

# Regional Energy Efficiency Programme Plus 2017 - 2019 (REEP PLUS):

## Policy Dialogue Theme 1

Toivo Miller (EBRD)

Siegfried Brenke (GFA)

Energy Efficiency Coordination Group

Energy Community Secretariat

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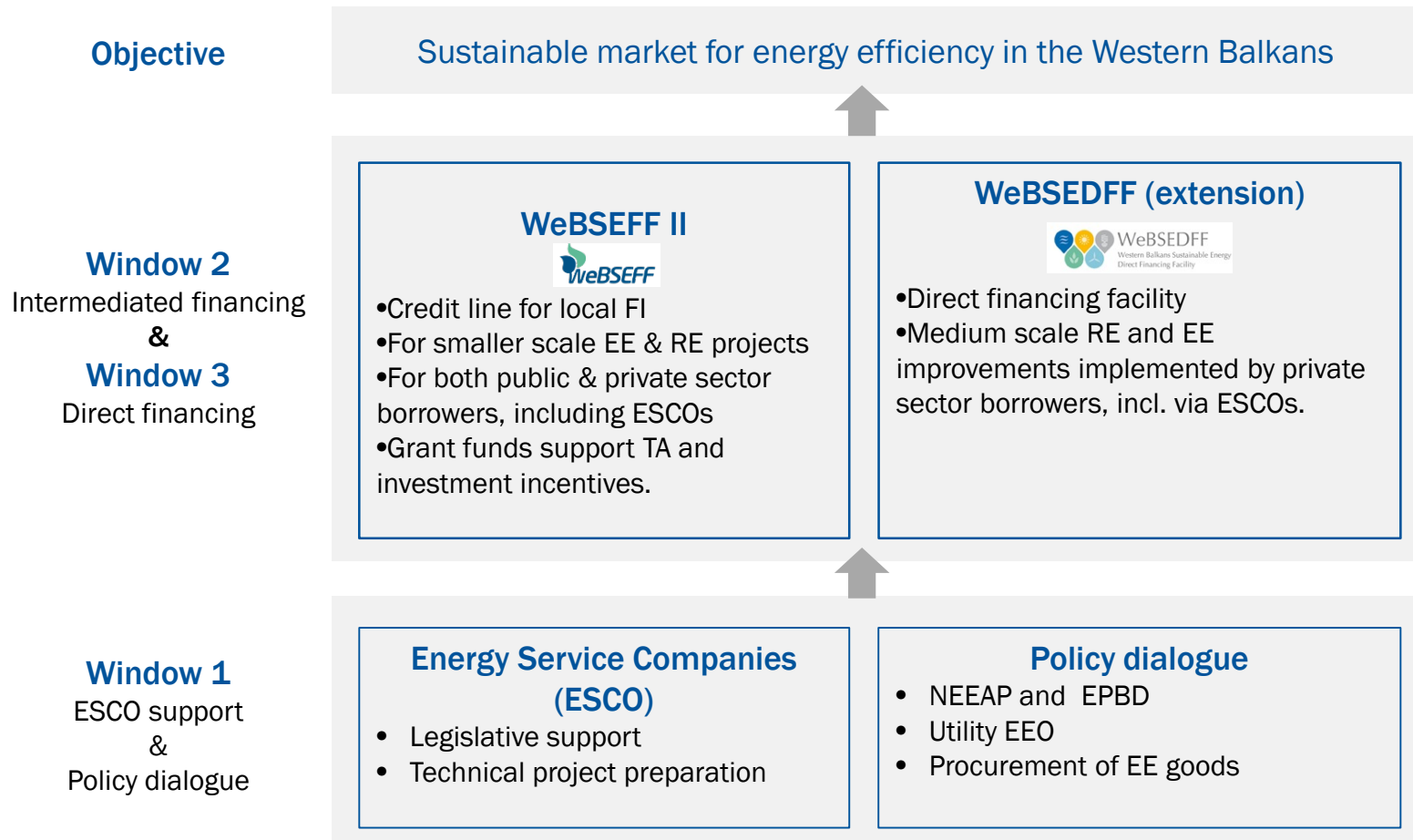
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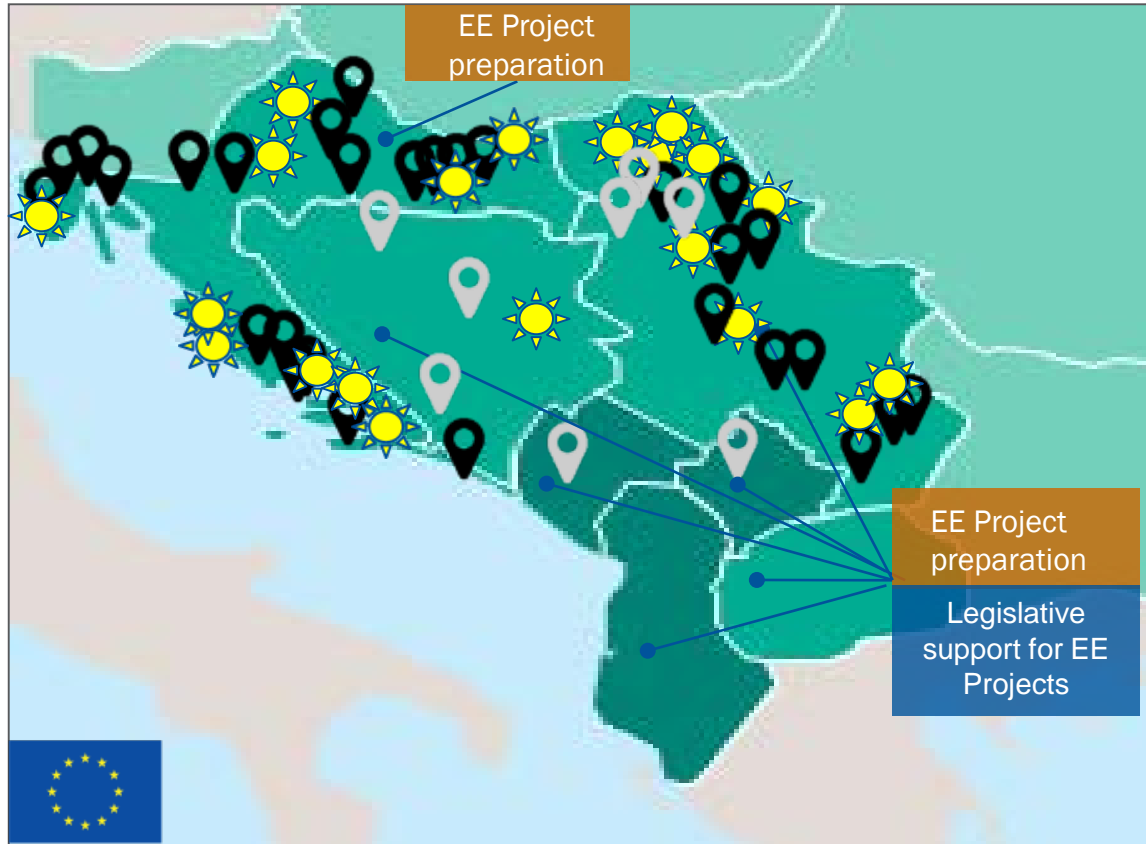


REEP is an **integrated package** of **finance, technical assistance** and **policy dialogue**, implemented jointly with the **Energy Community Secretariat**



- 1 Positive Development of Energy Services in the Region, but barriers still exist.
- 2 Intensified cooperation with key stake holders, updating of EPC Model Contract
- 3 WB5 Project for EPC and ESC – Contract Templates
  - Legal Gap Analysis
  - Project Status and next steps

# EBRD supports Project Pipeline Development in Western Balkans – positive developments in the region



## Bosnia Herzegovina

- 1 hospital EE project
- 3 district heating ESCO projects
- 1 street lighting ESCO project

## Serbia

- 16 street lighting projects
- 3 FS – two street lighting and one district heating
- 1 ESC several buildings
- 2 hospital EE projects, 1 faculty building

## Croatia

- 27 Street lighting ESCO projects

EU funded REEP supports the project preparation ([www.wb-reep.org](http://www.wb-reep.org))

## TC assignments

Energy efficiency (EE)  
Project preparation



Tenders published,  
contracted or  
implemented



ESCO tenders  
under  
preparation



Feasibility  
studies

## *Public accounting treatment supports ESCO project*

- ESCO energy efficiency investments can be treated as no new public debt (off balance sheet).
- 19 September Eurostat provided guidance note:  
<http://ec.europa.eu/eurostat/documents/1015035/7959867/Eurostat-Guidance-Note-Recording-Energy-Perform-Contracts-Gov-Accounts.pdf/>

## *Scope*

- Scope is all countries applying ESA 2010 (EU, EU accession, Switzerland and Norway)
- Investment scope fixed and movable assets

## *Requirements*

- Majority of risks and rewards of ESCO energy efficiency investments to be with private contractor (ESCO).
- REEP contract templates should satisfy this requirement, to be confirmed by statistical units



## *Regulatory barriers*

- Inconsistency between relevant laws (e.g. procurement versus PPP)
- Lack of incentives for EE.
- Constraints in the budget system law and accounting procedures regarding long-term commitments towards private partners.
- Conflicting ownership and maintenance roles (e.g. street lights owned by utilities or cities)

## *Technical barriers*

- Lack of resources for baseline setting and tender preparation.
- Lack of consistent implementation and/or enforcement of ESCO bylaws.

## *Institutional barriers*

- Frequent changes of politicians (e.g. elections)
- Lack of capacities for reviewing and approving EE projects.
- Energy efficiency is not a priority for the decision-makers
- No active cooperation of public authorities but EE affected by different policy areas.



## *Financial barriers*

- Low energy prices
- Lack of budget resources for (co)financing of EE investments
- Budget Energy Efficiency Fund, subject of one year budgetary planning process and with limited volume
- No tax incentives for EE
- High debt level in municipalities does not facilitate municipal borrowing for EE.
- Lack of experience in financing EPC deals

## *Awareness and knowledge barriers*

- Lack of awareness and knowledge regarding the benefits of EE and EPC
- Lack of awareness and knowledge about preparing and implementing public-private partnership projects
- Lack of technical knowledge, especially in smaller municipalities

1. The process of establishing favorable environment for ESCO projects requires cooperation of stakeholder.
2. Most relevant group of stakeholders: national institutions, representatives of local level governments, financing institutions, ESCOs, technology providers
3. Support from MoF is crucial due to procurement, budgeting and contracting issues.
4. EUROSTAT: New definition of EPC projects = “possibly without effect on debt position of public clients”
5. The regional approach is taken by EBRD in order to facilitate market development and raise interest of ESCOs.



## Group 1: Government Institutions - national level:

MoF  
Public Procurement Agency  
PPP Commission (Serbia specific, possibly similar institutions in other countries)  
*Full support needed for the concept of Energy Services by Ministry of Finance, the Public Procurement Agency and the PPP Commission*

## Group 2 - Government Institutions – regional / local level:

Local Government Associations  
Individual Cities, Municipalities as pioneers  
Regional Energy Efficiency Agencies – if available – for general support.

## Group 3: Commercial Actors:

Banks and existing ESCOs  
*Feed-back from commercial side necessary in order to find private project partners. ESCOs to be included in developing of model contracts.*



## *The most relevant primary legislation for Energy Services Projects in Serbia*

- Law on Efficient Use of Energy
- Law on Energy
- Law on Planning and Construction
- Law on Public-Private Partnership and Concessions
- Law on Public Procurement
- Law on Budget System

1. Energy Services Contracting in public sector is considered to be PPP arrangement
2. Governed by the provisions of Law on public- private partnership and concessions
3. The Duration of a PPP contract is between 5 and 50 years.
4. Each project has to be approved by the **PPP Commission**
5. However, the selection of best bidder on the basis of the **Law on public procurement**



- Analysis done based on the “elements for an ESCO enabling environment”
- Identification of the relevant laws for EPC and ESC
- Identification of gaps – different types of gaps
  - Basic gap = ESCO not permissible at all
  - organisational gap
  - Flexibility gap
  - Commercial Attractiveness gap
- Recommendations for action, e.g. Issuance of clarifications, amendments of legislation, etc.

## *Organisational gap*

- Energy supply contracting: Lack of statutory models (Work in progress)
- Lack of capacities and coordination in the public sector
- Multiple jurisdictions for a single project approval need streamlining
- Lack of clarity regarding specific registration for ESCOs, Serbia specific: Official opinion of the Statistics Bureau clarifies that existing registration can be used and no ESCO-specific registration is necessary.

## *Flexibility gaps*

- Need for official identification of obligatory and flexible elements in model contracts (rulebooks)
- Need for clarifying the scope of possible amendments to the ESCO agreement
- Need for clarification on method of determining the project value

## *Commercial attractiveness gaps*

- Lack of clarity in handling grants or competing grants
- Timing of Vat payment unclear
- Budget System Law needs clarification/ revision concerning multi-annual budgeting
- Moment of ownership-transfer from private to public partner was resolved in latest revision of PPP law: Ownership transfer normally from ESCO to Client at the end of contract period. (exception: beneficiary finances investments)

## *Serbia*

- Revision of the EPC model contract (Rulebook) based on market development (incl. further harmonisation with the Law on PPP and Concessions)
- preparation of the ESC model contract to be enacted by the Ministry



## *FYR Macedonia*

- Kick-off meeting held on 31 August 2017
- Detailed technical and legal analysis drafted (as part of Swisscontact IME project)
- Draft EPC Model contract template developed, based on the Serbian example (as part Swisscontact IME project)
- Necessary legal/regulatory action to be specified
- In-depth involvement of MoF and Procurement stakeholders pending

## *BiH - Republika Srpska:*

- Kick-off meeting held on 18 September
- EPC Model Contract prepared based on Serbian Rulebook to be presented to the Ministry in December
- ESC Model Contract and LGA in preparation

## *Albania, BiH-Fed., Kosovo, Montenegro*

- Work started with a parallel approach on
  - LGA
  - EPC Model Contract Template
  - ESC Model Contract Template
- Next steps and timing discussed in yesterday's meeting.
- Presentation of status and discussion as needed back to back with / during 16th EECG Session.

# Lessons learnt

## Barriers are known and can be addressed



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### *High level public endorsement matters*

- Municipalities engaged due to the government's endorsement of contract and project.
- Private companies stated that they engaged due to government's endorsement and due to their being contract templates.
- Standardise procurement and contracting documents reduce transaction costs. Important in Western Balkan countries which are small markets.
- Energy tariff increase makes investments more attractive.

### *Get on with projects matters to get to know "unknown unknowns"*

- You have to implement a pilot project to eliminate barriers (e.g. when is VAT payable)
- Procurement versus PPP law
- Tender preparation needs to be supported.

### *Active engagement of all stakeholders helps*

- Legislation changes over time, so regular reviews are good practice.
- Involve all stakeholders in review to reduce transaction costs for all stakeholders.



# Thank you!



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**Toivo Miller**

Principal, Climate Finance and  
Policy

Energy Efficiency & Climate Change

Email: [millert@ebrd.com](mailto:millert@ebrd.com)

