



WB6 Electricity Monitoring Report

Energy Community Secretariat
November 2018

Introduction



Creating a Regional Electricity Market in the Western Balkans

The 2015 Summit of the Western Balkan 6 Initiative provided a renewed impetus to the development of the regional electricity market spanning the six Contracting Parties of the Energy Community in Southeast Europe: Albania, Bosnia and Herzegovina, former Yugoslav Republic of Macedonia, Montenegro, Kosovo* and Serbia. EU Member States participating in the process - Austria, France, Germany, Italy and the United Kingdom - and the six focus countries in cooperation with the European Commission and the Energy Community Secretariat decided to take steps to improve energy connectivity in the region. The Western Balkan 6 (WB6) parties committed to a set of regional and national reform measures, which target the development of the electricity market in different timeframes, tackling capacity allocation and calculation, spot markets and balancing markets. The regional measures are focused on strengthening regional institutions and cooperation, whereas national measures aim at removing national obstacles to regional electricity market development.

Implementation of the regional measures, namely the establishment of regional day-ahead market coupling and cross-border balancing, is ongoing under the Mem-

orandum of Understanding on regional electricity market development (WB6 MoU). The initiative extended beyond the boundaries of the WB6 on the occasion of the Western Balkan 6 Summit on 12 July 2017 in Trieste, when the WB6 MoU was for the first time signed by an EU Member State at ministerial level, namely by the Italian Ministry of Economic Development. Furthermore, in the declaration issued following the summit, the WB6 MoU and the Treaty establishing the Energy Community (Title III) are recognised as the cornerstones of the cooperation between WB6 and neighbouring EU Member States. In September 2017, also Hungary signed the MoU at ministerial level.

The present Monitoring Report is prepared by the Energy Community Secretariat, which was tasked by the Western Balkan countries "to take the lead to develop the regional energy market and to help implement these 'soft measures'". The report provides an overview of the state of play of implementation of the soft measures and highlights the achievements made since the Western Balkan 6 Summit in Trieste. It presents the progress made at both national and regional level, as well as points to where continued implementation efforts are needed the most. In addition, this report provides an overview of the value added tax regimes for electricity related to cross-border transactions and of the public procurement rules applicable to specific energy related procurements.

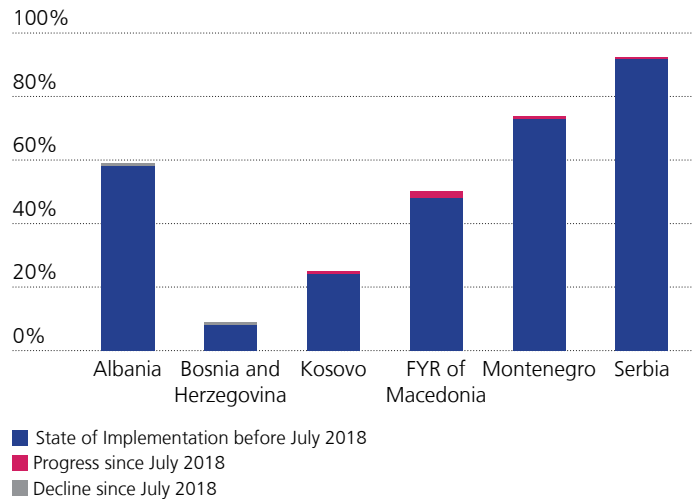
Former Yugoslav Republic of Macedonia is keeping up with the ambitious pace of reforms, expected to be implemented in line with the deadlines set by the new Energy Law. Whereas in most of the other WB6 parties, reforms are delayed or completely stalled, as is the case in Bosnia and Herzegovina.

* This designation is without prejudice to positions on status, and it is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence.

Overall progress in Soft Measures implementation

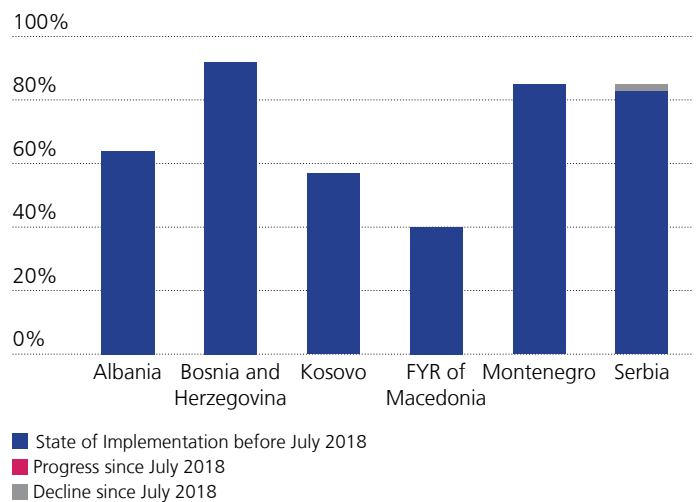
Spot Market Development

In the reporting period, the only tangible progress was made in former Yugoslav Republic of Macedonia, where the electricity market operator (MEMO) was spun out of the transmission system operator in line with the Energy Law. The company is in the process of obtaining a license which is a prerequisite for its operation. Activities on setting up companies responsible for the operation of the day-ahead markets are delayed in Albania and Montenegro. A decision on establishment and ownership structure of the operator of the Albanian power exchange (APEX), which was to be adopted by August 2018, is still in the process of approval. The process is now expected to be finalised in November 2018. BELEN, the company responsible for establishing the day-ahead market in Montenegro, is still in the process of selecting a strategic partner. Following the first phase of the tendering procedure, in which the potential strategic partner companies were identified, BELEN is expected to launch a request for offer still in November 2018. In Bosnia and Herzegovina the process is stalled. The Serbian power exchange, SEEPEX, remains the only operational day-ahead market in WB6.



Cross-border Balancing

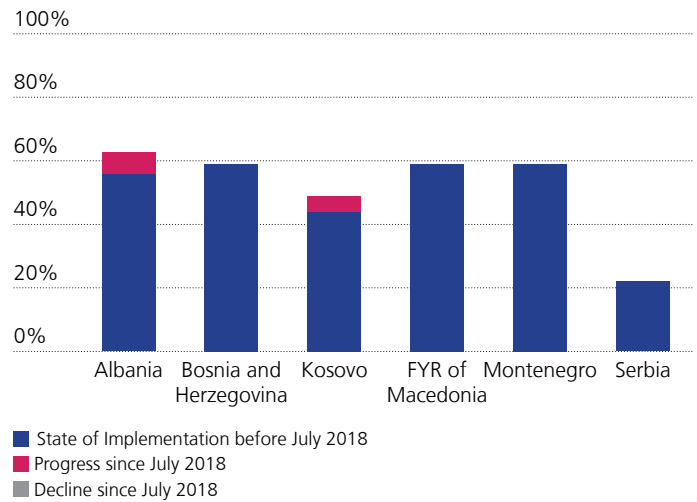
Former Yugoslav Republic of Macedonia, which is the only WB6 party where regulated companies are effectively still exempted from balance responsibility, is finalising the process of adoption of new balancing rules. The balancing rules were developed with the technical assistance under the WB6 regional energy market connectivity programme and are expected to be enforced as of 2019, thus allowing for the termination of exemption from balance responsibility and market-based procurement of balancing services. Except in Bosnia and Herzegovina, where four big production companies are competing in the balancing market, the provision of balancing services is essentially limited to one single balancing service provider, namely the incumbent producer. This was used as a justification for the Serbian regulator to propose continuing with the regulation of balancing reserve prices in its new report, justifying the need for further regulation of these prices. Identification of legal gaps and changes needed to the national balancing and contractual arrangements in WB6 in order to allow for cross-border integration and access of new entrants into the market is currently being conducted with the technical assistance under the WB6 regional energy market connectivity programme.



Progress in the implementation of the WB6 measures was very modest in this reporting period. In a number of cases, WB6 parties failed to finalise activities in line with the deadlines and commitments, in particular with regard to the implementation of cross-cutting measures, such as price deregulation, unbundling of system operators, independence of the national regulatory authorities and the implementation of the Trans-European Network Regulation. This is reflected by the decline in the implementation status in the assessment of the WB6 parties' overall progress.

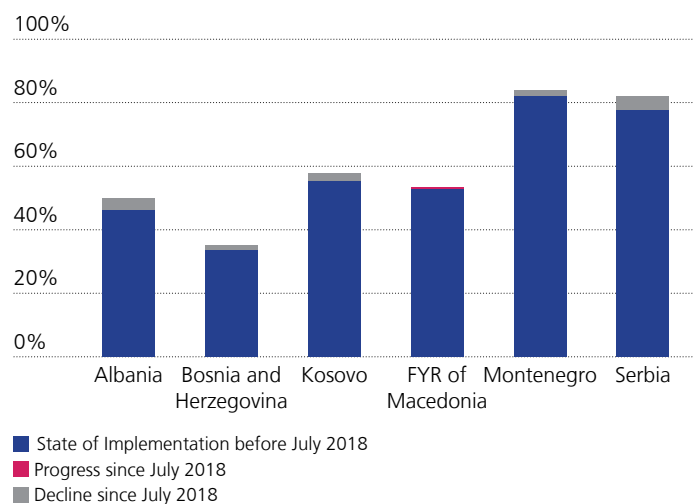
Regional Capacity Allocation

Progress towards the entry into force of the Connection Agreement between KOSTT and ENTSO-E was noted in the reporting period. The company Elekrosever, a subsidiary of the Electric Power Utility of Serbia, was registered as the power supply company in the Kosovo Business Registration Agency in November 2018. Licensing of this company is a precondition for the entry into force of the Connection Agreement. The transmission system operator of Serbia is allocating capacities on its borders with Croatia through Joint Auction Office (JAO), whereas on the other borders a regionally co-ordinated mechanism is still not applied. Albania signed an agreement with the Security Coordination Center, which is now providing services to the transmission system operators from all WB6, with the exception of Kosovo, which has not yet decided on using the services of any of the existing regional security coordinators.

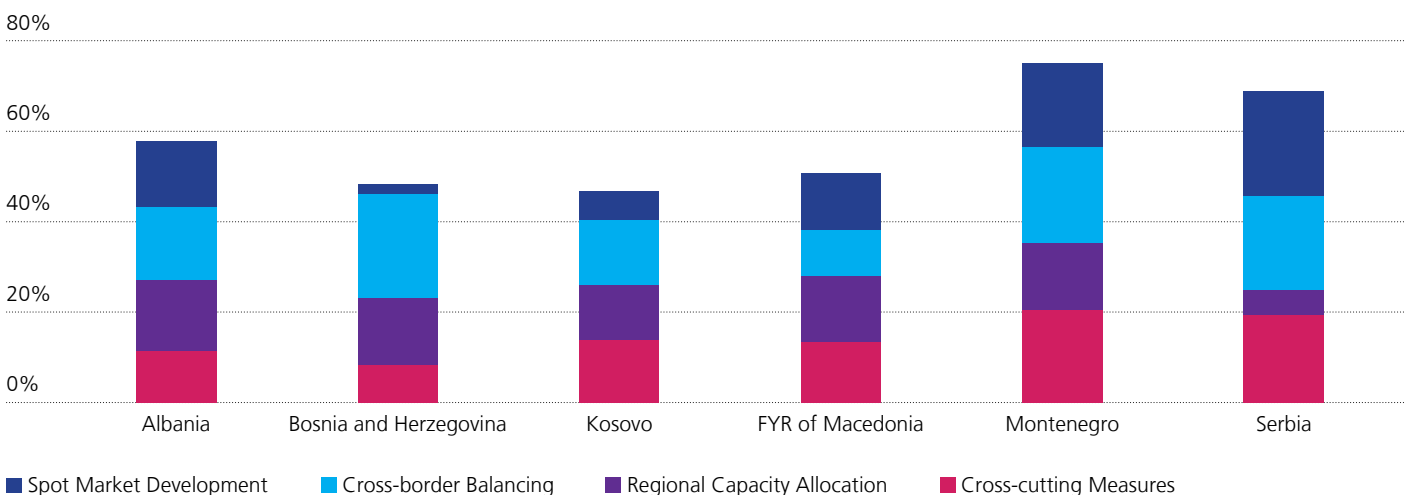


Cross-cutting measures

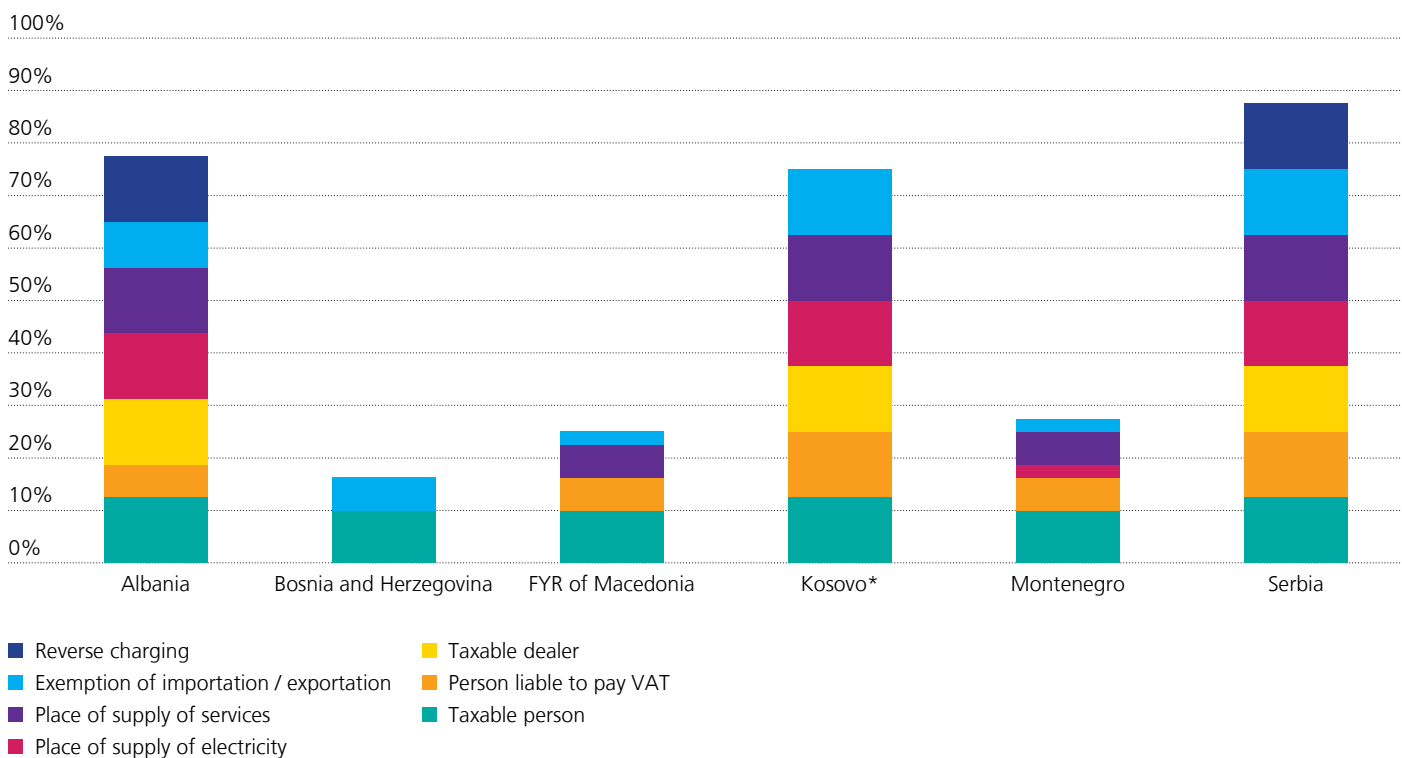
The reporting period was marked with the prolongation of regulation of supply prices for households and small customers in most of the WB6 parties. In addition to the already postponed price regulation for medium voltage customers by April 2019, the regulator of Kosovo postponed the deregulation of prices for 10 kV by April 2020 by its decision of October 2018. A tender for the supplier of last resort was not yet published in Montenegro, leading to the further supply of small and household customers by the regulated incumbent public supplier. In Serbia, the regulator proposed continuing regulation of prices for guaranteed supply in its September 2018 report on the need for further regulation of these prices. Furthermore, a right of all customers to change their supplier is still withheld in Albania and former Yugoslav Republic of Macedonia, where it is expected to be phased out as of 2019. This trend is detrimental to the development of competition in the market, in particular having in mind that prices are regulated at a level that does not provide an incentive to alternative suppliers to enter the market.



Overall Implementation of Soft Measures



Harmonization of value added tax regimes for electricity related cross-border transactions



Diverging regimes governing value added tax on cross-border electricity transactions have a deterring impact on market integration, increasing the risks of double taxation, non-taxation and tax fraud and distorting competition¹. If an organized market is to be established, pertinent taxation rules must be harmonized within the Western Balkans and with neighbouring EU Member States, as a precondition for market coupling and cross-border balancing.

Albania, Kosovo and Serbia have already aligned their legislation to a great deal with EU rules and practices². In former

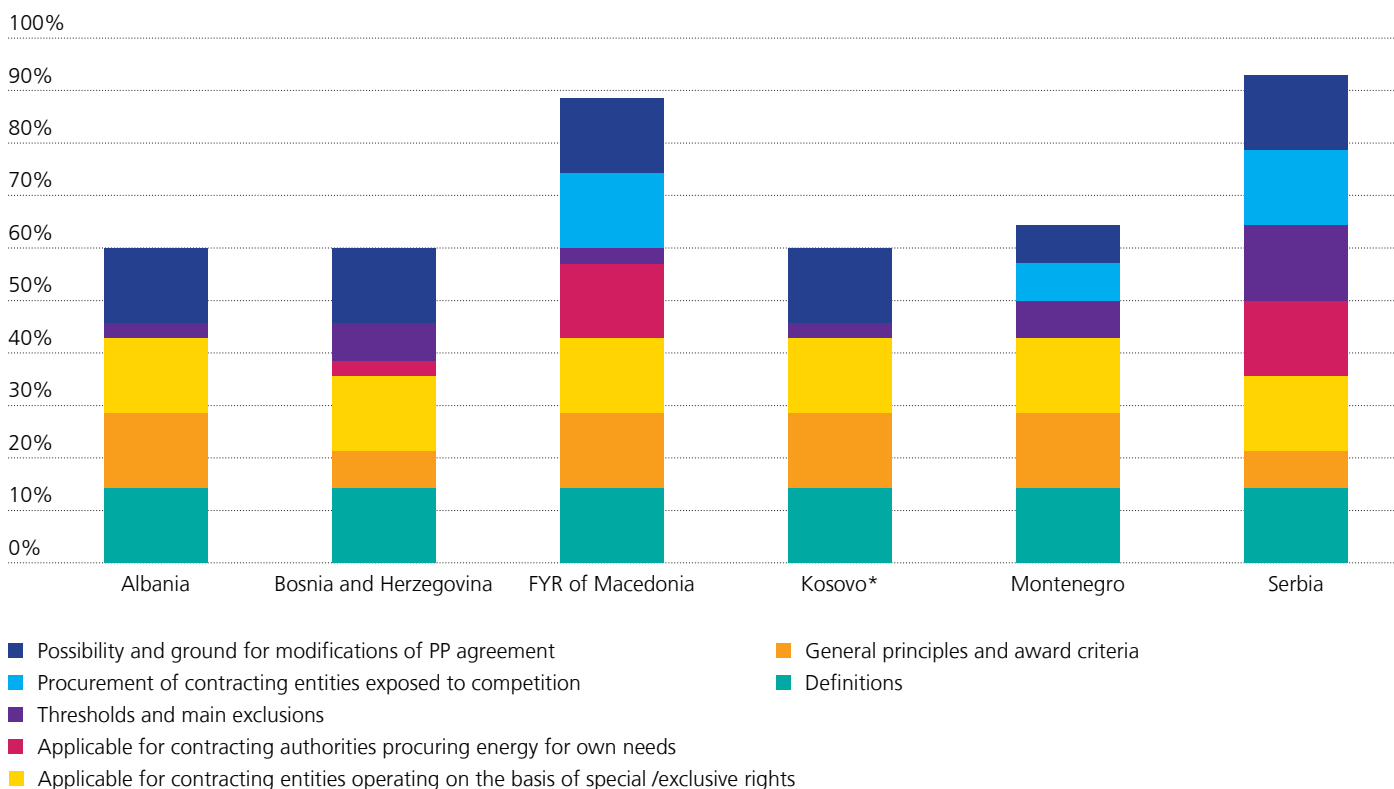
Yugoslav Republic of Macedonia, an expert team was established with the aim of proposing the necessary amendments to the national VAT Law in order to enable the functioning of the day-ahead market and its coupling.

Bosnia and Herzegovina is preparing a new VAT Law to transpose the relevant provisions enabling cross-border trade and market coupling, compliant with the VAT Directive. Montenegro, although ahead in the process in terms of setting up a power exchange, has not begun aligning its VAT legislation.

1 The key provisions relevant for cross-border transactions in electricity include: the definition of a taxable person, a person liable to pay tax, a taxable dealer, a place of taxable transactions in wholesale and retail supply of electricity, a place of taxable transaction in cross-border supply of electricity related services, taxation of importation and exportation, reverse charging and reporting of fraudulent activities.

2 This assessment was conducted by the Secretariat, building on a 2017 Study on examining the implementation of EU acquis on Value Added Tax in the Energy Community legal order. The study assessed compliance of the relevant laws governing value added tax in the Contacting Parties with Directive 2006/112/EC on the common system of value added tax with the aim of identifying any missing or non-harmonised provisions which could represent an obstacle to the development and functioning of the electricity market.

Implementation of harmonized public procurement rules for specific energy-related procurement



Opening of the electricity markets and their regional integration requires a level playing field for all participants. The proper implementation of public procurement rules is of importance for the development of competition in the WB6 electricity markets and for obtaining quality services and goods at fair prices.

In general, the public procurement laws of the WB6 apply the same principles as the EU acquis³. However, in the majority of cases, the problem lies in their implementation⁴. Implementing acts and transitional measures do not encourage competition at the wholesale level.

Across the WB6, particularly problematic is the procurement of electricity by contracting authorities; the procurement by energy undertakings performing a service of general interest/ entrusted with a public service obligation/ granted a special or exclusive right; and the procurement by state-owned energy undertakings dealing with wholesale or retail sale of electricity in a competitive market.

There is also a need to improve procurement techniques and instruments in all WB6 parties in order to reflect the market development in the sectors of public interest and allow efficient competition while ensuring protection of public interest.

Preferential treatment of domestic bidders is still present in Bosnia and Herzegovina, as a transitional measure until 2019, and in Serbia. Domestic preferences are not applied with respect to bidders from countries that are party to the Central European Free Trade Agreement (CEFTA) and, in the case of Serbia, bidders from EU Member States from September 2018 onwards. Contracting authorities are obliged to apply public procurement rules to procure electricity for their own needs in Serbia, and to a certain extent in former Yugoslav Republic of Macedonia, subject to the eligibility threshold.

In Bosnia and Herzegovina and former Yugoslav Republic of Macedonia, public procurement laws are currently in the process of revision.

In Albania, Kosovo and Montenegro, the improvement of procurement practices is primarily needed as a vehicle to develop the currently missing competition at the retail level.

3 Directive 2014/24/EU on public procurement and Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors.

4 This assessment was conducted by the Secretariat, building on a 2017 Study on extending the Energy Community Treaty to include the rules on public procurement. Assessment of compatibility of public procurement rules and practices with the EU acquis relevant for the electricity market includes: the main concept, definitions, scope and applicability (with focus on procurement of contracting entities exposed to competition and of entities operating on the basis of special or exclusive rights), general principles and award criteria (especially introduction of environmental and sustainability criteria), thresholds and exclusions, possibility and ground for modifications.



Spot Market Development

Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat (March 2016)

The legal ground for the establishment of an organised day-ahead electricity market was set by the adoption of amendments to the Power Sector Law in mid-February 2018. Not later than six months following their entry into force, the Council of Ministers is obliged to adopt decisions on the establishment and ownership structure of the operator of the Albanian power exchange (APEX).

Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade (July 2016)

The creation of APEX is pending adoption of the Council of Ministers' decision on the establishment, legal form and ownership structure of the APEX operator, which has been delayed without justification. Recently, the draft decision was submitted by the Minister responsible for energy to the Council of Ministers and is expected to be adopted by the end of November 2018.

Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc. (July 2016)

The market model includes a strategy for promoting liquidity in the day-ahead market based on so-called import/export zones and the mandatory participation of the main market players in a phased approach. Currently, the development

of competition in the wholesale market is prevented by the Council of Ministers' Decision on public service obligations (amended in December 2017), which continues to oblige the distribution system operator OSHEE to purchase the electricity needed for universal service and losses exclusively from generation company KESh, which is in breach of the acquis. Furthermore, there are concerns over the procurement practices of KESh in the wholesale market. Addressing these complaints by the Albanian authorities is important for ensuring a well-functioning market and trust. The purchase of electricity for covering transmission network losses by OST is conducted in a market-based manner via an electronic procurement platform.

Coupling of organised day-ahead electricity markets with at least one neighbouring country (July 2017)

A project on coupling the day-ahead markets of Albania and Kosovo is ongoing under the WB6 regional energy market connectivity programme. A Memorandum of Understanding on day-ahead market coupling between the transmission system operators and national regulatory authorities of Albania and Kosovo was signed in August 2018. The MoU envisages the coupling of these two markets to be finalised by end June 2019. An analysis of legal gaps to market coupling is being conducted with technical assistance under the WB6 regional energy market connectivity programme and shall be finalised by end November 2018. In October 2018, the working groups on the Albania-Kosovo market coupling were reactivated and their programmes were approved. Albania is participating in the project for the coupling of its market with those of Italy, Montenegro and Serbia. A non-disclosure agreement was signed in September 2018, but no concrete roadmap for its implementation has been adopted.

Spot Market Development

Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat



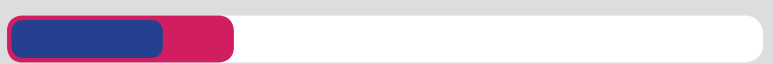
Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade



Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc.



Coupling of organised day-ahead electricity markets with at least one neighbouring country



Total for spot market development





Cross-border Balancing

Legal possibility for transmission system operators to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions (March 2016)

The legal possibility for the transmission system operator to acquire balancing services under market-based, non-discriminatory and transparent procedures, is envisaged by the Power Sector Law and the market model.

Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services (March 2016)

The transmission system operator is in the process of draft-

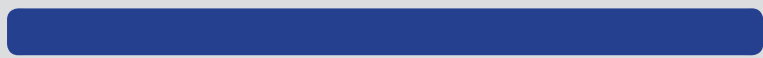
ing the final balancing rules, expected to enter into force in 2019, in parallel with the launch of APEX. Until these rules are adopted, the transitional balancing rules, adopted by ERE in November 2017, continue to be in force. Negotiations with the transmission system operator of Montenegro on cross-border balancing cooperation shall be accelerated.

Establishment of a functioning national balancing market based on above model (July 2016)

The transitional balancing rules are applied as of 1 January 2018. Imbalances are settled in a non-discriminatory manner using as reference hourly prices of the Hungarian day-ahead market. KESh continues to be the only balance service provider. However, the transitional rules allow for new balance service providers to enter the market.

Cross-border Balancing

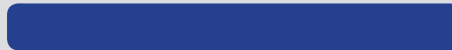
Legal possibility for transmission system operator to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions



Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services



Establishment of a functioning national balancing market based on above model



Total for cross-border balancing





Regional Capacity Allocation

Introduction of a coordinated capacity calculation process for the allocation of day-ahead capacities based on a regionally coordinated congestion forecast (July 2016)

A methodology for coordinated capacity calculation in the Western Balkans region is missing. A technical assistance project aimed at developing a common capacity calculation methodology for South-east Europe is close to being finalized under the WB6 regional energy market connectivity programme.

The transmission system operator has signed the service agreement with the Security Coordination Center and started to procure its services as of 15 June 2018.

The Western Balkan countries to support signing of agreements between SEE CAO and relevant EU Member States (July 2017)

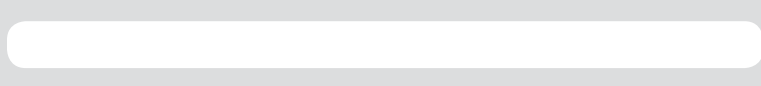
There is no lack of support by WB6 countries. This task depends on support from the European Commission.

Regional Capacity Allocation

Introduction of a coordinated capacity calculation process for the allocation of day ahead capacities based on a regionally coordinated congestion forecast



The Western Balkan Countries to support signing of agreements between SEE CAO and relevant EU Member States



Total for regional capacity allocation



Cross-cutting Measures

Eliminate price regulation of generation for other than small enterprises and household customers, and adopt national action plans for phasing out price regulation in general (January 2016)

No activities were taken to further open the wholesale and retail markets, which remain highly regulated. Prices of generation and supply of medium and low voltage customers, with the exception of a few 35 kV customers, remain regulated under the public service obligation imposed on generation company KESH and universal and last resort supplier OSHEE. The wholesale contract between KESH and OSHEE was extended until 2019. According to the amendments to the Council of Ministers' Decision imposing public service obligations, the price and quantity of electricity that KESH is selling to OSHEE for universal service supply is determined by the Minister. Despite the fact that the necessary prerequisites for 35 kV customers to switch supplier are in place, the majority have not switched supplier due to the possibility given by the Power Sector Law amendments of February 2018 to continue to be supplied by a last resort supplier for a period of two years as of the date when they are informed by the distribution system operator that they are technically ready to change their supplier. This effectively postponed market opening and infringes the eligibility right of customers. This was a serious setback in Albania's efforts to reform its electricity sector which requires rectification.

Legal and functional unbundling of distribution system operators and supply companies (March 2016)

Unbundling of the distribution system operator within the state-owned joint stock company OSHEE has started but not yielded tangible results. The Secretariat initiated a dispute settlement case on the lack of distribution system operator unbundling in January 2018. In March 2018, OSHEE created three new companies - the Universal Service Supplier, the Free Market Supplier and the Distribution System Operator, which were issued licenses by the regulator. However, the resources necessary for conducting distribution activities have still not been made available to the newly established Distribution System Operator.

Ensure independence of national energy regulatory authorities based on pre-defined indicators (January 2016)

The Power Sector Law gives the regulator only weak sanctioning powers, which need to be improved by increasing the penalty levels. ERE should get involved more in taking care of the well-functioning of the electricity sector.

Apply for observer status in ACER based on a positive opinion of the European Commission (July 2016)

ERE has not applied for observer status yet.

Unbundle and certify transmission system operator in line with the Third Energy Package (June 2016)

The transmission system operator of Albania was unbundled



and certified by the regulator in line with the Secretariat's Opinion. Following the certification, the transmission system operator became member of ENTSO-E in April 2017. The ministry's competence related to investment has not yet been transferred to the new shareholder of the transmission system operator as requested by the Secretariat and the regulator within the deadline of 15 March 2018. Instead, compliance with those conditions was postponed by a year.

Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending proceedings, and take due account of the Secretariat's opinion (July 2016)

The national competition and State aid authorities cooperate well with the Secretariat. In particular, the State aid authority requested assistance in the framework of Article 2 of the Dispute Settlement Procedure with regard to the assessment

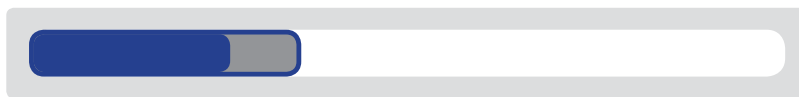
of a state guarantee. The competition authority started cooperation in investigating a complaint. The effectiveness of the national competition and State aid authorities in the energy sector is not satisfactory. Due to the restructuring of the administration, the State aid authority lacks an operational body to whom grantors may notify State aid and which prepares the decisions to be taken by the decision-making body. The decision-making body also lacks human resources and independence.

Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures (January 2017)

The country has not started activities to transpose the Trans-European Network Regulation, despite the fact that the deadline has expired on 1 January 2017. The Secretariat started infringement procedures and the Advisory Committee issued an opinion that Albania breaches the acquis. The Ministerial Council will take a decision on 29 November 2018.

Cross-cutting Measures

Eliminate price regulation of generation and for other than small enterprises and household customers, and adopt national action plans for phasing out price regulation in general



Legal and functional unbundling of distribution system operators and supply companies



Ensure independence of national energy regulatory authorities based on pre-defined indicators



Apply for observer status in ACER based on a positive opinion of the European Commission



Unbundle and certify transmission system operator in line with the Third Energy Package



Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending proceedings, and take due account of the Secretariat's opinion



Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures



Total for cross-cutting measures





Spot Market Development

Remove major legal and contractual obstacles to establishing organized electricity markets and market coupling based on the reports of the Secretariat (March 2016)

The Government of Bosnia and Herzegovina again failed to approve the State Law on Regulator, Transmission and Power Market and the complementary law on establishment of a transmission system operator. The Ministerial Council is expected to adopt a Decision establishing a serious and persistent breach under Article 92 of the Treaty for failure to transpose the Third Energy Package at its meeting on 29 November 2018. No progress has been achieved since a meeting of Prime Ministers and Ministers in charge of energy of both entities and the State in November 2017. The two entity governments have still not submitted to the state Ministry their position on the draft Law.

Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade (July 2016)

No activities were taken by stakeholders in Bosnia and Herzegovina to establish preconditions for the organisation of the day-ahead market in line with the findings of the project aimed at identifying a viable solution for the establishment of an organised day-ahead market in the country, which was supported by technical assistance provided under the WB6 regional energy market connectivity programme. The establishment of an entity responsible for organising a day-ahead

market was proposed as an optimal solution. However, the current legal framework does not assign the competences for establishing such an entity, which is considered an obstacle to initiating the process of setting up a day-ahead market.

Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc. (July 2016)

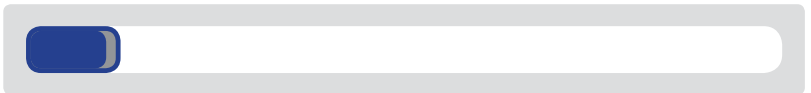
Despite the fact that the domestic electricity market structure – consisting of three incumbent utilities, each with its own generation portfolio, is conducive for opening and liquidity of the domestic market, and there are no obstacles for licensed suppliers to trade throughout Bosnia and Herzegovina, no competition exists. All market activities of the incumbents remain within their respective areas of operation. Trading on an organised day-ahead market is exercised so far only by the power utility of Republika Srpska.

Coupling of organised day-ahead electricity markets with at least one neighbouring country (July 2017)

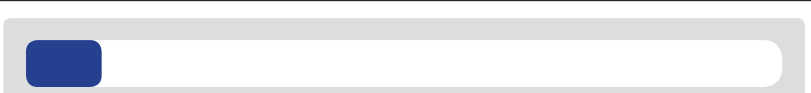
The project of market coupling of Bosnia and Herzegovina with Croatia, Montenegro and Serbia was not initiated as it was envisaged under the roadmap for regional day-ahead market integration in Western Balkans. The Croatian day-ahead market operator CROPEX expressed its interest in receiving technical assistance for implementation of day-ahead market coupling between Croatia and Bosnia and Herzegovina under the WB6 regional energy market connectivity programme. The project is stalled due to the lack of commitment of key stakeholders in Bosnia and Herzegovina.

Spot Market Development

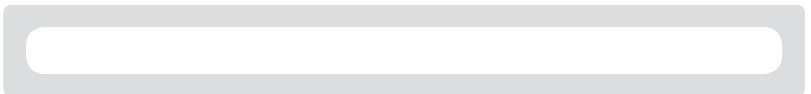
Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat



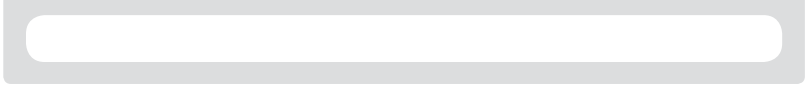
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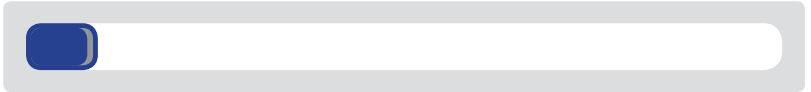
Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc.



Coupling of organised day-ahead electricity markets with at least one neighbouring country



Total for spot market development





Cross-border Balancing

Legal possibility for transmission system operators to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions (March 2016)

Legislation is not preventing the transmission system operator from acquiring balancing services in a market-based manner and across borders. Provisions for market-based and cross-border procurement of balancing services are included in the draft Law on Regulator, Transmission and Power Market.

Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services (March 2016)

A balancing model that ensures market-based and non-dis-

crimatory procurement of balancing capacity and balancing energy by the transmission system operator is defined by the market rules adopted already in May 2015. Balancing services (manually activated frequency restoration reserve) with the transmission system operators of Croatia and Slovenia are exchanged since 2016, and with the transmission system operator of Serbia as of December 2017. An agreement on the exchange of balancing energy with the transmission system operator of Montenegro was approved by the regulator in March 2018.

Establishment of a functioning national balancing market based on above model (July 2016)

A competitive state-wide balancing market, encompassing both the balancing reserve and the balancing energy procured via market-based procedures, is operated by the transmission system operator since 2016.

Cross-border Balancing

Legal possibility for transmission system operator to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions



Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services



Establishment of a functioning national balancing market based on above model



Total for cross-border balancing





Regional Capacity Allocation

Introduction of a coordinated capacity calculation process for the allocation of day-ahead capacities based on a regionally coordinated congestion forecast (July 2016)

A methodology for coordinated capacity calculation in the Western Balkans region is missing. A technical assistance project aimed at developing a common capacity calculation methodology for South-east Europe is ongoing under the WB6 regional energy market connectivity programme. The transmission system operator is a shareholder of the Security Coordination Centre (SCC), which was established together

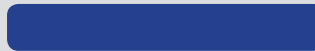
with the transmission system operators of Montenegro and Serbia in August 2015. However, the European Commission has expressed concern about SCC's legitimacy as regional security coordinator given the non-applicability of the System Operation Guideline in the Energy Community and in light of the EMS-KOSTT dispute.

The Western Balkan countries to support signing of agreements between SEE CAO and relevant EU Member States (July 2017)

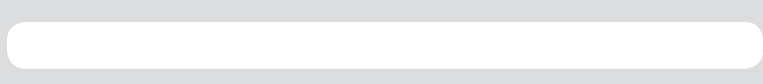
There is no lack of support by WB6 countries. This task depends on support from the European Commission.

Regional Capacity Allocation

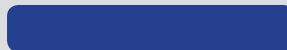
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The Western Balkan Countries to support signing of agreements between SEE CAO and relevant EU Member States



Total for regional capacity allocation



Cross-cutting Measures

Eliminate price regulation of generation and for other than small enterprises and household customers, and adopt national action plans for phasing out price regulation in general (January 2016)

The price of electricity supplied by the incumbent generation companies to public suppliers under the universal service provision continues to be regulated in Republika Srpska. This is a breach of Energy Community law. It has not been addressed by the draft Energy Law of that entity. End-user price regulation also continues for small customers and households. In the Federation of Bosnia and Herzegovina, all prices were deregulated on 1 January 2015, except for households and small customers. There is no national or entity-based action plan for phasing out remaining price regulation. The country and its entities do not respond to Secretariat's requests for improvement.

draft Electricity Law in Republika Srpska was revised, however, no implementation deadline for unbundling is foreseen. The Federation of Bosnia and Herzegovina initiated a procedure to revise the action plan for restructuring of power utilities.

Ensure independence of national energy regulatory authorities based on pre-defined indicators (January 2016)

The existing legislation fails to comply with numerous independence and competence requirements of the Third and even the Second Package. The lack of a single nation-wide regulator is the most critical. Independence is further weakened by other factors such as unanimity voting rules.

Apply for observer status in ACER based on a positive opinion of the European Commission (July 2016)

The state regulator has not applied yet. A prerequisite for application is the transposition of the Third Package, including adoption of all necessary secondary legislation.

Legal and functional unbundling of distribution system operators and supply companies (March 2016)

No progress has been made throughout Bosnia and Herzegovina and no relevant activities have taken place. The Secretariat initiated infringement procedures in January 2018. The

Unbundle and certify transmission system operator in line with the Third Energy Package (June 2016)

The transmission system operator is not unbundled in line with the Third Energy Package. This is a clear breach of Energy Community law.



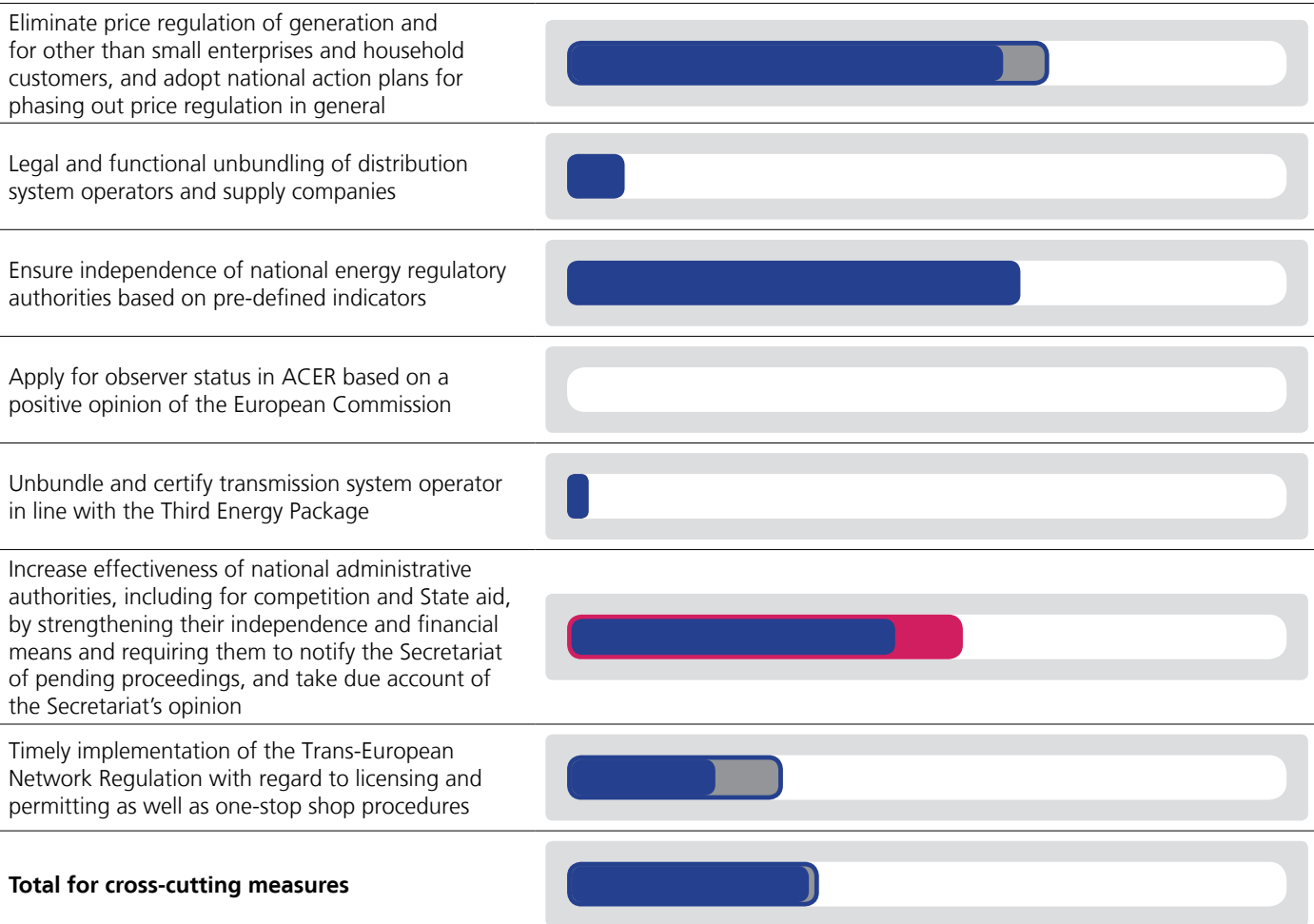
Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending proceedings, and take due account of the Secretariat's opinion (July 2016)

The State aid authority started rendering decisions in the energy sectors; one of these decisions is subject to a complaint received by the Secretariat. The competition authority does not enforce the respective rules nor does it make use of the cooperation mechanism stipulated under Article 2 of the Energy Community Dispute Settlement Rules.

Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures (January 2017)

In spite of the provided technical assistance, Bosnia and Herzegovina has still not transposed the Trans-European Network Regulation, the deadline for which expired already on 1 January 2017. The Secretariat started infringement procedures and the Advisory Committee issued an opinion that Bosnia and Herzegovina breaches the acquis. The Ministerial Council will take a decision on 29 November 2018.

Cross-cutting Measures





Spot Market Development

Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat (March 2016)

This task was fulfilled. A set of primary laws defining the legal and contractual framework for establishing organised spot markets for electricity and market coupling was adopted in June 2016.

Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade (July 2016)

Progress in this area depends on the decision to establish a power exchange in Albania. A Memorandum of Understanding on cooperation on the establishment and operation of the Albanian power exchange between the Ministries of Kosovo and Albania was signed in November 2017. The transmission system operator KOSTT confirmed its intention to participate as a shareholder in the Albanian power exchange, expected to provide services to the Kosovo day-ahead market.

Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc. (July 2016)

The Energy Law provides the regulatory authority with the competence to impose measures for improving liquidity in the

electricity market. Despite an evident lack of competition in the market, no actions were taken by the regulator to improve the situation. Instead, liberalisation of the electricity market for medium voltage customers, which was to take place on 1 April 2018 as set by the guideline on liberalisation of the electricity market in Kosovo, was postponed until 1 April 2019. In addition, the Secretariat's preliminary assessment of the contractual framework adopted for the new Kosovo e Re power plant raises concerns, on top of State aid issues, that it will seriously affect the development and opening of the market.

Coupling of organised day-ahead electricity markets with at least one neighbouring country (July 2017)

A project on coupling the day-ahead markets of Albania and Kosovo is ongoing. An analysis of legal gaps with respect to market coupling is being conducted with technical assistance under the WB6 regional energy market connectivity programme and shall be finalised by end November 2018. A Memorandum of Understanding on day-ahead market coupling (between the transmission system operators and national regulatory authorities of Albania and Kosovo) was signed in August 2018. The MoU envisages the coupling of these two markets to be finalised by end June 2019. In October 2018, the working groups on the Albania- Kosovo market coupling were reactivated and their programmes were approved. However, this project is also jeopardized by the power purchase agreement concluded for Kosovo e Re.

Spot Market Development

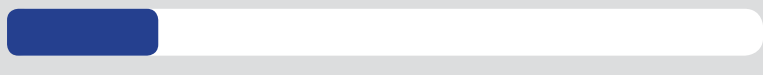
Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat



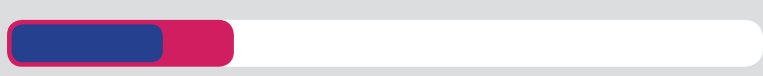
Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade



Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc.



Coupling of organised day-ahead electricity markets with at least one neighbouring country



Total for spot market development





Cross-border Balancing

Legal possibility for transmission system operators to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions (March 2016)

This task has been completed. The Law on Electricity stipulates an obligation of the transmission system operator to procure balancing services in a transparent, market-based and non-discriminatory procedure. A contractual framework and a non-discriminatory approach to balance responsibility of each market participant have been introduced by the Law.

Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services (March 2016)

New balancing rules need to be developed by the transmission system operator in order to establish a comp-

liant and harmonised framework for the cross-border exchange of balancing services. Implementation of a developed mechanism for the cross-border procurement of a reserve for secondary regulation between the transmission system operators of Kosovo and Albania is pending the entry into force of the Connection Agreement between KOSTT and ENTSO-E.

Establishment of a functioning national balancing market based on above model (July 2016)

A national balancing services market is not operational. Balance responsible parties' imbalances are settled based on the methodology for determining the imbalance settlement price, applied by the transmission system operator as of 1 June 2017.

Cross-border Balancing

Legal possibility for transmission system operator to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions	
Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services	
Establishment of a functioning national balancing market based on above model	
Total for cross-border balancing	

Regional Capacity Allocation

EMS (Serbia) and KOSTT (Kosovo) to implement the Framework and Inter-TSO Agreement (September 2015)

The contracts signed by the transmission system operators of Serbia and Kosovo in 2014 are still not implemented. They also failed to make progress in finalising agreements on compensation for past congestion management and the Inter-TSO compensation (ITC). Negotiations between Serbia and Kosovo

on this long-standing dispute are facilitated by the Energy Community Dispute Resolution and Negotiation Centre and were supported by the technical assistance provided under the WB6 regional energy market connectivity programme. On 7 November 2018, the Kosovo Business Registration Agency registered a supply company Elektroserver, wholly-owned by the Electric Power Utility of Serbia, EPS. This is a major step towards licensing a Serbian supplier in Kosovo, which was a precondition for the entry into force of the Connection



Agreement between ENTSO-E and the transmission system operator of Kosovo, KOSTT.

Introduction of a coordinated capacity calculation process for the allocation of day-ahead capacities based on a regionally coordinated congestion forecast (July 2016)

A methodology for coordinated capacity calculation in the Western Balkans region is missing. A technical assistance project aimed at developing a common capacity calculation methodology for South-east Europe has been launched under

the WB6 regional energy market connectivity programme. The transmission system operator has not made a decision on joining any of the existing regional security coordinators.

The Western Balkan countries to support signing of agreements between SEE CAO and relevant EU Member States (July 2017)

There is no lack of support by WB6 countries. This task depends on the support from the European Commission.

Regional Capacity Allocation

EMS (Serbia) and KOSTT (Kosovo) to implement the Framework and Inter-TSO Agreement



Introduction of a coordinated capacity calculation process for the allocation of day ahead capacities based on a regionally coordinated congestion forecast



The Western Balkan Countries to support signing of agreements between SEE CAO and relevant EU Member States



Total for regional capacity allocation



Cross-cutting Measures

Eliminate price regulation of generation for other than small enterprises and household customers and adopt national action plans for phasing out price regulation in general (January 2016)

As of 1 April 2017, wholesale and supply prices for high voltage customers are deregulated. Transmission and distribution system operators are obliged to procure electricity for network losses at non-regulated prices. Deadlines for the deregulation of retail prices, as set in a guideline on market liberalisation in Kosovo, were further postponed. The regulator postponed the deregulation of prices for medium voltage customers until 31 March 2019, whereas until 31 March 2020 for 10 kV customers, according to the latest changes adopted in October 2018.

Legal and functional unbundling of distribution system operators and supply companies (March 2016)

This task was completed. Legal unbundling of the distribution system operator from supply is in effect as of 1 January 2015. The process of functional unbundling was completed in July 2015. The Secretariat expressed concern with regard to the implementation of functional unbundling and requested the regulator to address this issue in line with its authorities.

Ensure independence of national energy regulatory authorities based on pre-defined indicators (January 2016)

The Law on the Energy Regulator of June 2016 overcomes the previously existing shortcomings related to the lack of independence and competences of the regulator. In practice, the regulator's effective functioning was blocked from April 2017, when the Board lost its decision-making quorum, until March 2018, when the Parliament appointed the two missing members of the Board.

Apply for observer status in ACER based on a positive opinion of the European Commission (July 2016)

ERO has not applied for observer status yet.

Unbundle and certify transmission system operator in line with the Third Energy Package (June 2016)

The regulator adopted a preliminary decision on certification of the transmission system operator on 24 September 2018. The regulator notified the Energy Community Secretariat, which shall issue its opinion until 2 February 2019. The Electricity Law foresees unbundling in a way that the Government controls the generation company KEK, while the transmission system operator KOSTT is controlled by Parliament.

Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending proceedings, and take due account of the Secretariat's opinion (July 2016)

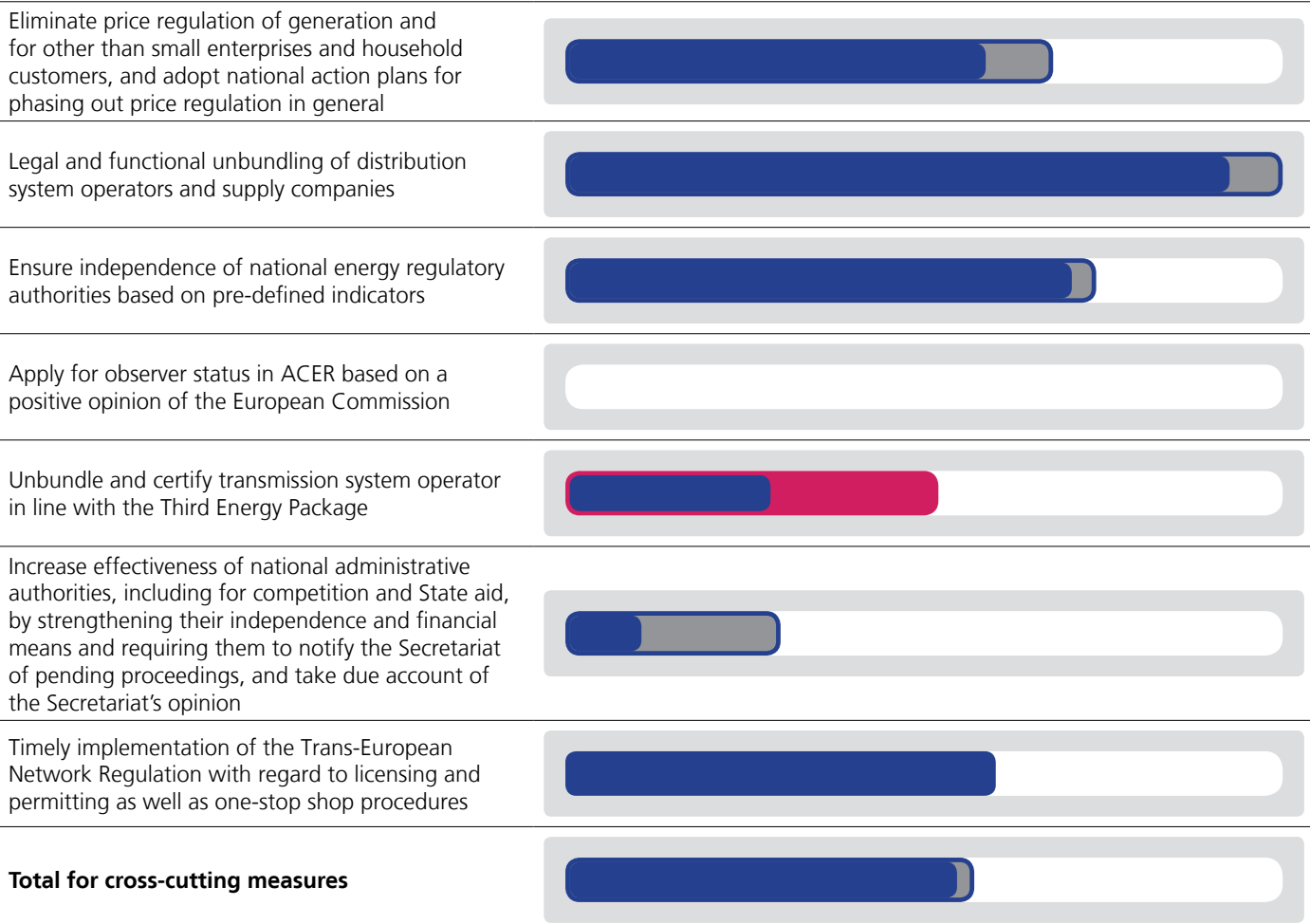
A new law on State aid was adopted in January 2017. According to its provisions, the State Aid Office was transferred to the Ministry of Finance and renamed as the State Aid Department; however, the new members of the decision-making body, the State Aid Commission, have not been selected since January 2018. The absence of functioning authorities exacerbates the lack of State aid compliance of the contractual framework for the Kosovo e Re project. Therefore, the Secretariat intends

to continue with the next steps in its infringement procedure based on the lack of effective State aid enforcement.

Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures (January 2017)

The Administrative Instruction on the promotion of joint regional investments in the energy sector, which transposed the Trans-European Network Regulation, was signed by the Minister of Economic Development on 20 February 2017. Kosovo has also designated the required national competent authority. Implementation of the Administrative Instruction, previously supported via technical assistance provided by the Secretariat, is ongoing.

Cross-cutting Measures





Spot Market Development

Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat (March 2016)

Former Yugoslav Republic of Macedonia adopted a Third Energy Package compliant Energy Law on 21 May 2018 that entered into force on 5 June 2018. Subsequently, the Secretariat withdrew its reasoned request that was submitted to the Ministerial Council for serious and persistent breaches of the Energy Community acquis. The new Energy Law sets the legal ground for establishing an organised day-ahead market in former Yugoslav Republic of Macedonia and for its coupling with neighbouring markets.

Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade (July 2016)

An electricity market operator of Macedonia (MEMO) was established by the transmission system operator in October 2018. MEMO was expected to become operational by 1 November 2018, however, licensing is pending the transfer of assets to the newly established company which has not yet been completed. By December 2018, the Government shall decide either to appoint the market operator as an operator of the organised market, upon proposal by the regulator, or to launch a tender for the selection of an operator of the organised market. The selection of an efficient way to establish the

organised day-ahead market was supported by the technical assistance project under the WB6 regional energy market connectivity programme. According to the analysis conducted, a market operator with domestic institutional ownership and a cost-effective service provision should be established.

Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc. (July 2016)

The new Energy Law gives the regulatory authority the competence to impose liquidity measures, should the regulator, in cooperation with the competition commission and the Secretariat, consider that competition is inefficient.

Coupling of organised day-ahead electricity markets with at least one neighbouring country (July 2017)

A series of steps has been taken within the project for the coupling of day-ahead markets of former Yugoslav Republic of Macedonia and Bulgaria, which was kicked-off by the signature of a Memorandum of Understanding on electricity day-ahead market coupling between TSOs, NRAs and PX of Bulgaria and former Yugoslav Republic of Macedonia on 12 April 2018. Ministers of Bulgaria and former Yugoslav Republic of Macedonia supported the project through a Memorandum of Understanding signed on 18 May 2018. According to a roadmap for its implementation, which was adopted by the project steering committee on 13 November, the coupling of these two markets shall go live by January 2020. A non-disclosure agreement was also approved by the programme

Spot Market Development

Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat



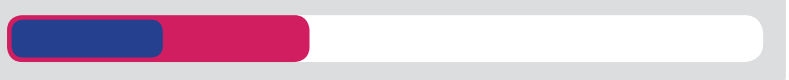
Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade



Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc.



Coupling of organised day-ahead electricity markets with at least one neighbouring country



Total for spot market development



steering committee and it is expected to be signed by end of November 2018. The project envisages market coupling based on available transmission capacity and in compliance with

requirements of multi-regional coupling (MRC). The project is supported by the technical assistance project under the WB6 regional energy market connectivity programme.

Cross-border Balancing

Legal possibility for transmission system operators to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions (March 2016)



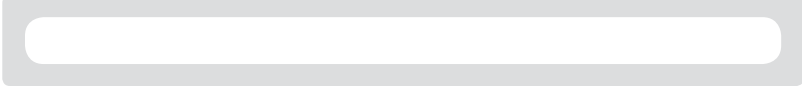
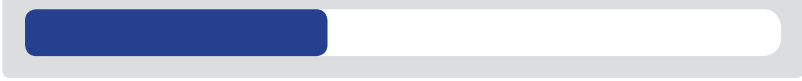
Legal obstacles to the transmission system operator to procure balancing services in a non-discriminatory and market-based manner were removed by the adoption of the new Energy Law.

Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services (March 2016)

According to the Law, new balancing rules were required to be adopted by September 2018. The process is still ongoing with the expectation to be finalised by end 2018. The draft balancing rules were developed with support of the technical assistance under the WB6 regional energy market connectivity programme. The process of public consultation was finalised in November, following which the transmission system operator is expected to submit a new version of the document to the national regulatory authority for approval.

Establishment of a functioning national balancing market based on above model (July 2016)

The implementation of a market-based model will follow adoption of the new balancing rules.

Cross-border Balancing	
Legal possibility for transmission system operator to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions	
Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services	
Establishment of a functioning national balancing market based on above model	
Total for cross-border balancing	

Regional Capacity Allocation

Binding agreement between TSO from the former Yugoslav Republic of Macedonia with SEE CAO on coordinated allocation (November 2015)

This task was completed. As of 2017, interconnection capacities between former Yugoslav Republic of Macedonia and Greece are auctioned on a yearly, monthly and daily basis through SEE CAO.

Introduction of a coordinated capacity calculation process for the allocation of day-ahead capacities based on a regionally coordinated congestion forecast (July 2016)

A methodology for coordinated capacity calculation in the Western Balkans region is missing. A technical assistance project aimed at developing a common capacity calculation methodology for South-east Europe is ongoing under the WB6 regional energy market connectivity programme. As of March 2018, the transmission system operator is procuring services of a regional security coordinator, including coordinated capacity calculation, from the Security Coordination Centre (SCC). However, the European Commission has expressed concern about SCC's legitimacy as a regional security coordinator given the non-applicability of the System Operation Guideline in the Energy Community and in light of the EMS-KOSTT dispute.



The Western Balkan countries to support signing of agreements between SEE CAO and relevant EU Member States (July 2017)

There is no lack of support by WB6 countries. This task depends on the support from the European Commission.

Regional Capacity Allocation

Introduction of a coordinated capacity calculation process for the allocation of day ahead capacities based on a regionally coordinated congestion forecast



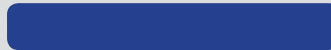
Binding agreements between TSOs from the former Yugoslav Republic of Macedonia, and Serbia with SEECAO on coordinated allocation



The Western Balkan Countries to support signing of agreements between SEE CAO and relevant EU Member States



Total for regional capacity allocation



Cross-cutting Measures

The former Yugoslav Republic of Macedonia to comply with the obligation to grant eligibility to all electricity customers (October 2015)

This measure was accomplished as the new Energy Law grants the eligibility right to all customers. Its implementation is scheduled from 1 January 2019. The Secretariat withdrew the reasoned request submitted to the Ministerial Council for serious and persistent breaches of the Energy Community acquis.

Eliminate price regulation of generation for other than small enterprises and household customers and adopt national action plans for phasing out price regulation in general (January 2016)

Regulation of the generation price is phased out by the Energy Law. The obligation of incumbent generation company ELEM to provide electricity for supply to households and small customers under universal supply and supply of last resort will cease to exist as of 1 January 2019. An obligation of ELEM to offer a certain share of its production at market prices to the universal supplier as of 2019 is defined by the new Energy Law. A step-wise reduction of this share, starting from 80% in 2019, to minimum 30% in 2025 is defined. The Government launched a tender procedure for the selection of a universal supplier and a supplier of last resort, which is to be closed on 12 December 2018. The regulator adopted a tariff system for the sale of electricity by the universal service supplier and the supplier of last resort.

Legal and functional unbundling of distribution system operators and supply companies (March 2016)

Requirements for distribution system operator unbundling are fully transposed by the new Energy Law. In practice, the distribution system operator was legally unbundled from vertically integrated utility EVN. On 1 January 2017, a new daughter company established by EVN was licenced for distribution. This company performs distribution activities with assets leased from the mother company. The new compliance programme of EVN Distribucija was approved by the regulatory authority on 16 November, following which a compliance officer will be appointed. A separate identity of the company through rebranding is to be established within six months as of the date when the law entered into force. The new corporate logo of EVN Distribucija was selected, but considering the associated financial burden, the full-fledged implementation plan for the rebranding is yet to be agreed in consultation with the regulator.

Ensure independence of national energy regulatory authorities based on pre-defined indicators (January 2016)

By adoption of the new Energy Law, the regulatory authority's competences were expanded in line with the Third Energy Package requirements.

Apply for observer status in ACER based on a positive opinion of the European Commission (July 2016)

The regulatory authority ERC is yet to apply for observer status following the implementation of the Third Energy Package.

Unbundle and certify transmission system operator in line with the Third Energy Package (June 2016)

Certification rules were adopted by the national regulatory authority. Following the Government's decision on the transfer of shares of the transmission system operator to the Ministry of Transport, which took place in August 2018, the transmission system operator was obliged to initiate a certification procedure within 30 days. Preparatory activities are ongoing, and the transmission system operator is expected to apply for certification by the end of November. The transmission system operator was obliged to appoint a compliance officer within 90 days after the Law's entry into force. The process of adopting a compliance programme and appointing a compliance officer is expected to be completed by the end of November.

Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending proceedings, and take due account of the Secretariat's opinion (July 2016)

The Commission for Protection of Competition, as the competition and State aid enforcement authority, does not notify pending energy cases to the Secretariat pursuant to the Energy Community Dispute Settlement Rules. In practice, no enforcement activities related to competition and State aid rules in the energy sector are taking place.

Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures (January 2017)

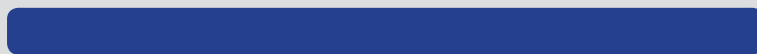
Former Yugoslav Republic of Macedonia did not succeed in meeting the transposition and implementation deadlines defined by the Regulation. The manner in which the Regulation should be transposed and implemented was subject to technical assistance provided by the Energy Community Secretariat. Following the consultant's report and the Government's action plan with a timeline for activities related to the transposition of the Regulation, the Energy Community Secretariat continued with new technical assistance related to the drafting of the Law which is to be completed by the end of 2018.

Cross-cutting Measures

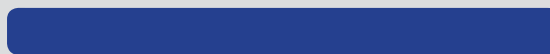
Eliminate price regulation of generation and for other than small enterprises and household customers, and adopt national action plans for phasing out price regulation in general



Legal and functional unbundling of distribution system operators and supply companies



Ensure independence of national energy regulatory authorities based on pre-defined indicators



Apply for observer status in ACER based on a positive opinion of the European Commission



Unbundle and certify transmission system operator in line with the Third Energy Package



Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending proceedings, and take due account of the Secretariat's opinion

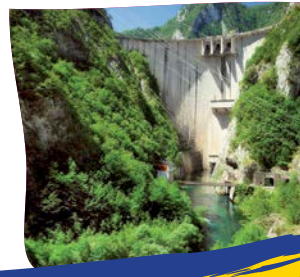


Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures



Total for cross-cutting measures





Spot Market Development

Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat (March 2016)

This task has been completed. The legislative framework needed for establishing the organised electricity market is set by the 2015 Energy Law and the Law on Cross-border Exchanges of Electricity and Natural Gas adopted in 2016.

Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade (July 2016)

A process of selecting a strategic partner by the company responsible for establishing a power exchange, BELEN, was further postponed. The first phase of the tendering process, which was supported by technical assistance under the WB6 regional energy market connectivity programme, was finalised and the companies interested in a strategic partnership were identified. As the next step, BELEN was expected to send the request for offers to the potential partners. However, this has not taken place yet. This is expected to delay the launch of the day-ahead market, envisaged for the first half of 2019.

Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc. (July 2016)

A process of day-ahead market coupling shall be accelerated in order to increase competition in the wholesale market which remains modest despite the fact that Montenegro is the only WB6 party where a license for wholesale trade is not required. No measures were taken to introduce competition in the retail market. As there are no alternative suppliers, all customers continue to be supplied by the incumbent supplier. The introduction of mandatory participation and selling of electricity from renewable sources and procurement of electricity for covering of network losses in the day-ahead market shall be considered in parallel with the process of establishing a day-ahead market.

Coupling of organised day-ahead electricity markets with at least one neighbouring country (July 2017)

No concrete steps towards coupling with neighbouring markets have been made yet. Montenegro is participating in the project for coupling of its market with those of Albania, Italy and Serbia (AIMS), however, a roadmap for the project's implementation has not been adopted.

Spot Market Development

Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat



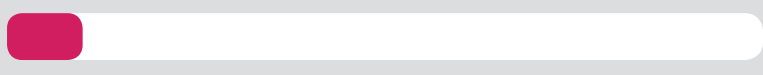
Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade



Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc.



Coupling of organised day-ahead electricity markets with at least one neighbouring country



Total for spot market development





Cross-border Balancing

Legal possibility for transmission system operators to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions (March 2016)

There are no legal obstacles for the transmission system operator to procure balancing services from domestic providers and across the border. The Energy Law provides a compliant legal framework for market-based procurement of balancing services and development of the cross-border balancing market. A methodology for provision and pricing of balancing services, adopted by the national regulatory authority, envisages non-discriminatory procurement of balancing services.

Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services (March 2016)

The regulator adopted new market and balancing rules in July 2017. The balancing model allows for market-based and non-discriminatory balancing with an inter-transmission sys-

tem operator model for cross-border exchange of balancing energy. The transmission system operator is exchanging balancing energy from a manual frequency restoration reserve with the transmission system operator of Serbia and with the transmission system operator of Bosnia and Herzegovina. No progress was made in establishing cooperation with the Albanian transmission system operator. Implementation of imbalance netting within the control block of former Yugoslav Republic of Macedonia, Montenegro and Serbia was postponed further.

Establishment of a functioning national balancing market based on above model (July 2016)

The national balancing market is functional. In addition to the incumbent generation company EPCG, who is acting as a balancing service provider, a contract for providing balancing services was signed with an industrial customer. Imbalance settlement is applied to all market participants in a non-discriminatory manner. According to the current methodology, prices of balancing reserves are regulated until a competitive balancing market is in place.

Cross-border Balancing

Legal possibility for transmission system operator to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions



Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services

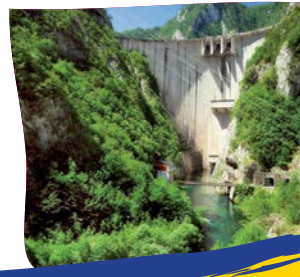


Establishment of a functioning national balancing market based on above model



Total for cross-border balancing





Regional Capacity Allocation

Introduction of a coordinated capacity calculation process for the allocation of day-ahead capacities based on a regionally coordinated congestion forecast (July 2016)

A methodology for coordinated capacity calculation in the Western Balkans region is missing. A technical assistance project aimed at developing a common capacity calculation methodology for South-east Europe is ongoing under the WB6 regional energy market connectivity programme. The transmission system operator is a shareholder of the Security Coordination Centre (SCC), which was established together

with the transmission system operators of Bosnia and Herzegovina and Serbia in August 2015. However, the European Commission has expressed concern about SCC's legitimacy as regional security coordinator given the non-applicability of the System Operation Guideline in the Energy Community and in light of the EMS-KOSTT dispute.

The Western Balkan countries to support signing of agreements between SEE CAO and relevant EU Member States (July 2017)

There is no lack of support by WB6 countries. This task depends on the support from the European Commission.

Regional Capacity Allocation

Introduction of a coordinated capacity calculation process for the allocation of day ahead capacities based on a regionally coordinated congestion forecast



The Western Balkan Countries to support signing of agreements between SEE CAO and relevant EU Member States



Total for regional capacity allocation



Cross-cutting Measures

Eliminate price regulation of generation and for other than small enterprises and household customers, and adopt national action plans for phasing out price regulation in general (January 2016)

The generation of electricity is not subject to price regulation. The Energy Law sets an action plan for market opening and development of competition in the retail market, according to which the regulation of end-user prices of electricity was to be terminated as of 1 January 2017. Yet, Montenegro continues to postpone implementation of the retail market measures by failing to initiate a process of selecting a supplier of last resort as envisaged by the Law. The secondary acts necessary for this process to be completed are still not adopted. Until the selection of a supplier of last resort is completed via a competitive procedure, the incumbent public supplier is designated to act as a supplier of last resort. The regulator has adopted the methodology to calculate the provisional price of electricity supplied to households and small customers during the transitory period, i.e. until the competitive selection of a supplier of last resort, on the basis of a reference market price.

establishment of Montenegrin Electricity Distribution System (CEDIS). A compliance programme of CEDIS was adopted and approved by the national regulatory authority. A compliance officer was appointed. The first compliance report confirmed that the distribution system operator's behaviour was in conformity with the Law and the compliance programme. Rebranding was done in a compliant manner.

Ensure independence of national energy regulatory authorities based on pre-defined indicators (January 2016)

With the adoption of the new Energy Law, important improvements have been made in terms of regulatory independence. Still, the regulator lacks the full set of Third Energy Package independence requirements, including full autonomy over its budget, internal organisation and the power to issue penalties. No progress has been made to overcome the remaining shortcomings. Also, the Secretariat has raised concerns regarding the recent legal reform proposals targeting a limitation of regulatory independence.

Apply for observer status in ACER based on a positive opinion of the European Commission (July 2016)

The regulatory authority RAE is the only WB6 regulator holding an observer status in ACER Working Groups. The ACER Director approved RAE's admission in October 2017, following the Secretariat's positive assessment of the requirements for such participation.

Legal and functional unbundling of distribution system operators and supply companies (March 2016)

This measure was completed. Legal unbundling of the distribution system operator was finalised in June 2016 with the

Unbundle and certify transmission system operator in line with the Third Energy Package (June 2016)

On 24 April 2018, the national regulatory authority adopted a final decision certifying the transmission system operator following the Secretariat's positive Opinion submitted to the regulator on 26 February 2018. The transmission system operator is obliged to appoint a compliance officer within six months, and, within 12 months, to initiate amendments to the Law or an enabling regulation to ensure a separation of control in line with the certification decision. Subsequently, the transmission system operator has appointed a compliance officer and submitted draft amendments to the Energy Law to the Ministry of Economy.

Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending proceedings, and take due account of the Secretariat's opinion (July 2016)

There is no enforcement of competition and State aid rules by the national competition authority in the energy sector, apart from merger decisions. The independence of the State Aid Control Commission is questionable and should be improved with the adoption of the new State aid law, under which the State Aid Control Commission was moved under the umbrella of the Agency for Competition Protection in order to improve its independence.

Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures (January 2017)

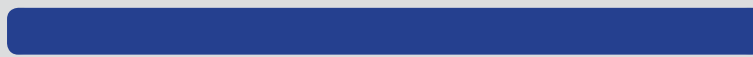
A new Law on infrastructure, which is to transpose Regulation (EU) 347/2013, is being drafted by the Ministry in charge. The draft Law shall be sent to the Energy Community Secretariat for its opinion until the end of 2018, and is expected to be adopted at the beginning of 2019. In addition, the national competent authority should also be designated and become fully operational without delay.

Cross-cutting Measures

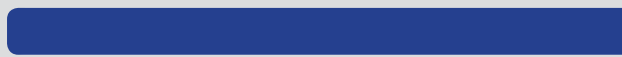
Eliminate price regulation of generation and for other than small enterprises and household customers, and adopt national action plans for phasing out price regulation in general



Legal and functional unbundling of distribution system operators and supply companies



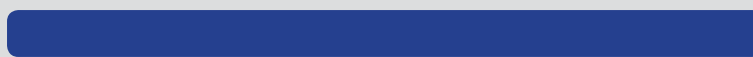
Ensure independence of national energy regulatory authorities based on pre-defined indicators



Apply for observer status in ACER based on a positive opinion of the European Commission



Unbundle and certify transmission system operator in line with the Third Energy Package



Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending proceedings, and take due account of the Secretariat's opinion



Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures



Total for cross-cutting measures





Spot Market Development

Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat (March 2016)

The legal and regulatory framework for the organised electricity market and market coupling is in place.

Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade (July 2016)

This task was completed by the launch of the Serbian day-ahead electricity market in February 2016. It is operated by the joint stock company South East European Power Exchange (SEEPEX).

Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract re-

views, capacity releases, virtual power plants etc. (July 2016)

Trading on SEEPEX is voluntary and no regulatory measures promoting liquidity have been taken. The transmission system operator started to procure electricity for covering network losses through an online auction platform and a day-ahead market through SEEPEX. A further increase of liquidity requires implementation of additional measures such as mandatory sales of electricity from renewable sources, further deregulation of retail prices and abandoning the licencing regime for wholesale.

Coupling of organised day-ahead electricity markets with at least one neighbouring country (July 2017)

SEEPEX's initiatives to launch market coupling projects with neighbouring EU Member States have not resulted in concrete activities yet. Serbian stakeholders are participating in the project for coupling of the Serbian market with those of Albania, Italy and Montenegro (AIMS). A non-disclosure agreement was signed in September 2018, but a concrete implementation roadmap was not adopted for the time being.

Spot Market Development

Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat



Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade



Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc.



Coupling of organised day-ahead electricity markets with at least one neighbouring country



Total for spot market development



Cross-border Balancing

Legal possibility for transmission system operators to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions (March 2016)

The legislation in force allows the transmission system operator to procure balancing services across borders using market-based and non-discriminatory procedures. Foreign companies can participate in the balancing market.

Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services (March 2016)

Market rules, adopted in November 2016, allow for market-based procurement of balancing energy with an inter-transmission system operator model for cross-border exchange. With the transmission system operator of Montenegro, a model for exchange of balancing energy from a manually activated frequency restoration reserve has been implemented.

Implementation of imbalance netting within the control block of former Yugoslav Republic of Macedonia, Montenegro and Serbia has been postponed further. The exchange of balancing energy from the manually activated frequency restoration reserve with the transmission system operator of Bosnia and Herzegovina is applied as of December 2017.

Establishment of a functioning national balancing market based on above model (July 2016)

The price of balancing reserves is still regulated on an annual basis and will continue to be regulated based on a new report on the need for further regulation of these prices, published

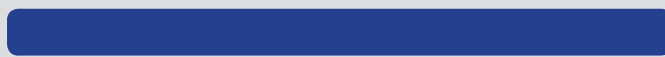
by the national regulatory authority in September 2018. Considering that services are still provided by only one balancing service provider, the incumbent generation company EPS, the regulator identified the importance of allowing new entrants to the market and regional cooperation. The indicated barriers to regional balancing market functioning and measures for their removal are not translated into an implementation plan. In particular, potential benefits from the participation in the cross-border balancing cooperation in the Western Balkans, which is being developed under the WB6 regional energy market connectivity programme, were not addressed.

Cross-border Balancing

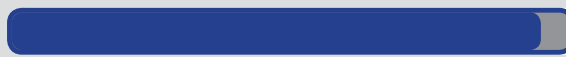
Legal possibility for transmission system operator to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions



Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services



Establishment of a functioning national balancing market based on above model



Total for cross-border balancing



Regional Capacity Allocation

EMS (Serbia) and KOSTT (Kosovo) to implement the Framework and Inter-TSO Agreement (September 2015)

The contracts signed by the transmission system operators of Kosovo and Serbia in 2014 are still not implemented. They also failed to make progress in finalising agreements on compensation for past congestion management and ITC for an interim period. Negotiations between Serbia and Kosovo on this long-standing dispute are facilitated by the Energy Community Dispute Resolution and Negotiation Centre and was supported by the technical assistance provided under the WB6 regional energy market connectivity programme. On 7 November 2018, Elektrosever, 100% owned by the Electric Power Utility of Serbia, EPS, was registered as a power supply company in the Kosovo Business Registration Agency. This is the first step towards licensing a Serbian supplier in Kosovo, which is a precondition for the entry into force of the Connection Agreement between ENTSO-E and the transmission system operator of Kosovo, KOSTT.

Binding agreement between TSO from Serbia with SEE CAO on coordinated allocation (November 2015)

Negotiations between the transmission system operator EMS and SEE CAO have stalled. As of 2018, EMS is allocating capacities on the border with Croatia through Joint Auction Office (JAO), whereas on other borders the capacity allocation mechanism is not regionally coordinated.

Introduction of a coordinated capacity calculation process for the allocation of day-ahead capacities based on a regionally coordinated congestion forecast (July 2016)

A methodology for coordinated capacity calculation in the Western Balkans region is missing. A technical assistance project aimed at developing a common capacity calculation methodology for South-east Europe will be launched under the WB6 regional energy market connectivity programme. The transmission system operator is a shareholder of the Security Coordination Centre (SCC), which was established together with the transmission system operators of Bosnia and Herzegovina and Montenegro in August 2015. However, the European Commission has expressed concern about SCC's legitimacy as regional security coordinator given the non-applicability of the System Operation Guideline in the Energy Community and in light of the EMS-KOSTT dispute.



The Western Balkan countries to support signing of agreements between SEE CAO and relevant EU Mem-

ber States (July 2017)

There is no lack of support by WB6 countries. This task needs support from the European Commission.

Regional Capacity Allocation

EMS (Serbia) and KOSTT (Kosovo) to implement the Framework and Inter-TSO Agreement



Introduction of a coordinated capacity calculation process for the allocation of day ahead capacities based on a regionally coordinated congestion forecast



Binding agreements between TSOs from the former Yugoslav Republic of Macedonia, and Serbia with SEECAO on coordinated allocation



The Western Balkan Countries to support signing of agreements between SEE CAO and relevant EU Member States



Total for regional capacity allocation



Cross-cutting Measures

Eliminate price regulation of generation and for other than small enterprises and household customers, and adopt national action plans for phasing out price regulation in general (January 2016)

Prices of generation and supply were deregulated as of 1 January 2015, except the price of electricity supplied to households and small customers entitled to universal service. In its new report on the need for further regulation of the price of guaranteed supply, published in September 2018, the regulator considers that deregulation is not an acceptable option having in mind a considerable gap between regulated and market prices and the share of the population falling within the status of absolute poverty and energy poverty. The report concludes with the same measures to eliminate regulation as in the 2017 Report, namely to improve the protection scheme and decrease the gap between the market price and the regulated price of guaranteed supply, but still no measures have been undertaken in this regard. This hampers the effective opening of the market for small customers and households.

Legal and functional unbundling of distribution system operators and supply companies (March 2016)

While legal unbundling of distribution system operators from supply has been finalized, functional unbundling has not been completed yet. In June 2016, the regulatory authority approved the compliance programme and appointment of the compliance officer. The first compliance report of 30 June

2017 concludes that independence of the company in terms of organisation and decision-making still does not exist and that the compliance programme is still not implemented. Rectifying this breach requires amendments to the founding act of the distribution system operator. No progress has been reported on aligning the statute of the distribution system operator with the Law on Public Enterprises and the Energy Law.

Ensure independence of national energy regulatory authorities based on pre-defined indicators (January 2016)

Insufficient autonomy and uncertainty over its budget and internal organisation due to limitations stemming from the Law on Maximum Number of Employees in the Public Sector are jeopardizing the authority's independence.

Apply for observer status in ACER based on a positive opinion of the European Commission (July 2016)

The regulatory authority AERS submitted the application for observer status in ACER Working Groups in May 2016 but was rejected. The Secretariat provided ACER with an analysis related to the requirements for ACER Working Group participation of AERS that did not confirm compliance with the necessary conditions established by ACER.

Unbundle and certify transmission system operator in line with the Third Energy Package (June 2016)

On 4 August 2017, the regulator certified the transmission system operator as compliant with ownership unbundling rules of the Third Energy Package in spite of the negative



Opinion issued by the Secretariat on 15 June 2017. As the Law on Ministries was changed after the Secretariat issued its Opinion, the Secretariat formally requested the regulator to reopen the certification procedure on 15 September 2017 which AERS did not accept. The Secretariat's assessment that EMS is not properly unbundled has been confirmed by the European Commission, which asked ENTSO-E to contact EMS and the Secretariat to solve the identified problem in order to avoid a potential suspension of the participation and/or voting rights of EMS in ENTSO-E.

Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending proceedings, and take due account of the Secretariat's opinion (July 2016)

The Commission for State Aid Control started to cooperate with the Secretariat effectively. Namely, the Secretariat assisted the Commission for State Aid Control in the assessment of state support for the Kolubara B power plant project and,

following the adoption of a compliant decision by the Commission for State Aid Control, the Secretariat closed the related dispute settlement case. Another investigation regarding non-compliance with State aid rules regarding the Kostolac project is pending. The structure of the Commission for State Aid Control, which is closely linked to the Ministry of Finance, prevents the Commission from applying the State aid rules independently. The Commission for State Aid Control does not notify proceedings to the Secretariat.

Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures (January 2017)

The Government adopted the Programme for the Implementation of the Energy Development Strategy by 2025 for the period 2017-2023 in October 2017 by which the Regulation is transposed in the national legislation. Additional activities are needed to implement the Regulation, including designation of the National Competent Authority. The Strategy stipulates that a new law shall be adopted every time a new infrastructure project is commenced.

Cross-cutting Measures

Eliminate price regulation of generation and for other than small enterprises and household customers, and adopt national action plans for phasing out price regulation in general



Legal and functional unbundling of distribution system operators and supply companies



Ensure independence of national energy regulatory authorities based on pre-defined indicators



Apply for observer status in ACER based on a positive opinion of the European Commission



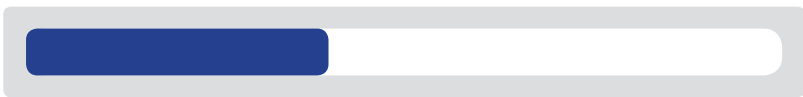
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Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures



Total for cross-cutting measures





The Regional Activities

The WB6 initiative to create a regional electricity market in the Western Balkans through the development of market coupling, cross-border balancing and regionally coordinated capacity calculation continues to push for the integration of WB6 markets with those of EU Member States building on the WB6 Memorandum of Understanding on Regional Electricity Market Development (WB6 MoU) and the Treaty establishing the Energy Community (Title III).

WB6 MoU signatories, namely ministries, transmission system operators, national regulatory authorities and power exchanges from WB6 and 15 stakeholders from all neighbouring EU Member States, agreed on the market integration process starting with market coupling of national organised day-ahead markets with at least one neighbouring WB6 or EU Member State by July 2018 and the development of cross-border balancing cooperation among WB6 countries by December 2018. Implementation of these objectives is financially backed-up by the contract for technical assistance to regional energy market connectivity in the Western Balkans, signed between the European Commission and the Energy Community Secretariat.

Under the WB6 MoU platform, the Programme Steering Committee for day-ahead market integration (WB6 DA MI PSC) developed a roadmap for day-ahead market integration among the WB6 and with EU Member States in line with the CACM Regulation. The roadmap identifies national and regional projects for market coupling between the WB6 and with neighbouring EU Member States, ultimately leading to the coupling of the WB6 region with the Multi-Regional Coupling (MRC). Seven market coupling projects were proposed so far, five of which aim at the implementation of market coupling with all neighbouring EU Member States.

Projects for market coupling of Bulgaria and former Yugoslav Republic of Macedonia (BG-MK) and for market coupling of Albania, Italy, Montenegro and Serbia (AIMS) moved forward during the reporting period. AIMS stakeholders signed a non-disclosure agreement (NDA) in September 2018, while the NDA for the BG-MK market coupling project was approved and is expected to be signed by the end of November 2018. Furthermore, a detailed roadmap for BG-MK market coupling was approved by the project steering committee. According to the roadmap, the launch of the Macedonian day-ahead market is scheduled for end November 2019, while the go-live of BG-MK market coupling will follow in January 2020. A general framework agreement for market coupling and concepts for designation of a Nominated Electricity Market Operator (NEMO) and a shipping agent in WB6 are being developed with the support of technical assistance. In the light of the ongoing coupling projects, WB6 DA MI PSC recognised the importance of ensuring that legal and contractual framework is developed in a way that will allow for WB6 stakeholders to join the MRC

initiative. Harmonisation of the legal framework and requirements for WB6 parties to participate in the MRC, will be further explored at a meeting of WB6 and MRC on 27 November at the Energy Community Secretariat in Vienna.

The Programme Steering Committee for cross-border balancing aims to develop a roadmap towards creating a regional balancing market, including pilot projects for imbalance netting and exchange of balancing energy with common merit order lists. These efforts are supported by ongoing technical assistance for the development of a legal, contractual and governance framework for the implementation of cross-border balancing cooperation in the WB6, in line with the requirements of EU guidelines on electricity balancing and on electricity transmission system operation. A detail legal analysis of gaps between the current legislation governing electricity balancing in WB6 parties and EU guidelines is being conducted.

Within the project for the implementation of cross-border balancing, platforms for imbalance netting and for cross-border exchange of balancing energy from a manually activated Frequency Restoration Reserve and Replacement Reserve were developed. The imbalance netting platform was tested using real-life data provided by the transmission system operators of WB6 for a selected week in May 2018. Based on the test results, the consultant estimated that an annual saving of EUR 16 million will be achieved if imbalance netting is applied at the level of all WB6, with the highest savings for the transmission system operators of Serbia, former Yugoslav Republic of Macedonia and Kosovo. If imbalance netting is applied at the level of the control block of Serbia, former Yugoslav Republic of Macedonia and Montenegro (SMM), annual savings will be around EUR 6.6 million. A platform for the manually activated Frequency Restoration Reserve and Replacement Reserve was also tested. Preliminary results of the test using real-life data for a selected week in July 2018 showed potential savings of EUR 4.3 million.

The technical assistance project aimed at developing regionally coordinated capacity calculation is ongoing under the WB6 regional energy market connectivity programme. The objective is to support the transmission system operators in applying a coordinated capacity calculation process on a D-2 timeframe in order to ensure efficient use of cross-zonal capacity through market coupling. At this stage, a draft methodology for coordinated capacity calculation in the region of the WB6 including also borders with the surrounding EU Member States together with a detailed explanatory document are being consulted with the transmission system operators of WB6 and neighbouring EU Member States. The documents will be finalised after the last workshop which is scheduled for 26 November 2018.



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