energy-management systems. The Energy Agency is responsible for maintaining records on active ESCOs in the country.

According to the new *Law on Energy Efficiency*, the government must adopt a decree on EPC by August 2020. This decree includes various models of EPC, including provisions for scope of energy services, baselines, guaranteed savings, documentation, financing, and reimbursement of services.

The new *Law on Energy Efficiency* encourages EPC for renovation of MABs; however, implementation is at early stage, and there are many reasons for the slow penetration of ESCOs into the residential market. Barriers preventing the development of an ESCO market for residential MABs include: (1) difficulty of obtaining financing from local banks, because HOAs are considered nonbankable and risky; (2) decision-making processes in MABs require the consent of a majority of homeowners, along with lengthy legal procedures to oblige homeowner minorities; (3) difficulty in defining an energy-consumption baseline, which poses high risks when setting energy-saving guarantees, especially given a lack of individual heat-consumption meters; (4) high transaction costs relative to the small amount of energy and cost savings per single MAB; and (5) the difficulty of residential customers in understanding ESCO and EPC financing and contracts.

### ***Section 4.6 Accreditation of energy auditors/building energy assessors and certifiers***

Accreditation of energy auditors is done by the Ministry of Economy. Energy auditing of buildings can be performed by a licensed energy-auditing company employing at least one accredited energy auditor. The company's license lasts for 5 years and is issued by the Ministry of Economy. According to data published by the Macedonian Energy Agency and the Ministry of Economy, there are more than 230 accredited energy auditors and more than 60 licensed energy-auditing companies in the country.

The educational background of energy auditors should include electrical, mechanical, civil, or architectural engineering. In 2014, the Energy Agency selected five institutions to train energy auditors. However, while the knowledge base regarding energy-auditing practices has increased, practical experience has been limited over the last 5 years due to the lack of policy-implementation and enforcement mechanisms for issuing energy certificates.

### **Conclusions and Recommendations on the Energy Sector**

- Energy is used inefficiently in the housing sector in North Macedonia, with energy intensity significantly above the EU average by 3 to 4 times.
- Most existing MABs are 30 to 50 years old, lack thermal insulation, and have poor energy performance. About 6% of all residential building stock in North Macedonia is estimated to meet the national energy performance requirements and belong to energy class "C" or "D", while all other existing residential buildings can be classified in lower energy classes, and thus need EE retrofitting.

- Motivation is lacking with regard to reducing district heating costs MABs supplied by the district heating system in the capital city of Skopje because there is no consumption-based billing, but rather the costs are split based on individual apartment conditioned area in a building.
- In recent years, good progress has been made with transposing EU Directives into national legislation, yet there are shortcomings in implementation and enforcement and changes in legislation that also caused lags in energy performance certification of residential buildings.
- Supportive by-laws to the new *Law on Energy Efficiency* (Rulebooks on *Transposing Energy Efficiency Directive, Energy Performance of Buildings Directive, and Energy Labeling Directive*) should be modified for the Macedonian context and introduced into local legislation.
- Lack of inspection bodies and rules enforcement in the housing market.
- The country's households have inadequate experience and knowledge about EE measures and benefits.
- Prepare and adopt secondary legislation in EE according to provisions defined in the new *Law on Energy Efficiency*.
- Strengthen the capacities of inspection bodies within the local governments for practical applications of standard rules and procedures in MABs including issue of energy performance certificates.
- Support piloting ESCO development for residential MABs with support by the private sector, financial institutions, and donor organizations.
- Strengthen the enforcement mechanisms for issue of energy performance certificates to residential buildings and increase the capacity of the Energy Agency that is responsible to conduct quality check of energy performance certificates.
- Enforce implementation of EEOS by obligated parties with clear rules and procedures as defined with a decree that needs to be developed and adopted by the Government.
- Introduce a roadmap and strategy to introduce and develop (NZE) in the country.
- Increase awareness for residential EE and benefits through HOAs.

## **BANKING SECTOR ANALYSIS**

### **Section 5 Analysis of major nonlegal obstacles to commercial lending to HOAs, such as risk perceptions among commercial bankers, and suggested approaches for removing such obstacles**

#### *Section 5.1: Analysis of HOA risk and the banking sector's perception of risk*

The legal framework for establishing HOAs in North Macedonia, as they currently exist and operate, has been provided by the *Housing Law*,<sup>141</sup> adopted in August 2009. Since then, the law has been amended multiple times, and stakeholders, including homeowners, are still awaiting additional changes that should bring more clarity on how to establish HOAs.

According to the *Housing Law*, otherwise widely interpreted as the *Condominium Law*, which was created to properly manage and maintain multi-family apartment buildings, HOAs should register as legal entities in accordance with the *Law on Associations and Foundations* (i.e., they

<sup>141</sup> <http://www.rkd.gov.mk/regulativa/zakoni> (in Macedonian)

should register as NGOs). As such, HOAs can legally borrow money from banks. However, despite the existing demand from HOAs for extra funding, including credits, they are not considered bankable legal entities because of their general inability to prove creditworthiness. Most HOAs do not have their own property that can be used as collateral (and establishing a mortgage on common property requires homeowner consent), while the payment history of members to HOAs lacks regulation and proper financial data. Generally, most NGOs have no history of borrowing from banks.

Commercial banks in North Macedonia are aware of the HOA demand for credit. However, there is no evidence that any of the 15 licensed banks in the country has included HOAs as prospective customer segments in their business plans. Consequently, there is no evidence of existing credit lines developed by the banks to serve HOAs.

Beside issues with collateral, major obstacles for development of commercial lending to HOAs include the lengthy process of homeowners reaching agreement to indebted the HOA (51% support is needed), high credit processing costs if a number of homeowners are involved as co-guarantors, and the practical inability of the will of the majority (once it is reached) to be imposed over the minority of owners in multi-family apartments buildings—that is, to make them participate in the repaying the credit taken for investing in certain communal benefits (e.g., EE façades, roof reparation, new stairway lighting, or elevator replacement), which they did not support.

With the banks avoiding lending to HOAs, there are examples of lending to HOAs by socially motivated development organizations, most of which are for demonstration purposes. Their most common model includes lending to HOAs with either their members (i.e., owners of the apartment units) serving as co-guarantors or contracted rerouting of their extra income. Some have premises (common ownership) for rent, others have income that might serve as collateral (e.g., advertising panels, GSM base stations).

In this regard, the technical requirements and housing standards that HOAs need to meet are less significant obstacles. Technical documentation is needed for certain types of interventions only, and an energy audit is not required by law for existing buildings (audits were required for a certain period in the past but were removed from the legislation), while financial contribution has not been considered a technical requirement.

### ***Section 5.2 Analysis of provisioning requirements and rules, monetary policy, and banking regulations***

As mentioned above, because of credit risk management rules, credit processing, and approval costs, banks consider it risky to lend to NGOs, not only to HOAs. Any supervised credit institution assesses debtors' creditworthiness on the basis of the general criteria applicable to any borrower, including proving the purpose of the loan and the sources for repayment of the loan, loan beneficiary legal status, its cash flows realized in the previous period and estimated future cash flows with reference to their obligations, and its indebtedness level, including the level and maturity of existing obligations.

With the regulator (Central Bank) requiring high provisioning for unsecured loans, an adequate level of bank prudence is applied to collateral requirements as well. Banks assess the quality, value, and legal validity of a collateral. They have policies that define the types of collateral they

accept, while the maximum loan limit that can be approved without collateral depends on internal policies.

In terms of assessing repayment capacity, as with any other credit, banks have established reliable processes for assessing the beneficiary's ability to meet their obligations under the terms agreed. In principle, there are no exemptions of criteria for HOAs as such. Housing loans in most of the cases are considered consumer (non-purpose) loans, while certain exemptions from the general criteria may be applied only in cases where the purpose of the loans is proved/verified (e.g., technology selector for EE interventions).

Macedonian banks classify all credits into risk categories by credit risk level and by expected credit losses under the provision. The methodology for the assessment of balance sheet asset impairment and probable losses on off-balance-sheet items has been defined by the Macedonian Central Bank (NBRSM), as follows:

- "Loan portfolio" shall denote credit exposures that can be classified by similarity of their characteristics and the credit risk.
- "Expected credit loss on a collective basis" shall denote the expected credit loss for the credit exposure, which is a part of the loan portfolio determined as the product of the rate of probability of default, the rate of loss given default, and the amount of credit exposure.
- "Rate of probability of default" shall denote the rate of 12-month probability of default and/or the rate of lifetime probability of default.
- "Rate of 12-month probability of default" shall denote the probability that the credit exposure from the loan portfolio will become nonperforming for a period of 12 months from the date of the determination of the rate.
- "Rate of lifetime probability of default" shall denote the probability that the credit exposure from the loan portfolio will become nonperforming during its lifetime, that is, until the date of its maturity.
- "Rate of loss given default" shall denote the part of the nonperforming or written-off credit exposures, which shall not be collected by the bank.

All exposures are classified into certain categories. Each level of exposure is based on days of delay and debtor capacity for loan repayment, and each level belongs to a percentage for asset impairment.

According to NBRSM's decision on the methodology for credit risk management,<sup>142</sup> categories are as follows:

- A: The non-performing credit exposure refers to 31-day delay in repayment, (or exceptional 60 days) within the preceding period of 6 months (if the delay is twice larger than the 32 or 60 days, respectively);
- B: The non-performing credit exposure refers to 120-day delay in repayment, (or exceptional 180 days) within the preceding period of 6 months (if the delay is twice larger than the 61 or 90 days, respectively);
- C: The non-performing credit exposure refers to 240-day delay in repayment, (or exceptional 300 days) within the preceding period of 6 months (if the delay is twice larger than 241 or 300 days, respectively);

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<sup>142</sup> [http://www.nbrm.mk/ns-newsarticle-decision\\_risk\\_management.nspix](http://www.nbrm.mk/ns-newsarticle-decision_risk_management.nspix)



- D: The credit exposure with liabilities repaid with a delay of up to 240 days, or 300 days as an exception, if the delay two times the range of 241 to 300 days in the preceding period of 6 months;
- E: The credit exposure with liabilities repaid with a delay of over 241 days.

At the same time, the provisioning percentages are as follows:

- A: 0.01% to 5%
- B: 5.01% to 20%
- C: 20.01% to 45%
- D: 45.01% to 70%
- E: 70.01% to 100%

It is important to note that there is no legal limit of bank exposure toward loans that are not collateralized for portfolios of small loans to small and medium enterprises (SMEs), and internal bank policies apply. Also, there is no legally limited amount for non-purpose loans, and internal bank policies apply.

### ***Section 5.3: Analysis of possibilities to create guarantee mechanisms for lending to HOAs***

Guarantee schemes or guarantee funds have existed in the country for many years, but historically, they have been developed for sectors that have been considered priority for the Macedonian economy (e.g., SMEs, agriculture). Several examples of existing guarantee mechanisms include Western Balkans Enterprise Development & Innovation Facility Guarantee Fund, managed by European Investment Fund; InnovFin SME Guarantee, implemented by ProCredit Bank; and Agriculture Development Credit Authority supported by USAID and, implemented by three commercial banks and two microfinance institutions. The level of development for existing guarantee mechanisms may be considered moderate because these guarantee funds are created mostly by institutional donors and lenders focused on economic development.

There are no guarantee mechanisms that exist for lending to HOAs. Currently, there is an initiative for establishing a mechanism to ensure loan repayment to the HOAs or EE financing: With the support of USAID and the Habitat for Humanity International (HFHI) Residential Energy Efficiency for Low-Income Households (REELIH) project, there is a guarantee fund for HOAs and residential building management companies under development by Habitat Macedonia. The terms of these instruments, which are currently being negotiated with several Macedonian banks, include the following:

- Qualifying borrowers: Registered HOAs or residential building management companies (RBMCs) that intend to install EE equipment/technology on residential MABs.
- Qualifying projects: Interventions that include installation of thermal insulation on the building's roof and façade, window and external door replacement, and heating equipment replacement.
- Maximum cumulative principal amount of qualifying loans made to any one qualifying borrower: Macedonian denar equivalent of US\$25,000.

- Final qualifying loan maturity date: For each qualifying loan, the maturity date for the entire principal amount of such qualifying loan shall be no later than 5 years from the date of the initial disbursement of the qualifying loan.
- Maximum authorized portfolio amounts: The principal amount outstanding of all qualifying loans covered at any one time shall be negotiated with each respective guaranteed party.
- Habitat Macedonia guarantee percentage: 50%–70% of the guaranteed party's net losses of principal with respect to qualifying loans.

Macedonian banks and nonbank institutions use several financial instruments for development support, supported by international banks or development institutions, but these do not include support for HOAs. Nevertheless, some HOAs do not have access to any subsidy funds for housing support, particularly EE improvements. A number of environmentally conscious local governments (municipalities) have their own annual programs with portions of the municipal budget allocated for subsidizing EE interventions in multi-family apartment buildings, with focus on what is considered by the law to be common property (e.g., façade, roof, stairways). Their subsidy models are not uniform, and their support varies from 20% to 70% of the cost of EE intervention, depending on how rich the municipal budgets are and how much motivation exists among the key policy makers (mayors and municipal councils).

At the same time, the National EE fund that has been under development for several years, with funds and technical assistance provided by the World Bank, has not been established yet. Unfortunately, and despite arguments provided to the government, once this fund is established, it is planned to support public buildings exclusively, with the residential sector (96% private ownership) left aside.

As for the official data on how much money is granted in EE housing, for several years there has been an active EBRD GEFF credit line with EU subsidies that invested 8 million EUR for EE in the residential sector. However, according to the available information, most of these funds were disbursed to individual housing units.

#### ***Section 5.4: Analysis of existing commercial banking products available to HOAs***

As explained, Macedonian banks have no loan products offered to HOAs. If there are loans approved for certain interventions on multi-family apartment buildings, that would be a credit line that primarily considers the purpose of the loan's utilization (e.g., EE), rather than the legal status of the borrower.

In terms of the data regarding banks' volume of lending to HOAs, out of more than 3,000 legally registered HOAs in North Macedonia, there are 909 HOAs monitored by the Macedonian Credit Bureau (MCB), which maintains a system for processing data about the liabilities of physical and legal entities to provide information on their debt accumulation or the regularity of their liability settlement. None of these 909 HOAs reported credit obligation toward banks. However, it was already mentioned above that there are examples of lending to HOAs by development organizations that are not monitored by the MCB system.

### ***Section 5.5. Analysis of products offered by development banks in the country and their availability to HOAs***

The development banks do not have specialized loan products or credit lines to finance HOAs. The main objectives of the sole national development bank institution, the Development Bank of North Macedonia,<sup>143</sup> include promoting export through providing credits and other forms of support for development of SMEs, providing investment credits, and providing insurance of claims based on performed export against short-term commercial risk.

As already mentioned, EBRD has a credit line for residential EE (the GEFF) in WB countries, but the end-users are left to the discretion of participating banks.

As also mentioned, direct loans to HOAs exist only in the portfolios of development organizations (NGOs/microfinance institutions [MFIs]), most of which are organized as pilot, testing, and demonstration projects. The requirements for application include well-organized HOAs and their readiness to offer collateral that is acceptable for the NGOs/MFIs that run these kinds of programs. As an example, to stimulate the EE improvements among multi-family apartment buildings, With \$620,000 USAID support Habitat Macedonia has developed an EE revolving fund of \$2 million with multiple lending models offered, such as loans to HOAs and loans to residential building management companies, as well as loans to specialized construction companies that present a contract for EE intervention with a particular HOA or RBMC.

In terms of engagement of the government and local governments regarding housing support, including the allocation of funds through development banks, it was already mentioned that the World Bank works with the government to establish the National EE fund, but this initiative currently excludes the residential sector. It was also mentioned that there are small-scale funds from the local governments/municipalities invested in the residential sector as subsidies for EE interventions.

To a certain extent, the development banks commit to finance market failures in the housing and EE sector, and have some financial instruments available for residential EE. This funding comes with certain technical requirements and standards that the future beneficiaries need to meet. As an example, EBRD has several technical requirements, including the “technology selector.”

### **Conclusions and Recommendations on the Banking Sector**

1. It is essential to strengthen the regulatory framework further, particularly the following:
  - *Housing (Condominium) Law* and associated by-laws, with focus on
    - changing the scope of work and authority of the National Regulatory Commission for Housing, and
    - strict implementation (enforcement) of the existing provisions regarding the obligations of the multi-family apartment buildings as outlined in the *Housing Law*.

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<sup>143</sup> <https://www.mbdp.com.mk/en/>

- *Energy Efficiency Law* and associated by-laws, with focus on the mandatory obligations of multi-family apartment buildings to comply with energy performance standards.
2. It is necessary to have in place, as soon as possible, a realistic National Strategy for Renovation of Buildings, as required by the *Energy Efficiency Law*, with privately owned multi-family apartment buildings (96% of the housing stock in the country) treated as a priority.
  3. It is a must to finally establish the National Energy Efficiency Fund that should have resources allocated for the residential sector (i.e., privately owned multi-family apartment buildings).
  4. Establishing functional de-risking instruments, including guarantee mechanisms, is considered critically important for encouraging lending to HOAs.
  5. It is always beneficial to raise awareness and educate public institutions, financial institutions, and socially motivated private investors, civil society organizations (where HOAs formally belong according to Macedonian laws), and the general public about the triple benefit of investing in the multi-family apartment buildings:
    - EE-related investments result in energy and monetary savings for the homeowners and increase of the value of their apartments;
    - Such investments have a potential to drive the economy, particularly the construction sector (investment potential of the Macedonian housing stock is estimated to be anywhere between 300 million and 500 million EUR); and
    - EE renovations improve the national energy balance by decreasing energy consumption (lowering the demand), thus reducing CO<sub>2</sub> emissions and preventing further climate change.

## SERBIA

### HOUSING SECTOR ANALYSIS

After World War II, a unique concept of social ownership was established in what was Yugoslavia. Most existing MABs were nationalized under a social ownership model. The State gave right of use of the apartments in MABs to workers and government servants. From 1950–1980, many new MABs were built in cities; they, too, practiced social ownership. The 1980s–1990s market transformation gave MAB occupants the right to buy their own apartments and become private owners. By the end of the 20<sup>th</sup> century, almost all apartments within MABs were privatized, and only private housing was built.

The common parts of MABs (roof, basement, stairs, elevators, and inside corridors, etc.) remained common but shared property of all apartment owners.

## Section 1. Analysis of legal position and functioning of HOAs

### *Section 1.1 Legal framework for the housing sector in the Republic of Serbia*

Housing issues in Serbia are mostly regulated by the *Law on Housing and Building Maintenance* (LHBM)<sup>144</sup> adopted in 2016. This law regulates relations within HOAs associated with owners of apartments and nonresidential property, rights and responsibilities of owners for management, and use and maintenance of the common parts of the buildings and other common property, as well as broader sustainable housing development, common and separate parts of the building, eviction and relocation process, housing support, and registers and records. LHBM also treats inspection of implementation of provisions of the Law and other issues relevant to housing policy<sup>145</sup> and stipulates the legal entity status of the HOA. Owners of separate parts of MABs are legally obliged to form and register their HOAs in the formal HOA Register maintained by the local municipality.

In addition to the LHBM, the *Law on Fundamentals of Property Relations*<sup>146</sup> defines relationships related to common property. The Law defines “common property” as the property elements of every building. It says that a separate part of a building may be the exclusive property of one person, a co-ownership, or joint property in accordance with the *Law on Fundamentals of Property Relations*. Acquisition of the right of ownership in a separate part of the building conveys the right of ownership of the common parts of the building, the right to participate in the management of the residential community, and the right of ownership of the land on which the building was built, or land that is used for regular use of the building.<sup>147</sup> The Constitution of the Republic of Serbia equalized private and public (state-owned) property.<sup>148</sup> Public apartments could be sold to private persons in accordance with the *Law on Public Property*,<sup>149</sup> and apartments could be sold in private or in public ownership within the same building. The LHBM defines relevant terms in the housing sector such as housing policy,<sup>150</sup>

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<sup>144</sup> The *Law on Housing and Building Maintenance* (LHBM) (*Official Journal of the Republic of Serbia*, No. 104/16 and 9/20-other law). This Law annulled the *Law on Housing* (*Official Journal of the Republic of Serbia*, No. br. 50/92, 76/92, 84/92, correction, 33/93, 53/93, 67/93, 46/94, 47/94, correction, 48/94, 44/95; other law, 49/95, 16/97, 46/98, 26/01, 101/05; other law and 99/11), the *Law on Maintenance of Buildings* (*Official Journal of the Republic of Serbia*, No. 44/95, 46/98, 1/01; Constitutional Court decision, 101/05; other law, 27/11, Constitutional Court decision and 88/11), and the *Law on Social Housing* (*Official Journal of the Republic of Serbia*, No. 72/09).

<sup>145</sup> Article 1 of LHBM.

<sup>146</sup> The *Law on Fundamentals of Property Relations* (*Official Journal of Socijalisticka Federativna Republika Jugoslavija* (SFRJ), No. 6/80 and 36/90, and *Official Journal of Savezna Republika Jugoslavija* (SRJ), No. 29/96, *Official Journal of the Republic of Serbia*, No. 115/2005; other law).

<sup>147</sup> Article 5 of LHBM.

<sup>148</sup> Article 88 of the Constitution of the Republic of Serbia (*Official Journal of the Republic of Serbia*, No. 98/06)

<sup>149</sup> The *Law on Public Property* (*Official Journal of the Republic of Serbia*, No. 72/11, 88/13, 105/14, 104/16; other law, 108/16, 113/17, and 95/18).

<sup>150</sup> **Housing policy** is a course of action aimed at improving housing conditions, providing affordable housing for citizens through housing support, and preserving and improving the value and quality of housing stock, which is in line with the general economic and social development trends in the Republic of Serbia, Article 3 para 2 point 1 of LHBM.

building,<sup>151</sup> residential building,<sup>152</sup> residential-commercial building,<sup>153</sup> separate part of building,<sup>154</sup> of several persons on an undivided good when their shares are determinable but not *ex ante* predetermined.<sup>155</sup>

The LHBM defines common and separate parts of a building as structural independent part of building,<sup>156</sup> common parts of a building,<sup>157</sup> maintenance of building,<sup>158</sup> and regular<sup>159</sup> and investment maintenance<sup>160</sup> of building.

### *Section 1.2 Legal obligation to form an HOA or engage an RBM company*

The LHBM defines the organization of building management. Owners of buildings or at least two owners of separate parts of buildings manage their buildings through a registered HOA. The HOA is legal entity. Owners of separate parts of buildings of MABs are obliged to form and register their HOA in the HOA Register. The HOA consists of all separate building owners. If a MAB has units with separate entrances, the owners of the units may form an HOA for a single entrance.

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<sup>151</sup> **Building** is a building with a roof and external walls, built as a separate usable unit that provides protection against weather and external influences, and is intended for housing, performing an activity, or for housing and care of animals, goods, motor vehicles, equipment for various production and service facilities activities, etc. Buildings are also structures that have a roof but do not have (all) walls (e.g., canopies), as well as structures that are predominantly or completely located below ground (shelters, underground garages, etc.), Article 3 para 2 point 2 of LHBM.

<sup>152</sup> **Residential building** is an apartment building and is used for that purpose and consists of at least three apartments, Article 3 para 2 point 3 of LHBM.

<sup>153</sup> **Residential-commercial building** is a building consisting of at least one apartment and one office space, Article 3 para 2 point 5 of LHBM.

<sup>154</sup> **Separate part of a building** is a separate functional unit in the building that can represent an apartment, office space, garage, garage space or garage box, Article 3 para 2 point 8 of LHBM.

<sup>155</sup> Article 18 of the *Law on Fundamentals of Property Relations*.

<sup>156</sup> **Independent part of a building** comprises premises with technical devices, transformer stations, and shelter rooms (home and block), Article 3 para 2 point 18 of LHBM.

<sup>157</sup> **Common parts of a building** are those parts of a building that do not constitute separate or independent parts of the building, which serve the use of separate parts of the building, i.e., the building as a whole, such as: common spaces (staircase, entrance spaces and windshields, common hallway and gallery, attic space, basement, bike shop, laundry room, common terrace and other rooms intended for the common use of owners of separate or separate parts of the building, etc.), common building elements (foundations, supporting walls and columns, floors and other structures, structural part of the wall or wall filling, insulation and finishing of the wall to the outside or to the common part of the building, eaves, facades, roof, chimneys, ventilation ducts, skylights, construction and spaces for lift and other special constructions, etc.), as well as common installations, equipment and appliances (internal electrical, plumbing and sewer, gas and heat systems, elevators, lightning rods, fire extinguishers, fire detection and fire alarms, security lighting, telephone installations and all utility connections intended for shared use, etc.), if they do not form an integral part of a separate part of the building and do not form an integral part of a separate part of the building, that is, they do not form part of installations, equipment and devices which exclusively serves one part, Article 3 para 2 point 16 of LHBM.

<sup>158</sup> **Maintenance of building** comprises all activities that ensure the preservation of the functions and properties of the building in accordance with its purpose, and especially with a view to the regular use and functioning of the building, Article 3 para 2 point 23 of LHBM.

<sup>159</sup> **Regular maintenance** is the execution of works undertaken to prevent damage caused by the use of the building or to remedy such damage, and consists of inspections, repairs and taking preventive and protective measures, that is, all works ensuring the maintenance of buildings at a satisfactory level of usability, and the works ongoing maintenance of an apartment or business premises include painting, replacement of linings, replacement of toilets, radiators and other similar works, Article 3 para 2 point 25 of LHBM.

<sup>160</sup> **Investment maintenance** is the execution of construction, crafts, and other works depending on the type of building in order to improve the conditions of use of the building during operation, Article 3 para 2 point 26 of LHBM.

Each HOA should form and hold a Housing Assembly as its decision-making body and elect a housing manager.<sup>161</sup> Members of the Assembly must be owners of apartment units. The chairperson of the Assembly will be the building manager and must attend every Assembly meeting.

There are three types of building managers: (1) elected by the Assembly from among the members of the Assembly for a 4-year or shorter term, and can be re-elected; (2) a (private) professional RBM company hired by the HOA; or (3) if the Assembly does not elect a new manager within 30 days after the end of the previous manager's term, for any reason, each building owner can request that the municipality appoint a compulsory RBM.

An RBM can be a natural person or a legal entity. The person or legal entity could be the organizer of an RBM. An RBM company should be registered and at least one licensed natural RBM specialist should be hired. The licensed RBM should fulfil regulated conditions and operate with a professional liability insurance contract with a validity of at least 3 years. The registry of licensed RBMs is kept by the Serbian Chamber of Commerce.

### ***Section 1.3 Voting rights of homeowners and decision-making percentage for renovation decisions***

The Assembly will make decisions by a simple majority vote of the members present, unless otherwise provided by LHBM. The disposition of common parts of building, hiring the RBM, and borrowing by the HOA must be decided by a two-thirds majority of the Assembly. The owner of the special part of the building may also vote in writing or electronically, in which case it is considered that the owner has attended the Assembly meeting for the purposes of calculating the quorum.

A quorum for voting purposes is a majority of all owners of separate parts of building. If there is no quorum, another meeting must be announced; in that case, a quorum is one-third of all apartment owners. In special cases, a quorum could be different. Electronic voting can make up the quorum.

The LHBM provides that costs of maintaining the common parts of buildings and managing the buildings are accounted for as follows:

- 1) Proportionately, which is in relation to the total number of all separate parts, for the cost of regular maintenance work
- 2) Proportionately pro rata to surface area of their separate parts compared to the total area of all the separate parts of the building, for the cost of investment maintenance work and the improvement of the properties of the buildings.<sup>162</sup>

### ***Section 1.4 Method of creation of maintenance fund and reserve funds***

There is no provision in the LHBM regarding creation of a maintenance fund. Each HOA is obliged to establish the maintenance costs of the common parts of building and managing the building, which stipulates the amount that each owner must contribute to the regular

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<sup>161</sup> Article 40 para 1 of LHBM.

<sup>162</sup> Article 63 para 2 of LHBM. The Law also provides an option to owners of the separate parts of the building to decide to have different thresholds of votes (author comment).

maintenance and management costs. This may not be less than the amount required for routine maintenance of the buildings, enacted by the municipality.<sup>163</sup>

The building's reserve fund is formed based on the estimated investment needs for capital renovation. Once total amount of required funds is estimated, it is then equally distributed between all apartments. The building maintenance fees, in turn, are estimated based on building routine maintenance expenses, which are divided between the households based on the share of owned property area. The fees are determined by a decision of the HOA Assembly, which may not be lower than the amount prescribed by the Act on Investment Maintenance of Buildings adopted by the local self-government unit.

### ***Section 1.5 Method of creation and structure of fees for maintenance and reserve funds***

In accordance with the LHBM, the municipality must adopt an act establishing minimum maintenance fees. A special rulebook specifies the criteria for determining the minimum amount for maintenance of common parts of the building.<sup>164</sup> These criteria include the following:

- average net earnings in the unit of local self-government for the previous year, according to data of the Republic Bureau of Statistics;
- the purpose of a separate or independent part of the building;
- average age of the building; and
- where relevant, the maintenance costs required for the elevator.

The minimum amount of the MAB maintenance fee is determined in absolute terms per square meter of the separate or independent part of the building.<sup>165</sup>

To summarize, each household will be charged the set fee per square meter on a monthly basis for regular maintenance (e.g., 1 EUR per square meter based on the Belgrade example), in addition to which the capital renovation fee (referred to as “investment maintenance cost” in Serbian legislation) will be charged on a per-apartment basis after equally splitting capital renovation costs equally among apartments (in Belgrade each apartment pays an additional 3–5 EUR per month). If the building is maintained by an HOA, these are the only two fees charged. If a building maintenance company is engaged, the third part of the monthly bill is the management cost.

Serbian municipalities establish their own fee structures.

### ***Section 1.6 Legal obligation to pay maintenance and reserve fund fees and analysis of practical enforcement***

The LHBM provides that the owner of a separate part of a building is required to participate in the cost of maintaining common parts of the building and its land for regular use of the building as well as management of the building.<sup>166</sup>

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<sup>163</sup> Article 64 para 1 of LHBM.

<sup>164</sup> *Rulebook on the criteria for determining the minimum amount to be defined by municipality to pay for the investment maintenance cost for the common parts of building* (Official Journal of the Republic of Serbia, No. 101/17).

<sup>165</sup> Article 2 of the *Rulebook on the criteria for determining the minimum amount to be defined by municipality to pay for the investment maintenance cost for the common parts of the building*.

<sup>166</sup> Article 63 para 1 of LHBM.



Each HOA is entitled to compensation by contribution from every apartment owner under the general rules on liability for damage. In case of nonpayment of the management fee, a maintenance company can sue any apartment owner. Similarly, the HOA can sue an apartment owner who fails to pay for regular or investment maintenance; however, within the HOA, neighbors may vote to tolerate nonpayment by their neighbors on case-by-case basis (e.g., for socially vulnerable families, pensioners, etc.).

### ***Section 1.7 Enforcement of LHBM and related legislation in practice***

The Ministry for Construction, Transport and Infrastructure is responsible for housing and oversees the implementation of the LHBM and related legislation.

Inspection supervision is carried out by the Ministry through communal inspectors, by the autonomous province through construction inspectors, and/or by the municipality through communal and construction inspectors.

The inspector is obliged to provide expert assistance in carrying out inspection supervision and providing expert explanations regarding preventive measures and regulatory obligations. Inspectors must also explain the need to eliminate the causes of illegalities that may arise in the future.

Inspectors' decisions can be appealed through responsible institutions, which differ with the type of inspection. The Offences Court enforces inspectors' decisions.

The LHBM, adopted in 2016, defines key elements for organization of MABs, registration of HOAs, and management of HOAs. The Law established a new way of managing MABs through RBMs or a licensed person legally responsible for maintenance and HOA management. An entire legislative framework has been set up to regulate HOA decisions and responsibilities for adoption of these decisions, with the aim to establish better housing conditions and preserve property values.

Fees can be collected by public agency, or through physical entities and private maintenance companies. This service is not applied yet in all municipalities but is applied in some big cities. The structure of collected fees allows for both routine maintenance and capital renovation (investment maintenance), with minimum levels set by special ordinance of the local authority.

## **Section 2. Analysis of supportive regulatory conditions for HOA functioning**

### ***Section 2.1 Supportive legislation and by-laws on HOA functioning and management/maintenance of MABs***

Legislation on HOAs has two niches. The first niche is the secondary legislation of LHBM. There are supporting rulebooks adopted for the enforcement of LHBM provisions such as:

- *Rulebook on the Contents of the Register and the documentation required for the registration and records of information on HOAs, as well as the manner of submission of data and documents*<sup>167</sup>

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<sup>167</sup> The *Rulebook on the contents of the register and the documentation required for the registration and records of information on HOA, as well as the manner of submission of data and documents* (Official Journal of the Republic of Serbia, No. 49/17).

- *Rulebook on the Examination Program, Licensing, and Registration of Professional Building Managers*<sup>168</sup>
- *Rulebook on the Type, Scope, and Dynamics of the Activities of the Regular Maintenance and Capital Renovation (investment maintenance) of Buildings and the method of preparing a maintenance program*<sup>169</sup>
- *Rulebook on the Criteria for Determining the Minimum Amount to Be Defined by Municipality to Pay for Investment Maintenance Cost for the common parts of the building*
- *Rulebook on the Report Form Regarding Housing Needs, Housing Conditions, and Housing Support Programs in the Local Government Unit*<sup>170</sup>
- *Rulebook on Uniform Methodology for Calculating Non-Profit Rentals*<sup>171</sup>

In addition to the other provisions of the LHBM, the Law also requires that the government develop, adopt, and implement a national housing strategy and an action plan for its implementation.<sup>172</sup>

The second niche is other legislation, such as the *Law on Fundamentals of Property Relations*, the *Law on Obligations*,<sup>173</sup> the *Law on Planning and Construction*,<sup>174</sup> the *Law on Communal Activities*,<sup>175</sup> the *Law on Efficient Use of Energy (LEUE)*,<sup>176</sup> the *Law on Execution and Security*,<sup>177</sup> etc.

### ***Section 2.2 Analysis of the institutional infrastructure of the enforcement of laws and by-laws that regulate management of multi-apartment property***

The LHBM was adopted by Parliament. Its enforcement has different levels. The government is responsible for (1) adopting the national housing strategy and action plan for implementation; (2) adopting the housing support program and determining the funds for its implementation; and (3) establishing a housing council for preparation and monitoring of the housing strategy implementation.

The Ministry of Construction, Transport and Infrastructure regulates housing activity and (1) prepares all by-laws of the LHBM; (2) prepares the strategy and action plan for implementation;

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<sup>168</sup> *The Rulebook on the exam program and the manner of passing the exam, conditions for obtaining and revoking the professional manager's license and contents of the register of professional administrators (Official Journal of the Republic of Serbia, No. 41/17).*

<sup>169</sup> *The Rulebook on the type, scope and dynamics of the activities of the regular and investment maintenance of buildings and the method of preparing maintenance program (Official Journal of the Republic of Serbia, No. 54/17).*

<sup>170</sup> *The Rulebook on the report form regarding housing needs, housing conditions and housing support programs in the local government unit (Official Journal of the Republic of Serbia, No. 54/17).*

<sup>171</sup> *The Rulebook on uniform methodology for calculating nonprofit rentals.*

<sup>172</sup> Article 112 para 1 of LHBM.

<sup>173</sup> *The Law on Obligations (Official Journal of SFRJ, No. 9/78, 39/85, 45/89, 57/89, Official Journal of SRJ, No. 31/93 and Official Journal of the Republic of Serbia, No. 18/20).*

<sup>174</sup> *The Law on Planning and Construction (Official Journal of the Republic of Serbia No. 72/09, 81/09, 64/10, 24/11, 121/12, 42/13, 50/13S, 98/13, 132/14, 145/14, 83/18, 31/19, 37/19, and 9/20).*

<sup>175</sup> *The Law on Communal Activities (Official Journal of the Republic of Serbia, No. 88/11, 46/14, 104/16 and 95/18).*

<sup>176</sup> *The Law on Efficient Use of Energy (Official Journal of the Republic of Serbia, No. 25/13).*

<sup>177</sup> *The Law on Execution and Security (Official Journal of the Republic of Serbia, No. 106/15 and 54/19 as well as authentic interpretations published in Official Journal of the Republic of Serbia, No. 106/16, 113/17, and 9/20).*

- (3) prepares triennial reports to the government on the implementation of the housing strategy;
- (4) conducts monitoring of the implementation of the LHBM and its secondary legislation, etc.

The municipality has the following responsibilities: (1) maintain the register of HOAs and determine the person who will keep the register; (2) prescribe a minimum amount for regular and investment maintenance fees and RBM service costs; (3) prescribe the house rules in residential and residential-commercial buildings; (4) adopt the local housing strategy and action plan for its implementation; (5) prepare an annual report on the results of implementation of the strategy and local housing strategy; (6) perform inspection supervision through communal and construction inspections; (7) may establish a public enterprise for maintenance in the public interest; (8) conduct the procedure to appoint a compulsory RBM; (9) provide at least weekly advisory assistance to improve the EE of the building; and (10) may designate urban areas for special maintenance obligations; etc.

### ***Section 2.3 Analysis of articles of Law on Obligations and LHBM and their effect on the payment of fees and security of payment***

The HOA and/or owners of separate parts of buildings may pay their payments voluntarily or they may be forced to pay them by claim.

Voluntary payment involves the regular settlement of the contractual obligations for the performed services. Forced payment is used if an HOA and/or apartment owner have no funds or do not wish to continue to pay the manager or provider of other services/goods.

The LHBM<sup>178</sup> defines the responsibility of the HOA. An HOA has solidary liability for damage resulting from the failure to perform, or the improper performance of, HOA activities. The HOA is also responsible for the damage arising from an undetermined part of the building. In this case, the HOA and all owners are jointly responsible. The HOA and apartment owners have the right of redress (payment of their claim) from the person responsible for the damage. The redress could be possible within 1 year from the date of payment, as compensation for the damage to the injured party.

Apartments owners have a subsidiary<sup>179</sup> liability for fulfilment of the HOA's contractual obligation or damage to third parties. Subsidiary liability implies that in the event that a claim against the HOA cannot be compensated, payment can be made by the owner of a separate part of the building.

The LHBM defines the obligations of apartment owners for the HOA's obligation in line with solidary and subsidiary obligation defined by the *Law on Obligations*.<sup>180</sup> The *Law on Obligations*

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<sup>178</sup> Article 47 of LHBM.

<sup>179</sup> Article 47 para 5 of LHBM. The definition of liability indicates that the owner of a separate part of the building is *ex lege* guarantor for the obligations of HOA (comment of author).

<sup>180</sup> The specific (LHBM) rules are: (1) definition of subsidiary liability of owners of separate parts of buildings for HOA's obligations, and (2) definition of solidary obligation between owners of separate parts of building for granting the HOA will fulfil its commercial obligation and of proportional regress rules (between owners of separate parts of the building).

The principle of solidary liability of the owners of the separate parts of the building for the HOA's obligations is not a fully balanced burden against all the owners of the separate part of the building who have all given a security instrument for payment guarantee (for example, promissory note). The holder of the claim against the HOA will thus shift its obligation entirely to one owner of a separate part of the building, with the additional burden of that "randomly selected" owner of a separate part of the building, to further collect each proportional part from the other solidary debtors. This owner of a separate part of the building then bears the risk of exercising his right to collect from each

defines relations between contractual parties whether they are legal entities or a natural person.<sup>181</sup>

Execution of unpaid obligations of HOAs and/or apartment owners is regulated by the *Law on Enforcement and Security*<sup>182</sup> and made by executors.

### ***Section 2.4 Enforcement of HOA and housing-related laws and by-laws***

There are two main lines for enforcement of HOA and housing-related laws and by-laws.

#### **2.4.1. Administrative procedure enforced by Inspectors**<sup>183</sup>

The Ministry for Construction, Transport and Infrastructure supervises the implementation of the LHBM<sup>184</sup> and its secondary legislation. Inspection supervision is carried out by the competent ministry through communal inspectors, the autonomous province through the construction inspectors, and/or the municipality through communal and construction inspectors.

Supervision inspection is defined in **Section 1.7** above.

#### **2.4.2. Enforcement of commercial regulation**

There are no specific provisions for execution of commercial regulation of HOAs and owners of separate or independent parts of the building.

The specific rules of the LHBM are: (1) definition of owners' subsidiary liability and (2) definition of solidary obligation between owners of separate parts of the building for the HOA's commercial obligation and proportional regress rules (between owners of separate parts of the building).<sup>185</sup>

### ***Section 2.5 Existence of lien on property execution and its functioning***

The LHBM<sup>186</sup> states that the HOA may, for the purpose of obtaining a loan, pledge claims that it has from the apartment owners and other claims, in accordance with the *Law on Liens on Movable Property and Rights Entered in the Register*.<sup>187</sup>

To secure their credit receivables, banks often want to obtain real-life loan collateral, such as a mortgage or a pledge. A pledge is a more practical means of collateral, given that it is of less value and it is assumed that an HOA has previously obtained certain movable property that may be the subject of the pledge. A mortgage is not practical in this regard, since placing a mortgage on common parts of a building implies that they are divided and could be sold in relation to the

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other owner of a separate part of the building a proportionate part of the claims, including the additional interest on the period from the time when the claim against the HOA was calculated until each regress receivable was collected (author's clarification).

<sup>181</sup> Article 1004 and 1005 of the *Law on Obligations* as well as Article 414 para 1 and Article 423 para 1 of the *Law on Obligations*.

<sup>182</sup> The *Law on Enforcement and Security* (*Official Journal of the Republic of Serbia*, No. 106/15 and 54/19 as well as authentic interpretations (*Official Journal of the Republic of Serbia*, No. 106/16, 113/17, and 9/20).

<sup>183</sup> Article 122 of LHBM.

<sup>184</sup> Articles 123–128 of LHBM define in details each responsibility of every inspector who is reliable for enforcement of LHBM.

<sup>185</sup> Article 47 of LHBM.

<sup>186</sup> Article 66 para 2 of LHBM.

<sup>187</sup> The *Law on Liens on Movable Property and Rights Entered in the Register* (*Official Journal of the Republic of Serbia*, No. 57/03, 61/05, 64/06, 99/11; other law, 99/11; other law and 31/19).

entire building. On the other hand, real loan security cannot be based on the property of an HOA unless the HOA has previously acquired adequate funds, including money on its account or certain movable or immovable property, through its commercial activity.

Only a limited number of HOAs have some commercial revenue that provides a basis for creditworthiness; these include rented spaces, offered advertising space, hosting cellular antennas, etc.

Housing issues are regulated by a system of regulations including primary and secondary legislation. The execution of these regulations is also regulated to an extent. The key commercially uncertain issue is a system of solidary responsibility of any owner for the joint liabilities of other owners of separate parts of MABs. The system is still new, and it will take time to implement in practice.

### **Section 3. Analysis of government housing policies and regulatory framework**

#### ***Section 3.1 Existing housing policies and regulations that support renovation of building stock in the country***

Serbia has no public document with the aim of defining housing policies that support renovation of building stock in the country.

***Serbia adopted a National Strategy of Social Housing in 2012.***<sup>188</sup> The main aim of the strategy is to provide access to affordable and healthy housing in accordance with the principles of sustainable development, to households that, for social, economic, and other reasons, cannot acquire housing on market terms. The strategy sets long-term and medium-term goals for the development of social housing, in accordance with regional, overall economic, and social development; and sources and the manner of providing funds for the implementation of the strategy, development of social housing, and other elements relevant for social housing.

Also, the ***Decree on establishment of Implementation Program of the Energy Development Strategy of the Republic of Serbia for the period to the year 2025 with projections to 2030, for 2017 to 2023***<sup>189</sup> defines general implementation measures planned for the period of 2017–2023 mostly targeted to the public sector, with a main focus on public buildings larger than 250 m<sup>2</sup>. No specific projects or timelines for implementation are defined. The energy management system is recognized as a measure for improving EE in the building sector.

Implementation of Article 5 of the Energy Efficiency Directive (EED) establishes a list of central government buildings; identifies the minimum requirements to be fulfilled by central government buildings with a plan for the renovation of those buildings in accordance with the EED requirements; and implements the established plan for the renovation of central government buildings. The Ministry of Mining and Energy and the Ministry of Construction, Transport and Infrastructure are responsible for implementation of these measures, as well as for adoption of necessary legal framework for EE of the building sector, determination of cost-optimal levels of EE of buildings, and inclusion of all forms of energy and thermal-technical systems in the

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<sup>188</sup> The National Strategy of Social Housing (*Official Journal of the Republic of Serbia*, No. 13/12).

<sup>189</sup> The *Decree on establishment of Implementation Program of the Energy Development Strategy of the Republic of Serbia* for the period to year 2025 with projections to 2030, for 2017 to 2023 (*Official Journal of the Republic of Serbia*, No. 104/17).

certification of buildings. Central government buildings must adopt a plan for fulfilment of the requirements of zero-emission buildings.

Some specific projects in the EE sector are improvement of the EE (thermal rehabilitation) and use of RES in primary schools and public buildings in Kraljevo, and thermal rehabilitation of public buildings in Smederevo, Subotica, Belgrade, and Zrenjanin (including kindergartens).

At the end of 2019, the Ministry of Construction, Transport and Infrastructure published a public tender for the development of a strategic document, A Long-Term Strategy for the Promotion of Investments in National Building Stock Renovation.<sup>190</sup> The document defines housing policies and regulations that support renovation of building stock in the country. The document was originally expected in the first half of 2020 but was delayed.

The 3<sup>rd</sup> NEEAP of the Republic of Serbia for the period up to 2018<sup>191</sup> analyzes the results of implementation of the 2<sup>nd</sup> NEEAP in the building sector and lays out further implementation of EE measures in the building sector from 2017–2018. The NEEAP specifies that the Republic of Serbia Budgetary Fund for Energy Efficiency (BFEE) should not implement projects in the commercial sector. As of July 2020, the 4th NEEAP had not yet been adopted.

### ***Section 3.2 Analysis of the functioning of housing renovation policies***

The absence of holistic national building renovation or social housing policies creates a fragmented and insufficient landscape for promoting building renovation and thermal retrofitting investments in the residential sector, or for developing a market for commercialization of such investments. Consequently, the main efforts in building renovation continue to strongly rely on donor and IFI support, including the following:<sup>192</sup>

- KfW Entwicklungsbank: The German Development Bank (KfW) is estimated to have invested almost 600 million EUR since 2001 in two main initiatives: EE in public buildings and a municipal infrastructure credit line.
- The BFEE with budget of \$1.5 million in 2019 and the Republic of Serbia's planned budget of 110 million EUR in 2020 for EE measures.<sup>193</sup>
- The Capital Investment Fund of Vojvodina (\$0.6 million budget for EE in 2019).
- The Fund for Environmental Protection allowed the financing of EE projects in 2012.
- In 2012, the Ministry of Environment, Mining and Spatial Planning of Serbia started an interest rate subsidy program in which the government caps the interest rates on EE loans provided by six local partner banks in the total amount of \$15 million; the program is ongoing.
- The World Bank funded Serbian EE projects with the aim to improve EE in state medical centers, schools, social protection sectors, and other public buildings.
- In addition, six commercial banks provide support to renovation efforts.

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<sup>190</sup> Source: <https://www.mgsi.gov.rs/lat/dokumenti/javne-nabavke?page=2>.

<sup>191</sup> The Third Action Plan for Energy Efficiency of the Republic of Serbia for the period up to 2018 (*Official Journal of the Republic of Serbia*, No. 1/17).

<sup>192</sup> Astghine Pasoyan: Serbia Country Profile.

<sup>193</sup> The *Law on the Budget of the Republic of Serbia for 2020* (*Official Journal of the Republic of Serbia*, No. 84/19 and 60/20; other legislation).

### Section 3.3 Analysis of stock renovated to EE standards

There are no projects or programs that will review the results of efforts to renovate and connect buildings to EE standards. A building stock inventory is expected to be part of the pending guidance, A Long-Term Strategy for Promoting Investments in Building Stock Renovation, after the document is published by the end of 2020.

In the meantime, the closest estimates of building stock and investment potential were presented by donor studies, including those of the Energy Community<sup>194</sup> and World Bank,<sup>195</sup> and the Episcopo/TABULA Assessment<sup>196</sup> summarized in **Table 21** below.<sup>197</sup>

**Table 21. Estimates of Building Stock and Investment Potential**

Sector	No. of Buildings <sup>198</sup>	Type of Building	Building Stock Area (million m <sup>2</sup> )	Cost-effective Energy Savings Potential		Required Investment (million EUR)	Total Savings (%)
				ktoe/year	Million EUR/year		
Residential	2,186,246	Family house	121	445	229	2,023	22%
	60,074	Apartment buildings	69	140	95	963	21%
Public	12,470	Health care	4	32	24	179	27%
		Education	11	33	25	144	24%
Commercial	318,745	Hotels	8	99	88	607	40%
		Other (offices, trade, etc.)	30	138	87	626	34%
<b>TOTAL</b>	<b>2,751,911</b>	-	<b>243</b>	<b>887</b>	<b>548</b>	<b>4,542</b>	-

Programs for rehabilitation of public buildings are ongoing, also financially supported by the BFEE. The inventory and 1% target for central government buildings with a total useful floor area of over 250 m<sup>2</sup> that should be renovated was adopted by the government in August 2018. The Council of Europe Development Bank will support Serbia with a 45 million EUR investment loan for the Energy Efficiency Renovation Program of Central Government Buildings, in combination with a 300,000 EUR Western Balkans Investment Framework grant as technical assistance for investment preparation support. Regarding EE measures in residential buildings, a comprehensive program for EE improvements was launched in September 2018 by the EBRD GEFF. It combines technical assistance, advice, and investments to households and related service providers.<sup>199</sup>

<sup>194</sup> Energy Efficiency in Buildings in the Contracting Parties of the Energy Community, *Energy Savings International* AS, 2012.

<sup>195</sup> Sector Study on Biomass-based Heating in the Western Balkans, Task 2 – Assessment of heating systems in the Western Balkans, World Bank, 2015.

<sup>196</sup> National Typology of Residential Buildings in Serbia:

[http://episcopo.eu/fileadmin/tabula/public/docs/brochure/RS\\_TABULA\\_TypologyBrochure\\_FA-UB.pdf](http://episcopo.eu/fileadmin/tabula/public/docs/brochure/RS_TABULA_TypologyBrochure_FA-UB.pdf)

<sup>197</sup> Astghine Pasoyan: Serbia Country Profile.

<sup>198</sup> Ibid.

<sup>199</sup> <https://www.energy-community.org/implementation/Serbia/EE.html> 28/04/2020.

## **Section 4. Review of functioning of facilities (residential) management companies**

### *Section 4.1 Review of the functioning and licensing of RBM companies, market characteristics of RBMs, analysis of key market actors, size of companies and main characteristics*

The Serbian Register of licensed RBMs, held by Serbian Chamber of Commerce, registered 1,087 licensed persons as of 2020. Nearly 80 licensed persons were deleted from the Register.<sup>200</sup>

### *Section 4.2 Size of the housing stock managed via RBM companies' number and percentage, size of the market, structure of fees for management*

In Serbia, according to the Single Register of Housing Communities<sup>201</sup> on the last day of May 2018, a total of 33,315 residential communities were registered, of which 24,404 (73%) selected one of their neighbors as manager, while 8,835 (27%) of HOAs outsourced management to a professional administrator.<sup>202</sup>

### *Section 4.3 Size of the housing stock managed via HOAs*

The building stock in Serbia consists of 3,231,931 buildings. This stock consists of: (1) 1,931,183 single-family houses, (2) 268,346 buildings with 2 apartments, (3) 1,023,596 buildings with 3 and more apartments, (4) 3,248 other buildings, and (5) 5,558 nonresidential buildings.<sup>203</sup>

Owners of separate parts of MABs are legally obliged to form and register their HOAs in the HOA Register organized by the municipality. The housing community has the status of a legal entity, which is acquired when at least two persons become the owners of two separate parts. Buildings with two apartments and buildings with three and more apartments are buildings that have an obligation to register their HOA. It means that Serbia has at least 2,199,529 buildings that need to be managed by HOAs. A national register of HOAs by each self-government unit (cities and municipalities) has only 46,886 registered HOAs.<sup>204</sup>

### *Section 4.4 Analysis of the possibility to lend via RBMs*

Serbian legislation currently makes lending via RBMs a conflict of interest. A licensed professional person who is an agent of an HOA cannot offer the HOA any other services as agent on behalf of a third party. One person engaged by both parties (HOA and RBM) in the same contract, acting as agent for both parties in the same contract and earning fees from both parties is considered a conflict of interest.

On the other hand, if one person (the RBM) is engaged by both parties and both parties are informed about that engagement, and in the case of success each earns half the fee, the RBM

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<sup>200</sup> <https://usluge.pks.rs/portal/registar-upravnika-zgrada> 28/04/2020.

<sup>201</sup> Official term for Single Registry of HOAs held by State Cadaster, hereinafter HOAs Registry of Registry of HOAs.

<sup>202</sup> <http://stanovanje.gov.rs/latinica/aktuelno.php> 29/04/2020.

<sup>203</sup> 2011 Census of Population, Households and Dwellings in the Republic of Serbia, Dwellings, dwellings by the type of building, Data by municipalities/cities, Statistical Office of the Republic of Serbia, Belgrade 2013, ISBN 978-86-6161-072-1 <https://data.stat.gov.rs/Home/Result/3102030601?languageCode=sr-Latn> 29/04/2020, Source: Republic Bureau of Statistics, updated 01/07/2017.

<sup>204</sup> <https://katastar.rgz.gov.rs/StambeneZajednice/> 29/04/2020.



should protect the interests of both parties at the same level. RBMs also need to inform both parties about interests and fees.

The RBM is a new instrument for taking care of maintenance of MABs. It has no power to force execution of measures to improve efficient maintenance of MABs or aimed at increasing property values.

## **Conclusions and Recommendations for the Housing Sector**

Serbia's 2016 *Law on Housing and Maintenance of Buildings* was a major step forward for laying out a regulatory framework for residential housing. Both primary and secondary legislation were put in place regulating the building management, HOAs, calculation of regular maintenance and capital renovation fees, certification of building managers, development of building maintenance, and inspection criteria. The legal/regulatory framework is still relatively new, and its application and enforcement are lagging. The process is particularly slow with the HOAs, which take substantial time to self-organize and, given remaining legal gaps in registration of common property, face policy ambiguities for full operationalization.

The Law has stipulated that the housing renovations as well as thermal rehabilitation of residential housing is a matter of public interest. With this declaration, the national government as well as local authorities were prescribed to provide funds from their budgets for residential housing renovation. Belgrade was the first to act by creation of the City of Belgrade Budget Fund for Energy Efficiency, which invests in EE retrofits of both public and residential buildings.

To promote housing renovation in Serbia, the following recommendations are offered.

**Legal/Regulatory:** Serbia needs to develop and adopt a comprehensive national information base, strategic vision, and policy framework for the gradual development of building renovation incentives, creating elements of the residential building EE investment market, and to establish a strong institutional setup, streamlining and supporting an influx of investment resources in the MAB renovation sector.

**Financing:** To date, the programs and financial instruments for renovation and modernization of existing buildings were episodic and did not create a scale-up effect, with no designated institution leading the way to large-scale, countrywide implementation of MAB renovation. The presence of limited municipal and state financing for building renovation should be restructured into grant co-financing for commercial lending, technical assistance for project development, development of credit guarantees, and/or target the funds at elimination of other market barriers to help support commercialization and scale-up of housing renovation finance.

**Information and Capacity Building:** To ensure effective management of the housing stock, information gaps need to be filled. Regulatory framework should be further enhanced to require that HOAs produce building technical documentation (designs, specifications, engineering infrastructure, etc.) describing the current assets; HOA would be able to properly register their common property, while the Serbia would be able to develop a Comprehensive Building stock inventory that would serve as foundation for further analysis, categorization, identification of worst-performing buildings, and development of a Building Renovation Strategy.

To support the information base (building stock inventory), all HOAs should be obliged to produce (or obtain from contractors and architects or original investors) actual technical designs

of buildings with specifications of actual building systems, made accurate with all eventual modifications. These technical documents must be made available to all apartment owners.

Together with the national policy, regulatory framework, institutional and technical capacities, and adequately priced financing, HOAs, banks, and state support to bring investors and MABs together will be necessary for transforming the market for building renovation.

## **ENERGY EFFICIENCY ANALYSIS**

### **Section 5. Analysis of energy-related support programs for building rehabilitation in line with the EU Energy Performance of Buildings and EE Directives**

Serbia's economy heavily relies on energy imports. Over 70% of natural gas consumed in various sectors of the economy, including buildings and district heating systems, is imported. Many of the buildings are connected to district heating systems. EE will not only help reduce the utility bills, improve the indoor comfort, and mitigate climate change, but it will also contribute to national energy security. Given that more than 40% of Serbian households cannot pay their heating bills or maintain adequate thermal comfort, EE could also help improve energy utility affordability. As an added benefit, an accelerated renovation program will create jobs.

#### ***Section 5.1 EE targets and building renovation strategies***

The *Law on Efficient Use of Energy* (LEUE) from March 2013 constitutes the cornerstone of Serbia's EE legislation and recognizes EE as important for improving Serbia's energy security and international competitiveness. The Law<sup>205</sup> requires energy audits to be performed by certified energy advisers (auditors) in new construction and buildings that are owned by public institutions<sup>206</sup> and exceed 500 m<sup>2</sup>. It further sets out specific regulations for the certification of energy advisers<sup>207</sup> and building and industry energy managers,<sup>208</sup> including educational background. The Law defines criteria for documenting heat delivery and metering district heating in new buildings and generally prescribes the installation of meters for measuring and equipment for controlling heat delivery at the building level. It only requires installation of metering equipment in individual apartments if technically and economically feasible. The Law outlines the structuring of a National Budgetary Fund (NBF) as Serbia's primary national funding source for EE investments and introduces a definition for energy service contracts (including contract templates) between ESCOs and public sector entities. In addition to NBF, the Public Investment Management Office (PIMO) extends funding to priority projects and emergencies that may or may not include EE aspects.

The Building Renovation Strategy is not adopted yet in Serbia. Its adoption is expected by the end of 2020.

The 3<sup>rd</sup> NEEAP was adopted during December 2016 and includes measures on supply-side and end-use sectors applicable until 2018.

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<sup>205</sup> Article 43 of LEUE.

<sup>206</sup> Only buildings owned by public institutions listed in the Article 16, point 4 of LEUE.

<sup>207</sup> Articles 20, 21, 22 and 23 of LEUE.

<sup>208</sup> Article 19 of LEUE.

The 3rd NEEAP lays out some energy-saving measures for the public and residential building sectors. Measures for MABs include additional connections to district heating systems and replacement of inefficient boilers, insulation improvements, and the installation of heat pumps. Savings in the household sector are further to be supported by new building regulations and certification systems as well as promotion of EE appliances. The measures aimed at the residential buildings in the 2<sup>nd</sup> and 3<sup>rd</sup> NEEAPs are identical but, with growing ambition, were revised from 140 ktoe to 278 ktoe. The 3rd NEEAP does not include targets or definition for NZEBs.

Work on the 4th NEEAP is ongoing, but its adoption and submission to the Energy Community Secretariat was delayed (the deadline was April 30, 2019). It should include reporting on achievements of the 9% energy savings target by 2018 and measures to reach 2020 EE targets.<sup>209</sup>

The only active strategic document is the Decree on Establishment of Implementation Program of the Energy Development Strategy of the Republic of Serbia for 2025–2030, covering the period from 2017 to 2023.<sup>210</sup> This program aims at establishing a list of central government buildings (CGBs), identifying the minimum requirements for CGBs, and developing a plan for the renovation of CGBs in accordance with the *EE Directive* requirements (Article 5).

The list of CGBs for renovation is adopted by the Government of Serbia. It covers 1% of the total floor area of heated and/or cooled buildings owned and occupied by the central government. An inventory list of CGBs comprises 56 buildings with overall area of 370,000 m<sup>2</sup>. The program is being implemented with technical assistance from German Society for International Cooperation (*Deutsche Gesellschaft für Internationale Zusammenarbeit [GIZ]*) and United Nations Development Programme (UNDP), while the financing is considered by a potential Council of Europe Bank loan.<sup>211</sup> The program is not published yet.

The strategy implementation program also entails several EE projects in EE thermal rehabilitation and use of RES in primary schools and public buildings in Kraljevo, as well as the thermal rehabilitation of public buildings in Smederevo, Subotica, Belgrade, and Zrenjanin. The program of strategy implementation aims to determine cost-optimal levels of EE of buildings, including all forms of energy and thermo-technical systems in the certification of buildings, and plans to fulfil the requirements of NZEBs.

Regarding household energy savings, the biggest savings are still the result of the implementation of the *Law on Planning and Construction* and the *Rulebook on Energy Efficiency of Buildings*. It provides savings of more than 11 ktoe annually just for newly built residential buildings. Compared to the year 2015, in 2016 there was an increase in the number of newly built buildings in the household sector of around 17%, thus resulting in an increase of

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<sup>209</sup> <https://www.energy-community.org/implementation/Serbia/EE.html>; 28/04/2020

<sup>210</sup> The Decree on Establishment of Implementation Program of the Energy Development Strategy of the Republic of Serbia for the period to 2025, with projections to 2030, for 2017 to 2023.

<sup>211</sup> Third Annual Report under the Energy Efficiency Directive (EED) for 2018, prepared by Republic of Serbia (RS), Ministry of Mining and Energy (MOME), July 2019, p. 7; <https://www.energy-community.org/implementation/Serbia.html>

savings in that sector. All results should be available in the new 4<sup>th</sup> NEEAP, which is planned to be adopted in 2020.<sup>212</sup>

In the public sector, 150 new projects were realized through 2018 in comparison with 2016 (public buildings and street lighting). Total savings in 2018 collected per building were 17 ktoe. While projects have been implemented in many communities, no formal reporting is yet available.<sup>7</sup> **Table 22** shows targets per sector and *EE Directive* article.

**Table 22. Division of Targets per Sector and per Different Article of *EE Directive* (example)<sup>213</sup>**

TARGETS	2018	2019	2020
<i>EE Directive</i> Article 5 [ktoe]		3,700 m <sup>2</sup>	7,400 m <sup>2</sup>
<i>EE Directive</i> Article 7 [ktoe]			317.5 <sup>214</sup>
Final energy consumption (FEC) [ktoe]	9,376 <sup>215</sup>		13,103 <sup>216</sup>
FEC—Buildings	277.6		

### **Section 5.2 EE fund establishment**

The Budgetary Fund for Energy Efficiency (BFEE) was established by the LEUE (2013). The Law stipulates that BFEE was established for the purpose of accruing funds intended to finance EE activities or measures. BFEE was established for an indefinite period, in accordance with the law that regulates the budget system. BFEE is managed by the Ministry of Mining and Energy (MOME). Funds for financing BFEE are provided by (1) appropriations in the budget of Serbia for the current year and (2) donations and loans. LEUE defines activities to be financed by BFEE. EE in buildings could be the subject of, among other things, the following activities: encouraging the development of the energy management systems for non-designated subjects, promoting, and conducting energy audits of facilities, and other EE activities.<sup>217</sup>

The Government of Serbia has an obligation to adopt an annual program of financing activities and measures for improvement. The Government adopted this program only for 2019.<sup>218</sup>

MOME also adopted the *Rulebook on Conditions for the Distribution and Use of Budget Funds for Improvement of the Energy Efficiency of the Republic of Serbia* and exemption criteria for the energy audit.<sup>219</sup> The decisions to award (budgetary) funds by invitation to public tender are published for 2014, 2015, and 2016. Funds have been awarded to municipalities.<sup>220</sup>

<sup>212</sup> Third Annual Report under EED for 2018, prepared by RS MOME, July 2019, p. 4, <https://www.energy-community.org/implementation/Serbia.html>

<sup>213</sup> Third Annual Report under the EED for 2018, prepared by RS MOME, July 2019, pp. 4–5, <https://www.energy-community.org/implementation/Serbia.html>

<sup>214</sup> EBRD Regional Energy Efficiency Program technical assistance.

<sup>215</sup> According to 1st NEEAP.

<sup>216</sup> According to *Decree on Establishment of Implementation Program of the Energy Development Strategy for 2017 to 2023*.

<sup>217</sup> Articles 57–59 of LEUE.

<sup>218</sup> *Regulation on Establishing the Program Activities and Measures Financing Improvements of Efficient Use of Energy in 2019* (Official Journal of the Republic of Serbia, No. 4/19).

<sup>219</sup> *Rulebook Conditions for the Distribution and Use of Budget Funds Improvement of the Energy Efficiency of the Republic of Serbia and Exemption Criteria for the Energy Audit* (Official Journal of the Republic of Serbia, No. 12/19).

<sup>220</sup> <https://www.mre.gov.rs/dokumenta-efikasnost-izvori.php> 28/04/2020.

The Serbian state budget reserved 110 million EUR for EE measures in 2020.<sup>221</sup>

### ***Section 5.3 EE obligation scheme (utility-based residential EE investments)***

According to the findings of the experts engaged by the Regional Energy Efficiency Program (REEP)+, it is estimated that Serbia could meet its target up to 2020 by implementing alternative measures. Alternative measures include energy management systems, budgetary funds, and loans from IFIs to achieve the target.<sup>222</sup>

Serbia calculated both an annual 1% renovation target for CGBs and a 0.7% target under the EE obligation scheme under Article 7 of *EE Directive*. While the first target was officially adopted in August 2018, adoption and notification of the Article 7 target is pending.<sup>223</sup>

### ***Section 5.4 Building energy certification for existing MABs***

Building energy certification for existing MABs is regulated by legislation from the planning and construction sector. The umbrella legal act is the *Law on Planning and Construction*.<sup>224</sup> By-laws of this Law relevant to the energy certification for existing MABs are the *Rulebook on the Conditions, Content, and Method of Issuing a Certificate on Energy Performance of Buildings*<sup>225</sup> and the *Rulebook on Energy Efficiency of Buildings*.<sup>226</sup>

The energy performance of buildings is based on the actual amount of specific energy consumed or calculated that meets the various needs related to standard use, and particularly relates to energy for heating, hot water preparation, cooling, ventilation, and lighting. Energy performance is determined by certificate on the energy performance of buildings. The certificate of energy performance of buildings is issued through the Central Energy Passport Register, maintained by the Ministry responsible for construction.<sup>227</sup>

In accordance with EU regulation, particularly with *EU Directive 2010/31/EU*, the *Rulebook on the Conditions, Content and Method of Issuing a Certificate on Energy Performance of Buildings* lays out the classification or energy performance certification of new and existing buildings into eight different energy performance classes, ranging from A+ (best) to G (worst), differentiated by building type (e.g., single-family vs. multilevel residential buildings, commercial buildings, education buildings). The energy passport must be issued by a certified engineer. The legislation requires new buildings to have an energy class of at least C and renovations to improve existing buildings' rating by at least one class. A building's energy performance is calculated based on a maximum allowable energy consumption for heating, expressed as a ratio of its consumption relative to the maximum amount, category C, in kilowatt hours (kWh)/m<sup>2</sup> annually.

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<sup>221</sup> The *Law on the Budget of the Republic of Serbia for 2020* (*Official Journal of the Republic of Serbia*, No. 84/19 and 60/20 – other legislation).

<sup>222</sup> Third Annual Report under the Energy Efficiency Directive for 2018, prepared by Republic of Serbia, Ministry of Mining and Energy, July 2019, p. 7; <https://www.energy-community.org/implementation/Serbia.html>

<sup>223</sup> <https://www.energy-community.org/implementation/Serbia/EE.html>; 28/04/2020.

<sup>224</sup> The *Law on Planning and Construction* (*Official Journal of the Republic of Serbia*, No. 72/09, 81/09, 64/10, 24/11, 121/12, 42/13, 50/13, 98/13, 132/14, 145/14, 83/18, 31/19, 37/19 – other law and 9/20).

<sup>225</sup> The *Rulebook on the Conditions, Content and Method of Issuing a Certificate of Energy Performance of Buildings* (*Official Journal of the Republic of Serbia*, No. 69/12 and 44/18 other law).

<sup>226</sup> The *Rulebook on Energy Efficiency of Buildings* (*Official Journal of the Republic of Serbia*, No. 61/11)

<sup>227</sup> Articles 3-5 of the *Law on Planning and Construction*.

The process of energy certification of buildings in Serbia began on September 30, 2012, when the regulations in the field of EE of the buildings became mandatory. The first energy performance certificate was issued on April 25, 2013.

Buildings that are subject to EE in building sectors are new buildings and existing buildings including: (1) buildings that will be reconstructed, upgraded, renovated, adapted, (energy) rehabilitated; (2) buildings entered into the World Heritage List and buildings in protected areas; as well as (3) buildings or parts of buildings that make up a technical-technological or functional unit, which are sold or leased.<sup>228</sup> MABs and other existing buildings have equal requirements to obtain energy certification.

### ***Section 5.5 Possibility of ESCO/EPC application in residential buildings***

There are no legal obstacles to use ESCOs/EPC in residential buildings.

The EPC is defined by LEUE, and especially for public buildings, and establishes a model EPC for the implementation of EE improvement measures in public buildings.<sup>229</sup> The model EPC contract prepared for the public sector could also be used for the implementation of EE measures in residential buildings, and adapted for different EE measures.

The main issue is how to prevent eventual risks and secure payments from the HOAs. The HOAs' internal decision-making rules regarding HOA manager's and assembly's responsibilities have the most significance in proper enforcement of the EPC between the HOA and the ESCO. The EPC is more complex in cases where, in addition to the ESCO and the HOA, the apartment owners also become party to the EPC.

Various major international technology providers are currently active in Serbia, and the large majority have established local representations in the country. The companies predominantly come from China, Japan, South Korea, the United States, and Central and Northern Europe, including Austria, Denmark, and Germany, and are primarily offering the full range of EE building management and automation products. For example, for heating and cooling technologies companies like Daikin, Mitsubishi, Panasonic, LG, Toshiba, Currier, Honeywell, Siemens, Bosch, Johnson Controls, Weishaupt, Viessmann, Danfoss, and Schneider Electric are available; for construction and insulation materials, BASF, Ytong, Rigips, or Weber Saint-Gobain offer options. Some international engineering and consulting companies, as well as a few ESCOs, such as Techem, MACE, GGE, Rudan, and Elektro energija are also active.

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<sup>228</sup> Buildings that are not required to obtain an energy certificates are: (1) existing buildings for sale, lease, reconstruction or energy renovation, with a net floor area of less than 50 m<sup>2</sup>; (2) buildings with an estimated useful life of 2 years or less; (3) buildings of temporary character for the purpose of performing works, i.e., providing space for accommodation of people and building materials during the execution of works; (4) workshops, production halls, industrial buildings, and other commercial buildings which, in accordance with their purpose, must be kept open for more than half of their working hours if they do not have air curtains installed; (5) buildings intended for holding religious ceremonies; (6) existing buildings for sale or transfer of ownership in bankruptcy, in case of forced sale or execution; (7) buildings that are under a certain regime of protection and in which the fulfilment of EE requirements would be contrary to the conditions of protection; (8) buildings that are not heated or heated up to +12°C – Article 7 of the *Rulebook on the Conditions, Content and Method of Issuing a Certificate of Energy Performance of Buildings* (Official Journal of Republic of Serbia, No. 69/12 and 44/18 other law).

<sup>229</sup> The *Rulebook on Establishing a Model of Energy Service Contract for the Implementation of EE Improvement Measures When They Are Public Sector Users* (Official Journal of the Republic of Serbia, No. 41/15).

### ***Section 5.6 Accreditation of energy auditors/building energy assessors and certifiers***

Accreditation of energy auditors/building energy assessors and certifiers is regulated by LEUE. LEUE stipulates that an authorized energy auditor performs energy audits. An authorized energy auditor is a natural or legal person, registered in the Register of Authorized Energy Advisers maintained by MOME. After completing an audit, an authorized energy auditor is obliged to submit the information on the completed energy audit within the deadline to MOME, in the manner and form that it defined. The authorized energy auditor prepares and signs the energy audit report, which includes proposals for EE measures.<sup>230</sup> By-laws for energy audit implementation of LEUE have not been adopted yet.

Regarding licensing of the engineers for EE in the building sector, the Chamber of Engineers issues the licenses for the engineers responsible for EE in buildings.

To date, more than 1,782<sup>231</sup> engineers in Serbia have been trained and licensed by the Serbia Chamber of Engineers as engineers for EE.<sup>232</sup> However, these engineers are not necessarily licensed to issue building energy passports in accordance with LEUE. These engineers issued 2,417 energy passports in line with the *Law on Planning and Construction* and appropriate sub-law. The LEUE requires an EE certificate to be issued by the authorized energy advisers licensed by MOME in line with Article 35 of LEUE and trained by the Faculty of Mechanical Engineering of Belgrade University.<sup>233</sup>

Beyond these administrative efforts, Serbia's training and licensing of professional engineers and promotion of EE has a long tradition dating back to 1868 when a national association of engineers was established, which was among the first in Europe. Serbia's association cooperated closely with its equivalent United States professional association, the American Society of Heating and Ventilation Engineers (ASHVE),<sup>234</sup> from its establishment in 1894 till now. Serbia's professional association was among the founding partners establishing the American Society of Heating, Refrigeration, and Air-Conditioning Engineers (ASHRAE) Danube Chapter in 2005, while the Serbian Heating, Ventilation, Air-Conditioning, and Refrigeration (HVAC&R) Society organized the first Regional Conference of European ASHRAE in 2017. Members of the Serbian HVAC&R Society are active professionally in international markets, including a strong professional presence with equipment vendors from many countries including China, Israel, Japan, South Korea, and the United States, as well as Europe.

### ***Section 5.7. Analysis of the methods of de-risking of HOA/MAB investments***

Consideration of the provisions of *Law on Housing and Buildings Maintenance*, especially Article 47, are crucial for understanding the mechanism for collecting third parties' claims

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<sup>230</sup> Article 20 and 23 of LEUE.

<sup>231</sup> This is the total number of licenses listed at the Serbia Chamber of Engineers as of May 25, 2020. However, the Central Registry of Energy Passports lists 1,836 licensed engineers.

<sup>232</sup> According to the Serbia Chamber of Engineers License Code 381: Responsible Engineer for EE of Buildings in Line with the *Law on Planning and Construction*.

<sup>233</sup> This process of training and licensing is about to start. (<https://www.mas.bg.ac.rs/fakultet/obuke/obuka-energetskih-menadzera/arhiva>)

<sup>234</sup>

<https://www.ashrae.org/file%20library/about/mission%20and%20vision/ashrae%20and%20industry%20history/ashve-organizationalmeeting-sept1894.pdf>. ASHVE is a predecessor of the US ASHRAE: <https://www.ashrae.org/about/mission-and-vision/ashrae-industry-history>

against the HOA. This mechanism is not straightforward, and in practice can be realized in several steps to ensure proper collection of receivables from the HOA. This collection also depends on a few uncertainties, including the property ownership status of separate building parts, potential limitations in creditworthiness of individual households, and possible delays in enforcement and collection of unpaid claims.

The risks can be minimized where the HOA is well established, internal by-laws are clear, and participatory decision making is effective, leading to a predictable contractual relationship with a third party, such as an ESCO or the energy service financier.

The ESCOs are also likely to prefer partners that have a clearly defined and stable institutional structure, with developed by-laws and a long-term financial history with substantial turnover, or an HOA that already has the acquired assets that can serve as a collateral.

### Summary of Conclusions and Recommendation from EE Analysis

As part of its obligations under the Energy Community Treaty, Serbia continues transposition and implementation of the *EE Directive* and the *Energy Performance in Buildings Directive*. Three NEEAPs were adopted, with the 4<sup>th</sup> one underway. Serbia already has set up EE targets for public buildings. However, some of the articles of the directives still lag on transposition schedule, including the Building Renovation Strategy, 4<sup>th</sup> NEEAP adoption, public building renovation program, NZEBs, etc.

EE certification of buildings is envisaged by the *Law on Planning and Construction*, while LEUE envisages different procedures. The 2,500 building energy certificates were online ([www.crep.gov.rs](http://www.crep.gov.rs)) as of May 2020. In addition, the Serbia HVAC&R professional association members already conduct actual EE interventions.

The BFEE was established and first funds have been awarded to municipalities.

- Solidary guarantee for HOA loans is not a realistic mechanism due to the different credit ratings of apartment owners. Loan repayments must be individual, pro-rata per unit of building volume and collected by a collection agent. Collection must be entrusted to common collection agents such as an electricity or gas distribution company, district heating company, or city or municipality collection service.
- Principles and standards for EE should be built into the process of regular maintenance. In this way eventual repairs or replacements could be arranged with improvements to EE. There may be a need to train maintenance providers and introduce appropriate standards.
- Improvement in building standards, including insulation, and building mechanical systems, is required, and should be accompanied by appropriate training.
- In the case of insured damage to the building, repair should be arranged with EE improvements. Aspects of EE should be built into insurance policies for the buildings.
- Banks and other financial institutions may provide a service of dedicated savings for EE of buildings, allowing apartment owners to save in a common savings account and conduct EE investment from those savings. The Serbian banking system does not recognize housing savings banks.
- Professional organizations (for example, the HVAC&R Association) and energy service providers (electricity or gas distribution company, district heating company) may provide effective advice on EE to HOAs. That advice is to be provided by written



document and made available to all owners. Implementation of that effective advice is to be financed from regular service fees and granted to HOA.

All HOAs should be obliged to produce (or obtain from contractors and architects or original investors) actual technical designs (blueprints) of their buildings with specification of actual building systems, made accurate with all eventual modifications. This technical document must be made available to all owners of separate parts of building.

## **BANKING SECTOR ANALYSIS**

### **Section 6. Major nonlegal obstacles to commercial lending to HOAs**

As in most countries in the region, the current landscape and tradition of MAB management and use is largely influenced by the decades of nationalized building stock with municipal maintenance. The apartments in MABs privatized their occupants in the 1990s, along with many new MABs being constructed, but major behavioral patterns remained. The privatized buildings were also inherited in poor shape because of decades of unsatisfactory municipal maintenance.

The private property features of individual apartments are well enforced, but because the common property portions of MABs (e.g., roofs, basements, stairs, elevators, corridors) are not identified in the land registry, these areas are not effective in terms of creditworthiness. As the only common assets, these could serve as the basis for collateralization, however, these remain unacceptable for pledging (committing as collateral) because of the vague legislation, lack of clear registration of such property, and their low liquidity (if nonpayment should occur, the asset must be easy to sell).

Adopted in 2016, the *Law on Housing and Building Maintenance (LHBM)*<sup>235</sup> stipulates the apartment owners' rights of use, as well as responsibilities for repairing and maintaining the common portions of MABs,<sup>236</sup> even if that ownership is still not registered. Article 66 of the LHBM outlines the sources for financing the maintenance of common spaces in the buildings in general terms without specifying the details, except that the HOA can commit income from renting common spaces or other income in order to apply for a loan at financial institutions. The LHBM also says that buildings can be renovated by ESCOs and EPCs, if available.

Investment in EE measures could be supported by credit. Banking legislation regulates credit. The main legal act is the *Law on Banks*.<sup>237</sup> There is also the *Law on National Corporation for Mortgage Credit Insurance*,<sup>238</sup> the *Law on Pledge Law on Movable Property and Rights Registered in the Register*,<sup>239</sup> the *Mortgage Law*,<sup>240</sup> the *Law on Financial Leasing*,<sup>241</sup> and the *Law on the Capital Market*.<sup>242</sup> As the regulator of the banking sector, the National Bank of the

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<sup>235</sup> The *Law on Housing and Building Maintenance (Official Journal of RS No. 104/2016 and 9/2020 - other law)*

<sup>236</sup> LHBM, Article 14.

<sup>237</sup> The *Law on Banks (Official Journal of RS No. 107/2005, 14/2015, and 91/2020)*.

<sup>238</sup> The *Law on National Corporation for Mortgage Credit Insurance (Official Journal of RS No. 55/2004)*.

<sup>239</sup> The *Law on Pledge Law on Movable Property and Rights Registered in the Register (Official Journal of RS No. 57/2003, 61/2005, 64/2006, 99/2011 - other law, 99/2011 - other law, and 31/2019)*.

<sup>240</sup> The *Mortgage Law (Official Journal of RS No. 115/2005, 60/2015, 63/2015—decision of CC, and 83/2015)*.

<sup>241</sup> The *Law on Financial Leasing (Official Journal of RS No. 55/2003, 61/2005, 31/2011, 99/2011 - other law, and 99/2011 - other law)*.

<sup>242</sup> *Law on the Capital Market (Official Journal of RS No. 31/2011, 112/2015, 108/2016, and 9/2020)*.

Republic of Serbia (NBS) has the power to adopt its regulations and monitor implementation of the regulations and most of the legislation previously mentioned.

**HOA financing:** Article 61 of the LHBM prescribes that cities and municipalities must include in their budgets the financial resources for repairing and maintaining MABs. When the budgets are approved, the cities and municipalities provide the funds to HOAs, a process that is in line with municipal regulations. For example, Belgrade Municipality has been providing 150 million dinars (approximately 1.2 million EUR) annually for EE retrofits in public and residential buildings. Belgrade Municipality provides 60-month, interest-free, noncommercial loans to the public utility companies for general renovations of private MABs. Belgrade Municipality is considering setting up a local EE Fund, which will offer similar loans to HOAs for EE improvements. Belgrade Municipality is also seeking solutions within the acting legal/regulatory framework by exploring the options of a guarantee fund as a modality for financing the HOA sectors, as well as a revolving fund.<sup>243</sup> The Šabac Municipality District Heating Company is a similar example because the utility pre-finances the MAB EE retrofits, and then the residents repay the costs over time.

The existence of such funds encourages HOAs to request funds and discourages HOAs from considering any other sources of funding. Consequently, HOAs' demand for credit funds remains minimal; thus, the supply of relevant products remains low.

Sources of financing that are used for maintaining common portions of the buildings are regulated by provisions of the Articles 61 and 66 of the LHBM. These articles stipulate that in addition to the regular maintenance fees, the building can use loans, donations, and other sources for renovating buildings. To obtain a loan, HOAs may pledge their other receivables (e.g., rental of office spaces, regular incoming fees), in accordance with the *Law on Pledge Law on Movable Property and Rights Registered in the Register*. However, HOAs were not able to pledge their claim against municipal building maintenance companies for deferred maintenance during 1981–2001.

**ESCO financing:** Regarding energy projects to rehabilitate buildings, activities can be financed with and performed by contracting energy companies or entrepreneurs registered for providing ESCOs in accordance with the law governing the EE field. ESCOs have more opportunities for commercial financing because of their business entity status, financial turnover, assets, and potential credit history. In 2017, the World Bank surveyed six banks to assess the SME lending market and found that pure collateral-based lending has been gradually phased out for small and medium-sized enterprise (SME) borrowers.<sup>244</sup> Most banks were already lending based on unaudited financial statements of SME borrowers as part of their credit applications, leaving collateralized asset-based lending as a last resort. When a smaller company (i.e., the borrower) submits its credit application, a bank will use one or more models, including profitability, liquidity, and financial and sectoral risks, for determining the company's credit score, which the bank will then use to approve a loan. It is important to note that the quality of financial information provided by the borrower highly affects a bank's decision. Although these previously mentioned

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<sup>243</sup> Source: Belgrade Municipality Energy Efficiency Directorate. See for example:

<https://balkangreenenergynews.com/major-sustainable-energy-and-environmental-projects-of-serbias-capital-announced/>

<sup>244</sup> Source: Small and Medium Enterprises: Financial Information as a Catalyst for Lending Results of a Survey on Bank Lending Practices in Serbia, World Bank, 2017. Downloaded from: <http://www.wbedif.eu/wp-content/uploads/2018/05/Results-of-bank-lending-survey.pdf>

models are commonly applied to the SME market, a model could be applied to ESCOs, as well as to HOAs, which have regular cash flow from rented spaces or other revenue for investments in building renovation projects.

**Individual household financing:** If the overall MAB is ineligible for borrowing and an ESCO does not step in to provide third-party financing, then the banks could consider lending to all households based on results of a creditworthiness assessment administered to each family. Consumer lending to individual households is also complicated by the persisting shadow (informal) economy, which makes information unreliable regarding the financial standings of households. However, there is sufficient experience in the market with mortgage lending, consumer lending, and other all-purpose loans, which could, in theory, help pool financing for building-level common-space renovations, if all households agree to individually borrow, but have the funds spent on common assets.

**Conclusion:** The investment needs in MABs are large, with more than 60,000 MABs lacking proper maintenance and needing capital renovation and thermal modernization. Despite the relative affordability of commercial lending, the MAB and HOA market is not evolving for the following reasons:

- The legal status of HOAs continues to be vague for banks. The common property assets are not adequately registered to be subject for collateralization and are too risky for security purposes. Some MABs may have other revenues from rented spaces and/or assets that can be pledged (or redirected) to provide banks with adequate risk provisioning. Alternative solutions for the other HOAs that do not have substantial cash flows can include the following:
  - Introducing additional mandatory fees, in addition to the minimal building maintenance fees, to accrue reserve funds in the HOA bank account, which can serve as a down payment and help ensure cash-flow security for bank lending
  - Backing HOA loans with individual household credits or individual guarantees by HOA members
  - Developing guarantee tools that banks can use to secure the HOA loans while the market evolves, and as uncollateralized project financing becomes possible in the Serbian financial market.
- In the market through most municipalities, the grants and noncommercial loans available through utilities are still an option, but this limits the potential to cultivate commercial borrowing demand among HOAs. Without demand, the supply does not evolve either.
- The positive experience with financing MAB retrofitting projects through utilities (e.g., Belgrade, Šabac) by providing alternative financing should be considered for the EPC/ESCO scheme, which allows for commercial financing through more creditworthy lending intermediaries.

### ***Section 6.1. Analysis of risk and risk perceptions of HOAs by the banking sector***

In December 2016, Serbia adopted the LHBM, which sets the rules and regulations for HOA operation and management in the country.

Owners of buildings or at least two owners of separate portions of buildings are responsible for managing the building through the registered HOA. An HOA which must be registered by its

member households as a legal entity and a special-purpose vehicle established because of requirements of the LHBM. An HOA consists of all owners of separate portions of a MAB. Owners of separate portions of a MAB are responsible for establishing and registering their HOA in an HOA Register. If that building has several units with separate entrances, then the owners of separate portions of each of these segments may form an HOA. Each HOA should have a Housing Assembly (henceforth referred to as the Assembly) and a Housing Manager (henceforth referred to as the Manager). Members of the Assembly are all owners of special portions (common spaces) of a building. The Manager serves as the President of the Assembly. There are three types of Management: (1) housing association, (2) housing manager, and (3) private residential building maintenance companies. The Assembly elects the Chairperson (Manager) among the members of the Assembly for a 4-year term or shorter and can be reelected.

According to the LHBM, an HOA could decide to hire a professional residential building management (RBM) company to be the Manager. However, if the HOA deems it necessary, it can quickly and abruptly change the RBM, elect different management arrangements, and change the membership structure.

Newly formed RBMs are usually small companies with limited potential for borrowing. The RBMs have a good understanding of the risks associated with non payments by apartment owners because they already experience collection problems with regular monthly maintenance fees. RBMs are not entitled by law to provide any credit to HOAs or to apartment owners; only banks can lend credits.<sup>245</sup> RBMs could consider working with only some “good” MABs, in which the homeowners can agree on particular measures and are paying their bills regularly. If such an HOA has some additional income, it strengthens the case for EE project implementation.

In contrast to the well-established process of using RBMs, the ESCO market for making EE improvements to buildings is not developed in Serbia, and few companies offer such services. However, even if an ESCO market were established in the country, ESCOs would be challenged by the same situation as RBMs—high risk of nonpayment by apartment owners.

HOAs have limited to nonexistent creditworthiness and often do not have any assets, so it would be difficult for banks to lend to them directly. MABs are the most challenging market segment for implementing EE improvement projects because they experience difficulties with reaching a decision when consensus voting is required and with enforcing a decision even when only majority votes is required. Even when decision making is made by a majority, there are still problems with implementing a decision. For instance, the minority of an HOA does not usually accept the economic consequences of the decision that is legally binding and does not want to bear the costs of EE improvements.<sup>246</sup> The only other option for decision enforcement by the majority of an HOA is to bring the case to the Executioner, which is not a popular measure because it requires a formal decision by the HOA that could be disputed as any other decision. However, some apartment owners cannot afford an additional expenditure. As a rule, almost every HOA would have at least one or two cases that cannot afford additional expenditures.

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<sup>245</sup> Article 5 of the *Law on Banks*.

<sup>246</sup> According to Article 12 of the LHBM, any apartment owner can file a claim against any decision up to 6 months after decision has been made; therefore, decisions are not immediately final.

HOAs are not eligible borrowers from the point of view of the National Corporation for Mortgage Credit Insurance (NCMCI),<sup>247</sup> and eventual loans to HOAs cannot be insured or guaranteed by NCMCI. NCMCI is a compulsory insurance system for providing mortgage loans to individual borrowers that insures most of the loans for the acquisition of retrofit of apartments. NCMCI also provides a more competitive interest rate on loans to individual apartment owners.

HOAs could have additional income (in addition to maintenance fees) if they have appropriate office space to let, advertising space, and/or telecommunication fees, antennas, or other related items. In such a case, the HOA may have sufficient funds to install the EE improvements, or banks can lend against its cash flow, which could be verified from an HOA balance sheet. However, most HOAs already pledged these regular revenues to cover their regular expenditures.

Some SMEs are offering different services with delayed or scheduled payments. Some examples of different services include installation of EE windows, thermal insulation facade, heat pumps, and other items. Banks have reasonably and successfully supported these companies; however, sales are predominantly directed toward apartment owners instead of an HOA because it is much easier to obtain a contract with sole owner than to gain consent of an entire HOA.

There is no real demand among HOAs for credit services because they cannot be adequately responsible for their obligation while they still have an option to obtain funding from municipal sources, which all Serbian cities are still mandated to provide by law.

Banks regulate their risks by following the *Law on Banks*, NBS regulations, and each bank's internal processes. Each bank is responsible for identifying, measuring, and assessing the risks to which it is exposed during its operations, and then to manage those risks. Some of the main risks that banks regulate are credit risks, interest rates, foreign exchange and other market risks, bank investment risks, and operational risks. The NBS prescribes criteria for identifying, measuring, assessing, and managing risks.<sup>248</sup> The NBS requirement for provisions of nonperforming loans is 114%.

Regarding loans for a purchase or retrofitting of apartments, including an EE retrofitting project, the most effective risk mitigation mechanism is NCMCI, which is the standard procedure that most of the banks follow.

Banks consider HOAs to be an increased risk when the HOAs are considering borrowing funds for EE improvements. Consequently, if such loans are to be approved, the banks are required to set aside reserves, equaling the loan amounts, to protect against the risk. Therefore, many banks would prefer to extend individual loans to all involved households instead of providing a group loan to the entire HOA.<sup>249</sup>

Banks are not ready to lend to HOAs because HOAs are nonbankable and risky because of the absence of collateral, multiple individual decision makers, and the potential complexities of collection when repayment is poor. In addition, banks are not ready to lend to HOAs because

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<sup>247</sup> Established by the *Law on National Corporation for Mortgage Credit Insurance*, the NCMCI provides loans granted by banks to individuals for the purchase, adaptation, and construction of real estate. The loans are secured by a mortgage.

<sup>248</sup> Articles 31–36 of the *Law on Banks*.

<sup>249</sup> Group lending is often not allowed by law or by the banks' internal procedures.

lending products have not been developed by local banks where other mechanisms or forms of lending exist (e.g., the EBRD's Western Balkans GEF) and because HOAs are not subject for risk guarantees from the NCMCI point of view.

Collection histories are not a sufficient indicator of creditworthiness of HOAs. There are many reasons that collection from a HOA may change abruptly and at any given moment. However, banks are not equipped to fully understand their clients. For instance, most bank officers are employed to only offer over-the-counter predetermined banking products. The specific LHBM rules are to define the following:

- Subsidiary liability of owners of separate portions of the building to determine the HOA's obligations
- Solidary obligation between owners of separate portions of the building for granting the HOA so it can fulfill its commercial obligation and proportional regress rules (between owners of separate portions of the building)

The principle of subsidiary liability of the owners of the separate portions of the building for the HOA's obligations is not a fully balanced burden against all of the owners of the separate portions of the building who provide a security instrument (e.g., a promissory note) as a payment guarantee. The holder of the claim against the HOA will thus shift the obligation entirely to one owner of a separate portion of the building, with the additional burden of that "randomly selected" owner of a separate portion of the building, to further collect each proportional part from the other solidary debtors. This owner of a separate portion of the building then bears the risk of exercising his or her right to collect from each other owner of a separate portion of the building a proportionate part of the claims, including the additional interest on the period when the claim against the HOA was calculated until each regress receivable was collected.<sup>250</sup>

Even with an HOA bank account, a bank does not have any clarity about actual payments made by members of an HOA. Eventual arrears by members of HOA are not documented by the National Credit Bureau in their respective credit histories.

**Conclusion:** Banks perceive HOAs to be high risk and not secure as borrowers. In addition, HOAs do not have credit histories of lending from local banks; therefore, they are nonbankable. However, some real barriers are the lack of property and the uncertain spillover of responsibilities between the apartment owners who are responsible for addressing the HOA's obligations. Decision making for EE retrofitting projects requires a consensus; however, even when majority voting has been enacted, a problem still exists with enforcing the majority's decision. In addition, there is no transparency regarding an HOA's ability to collect regular income from its members.

Poor creditworthiness of HOAs can be improved by eliminating the legal gaps. It is impossible for banks to avoid the fact that HOAs are not "bankable" clients and that legislation gives HOAs virtual collateral; however, it is possible to regulate a new mechanism for "crediting" HOAs by defining bank savers or simply establishing rules for giving grants to HOAs. The transaction costs required for signing individual contracts can be subsidized with each household to

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<sup>250</sup> The reputation of the newly formed private collection agencies is questioned in public. Private owners refrain from any eventual exposure to the collection process, as it is prescribed in the *Law on Enforcement and Security (Official Journal of RS No. 106/a5, 106/2016—authentic interpretation, 113/2017—authentic interpretation, and 54/2019)*.

minimize the risk of nonpayment. In the early stages of HOA lending, personal guarantees, guarantee funds, and individualization of the HOA loan for each household can help push the market.

### ***Section 6.2. Provisioning requirements, rules, and monetary policies and banking regulations***

The government bond market dominates the financial market and displaces other forms of lending by maintaining high interest rates and significant risk margin (two to five times) between interest rates on deposits and credit interest rates.<sup>251</sup> Deposit accounts yield well below 1%, and the lowest interest rate for lending starts at 5% but can be as high as 25% on some consumer loans made to private individuals. If it is a dedicated loan for EE improvement in a MAB, then the interest rates should be under the interest rates for general-purpose loans on the market. HOA lending does not currently have a market price, but most banks view it as being substantially riskier than SME loans and comparable to consumer lending with little or no collateral.<sup>252</sup> Considering that MABs have a mixed pool of households with varying credit risks, it is likely that the banks assess the overall riskiness of MABs as higher than an average household.

It is far more beneficial for HOAs to borrow from property owners than from banks; however, collection is still a problem because the legal and judiciary system does not support a meaningful collection process.<sup>253</sup>

***Credit risk management:*** “Credit risk” is defined as the possibility of negative effects occurring on the financial result and capital of the bank because of nonfulfillment of the debtor’s obligations to the bank. The bank is obliged to identify, measure, and assess the credit risk according to the creditworthiness of the debtor and his or her regularity in carrying out the obligations to the bank. In addition, the bank is obliged to identify, measure, and assess the credit risk according to the quality of the instruments used for securing the bank’s receivables. To adequately and efficiently manage credit risk, in accordance with the regulations of the NBS and its acts, the bank is obliged to calculate and allocate reserves for estimated losses that may arise on the basis of balance sheet assets and off-balance-sheet items. The bank is obliged to prescribe in its internal acts the special policies and procedures for identifying bad assets and managing those assets and for regularly reporting to bank officials on the quality of the loan portfolio.<sup>254</sup>

***Assessing the creditworthiness:*** The common precondition for adoption of credit applications and credit risk classifications by banks is to assess a potential borrower’s creditworthiness. Loans to private individuals and credit histories of private individuals are maintained by the Serbia Bank Association. There is a database that provides the basis for calculating credit risk. The loans to individuals and loans involving real estate are insured with insurance companies. However, no scoring mechanism is in place for assessing the creditworthiness of HOAs,

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<sup>251</sup> The Serbia 10Y Government Bond has a 3.1% yield. The Central Bank rate is 1.25% (as of June 2020).

<sup>252</sup> Individual consumers have credit ratings with the Serbia Banking Association rating system. Individuals also own property that may serve as collateral. The HOA does not have either of these.

<sup>253</sup> This mechanism has dual functions: subsidiary responsibility of apartment owners to perform HOA duties and solidary responsibility of any apartment owner.

<sup>254</sup> Article 31 of the *Law on Banks (Official Journal of RS No. 107/2005, 14/2015, and 91/2020)*. The public discount rate is 1.25%. The interest rate at the NBS’s lending facilities is 2.25%.

particularly given the limited cash flow and lack of collateral assets. Banks design SME-like uncollateralized loan products for HOAs that can demonstrate solid financial track records (maintenance fees).

**Crediting HOAs:** In Serbia, HOAs are not provided special crediting. The EBRD promotes ideas of crediting HOAs for EE under the GEF credit line; however, the response of the banks was limited because of a lack of adequate provisions that can support crediting to HOAs.

**HOA risks:** The main risks are that HOAs do not have a property and that only some of them have income. HOAs are ineligible for credit insurance with NCMCI, but this or a similar vehicle can be explored to create a similar instrument for HOAs. Given the absence of collateral, the banks would be more comfortable lending to a business intermediary (i.e., ESCOs) or having individual payment obligations signed by all households in the apartment building to back up the HOA loan agreement.

HOAs also need to collectively reach a borrowing decision, which is a cumbersome undertaking because it requires adequate institutional capacities and internal negotiations at the HOA. The potential risks associated with a borrowing decision also include the need to enforce the decision among the majority who voted for the decision, as well as those who opposed it, and the possibility of electing a new HOA Chairperson during the loan repayment period.

Given the tradition of municipal financing in MAB renovation, one possible solution is to use municipal finances to set up guarantee funds, providing risk securities to banks such as risk guarantees and first-loss cover, and partial co-financing or interest rate subsidies.

**Conclusion:** Lending to HOAs is not currently feasible because of lack of creditworthy HOAs and insufficient financial information about HOAs for banks to conduct scoring and credit risk assessments. Even if HOAs have been registered and have a regulated management structure in place, the assets of HOAs are not adequate to be used as collateral for the credits. Even if some assets are operated by HOAs, those assets are owned by all apartment owners proportionally and are vaguely defined legally. All these previously mentioned barriers lead to a high-risk premium, resulting in unaffordable interest rates. Establishing a joint agreement regarding financial liability and uniform creditworthiness is also unlikely. Under such conditions, any development efforts for the EE financing market should start from the gradual phaseout and replacement of grant financing from municipalities in favor of technical assistance, interest rate subsidies, guarantee funds, partial co-financing for EPC/ESCO contracts, and technical assistance for capacity building delivered to HOAs. These features would help to gradually build up and commercialize EE financing for MAB renovation projects.

### ***Section 6.3. Analysis of possibilities to create guarantee mechanisms for lending to HOAs***

**Guarantee schemes for HOAs:** If an HOA has any regular income, it is usually earmarked to cover ongoing maintenance expenses. Guarantee funds or guarantee schemes for HOA lending do not exist in Serbia.

Commercial banks have been lending to households to support EE renovations of individual apartments and single-family homes. These loans are extended to individuals. There are financial instruments and schemes that combine commercial lending and subsidies, including NCMCI. Financial institutions such EBRD, KfW (formerly KfW Bankengruppe), the European



Investment Bank (EIB), and the Green for Growth Fund (GGF) supported credit lines of commercial banks for businesses and individuals, but a few credit lines have been given to HOAs (individual households borrowing as a group for overall building renovation projects). In such cases, however, the interest rates are often very high. However, any guarantee mechanism must retain the right of reimbursement from properties of private owners to be sustainable. Given the high risk for owners, it is unlikely to approve any request for borrowing by an HOA. As a result, HOAs are reluctant to pursue borrowing as an option.

***HOA repayment mechanisms:*** Serbia has a robust insurance market that may offer appropriate collection insurance applicable to HOAs. Insurance may support creditworthiness of HOAs and facilitate lending; however, if NCMCI also covers HOA lending, then commercial insurance companies could be in competition with NCMCI. As in Slovakia, the experience can be applied by introducing additional fees during regular fee collection from households—the fees would be in addition to the regular maintenance fees, which are specifically designed for capital renovations, including through borrowed capital and further loan repayment.

**Conclusion:** Guarantee mechanisms for HOAs are necessary for HOA financing, like the case of Slovakia. Credit risk assessment (scoring) algorithms are necessary to help assess HOAs with adequate collateral for loan security. The guarantee mechanisms, if implemented for HOAs, could encourage local commercial banks to finance EE improvements in MABs, help overcome the risk perceptions of banks, and can lead to sustainable commercial financing. However, the guarantee mechanisms may serve only creditworthy customers, may require a mature banking sector interested in EE financing, and may need substantial capacity building of commercial banks. If guarantee mechanisms are introduced for HOAs, they will help to expand access to debt, thereby lowering the cost of financing and enabling more comprehensive EE project development in the MAB sector. In addition, every imaginable guarantee mechanism would need to have a procedure in place for reimbursement in case of nonpayment; no such mechanism is currently in place specifically regarding HOAs.

#### ***Section 6.4. Analysis of existing commercial banking products available to HOAs***

No meaningful (or competitive) loan products for MAB EE investments are currently on the market, and no products are specifically tailored for HOAs. HOAs are still a relatively new class of customers for the local banks. HOAs do not have revenue collection histories that may support the creation of specific bank products for them. Collection history from former municipal building maintenance companies or specific municipal billing institutions are not turned into data that can support the creation of banking products.

Given the lack of a supportive framework for HOAs and the perceived risk for their financing, the commercial banks in Serbia have so far neglected this important segment of EE market potential in residential MABs. However, several banks provide financing to private residential beneficiaries for EE investments because these loans are eligible for NCMCI. Many banks, including Banca Intesa, Komercijalna Banka, ProCredit Bank, UniCredit Bank, Halkbank, OTP Bank, and Erste Bank, are currently active in the market. Among the banks identified, some have benefited at some point from support from IFIs, highlighting the importance of green credit lines as a development finance tool for fostering sustainable green-lending practices. Information about the financing terms is typically available for loans for private residential EE investments. Loans for residential EE projects seem to exclusively target investments performed by individual households or owners of single-family residential buildings. Residential households

are the owners of their apartments, and banks establish mortgages to apartments, which are subject to renovations. These loans are all eligible for the NCMCI scheme. Down payments are typically one-third of the total loan amount. Maturities vary significantly and can be as long as 30 years or as short as 13 months. Eligible investments are defined through a list of investment categories such as financing heating system replacements, building envelope refurbishments, installing thermostatic valves, or requiring eligible investments to save a minimum amount of energy (e.g., 30%). Some banks may offer more favorable financing terms for investments that use products from a list of preselected suppliers.

Technical documentation may be required for some renovation projects for MABs (e.g., thermal insulation of MAB outdoor walls) that affect the outside appearance of the buildings. However, most renovations are conducted at the single apartment level. In such cases, there is no need for technical documentation for any consideration.

An energy certification passport is necessary for obtaining permits for building usage and is legally required for new MABs and for major EE renovations of existing buildings. An energy certification passport for a new building is issued after the work has been completed and accepted and after an energy audit of the building has been completed. Regarding EE renovations of existing buildings, the condition is that after the renovation has been completed, there must be an improvement of at least one energy class higher. Issuance of an energy passport is not mandatory when buying, selling, or renting a building. Although the energy certification passport is required by law, a building's passport does not serve as creditworthy document, and it does not imply any responsibility or guarantee for any actual performance of the building.

The number of energy passports issued so far in Serbia for 7 years is negligible in comparison with several buildings in the market.

**Current products on the market:** Local banks lack lending products for HOAs to finance EE retrofits of MABs. Therefore, there is a need to support product development for MABs that focuses on the building and not necessarily energy savings, and to provide technical assistance with developing the lending product for capital repairs in general and for EE. In addition, there is a need to demonstrate to banking senior management the market potential for investment, train bankers on how to market the product to building representatives, and provide assistance with understanding the legislative and regulatory framework regarding lending to HOAs. Simultaneously, it is necessary to keep in mind that HOAs do not have any registered ownership of any portions of buildings, they cannot register in the land registry, and they are not eligible for NCMCI. In addition, common property of apartment owners is not subject to land registry. It means that pledges could be only rights given to or by contracted parties of HOAs or to change the entire concept of HOAs and establish a consortium of apartments owners who gave their pledge or mortgage of any apartment owners property.

**Loan collection:** The current market lending rates for private-sector loans vary from 2.50% to 25.26% in consumer lending. Almost all banks in the market offer loans for retrofits. Currently, 22 banks are registered with NCMCI, and six local banks advertise various loan products for household EE investments. Residential EE lending has a high interest rate (15.0% and higher). In comparison, the interest rates for SME loans in the local currency are between 6.0% and 8.0%, whereas household loans for retrofits with NCMCI support are between 2.0% and 3.5%. The episodic support from Serbian Government has resulted in enhanced disbursement. For

example, in 2012, Serbia's Ministry of Environment, Mining and Spatial Planning initiated an interest rate subsidy program in which the government capped the interest rates on EE loans provided by six local partner banks with a total amount of US \$15 million (over 1.5 billion Serbian dinars). Approximately 25.0% of State support is allocated for residential EE projects, and the remainder is used to provide EE loans for public-sector buildings. In comparison, the NCMCI portfolio consists of more than 90,000 loans, with total value in billions of euros.

**Conclusion:** Local banks provide loans to individual households or owners of single-family residential buildings. No meaningful bank products are currently available to HOAs. In this case, interest rates are prohibitively high.

Local banks do not have or offer lending products for HOAs. Support to banks may be needed to develop such lending products for HOAs. The products could be aimed to improve the creditworthiness of HOAs, capacity building, risk guarantees, and interest rate subsidies.

### *Section 6.5. Analysis of products offered by development banks in Serbia and their availability to HOAs*

**Offering by development banks:** HOAs lack credit histories and the stable structures that may support their creditworthiness. Simultaneously, the banking sector is relatively underdeveloped and incapable of fully understanding customers' needs and tailoring banking services to them. The banking market is dominated by predefined financial products offered over the counter and intended for property owners and not HOAs. The efforts of the EBRD, KfW, EIB, and GGF have focused on EE lending for individuals and mainly businesses; however, no operational EE lending products have been developed for HOAs. Specifically, MAB EE retrofit cases were financed by a bundle of household EE loans, drawn to several individual households. For such cases, the interest rates are often very high.

**Government and local communities fund housing support:** As previously discussed, HOAs are eligible for some government or municipality grants. Most commonly municipal grants are provided for improving facades or greening local courtyards. Unfortunately, even the façade renovation grants lack proper technical specifications for efficiency, and can be improved to include EE provisions.

Private EE contractors are far better equipped to manage contracts with HOAs than banks. If the bank extends lines of credits to these contractors, then that may increase their financial capacity to offer various EE investments to HOAs, which will subsequently reduce the transaction costs and allow contractors to build credit history and expand.

The GEFF, which is funded by EBRD, is the first regional financing facility that has addressed the residential sector in the WB region, including Serbia. The 85 million EUR credit line facility is offered to financial institutions in the WB that are lending to the residential sector for EE and small-scale renewable energy projects between 2017 and 2021.<sup>255</sup>

In 2018, UniCredit Bank and Erste Bank signed a loan amount of 5.1 million EUR each; the loans are provided from EBRD to the banks for further on-lending to consumers for EE

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<sup>255</sup> That is only 1.0% of the credit potential available to individual borrowers in Serbia, most of which is used for mortgages, house retrofits, car leases, and consumer lending; therefore, it is nearly negligible. The critical question is: Why are HOs who maintain massive saving deposits in local banks at minimal interest (well below 1.0%pa) not investing in EE if the return on investments in EE is high enough to justify such high interest rates?

investment loan finance. The EBRD GEFf includes provisions for financing building-level projects (MABs) through HOAs, service providers, or groups of individuals (HOs). The maximum sub-loan amount available to HOAs is 300,000 EUR, which could be used to cover all costs necessary for installation and commissioning of equipment and materials necessary for EE retrofitting. Repayment terms are defined by the above two partner banks, and the investment incentive as cashback ranges between 25.0% and 35.0% from the lower of the loan amount or investment amount for a building-level project. The GEFf residential program has established minimum performance criteria for a set of eligible technologies that must be met to finance them. They are available on the local market and can be found on a technology selector<sup>256</sup>, which is an online catalogue for selection of eligible technologies. Sub-borrowers receive an investment incentive (cashback) when EE interventions are completed and verified by the Facility Consultant. Technical assistance to sub-borrowers, vendors, partner financial institutions, and other stakeholders is provided by the Facility Consultant, which is covered by EU funds. This mechanism is in place; however, it is not competitive against a variety of loan options available to the market that are many times larger in volume. That includes house retrofit loans that are based on mortgage contracts and have low interest rates. Furthermore, heat pump vendors provide widespread loans with their products.

WB GEFf reaches out to residential customers via different communication channels. One of the GEFf's main communication channels—besides the private finance initiatives—are vendors and manufacturers, which are among the first to be addressed when customers seek information about what can be done to improve the comfort of their homes.

**Conclusion:** Solidary guarantee for HOA loans are not offered because apartment owners have different credit ratings and HOAs use different decision-making procedures. Loan repayments must be individual or proportionally allocated per unit of building volume, and then collected by entrusted collection agents such as electricity or gas distribution companies, district heating companies, or cities or municipality collection services.

If an insured building has sustained damage, then the repair must be arranged with EE improvement. The aspect of EE will be built into the insurance policy for the buildings.

It will be beneficial to build EE criteria into the use of municipal funds available for maintenance and retrofits of buildings in line with Article 61 of the LHBM.

Banks and other financial institutions or the RBMs may provide the service of dedicated savings for EE of buildings that allows apartment owners to save money in common saving account and draw from that account to conduct EE investments. The Serbian banking system does not recognize dedicated housing savings banks.

Since donors, IFIs, and municipalities provide grant resources for EE investments in the residential sector—considering that individual household loans are already abundant in the financial market and comparably priced with the home-renovation loans—it would be a better use of the grant funds to target building-level solutions for MABs and HOAs. Grants help eliminate market failure and become an incentive for the HOAs to self-organize, raise funds, and start working with the banks. As in the Slovakia case previously mentioned, up to 90% of grant co-financing has been made available during the early years of HOA lending, with gradual

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<sup>256</sup> EBRD GEFf technology selector site is available at: [http://technology-rs.ebrdgeff.com/srb\\_eng/?\\_from\\_store=srb\\_srp](http://technology-rs.ebrdgeff.com/srb_eng/?_from_store=srb_srp)

phaseout. Grant co-financing has helped banks minimize the risk of entry into the HOA lending market and has gradually built the confidence of banks in HOA players as low-risk borrowers, thereby allowing every bank to have an HOA loan product within a decade from the launch of the first housing renovation grants.

### **Conclusions and Recommendations on Banking Sector**

The financing of EE and housing renovation has been scarce. Low institutional capacities and limited creditworthiness of HOAs led to low interest of the banks in this sector.

Consequently, most of the financing for building EE comes from public authorities. The Budgetary Fund for Energy Efficiency was established in 2014. The City of Belgrade Budget Fund was established. These public funds distort the market, deteriorating the potential demand for commercial financing for building renovation.

The banks' lending products and the donor/IFI-supported projects largely focus on individual households and individual lending. EBRD/GEFF has made HOAs eligible for borrowing, but the participating banks are not yet disbursing any loans to HOAs. The only exceptions have been several bank loans made to an HOA where the individual members of the HOA had to provide individual guarantees for the group loan to be approved.

The following recommendations are aimed at promoting bank lending for building thermal renovation:

- **Legal/regulatory:** Simplify the decision-making procedures in HOAs to require a lesser share of households to vote positively, and operationalize the enforcement of the HOA's decisions adopted by the majority voting for the opposing priority members.
- **Financing:**
  - To eliminate market distortion, the resources from public sources should be restructured to support elimination of market barriers, project preparation, interest rate subsidies, targeted social assistance, development of guarantee funds, etc.
  - To support this, the donor/IFIs should dedicate their resources to draw tailor-made financing arrangements for HOAs and residential building management companies, simplify the need for pledging, etc.
  - In cases where RBM companies and district heating systems exist, seek application of ESCO/EPC third-party financing.