



**Alternative Dispute Resolution in the Energy  
Community Contracting Parties, Italy and Georgia  
Status Review**

April 2016



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# I. INTRODUCTION

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## 1. About ECRB

The Energy Community Regulatory Board (ECRB) operates based on the Energy Community Treaty. As an institution of the Energy Community<sup>1</sup> the ECRB advises the Energy Community Ministerial Council and Permanent High Level Group on details of statutory, technical and regulatory rules and makes recommendations in the case of cross-border disputes between regulators<sup>2</sup>.

ECRB is the independent regional voice of energy regulators in the Energy Community. ECRB's mission builds on three pillars: providing coordinated regulatory positions to energy policy debates, harmonizing regulatory rules across borders and sharing regulatory knowledge and experience.

## 2. Background

Meaningful and serious handling of customer complaints is not only a necessary tool for customer protection but also an instrument for improving market performance. The number and nature of customer complaints are among most important indicators of customers' satisfaction and serve also to screening retail markets from a customer perspective. Moreover, alternative dispute resolution schemes may represent an efficient, fast and low-cost tool to solve disputes involving consumers and suppliers.

The Energy Community *acquis communautaire* i.e. Electricity and Gas Directives<sup>3</sup> define consumer protection, including dispute settlement mechanisms and dealing with customer complaints as part of their legislative requirements. ECRB in 2011 published a status report on complaint handling. On European level, regulators developed recommendations on customer complaint collection, handling and reporting in the electricity and gas sectors<sup>4</sup>.

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<sup>1</sup> [www.energy-community.org](http://www.energy-community.org). The Energy Community comprises the EU and Albania, Bosnia and Herzegovina, Macedonia, Kosovo\*, Moldova, Montenegro, Serbia and Ukraine. Armenia, Georgia, Turkey and Norway are Observer Countries. [\*Throughout this document the symbol \* refers to the following statement: This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence].

<sup>2</sup> The work of the ECRB is supported by the ECRB Section at the Energy Community Secretariat.

<sup>3</sup> OJ L 176 of 15.7.2003, p. 37 et seqq ("Electricity Directive"); OJ L 176 of 15.7.2003, p. 57 et seqq ("Gas Directive").

<sup>4</sup> ERGEG GGP on Customer Complaint Handling, Reporting and Classification, June 2010 ([http://www.energy-regulators.eu/portal/page/portal/EER\\_HOME/EER\\_PUBLICATIONS/CEER\\_ERGEG\\_PAPERS/Guidelines%20of%20Good%20Practice/Other/E10-CEM-33-05\\_GGP-ComplaintHandling\\_10-Jun-2010.pdf](http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_ERGEG_PAPERS/Guidelines%20of%20Good%20Practice/Other/E10-CEM-33-05_GGP-ComplaintHandling_10-Jun-2010.pdf))

### 3. Scope of the report

The present report assesses the **currently implemented rules on alternative dispute resolution in the retail energy markets with specific but not exclusive reference to disputes between a supplier/network operator and a customer.**

The report covers **Albania, Bosnia and Herzegovina, FYR of Macedonia, Georgia, Italy, Montenegro, Kosovo\*<sup>5</sup>, Serbia and Ukraine.** As regards the electricity sector, where results for Bosnia and Herzegovina differ for the Federation of Bosnia and Herzegovina (FBiH), Republika Srpska (RS) and Brcko District of BiH, they are displayed separately. With reference to the gas sector, the results are given for RS only.

The focus of the report is on **alternative dispute resolution** and it is performed separately for the electricity and gas sectors. If not stated differently, information provided in the report is related to both electricity and gas sectors. Taking into account that Albania, Montenegro, Kosovo\* do not have gas markets, the relevant information provided in this report refers only to electricity market.

### 4. Methodology

Data and analyses contained in the present report are based on information provided by the regulatory authorities of the analyzed markets through a questionnaire.

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<sup>5</sup> Throughout this document the symbol \* refers to the following statement: 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.

## II. ANALYSIS

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### 1. Implementation of the Energy Community *acquis communautaire*

Customer protection is one of the main pillars of the Energy Community *acquis communautaire*: Electricity Directive Directive 2009/72/EC<sup>6</sup> and Gas Directive 2009/73/EC<sup>7</sup> devoted provisions of Article 3 to public service obligations and customer protection. Protection of household customers included the measures explicitly mentioned in Annex I of both Directives.

As regards the topic of this report, in addition to the Third Package requirements Directive 2009/72/EC<sup>8</sup> requires Energy Community Contracting Parties and European Members States to ensure that an independent mechanism such as an energy ombudsman or a consumer body is in place in order to ensure efficient treatment of complaints and out-of-court dispute settlements. Furthermore, Annex I point f of the above Directive states that consumers at least have the right to benefit from transparent, simple and inexpensive procedures for dealing with their complaints and that such out-of-court dispute settlements procedures shall enable disputes to be settled fairly and promptly, preferably within three months, with provision, where warranted, for a system of reimbursement and/or compensation. The same provisions are included in Directive 2009/73/EC<sup>9</sup> and its Annex I.

On EU level in addition Directive 2013/11/EU<sup>10</sup> and Regulation (EU) 524/2013<sup>11</sup> specifically cover the topic of alternative and online dispute resolution for consumer disputes. Both legal acts are not applicable in the Energy Community Contracting Parties.

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<sup>6</sup> OJ L 211 of 14.8.2009, p. 55 et seq; the adapted version applicable in the Energy Community was adopted by Ministerial Council Decision 2011/02/MC-EnC.

<sup>7</sup> OJ L 211 of 14.8.2009, p. 94 et seq; the adapted version applicable in the Energy Community was adopted by Ministerial Council Decision 2011/02/MC-EnC.

<sup>8</sup> Art. 3 (13).

<sup>9</sup> Art. 3 (9).

<sup>10</sup> Directive 2013/11/EU on alternative dispute resolution for consumer disputes, OJ L 165 of 16.8.2013, p 63 et seq.

<sup>11</sup> Regulation (EU) 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes, OJ L 165 of 16.8.2013, p 1 et seq.

## 2. Alternative Dispute Resolution

Generally speaking, Alternative Dispute Resolution (ADR) refers to the different means of out-of-court settling of disputes. Also in the energy sector ADR represents an important tool to solve disputes between a customer and a supplier or network operator; in addition, ADR may be regarded as a new way of increasing customers' trust in the market, especially when ADR is speedy and reliable.

ADR offers a simple, fast and low cost solution to disputes between customers and traders. There are different forms of ADR procedures, but it is possible to group them in two main types: 1) the ADR entity facilitates an amicable solution between the parties or proposes a solution; 2) the ADR entity imposes a solution.

As regards EU law, Directive 2013/11/EU<sup>12</sup> covers the topic of alternative dispute resolution for consumer disputes moving from the baseline argument that the access to efficient, simple, fast and low cost domestic and cross border disputes can be of benefit consumers and increase their confidence in the functioning of the market. Unfortunately, these mechanisms are not sufficiently developed across the Energy Community. Differences in ADR coverage, quality and awareness represent a barrier to the internal market. For this, consumers are likely to abstain from shopping across borders and they do not have confidence that their disputes can be resolved in a simple, fast and inexpensive way.

Policy makers should also encourage consumers to contact first the trader in order to solve the problem before submitting a complaint to an ADR entity. This may allow consumers to settle their disputes swiftly and at an early stage. Moreover, to ensure that ADR entities function properly and effectively, they should be closely monitored; the setting up of a dedicated competent national authority performing the monitoring is of benefit.

Directive 2013/11/EU is without prejudice to national legislation making participation in such procedures mandatory, provided that such legislation does not prevent the parties from exercising their right of access to the judicial system.

Policy makers shall ensure that persons in charge of ADR possess the necessary expertise and are independent and impartial. ADR procedures need to be effective and fulfil the following requirements:

- the procedure is easily accessible and available online and offline to both parties;
- the parties are not obliged to be advised by a lawyer, but the procedure shall not deprive them of their right to independent advice or to be represented/assisted by a third party at any stage of the procedure;
- the procedure is free of charge or available at a nominal fee for consumers;
- the outcome of the procedure is made available within 90 calendar days from the date on which the ADR entity has received the complete complaint file. In case of very complex disputes, the ADR entity may extend the 90 calendar days' time period. The

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<sup>12</sup> Not applicable in the Energy Community.

parties shall be informed of any extension of that period and of the expected length of time that will be needed for the conclusion of the dispute.

As recognized by Directive 2013/11/EU, internal complaint handling procedures operated by traders are not covered by the Directive itself. However, they can constitute an effective means of resolving disputes at an early stage.

Regulation (EU) 524/2013<sup>13</sup> aims to create an online dispute resolution (ODR) platform on Union level. The ODR platform should take the form of an interactive website offering a single point of entry to consumers and traders seeking to resolve disputes out-of-court which have arisen from online transactions. The ODR platform should provide general information regarding the out-of-court resolution of contractual disputes between traders and consumers arising from online sales and service contracts. It should allow consumers and traders to submit complaints by filling in an electronic complaint form available in all the official languages of the institutions of the Union and to attach relevant documents. It should transmit complaints to an ADR entity competent to deal with the dispute concerned.

**In this report with complaint handling means both the internal company complaint handling – which cannot be regarded as ADR – and the procedure run by an independent body, such as the energy regulator, which may be regarded, under certain circumstances, as ADR mechanism.**

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<sup>13</sup> Not applicable in the Energy Community.

Question 1 Is ADR available in your country?

	Electricity (legal basis)	Gas (legal basis)
Albania	<p>YES</p> <p>Law No.43/2015 "On Power Sector"</p> <p>Law No. 8454, dated 04.02.1999 "On the people's advocate"</p> <p>Law No. 9135, dated 11.09.2003 "On the consumers' protection"</p>	
Bosnia and Herzegovina	<p>YES</p> <p>According to laws on (i) electricity and (ii) customer protection, and (iii) secondary legislation</p>	<p>YES</p> <p>According to (i) Law on Gas and (ii) law on customer protection, and (iii) secondary legislation</p>
Georgia	<p>YES</p> <p>Georgian National Energy and Water Supply Regulatory Commission (GNERC) is entitled to settle the disputes among licensees, small scale power plants, importers, exporters, suppliers, consumers and Electricity Market Operator within its competence. The authority of reviewing the administrative offences in electricity sector has been granted to the GNERC after amendments to the relevant legislative acts in 2010.</p>	<p>YES</p> <p>Georgian National Energy and Water Supply Regulatory Commission (GNERC) is entitled to settle the disputes among licensees, small scale power plants, importers, exporters, suppliers, consumers and Electricity Market Operator within its competence. The authority of reviewing the administrative offences in natural gas sector has been granted to the GNERC after amendments to the relevant legislative acts in 2010.</p>



	Electricity (legal basis)	Gas (legal basis)
Italy	<p><b>YES</b></p> <p>Legislative decree n. 28 adopted on March 4<sup>th</sup>, 2010            Law n. 162 adopted on November 10<sup>th</sup>, 2014            Legislative decree n. 130 adopted on August 6<sup>th</sup>, 2015            Legislative decree n. 93 adopted on June 1<sup>st</sup>, 2011 (which implemented Directives 2009/72/EC and 2009/73/EC in Italy) and AEEGSI's resolution n. 260 adopted on June 21<sup>st</sup>, 2012, with which the Italian Energy Regulator has established the Energy Conciliation Service</p> <p>Legislative decree n. 28 states that it is possible to access to mediation in order to settle civil/commercial disputes. This decree lists in addition the disputes for which mediation is mandatory before turning the dispute itself to a court. The duty to access to mediation prior to a civil/commercial lawsuit is mandatory for disputes in relation to condominium, insurance, banking and financial agreements, rights in rem, division of assets, inheritance, family arrangements, leases, medical liability or defamation.</p> <p>A mediation procedure is organized by the Chambers of Commerce. To access this mediation, a fee has to be paid. The amount of money depends on the amount in dispute.</p> <p>Law n. 162 has established the so called "negoziazione assistita": parties, necessarily helped by their lawyers, subscribe an agreement which obligates them to try to solve a civil dispute outside the court. This law lists in addition the disputes for which this procedure is mandatory before turning the dispute itself to a court. Also suppliers and consumer associations has set up conciliation schemes (also known as "conciliazioni paritetiche") where one conciliator acts on behalf of a customer and another conciliator acts on behalf of the supplier</p>	<p><b>YES</b></p> <p>Legislative decree n. 28 adopted on March 4<sup>th</sup>, 2010            Law n. 162 adopted on November 10<sup>th</sup>, 2014            Legislative decree n. 130 adopted on August 6<sup>th</sup>, 2015            Legislative decree n. 93 adopted on June 1<sup>st</sup>, 2011 (which implemented Directives 2009/72/EC and 2009/73/EC in Italy) and AEEGSI's resolution n. 260 adopted on June 21<sup>st</sup>, 2012, with which the Italian Energy Regulator has established the Energy Conciliation Service</p> <p>Legislative decree n. 28 states that it is possible to access to mediation in order to settle civil/commercial disputes. This decree lists in addition the disputes for which mediation is mandatory before turning the dispute itself to a court. The duty to access to mediation prior to a civil/commercial lawsuit is mandatory for disputes in relation to condominium, insurance, banking and financial agreements, rights in rem, division of assets, inheritance, family arrangements, leases, medical liability or defamation.</p> <p>A mediation procedure is organized by the Chambers of Commerce. To access this mediation, a fee has to be paid. The amount of money depends on the amount in dispute.</p> <p>Law n. 162 has established the so called "negoziazione assistita": parties, necessarily helped by their lawyers, subscribe an agreement which obligates them to try to solve a civil dispute outside the court. This law lists in addition the disputes for which this procedure is mandatory before turning the dispute itself to a court. Also suppliers and consumer associations has set up conciliation schemes (also known as "conciliazioni paritetiche") where one conciliator acts on behalf of a customer and another conciliator acts on behalf of the supplier.</p>

	Electricity (legal basis)	Gas (legal basis)
Italy (cont.)	<p>Legislative decree 1<sup>st</sup> June 2011, n. 93 (Article 44, paragraph 4) provides, inter alia, that the energy regulator has to guarantee the effective handling of final customers' conciliation procedures with regard to suppliers and distributors of natural gas and electricity.</p> <p>Legislative decree n. 130 adopted on August 6<sup>th</sup>, 2015, has completed the implementation of Directive 2013/11/UE. The above mentioned decree lists the characteristics of ADR procedures and the duties on the entities running these procedures.</p> <p>According to the decree, ADR procedures shall be available on line or off line and the parties are not obliged to be assisted by a lawyer; furthermore, the access to them is free of charge or cheap and the maximum period of the procedure is 90 days (it may be extended by other 90 days for hard cases).</p> <p>The Italian Energy Regulator, as competent authority for the ADR in the regulated sectors, has to list all the ADR entities that have been notified to it and that fulfill the conditions set out by the decree.</p> <p>*****</p> <p>According to Legislative decree 1<sup>st</sup> June 2011, n. 93, any operator having a complaint against a transmission or distribution system operator in relation to that operator's obligations under Directives 2009/72 and 2009/73 may refer the complaint to the Italian Energy Regulator which, acting as dispute settlement authority, shall issue a decision.</p> <p>*****</p> <p><u>With the exception of table 3, from now on, the answers will exclusively refer to ADR dealt by the Italian Energy Regulator (Energy Conciliation Service)</u></p>	<p>Legislative decree 1<sup>st</sup> June 2011, n. 93 (Article 44, paragraph 4) provides, inter alia, that the energy regulator has to guarantee the effective handling of final customers' conciliation procedures with regard to suppliers and distributors of natural gas and electricity.</p> <p>Legislative decree n. 130 adopted on August 6<sup>th</sup>, 2015, has completed the implementation of Directive 2013/11/UE. The above mentioned decree lists the characteristics of ADR procedures and the duties on the entities running these procedures.</p> <p>According to the decree, ADR procedures shall be available on line or off line and the parties are not obliged to be assisted by a lawyer; furthermore, the access to them is free of charge or cheap and the maximum period of the procedure is 90 days (it may be extended by other 90 days for hard cases).</p> <p>The Italian Energy Regulator, as competent authority for the ADR in the regulated sectors, has to list all the ADR entities that have been notified to it and that fulfill the conditions set out by the decree.</p> <p>*****</p> <p>According to Legislative decree 1<sup>st</sup> June 2011, n. 93, any operator having a complaint against a transmission or distribution system operator in relation to that operator's obligations under Directives 2009/72 and 2009/73 may refer the complaint to the Italian Energy Regulator which, acting as dispute settlement authority, shall issue a decision.</p> <p>*****</p> <p><u>With the exception of table 3, from now on, the answers will exclusively refer to ADR dealt by the Italian Energy Regulator (Energy Conciliation Service)</u></p>

	Electricity (legal basis)	Gas (legal basis)
Kosovo*	<p><b>YES</b></p> <p>Rule on the resolution of complaints and disputes in energy sector, chapter V.</p> <p>There is Law on Mediation No.03/L-057, which deals with all relevant fields, also for energy</p>	
FYR of Macedonia	<p><b>YES</b></p> <p>In the Article 36 of the Energy Law (Official Gazette no.16/11, 136/11, 79/13, 164/13, 41/14, 151/14, 33/15 and 192/2015) are prescribed criteria for ADR.</p>	<p><b>YES</b></p> <p>In the Article 36 of the Energy Law (Official Gazette no.16/11, 136/11, 79/13, 164/13, 41/14, 151/14, 33/15 and 192/2015) are prescribed criteria for ADR.</p>
Montenegro	<p>Supplier and operator are responsible for complaint handling. In specific cases prescribed by Energy law the customer can file a complaint to the Agency against a decision given by the supplier or operator (article 49 Energy law).</p> <p>ADR, as an institute envisaged in the way prescribed by the Third Package, has not been established in Montenegro. The New Energy law has come into force in January, 2016 and it envisages the forming of ADR as a special separate unit within the supplier.</p>	
Serbia	<p><b>YES</b></p> <p>Law on Consumer Protection (OG No 62/14)</p> <p>Law on mediation in resolving disputes (OG No 55/14)</p> <p>Law on Arbitration (OG No 46/06)</p> <p>Energy Law (OG No 124/14)</p>	<p><b>YES</b></p> <p>Law on Consumer Protection (OG No 62/14)</p> <p>Law on mediation in resolving disputes (OG No 55/14)</p> <p>Law on Arbitration (OG No 46/06)</p> <p>Energy Law (OG No 124/14)</p>

	Electricity (legal basis)	Gas (legal basis)
Ukraine	<p><b>YES</b></p> <p><b>General legislation</b></p> <p>According to Art. 40 of the Constitution of Ukraine all have the right to file individual or collective petitions, or to personally appeal to the state authorities, local authorities and officials and officers of these bodies that are obliged to consider the petitions and to provide a substantiated reply within the statutory period.</p> <p>A person who appeals to the public authorities should be guided by the provisions of the Law "On citizens' appeals".</p> <p><b>Sectoral legislation</b></p> <p>Law on Natural Monopolies</p> <p>Electricity Law</p> <p>Law On Principles of Functioning Electricity Market of Ukraine</p> <p>Regulations on Information and Consultation Centre at supply companies, approved by NERC from 12.03.2009 № 299 (hereinafter - Regulations) → according to the Regulations, Information and Consultation Centers (hereinafter - ICC) are established by electricity suppliers at regulated tariff. The purpose of their creation, in particular, consideration of disputes and personal work with applicants who are not satisfied with an explanation of the Company.</p> <p>The ICC Commission include: ICC chief, who is Chairman of the ICC, representatives of the relevant regional offices of NEURC and State Electrical Inspection Service.</p> <p>In the ICC Commission may also participate representatives of relevant departments of regional administrations, regional offices of the Antimonopoly Committee of Ukraine, territorial authorities.</p>	<p><b>YES</b></p> <p><b>General legislation</b></p> <p>According to Art. 40 of the Constitution of Ukraine all have the right to file individual or collective petitions, or to personally appeal to the state authorities, local authorities and officials and officers of these bodies that are obliged to consider the petitions and to provide a substantiated reply within the statutory period.</p> <p>A person who appeals to the public authorities should be guided by the provisions of the Law "On citizens' appeals".</p> <p><b>Sectoral legislation</b></p> <p>Law on Natural Monopolies</p> <p>Law On Natural Gas Market</p> <p>According to Gas Supply Rules approved by NEURC Regulation from 30.09.2015 No.2496 (hereinafter - Rules) disputes between customer and supplier on natural gas supply, supplier service payment, damages etc. should be resolved through negotiations, and in case of disagreement – through the courts. Customer and supplier are not incapacitated to apply to NEURC or its territorial units for relevant clarifications on the application of these Rules and relationships in the natural gas market.</p>

### 3. Running of ADR

Question 2 Who is responsible for ADR in your country? Does the energy regulator have a role?

	Regulatory Authority – electricity (legal basis)	Regulatory Authority – gas (legal basis)	Other entity – electricity (legal basis)	Other entity – gas (legal basis)
Albania	<b>YES</b> According to article 18; article 20; article 24 and article 94 of Law “On Power Sector”		<b>Ombudsman</b> according to article 12 of Law “On People’s Advocate” <b>Commission of Customer Protection</b> according to article 52 of Law “On the customer Protection” <b>Customer Association</b> according to article 54 of Law “On the Customer Protection” <b>Arbitrage Court</b> <b>Civil Court</b>	
Bosnia and Herzegovina	<b>YES</b> Rule Book on Public Hearings and Settlement of Requests, Disputes and Complaints and General Conditions for Electricity Supply	<b>YES</b> Rule Book on Public Hearings and Settlement of Requests, Disputes and Complaints and General Conditions for Natural Gas Supply	Consumer Protection Ombudsman is authorised for different kinds of consumer complaints according to the Law on Customer Protection of BIH	Consumer Protection Ombudsman is authorised for different kinds of consumer complaints according to the Law on Customer Protection of BIH
Georgia	<b>YES</b> Dispute resolution falls within the competence of the Georgian National Energy and Water Supply Regulatory Commission	<b>YES</b> Dispute resolution falls within the competence of the Georgian National Energy and Water Supply Regulatory Commission	Consumers may also submit their claims to the Public Defender of Consumers’ Interest. However, the Public Defender is not a decision-making body – it presents a claim to the Commission and the latter adopts a decision.	

	Regulatory Authority – electricity (legal basis)	Regulatory Authority – gas (legal basis)	Other entity – electricity (legal basis)	Other entity – gas (legal basis)
Italy	<p><b>YES</b></p> <p>Legislative decree 1<sup>st</sup> June 2011, n. 93 (Article 44, paragraph 4) provides, inter alia, that the energy regulator has to guarantee the effective handling of final customers' conciliation procedures with regard to suppliers and distributors of natural gas and electricity.</p> <p>Legislative decree n. 130 adopted on August 6<sup>th</sup>, 2015, has completed the implementation of Directive 2013/11/UE. The above mentioned decree lists the characteristics of ADR procedures and the duties on the entities running these procedures.</p> <p>According to the decree, ADR procedures shall be available on line or off line and the parties are not obliged to be assisted by a lawyer; furthermore, the access to them is free of charge or cheap and the maximum period of the procedure is 90 days (it may be extended by other 90 days for hard cases).</p> <p>The Italian Energy Regulator, as competent authority for the ADR in the regulated sectors, has to list all the ADR entities that have been notified to it and fulfil the conditions set out by the decree.</p> <p>ADR is alternative to complaint handling run by the regulator itself.</p>	<p><b>YES</b></p> <p>Legislative decree 1<sup>st</sup> June 2011, n. 93 (Article 44, paragraph 4) provides, inter alia, that the energy regulator has to guarantee the effective handling of final customers' conciliation procedures with regard to suppliers and distributors of natural gas and electricity.</p> <p>Legislative decree n. 130 adopted on August 6<sup>th</sup>, 2015, has completed the implementation of Directive 2013/11/UE. The above mentioned decree lists the characteristics of ADR procedures and the duties on the entities running these procedures.</p> <p>According to the decree, ADR procedures shall be available on line or off line and the parties are not obliged to be assisted by a lawyer; furthermore, the access to them is free of charge or cheap and the maximum period of the procedure is 90 days (it may be extended by other 90 days for hard cases).</p> <p>The Italian Energy Regulator, as competent authority for the ADR in the regulated sectors, has to list all the ADR entities that have been notified to it and fulfil the conditions set out by the decree.</p> <p>ADR is alternative to complaint handling run by the regulator itself.</p>	<b>YES</b> (cf Table 1)	<b>YES</b> (cf Table 1)

	Regulatory Authority – electricity (legal basis)	Regulatory Authority – gas (legal basis)	Other entity – electricity (legal basis)	Other entity – gas (legal basis)
Kosovo*	<p><b>YES</b></p> <p>Chapter V of the Rule on the resolution of complaints and disputes in energy sector, has articles for Alternative Dispute Resolution, where the role of the regulator is that they can use ADR such as; negotiation, mediation or other similar alternative resolution. The purpose of ADR is to avoid the formal complaint procedure and decrease the number of complaints that will require formal decisions such as decisions of ERO or a relevant court</p> <p>There is Law on Mediation No.03/L-057, which deals with all relevant fields, also for energy.</p>		<p>Private mediator licensed by the Ministry of Justice</p> <p>There is Law on Mediation No.03/L-057, which deals with all relevant fields, also for energy.</p>	
FYR of Macedonia <sup>14</sup>	<p><b>YES</b></p> <p>Dispute resolution falls within the competence of the Energy Regulatory Commission (article 36 of the Energy Law).</p>	<p><b>YES</b></p> <p>Dispute resolution falls within the competence of the Energy Regulatory Commission (article 36 of the Energy Law).</p>	<p>The side which is not satisfied with the decision of the Energy Regulatory Commission of the Republic of Macedonia may initiate dispute in front of the Administrative Court (Law on Administrative Disputes). It is an administrative procedure where the Court has the power to overrule the decision of the regulator.</p>	<p>The side which is not satisfied with the decision of the Energy Regulatory Commission of the Republic of Macedonia may initiate dispute in front of the Administrative Court (Law on Administrative Disputes). It is an administrative procedure where the Court has the power to overrule the decision of the regulator.</p>

<sup>14</sup> There is a very small number of household gas customers only within the area supplied by DSO JP Strumica Gas.

	Regulatory Authority – electricity (legal basis)	Regulatory Authority – gas (legal basis)	Other entity – electricity (legal basis)	Other entity – gas (legal basis)
Montenegro	The role of the regulator is explained in question 1. Also, the regulator can decide in disputes when the customer and energy subject delegate that right to it (article 50 Energy Law)			
Serbia	<p><b>YES</b></p> <p>Energy Regulator is responsible for making decisions upon appeals related connection and TPA, according to the Energy Law.</p> <p>Also, in case of a dispute among energy entities and between an energy entity and a system user, which is resolved pursuant to the law regulating mediation, NRA is obliged to provide professional assistance to the parties in dispute and all the information it disposes of for the purpose of preparation of documents needed for the mediation procedure.</p> <p>A According to the Law, NRA considers and acts upon submissions of natural and legal persons in relation to non-performance of obligations by system operators, wholesale electricity suppliers, electricity suppliers, natural gas suppliers and public natural gas suppliers, pursuant to this Law.</p>	<p><b>YES</b></p> <p>Energy Regulator is responsible for making decisions upon appeals related connection and TPA, according to the Energy Law.</p> <p>Also, in case of a dispute among energy entities and between an energy entity and a system user, which is resolved pursuant to the law regulating mediation, NRA is obliged to provide professional assistance to the parties in dispute and all the information it disposes of for the purpose of preparation of documents needed for the mediation procedure.</p> <p>According to the Law, NRA considers and acts upon submissions of natural and legal persons in relation to non-performance of obligations by system operators, wholesale electricity suppliers, electricity suppliers, natural gas suppliers and public natural gas suppliers, pursuant to this Law.</p>	<p>Intermediary in accordance with Law on mediation. In cases which value is above 500.000,00 RSD, those may be independent consumer bodies such as:</p> <ul style="list-style-type: none"> <li>-person who has a license for mediation in accordance with the Law on mediation,</li> <li>-permanent arbitration institution in accordance with the Law on Arbitration.</li> </ul>	<p>Intermediary in accordance with Law on mediation. In cases which value is above 500.000,00 RSD, those may be independent consumer bodies such as:</p> <ul style="list-style-type: none"> <li>-person who has a license for mediation in accordance with the Law on mediation,</li> <li>-permanent arbitration institution in accordance with the Law on Arbitration.</li> </ul>



	Regulatory Authority – electricity (legal basis)	Regulatory Authority – gas (legal basis)	Other entity – electricity (legal basis)	Other entity – gas (legal basis)
Ukraine	<b>YES</b> Electricity Law Law On Natural Monopolies	<b>YES</b> Law “On natural gas market” Law On Natural Monopolies	State Electrical Inspection Service Ministry of Energy and Coal Industry The Antimonopoly Committee	Ministry of Energy and Coal Industry The Antimonopoly Committee

According to the answers provided, **in the country where ADR mechanisms exist, the regulator often plays a role. This does not exclude that other entities can run ADR procedures.** In fact, in many of the analyzed countries (Albania, Bosnia and Herzegovina, Italy, Kosovo\*, Serbia and Ukraine) public or private bodies are involved in running an ADR mechanism which is alternative to the procedure run by the regulator.

In Kosovo\* the role of the regulator in ADR is bound to avoid the increase of complaints. Also in Italy the Energy Conciliation Service run by the regulator is alternative to complaint handling run by the regulator.

Question 3 If ADR function is organized outside the energy regulator, how is it financed?

	Electricity
Albania	<p><b>Article 54/3 of Law on “Customer Protection”</b> specified</p> <p>The financial resources of consumer protection associations are the same as those provided in the legislation for non-profit organizations.</p> <p><b>Article 52/7 of Law on “Customer Protection”</b> specified</p> <p>Mode of operation, payment of the Consumer Protection Committee and determination of the violations assessment procedures determined by the Council of Ministers.</p> <p><b>Article 36 of Law on “People’s Advocate”</b> that specified: The draft budget of the People’s Advocate is proposed by the People’s Advocate pursuant to the law on budget management system in the Republic of Albania and approved by the Assembly. The People’s Advocate prepares annually his accounts pursuant to the law on the financial management and audit. The financial records of the Office of the People’s Advocate shall be subject to review by the High State Control</p>
Bosnia and Herzegovina	According to the Law on Customer Protection of BIH

	Electricity	Gas
Italy	<p>A mediation procedure is organized by the Chambers of Commerce. To access this mediation, a fee has to be paid. The amount of money depends on the amount in dispute.</p> <p>Also other entities run ADR procedures. To access the procedure, a fee has to be paid.</p>	<p>A mediation procedure is organized by the Chambers of Commerce. To access this mediation, a fee has to be paid. The amount of money depends on the amount in dispute.</p> <p>Also other entities run ADR procedures. To access the procedure, a fee has to be paid.</p>
Kosovo*	Both parties should pay mediator	
Serbia	<p>Outside of NR, for ADR is responsible independent consumer body such as:</p> <ul style="list-style-type: none"> <li>-physical person who has a license for mediation in accordance with the Law on mediation-Costs are determined by the Mediation Tariff and may be from 60-1000 EUR. Parties involved borne it in equal parts. Parties may be exempted from paying costs under special conditions. Also, mediators can work even without compensation, if so agreed between the parties.</li> <li>-permanent arbitration institution in accordance with the Law on Arbitration. Costs of the procedure are determined by the Arbitration Tariff.</li> </ul>	<p>Outside of NR, for ADR is responsible independent consumer body such as:</p> <ul style="list-style-type: none"> <li>-physical person who has a license for mediation in accordance with the Law on mediation-Costs are determined by the Mediation Tariff and may be from 60-1000 EUR. Parties involved borne it in equal parts. Parties may be exempted from paying costs under special conditions. Also, mediators can work even without compensation, if so agreed between the parties</li> <li>-permanent arbitration institution in accordance with Law on Arbitration. Costs are determined by the Arbitration Tariff.</li> </ul>
Ukraine	<p>The authorities, which consider complaints and appeals are financed from the state budget. State Electrical Inspection Service is funded by the transmission tariff of the transmission system operator.</p> <p>ICCs are financed by electricity suppliers at regulated tariff (ICC are financed according to the budget approved by the head of the company (supplier at regulated tariff). Reasonable expenses for establishing and support of the ICC operating are included in the overall costs of the company in the amount agreed with regulator).</p>	<p>The authorities, which consider complaints and appeals are financed from the state budget.</p>

According to the answers provided, in the country where ADR mechanisms exist, there are **two different ways of financing the procedure** when it operates outside the energy regulator: 1) parties to the dispute pay the mediator; 2) through the state budget. In Serbia, the parties involved may be exempted from paying the cost (it depends on the financial situation). In Ukraine, the additional mechanism is financed by electricity suppliers at regulated tariff.

Question 4 In case ADR is available, is it possible to settle disputes online?

	Electricity
Albania	<p><b>YES</b></p> <p>Article 15 of Law “ On People’s Advocate”</p> <p>Article 12 of “General conditions of the contract of electrical energy supply for non and household Customers”</p> <p>Article 6 and article 7 of the regulation of “The standards of handling electricity customers complaints from the licensees in the distribution and retail Supply of electricity activities” (“Regulation)</p> <p>Article 15 of “Law on People’s Advocate” specified: No special form shall be required for the complaints, requests or notifications submitted to the People’s Advocate, provided the object of the complaint or request is clearly indicated. The People’s Advocate shall not accept anonymous complaints or requests.</p> <p>Article 12 of contract specified: The Client has the right to submit complaints to the Supplier for any action or omission of the Supplier related to rights and obligations defined herein in writing, verbally, by telephone (call center), or by e-mail.</p> <p><b>Article 7 of Regulation specified that :</b></p> <ol style="list-style-type: none"> <li>1. If the complaint is taken in person or by phone, the charged person from the Licensee, shall record according to point 6.2, what was communicated to the customer regarding the proposed action that will be taken to resolve the complaint, the date provided to resolve the complaint and the way of communication to be followed in continuation as agreed with the complainant</li> <li>2. If the complaint has come by post, within 5 working days after accepting it the Licensee will inform the customer in a written form for the recording code, the proposed action to resolve the complaint, the date provided for resolving it and the way of communication that should be followed in continuation with the complainant</li> </ol> <p>All the communications between the Licensee and the Complainant regarding the complaint will be recorded by respecting the unique identifying code</p>

	Electricity	Gas
Bosnia and Herzegovina	<b>NO</b>	<b>NO</b>
Georgia	<b>NO</b> - In Georgia it's not available to settle disputes online. However, it is possible to submit an online complaint to the Public Defender of Consumers' Interests (not to the Commission)	<b>NO</b> - In Georgia it's not available to settle disputes online. However, it is possible to submit an online complaint to the Public Defender of Consumers' Interests (not to the Commission)
Italy	<b>YES</b> - At the moment the Energy Conciliation Service is provided entirely online and consists of virtual meetings before an impartial, external conciliator who possesses specific expertise in mediation and energy matters. It is a "universal" conciliation system in terms of its scope of application, both with regard to potential users of the service and to the variety of disputes subject to the procedure	<b>YES</b> - At the moment the Energy Conciliation Service is provided entirely online and consists of virtual meetings before an impartial, external conciliator who possesses specific expertise in mediation and energy matters. It is a "universal" conciliation system in terms of its scope of application, both with regard to potential users of the service and to the variety of disputes subject to the procedure
Kosovo*	<b>YES</b> - There was no case until now.	
FYR of Macedonia	<b>NO</b>	<b>NO</b>
Serbia	<b>NO</b>	<b>NO</b>
Ukraine	<b>NO</b>	<b>NO</b>

With the exception of Albania, Italy and Kosovo\*, in the respondent countries it's not possible to **settle disputes online**. Also in Georgia, it is possible to submit an online complaint to the Public Defender of Consumers Interests.

Question 5 Is the supplier forced to enter into ADR with customers?

	Electricity
Albania	<p><b>YES</b></p> <p>Article 12 of the Regulation on “The standards of handling electricity customers complaints from the licensees in the distribution and retail Supply of electricity activities”, specifies that any customer has the right to make a complaint at ERE (Albanian Energy Regulator Authority) in these cases:</p> <ul style="list-style-type: none"> <li>- After completing the complaint handling procedure at the Licensee and he is dissatisfied with the response given by them .</li> <li>- In the case when the complainant does not take a response from the Licensee within the deadline provided in article 8 of these Standards; In any case the licensee shall make known to the Complainant his right to complain the decision at ERE.</li> <li>- If the Customer chooses to address at ERE to review his complaint, the Licensee shall provide the complainant a copy of the report drafted for his complaint and the necessary documentation to be handled by ERE.</li> <li>- ERE-s recommendations for handling and resolving the complaints are obligatory for the Licensee</li> </ul>
Bosnia and Herzegovina	<p><b>YES</b> - According to the General Conditions for Electricity Supply</p>
Georgia	<p><b>YES</b> - If the customer submits claim against the supplier to the Commission, the supplier shall engage into the dispute settlement process and represent its opinion and relevant documents.</p>
Italy	<p><b>YES</b> - Suppliers of the standard offer market and DSOs are obliged to take part in the procedure. Furthermore, suppliers of the Energy NRA’s «white list» (list of suppliers which have pre-declared their intention to take part in the procedure) must accept all Service’s invitations.</p> <p>The other operators have the right to choose whether to participate in each individual procedure or not.</p> <p>The regulator is about to implement the provisions of the Legislative decree n. 130 adopted on August 6<sup>th</sup>, 2015, in order to state that access to court is allowed only if the customer has previously tried to settle the dispute with the supplier through an ADR procedure.</p>
Kosovo*	<p><b>NO</b> - According to the chapter V of the Rule on the resolution of complaints and disputes in energy sector, ADR is voluntary and may be used in different forms, such as: negotiation, mediation or other similar alternative resolution. Participation in ADR is entirely voluntary. All parties to the dispute must agree to participate in ADR. If all parties do not agree to ADR, the matter shall not proceed to ADR.</p>
FYR of Macedonia	<p><b>YES</b> - In the Article 36, Paragraph 1 of the Energy Law is stated that ERC, among other, is in charge for resolution of disputes which refer to application of proscribed terms for connection, access, balancing, and for these issues the ADR is obligatory.</p> <p>If the supplier is not willing to enter into ADR with customer in front of ERC as ADR body, and respectively is not satisfied with the ERC decision as ADR Body, has the right to send an appeal in front of the Administrative Court. If the supplier does not take part, the regulator might decide in favor of the customer.</p>

Electricity	
Serbia	<b>YES</b> - only for disputes which resolving is in competence of the NRA - intermediary or arbitration is voluntary, if the parties to the dispute so agree
Ukraine	<p><b>YES</b> - According to Article 13 of Law On Principles of Functioning Electricity Market of Ukraine electricity suppliers are required to consider under the procedure approved by NEURC appeals, complaints and claims of electricity consumers on the provision of electricity supply and to provide reasoned answers.</p> <p>According to Regulation ICC (i.e. supplier at regulated tariff) when handling complaints must consider them objectively and timely, check all facts thereof, make decisions in accordance with applicable laws and enforce these decisions.</p> <p>If ICC Commission does not reach agreed decision on customer complaint ICC sends all relevant documents to competent authority (NEURC, State Electrical Inspection Service, Antimonopoly Committee, State Inspection of Consumer Rights Protection) and the applicant is notified about this by letter signed by the head of Company.</p>
Gas	
Bosnia and Herzegovina	<b>YES</b>
Georgia	<b>YES</b> - If customer submits a claim against the supplier to the Commission, the supplier shall engage into the dispute settlement process and represent its opinion and relevant documents.
Italy	<b>YES</b> - DSOs are obliged to take part in the procedure. Furthermore, suppliers of the Energy NRA's «white list» (list of suppliers which have pre-declared their intention to take part in the procedure) must accept all Service's invitations. The other operators have the right to choose whether to participate in each individual procedure or not. The regulator is about to implement the provisions of the Legislative decree n. 130 adopted on August 6 <sup>th</sup> , 2015, in order to state that access to court is allowed only if the customer has previously tried to settle the dispute with the supplier through an ADR procedure
Gas	
FYR of Macedonia	<b>YES</b> - In the Article 36, Paragraph 1 of the Energy Law is stated that ERC, among other, is in charge for resolution of disputes which refer to application of proscribed terms for connection, access, balancing, and for these issues the ADR is obligatory. If the supplier is not willing to enter into ADR with customer in front of ERC as ADR body, and respectively is not satisfied with the ERC decision as ADR Body, has the right to send an appeal in front of the Administrative Court. If the supplier does not take part, the regulator might decide in favor of the customer

Serbia	YES - only for disputes which resolving is in competence of the NRA - intermediary or arbitration is voluntary, if the parties to the dispute so agree
Ukraine	YES - according to paragraph 9, section VI of Rules disputes between customer and supplier should be resolved through negotiations. Supplier is obliged to consider customer appeals and inform about results within a month term. In case of disagreement between the customer and supplier disputes are resolved through the court.

According to the answers provided, in **most of the countries the supplier/operator is generally forced to enter into ADR, especially when the ADR is run by the regulator**. As regards Italy, the regulator is about to implement the provisions of the Legislative decree n. 130 adopted on August 6<sup>th</sup>, 2015, in order to state that access to court is allowed only if the customer has previously tried to settle the dispute with the supplier through an ADR procedure. As regards electricity, in Kosovo\* the procedure is not mandatory for suppliers.



Question 6 Is ADR free of charge?

	Electricity (legal basis)	Gas (legal basis)
Albania	<p><b>YES</b> - Article 6/3 of the Regulation of “The standards of handling electricity customers complaints from the licensees in the distribution and retail Supply of electricity activities”</p> <p>Article 16 of the Law “On people’s Advocate”</p> <p>Article 6/3 of the Regulation specified that: Accepting and handling the customer complaint, must be provided free of charge by the Licensee</p> <p>Article 16 of the Law “On People Advocate” specified that: All services rendered by the People’s Advocate with reference to the complaints, requests or notifications shall be free of charge.</p>	-
Bosnia and Herzegovina	<b>YES</b>	<b>YES</b>
Georgia	<b>YES</b>	<b>YES</b>
Italy	<b>YES</b> (cf Table 3)	<b>YES</b> (cf Table 3)
Kosovo*	<b>YES</b> - Whenever Regulator is involved ADR is free of charge(Only for disputes that fall into NRA competences)	
Republic of Macedonia	<b>YES</b>	<b>YES</b>
Serbia	<p><b>YES</b> - for disputes which resolving is in competence of the NR</p> <p><b>NO</b> - for all other disputes expenses are determined by price list of Intermediary or Arbitration Institution. In some cases party involved may be exempted from paying fee, which depends on its financial situation.</p>	<p><b>YES</b> - for disputes which resolving is in competence of the NR</p> <p><b>NO</b> - for all other disputes expenses are determined by price list of Intermediary or Arbitration Institution. In some cases party involved may be exempted from paying fee, which depends on its financial situation.</p>

	Electricity (legal basis)	Gas (legal basis)
Ukraine	<b>YES</b> - According to Article 21 of the Law "On citizens' appeals". State authorities, local governments, enterprises, institutions and organizations of any ownership forms, public associations, and officials are considering citizens' appeals without charging fees. ICCs provide information and consulting services as well as dispute settlement for claimants without any charge	<b>YES</b> - According to Article 21 of the Law "On citizens' appeals". State authorities, local governments, enterprises, institutions and organizations of any ownership forms, public associations, officials are considering citizens' appeals without charging fees

According to the answers provided, in the countries where ADR mechanism exists, it is **free of charge especially when ADR is organized inside the regulator**. In Italy, Kosovo\* and Serbia a fee may be requested when the ADR mechanism is run outside the regulator.

Question 7 Is the decision/solution provided by ADR binding for the parties?

	Electricity	Gas	Comment
Albania	<p><b>YES</b></p> <p>Article 20/a; article 24 of the Law 43/2015 “On Power Sector”</p> <p>Article 18 and article 22 of Law “On People’s Advocate”</p> <p>Article 57/1b of Law “On customer Protection”.</p> <p>Article 12/4 of the Regulation of “The standards of handling electricity customers complaints from the licensees in the distribution and retail Supply of electricity activities”</p>		<p>According to article 20 /a of the Law on Power Sector: the decision of ERE are obligated for all parties in energy sector.</p> <p><b>Article 12/4 of Regulation</b> specified that: ERE-s recommendations for handling and resolving the complaints are obligatory for the Licensee.</p> <p>Article 18 of Law on People’s Advocate” specified that: Following admission of a complaint, request or notification, the People’s Advocate shall proceed in one of the following ways:</p> <p>a) Shall initiate himself an investigation procedure;</p> <p>b) Shall request explanations from the organs of public administration and public prosecution’s office in cases of pre-trial detention and arrest;</p> <p>c) Shall make a recommendation to the High State Audit to exercise its powers.</p> <p>* Article 22 of Law “On People’s Advocate” specified that: The organs the People’s Advocate has submitted to, a recommendation, request or proposal for dismissal shall review the recommendation, request or proposal for dismissal and shall reply within 30 days from the date the recommendation, request or proposal for dismissal is delivered. The reply shall include reasoned explanations on the specific case as well as the actions, omissions or measures undertaken by that organ. People’s Advocate should be informed and he has the right to participate in the meetings of public administration collegial organs where his recommendation, request or proposal is examined.</p>

	Electricity	Gas	Comment
Bosnia and Herzegovina	<b>YES</b> Decision is legally binding. Any party can go to court	<b>YES</b> Decision is legally binding. Any party can go to court	
Georgia	<b>YES</b> The Commission resolutions and decisions are binding upon licenses, small hydro power plants, suppliers, importers, exporters, consumers and Market Operator.	<b>YES</b> The Commission resolutions and decisions are binding upon licenses, small hydro power plants, suppliers, importers, exporters, consumers and Market Operator.	
Italy	<b>YES</b> The final settlement is legally binding as a contract, because it is an agreement between the parties (it is not a decision)	<b>YES</b> The final settlement is legally binding as a contract, because it is an agreement between the parties (it is not a decision)	
Kosovo*	<b>YES</b> It will have the effect of the decision to which two parties will agree.		
FYR of Macedonia	<b>YES</b> but the unsatisfied side has the right to send an appeal in front of the Court as Second Instance Body. The Court could bring a decision which can revoke ERC decision.	<b>YES</b> but the unsatisfied side has the right to send an appeal in front of the Court as Second Instance Body. The Court could bring a decision which can revoke ERC decision.	
Montenegro	<b>YES</b> In the case explained in question 2, the decision of the Agency is binding for the parties.		

	Electricity	Gas	Comment
Serbia	<p><b>YES</b></p> <p>concerning dispute resolved via mediator or permanent arbitration institution</p> <p>In cases when NR is responsible for ADR unsatisfied party always may ask for protection from the competent court</p>	<p><b>YES</b></p> <p>concerning dispute resolved via mediator or permanent arbitration institution</p> <p>In cases when NR is responsible for ADR unsatisfied party always may ask for protection from the competent court</p>	
Ukraine	<p><b>YES</b></p> <p>NEURC decision is binding for supplier.</p> <p>Decision of ICC Commission has a recommendatory nature.</p> <p>At the same time according to Regulation ICCs provide the enforcement of decisions resulting from compliant handling.</p>	<p><b>YES</b></p> <p>NEURC decision is binding for supplier.</p>	<p>Upon consideration of customer complaint and in case of finding a violation of the electricity/gas supplier NEURC notifies such supplier about the necessity to eliminate violations in specified period and obligation to inform NEURC about this (NEURC notice has recommendatory nature). If supplier does not fulfill these recommendations NEURC takes into account this issue during planned or unscheduled inspection of supplier compliance with license conditions. At open meeting NEURC considers inspection results and makes decision on application of relevant sanctions against this supplier (decision is binding).</p>

According to the answers provided, in most of the countries the **decision/solution is binding** and as a standard rule when the regulator runs the procedure. However, the effects differ from one country to another: in some countries the outcome has the same effect as a contract (Italy and Kosovo\*), in others it has the effect of a decision and it may be overruled by another authority or a Court. In Ukraine, the decision of ICC Commission has a recommendatory nature.

Question 8 In case ADR is available, does the supplier/network operator have the obligation to inform a customer about the right to turn to it?

	Electricity (legal basis)	Gas (legal basis)
Albania	<p><b>YES</b></p> <p>Article 81 and article 94 of the Law no.43/2015 “On Power Sector”</p> <p>Article 81 of the Law “On Power Sector “ specified the obligation of the supplier.</p> <p>Article 95 of Law “On Power Sector” specified the right and the obligation of the customer.</p>	
Bosnia and Herzegovina	<b>YES</b> - According to secondary legislation (General Conditions for Electricity Supply)	<b>YES</b> - According to secondary legislation (General Conditions for Electricity Supply)
Georgia	<b>YES</b> - The supplier is obliged to inform a customer under the General Administrative Code of Georgia and Administrative Offences Code of Georgia.	<b>YES</b> - The supplier is obliged to inform a customer under the General Administrative Code of Georgia and Administrative Offences Code of Georgia.

	Electricity (legal basis)	Gas (legal basis)
Italy	<p><b>YES</b> - suppliers have to inform customers according to the rules issued by the Italian Energy Regulator (Commercial code of conduct).</p> <p>In addition, Legislative decree n. 130 adopted on August 6<sup>th</sup>, 2015 has stated that the information on ADR must be displayed on the web site of the professional and in the contract concluded with the customer. Furthermore, information is published on the website of the energy regulator and it may be published on the web site of consumer associations.</p>	<p><b>YES</b> - Suppliers have to inform customers according to the rules issued by the Italian Energy Regulator (Commercial code of conduct).</p> <p>In addition, Legislative decree n. 130 adopted on August 6<sup>th</sup>, 2015 has stated that the information on ADR must be displayed on the web site of the professional and in the contract concluded with the customer.</p> <p>Furthermore, information is published on the web site of the energy regulator and it may be published on the web site of consumer associations.</p>
Kosovo*	<p><b>YES</b> - Chapter V of the Rule on the resolution of complaints and disputes in energy sector.</p>	
FYR of Macedonia	<p><b>YES</b> - Legal basis in:</p> <ul style="list-style-type: none"> <li>- Energy Law (Official Gazette no.16/11, 136/11, 79/13, 164/13, 41/14, 151/14, 33/15 and 192/15): the Network Operator is obliged to inform the customers about ADR for access (article 123) and the supplier have the obligation to inform the customer about ADR for connection (article 127 and 128).</li> <li>- Rules for ADR (Official Gazette no.24/12).</li> <li>- Market Rules (Official Gazette no.38/14, 42/14, 57/14 and 194/14): for access article 19, 21, 26, 31, 56, 79 and 115, for balancing article 43, 53, 54 and 110.</li> <li>- Grid Codes: <ul style="list-style-type: none"> <li>• Transmission by MEPSO (Official Gazette no.12/15) for connection article 70 and 101;</li> <li>• Supply by ELEM (Official Gazette no.12/15) for access article 17, for connection article 24 and 27;</li> </ul> </li> </ul> <p>Supply by EVN (Official Gazette no.87/12, 30/14, 161/14, 189/14 and 50/15) for access article 18, for connection article 25, 28 and 45-b.</p>	<p><b>YES</b> - Legal basis in:</p> <ul style="list-style-type: none"> <li>- Energy Law (Official Gazette no.16/11, 136/11, 79/13, 164/13, 41/14, 151/14, 33/15 and 192/15): the Network Operator is obliged to inform the customers about ADR for access (article 123) and the supplier is obliged to inform the customers about ADR for connection (article 127 and 128).</li> <li>- Rules for ADR (Official Gazette no.24/12).</li> <li>- Market Rules (Official Gazette no.16/14, 91/14, and 143/14): for access article 14.</li> <li>- Grid Codes: <ul style="list-style-type: none"> <li>• Supply by DSO JP Strumica Gas (Official Gazette no.73/15) for connection article 16 and 23 and for access article 34;</li> <li>• Supply by DSO JP Kumanovo Gas (Official Gazette no.76/15) for connection article 15 and for access article 22 and 25;</li> </ul> </li> </ul>

	Electricity (legal basis)	Gas (legal basis)
Montenegro	<b>YES</b> - Supplier informs the customer through the bill for electricity about his rights for dispute resolution.	
Serbia	<b>YES</b> Law on Consumer Protection (OG No 62/14) Energy Law (OG No 124/14)	<b>YES</b> Law on Consumer Protection (OG No 62/14) Energy Law (OG No 124/14)
Ukraine	<b>YES</b> Subpt. 2.2.2 Regulations Electricity suppliers at regulated tariff have to inform households about the work of the ICC and the ICC Commission through the media by placing ads on the back of invoices for electricity consumed, in places for payment for the consumed electricity and in suppliers premises	<b>YES</b> According to the Rules existing methods of pre-trial disputes settlement with supplier are published on gas supplier website. Besides according to Article 12 of Law On Natural Gas Market supply contract shall include such essential terms as supplier obligation to provide customer with transparent, simple and affordable means of pre-trial disputes settlement with the supplier.

In the analyzed markets consumers are informed about the chance to turn the dispute to ADR. In Ukraine there are various information channels: the bill, media, the supplier's premises. In Italy consumers are informed through the contract and the website of the operator, of the energy regulator and of consumer associations.



Question 9 Is there a maximum time prescribed to solve the dispute in case of ADR?

	Electricity (legal basis)	Gas (legal basis)
Albania	<p><b>YES</b> - the period to solve dispute is 30 days.</p> <ul style="list-style-type: none"> <li>- Article 8 of Regulation on “The standards of handling electricity customers complaints from the licensees in the distribution and retail Supply of electricity activities“.</li> <li>- Article 14 of the Law on People’s Advocate”</li> <li>- Article 24 of the Law On Power Sector“ specified that: ERE should decide within 30 days from the moment that the dispute is recorded.</li> </ul>	
Bosnia and Herzegovina	<p><b>YES</b> (RERS) - Law on Administrative Procedure</p> <p><b>NO</b> (FERK)</p>	<b>YES</b> - Law on Administrative Procedure
Georgia	<b>YES</b> - The timeframe is determined by the General Administrative Code of Georgia and constitutes 1 month, which can be extended for another month.	<b>YES</b> - The timeframe is determined by the General Administrative Code of Georgia and constitutes 1 month, which can be extended for another month.
Italy	<b>YES</b> - 90 days (it can be extended by 30 days)	<b>YES</b> - 90 days (it can be extended by 30 days)

	Electricity (legal basis)	Gas (legal basis)
Kosovo*	<b>NO</b> , there is no limit duration, but according to the Rule on the resolution of complaints and disputes in energy sector, article 21 paragraph 7: “Any agreement reached by the parties as a result of ADR must be submitted to ERO in writing for approval. ERO has thirty (30) days from the date of submission of such agreement to approve or reject the agreement. Approval shall be granted as long as the agreement is in conformity with applicable law and does not violate the rights of either party or non-parties affected by the agreement.	
FYR of Macedonia	<b>YES</b> - 60 days. Article 36 of the The Energy Law (Official Gazette no.16/11, 136/11, 79/13, 164/13, 41/14, 151/14, 33/15 and 192/15) and Article 247 of the Law on Administrative Procedure (Official Gazette no.38/05, 110/08 and 51/11)	<b>YES</b> - 60 days. Article 36 of the The Energy Law (Official Gazette no.16/11, 136/11, 79/13, 164/13, 41/14, 151/14, 33/15 and 192/15) and Article 247 of the Law on Administrative Procedure (Official Gazette no.38/05, 110/08 and 51/11)
Serbia	<b>YES</b> - 60 days for disputes solving by the NRA (Law on Administrative Procedure); 60 days for disputes solving in accordance with Law on mediation in resolving disputes (OG No 55/14)	<b>YES</b> - 60 days for disputes solving by the NRA (Law on Administrative Procedure); 60 days for disputes solving in accordance with Law on mediation in resolving disputes (OG No 55/14)
Ukraine	<b>YES</b> According to Article 20 of Law On Citizens' Appeals appeal is considered and solved within one month from the date of receipt, and those that do not require further study - immediately but not later than fifteen days from the date of receipt. If within one month to resolve issues raised in the appeal is not possible, the head of the body, enterprise, institution, organization or its deputies define necessary term for its consideration, as reported to the person who filed the appeal. The total resolve the issues raised in the application, may not exceed forty-five days	<b>YES</b> According to Article 20 of Law On Citizens' Appeals appeal is considered and solved within one month from the date of receipt, and those that do not require further study - immediately but not later than fifteen days from the date of receipt. If within one month to resolve issues raised in the appeal is not possible, the head of the body, enterprise, institution, organization or its deputies define necessary term for its consideration, as reported to the person who filed the appeal. The total resolve the issues raised in the application, may not exceed forty-five days



Generally speaking, the **time to solve disputes is very short**. In some countries (Albania, Georgia, Ukraine) the maximum time is 30 days, in others (FYR of Macedonia, Serbia) 60 days; in Italy the maximum period is 90 days. This means that in the analyzed markets the procedure is very speedy. In some countries (Georgia and Italy) it may be extended by 30 days. As regards Bosnia and Herzegovina and Kosovo\*, the maximum time has not been specified.

Question 10 Is ADR monitored?

	Electricity (legal basi)	Gas (legal basis)
Albania	<p><b>YES</b></p> <p>Article 22 of Law “On Power Sector”. According to this article ERE has the duty to monitor the customer dispute.</p> <p>Article 17 of Regulation of “The standards of handling electricity customers’ complaints from the licensees in the distribution and retail Supply of electricity activities”. That specifies that:</p> <ul style="list-style-type: none"> <li>- The Licensee shall submit at ERE every three months a detailed written report, that shall include:               <ul style="list-style-type: none"> <li>a. The number of the complaints received in the respective three months, categorized by:                   <ul style="list-style-type: none"> <li>i. Customer categories;</li> <li>ii. The object of the complaint;</li> <li>iii. The area or local administrative unit, where has occurred the event for which is submitted the complaint;</li> </ul> </li> <li>b. The number of complaints for each category that are resolved in accordance with the requirements of Customer expectations;</li> <li>c. The number of complaints for each category that are not in accordance with the Customer expectations;</li> <li>d. The steps and actions undertaken by the Licensee to resolve every Category of the problems according to the area or local administrative units.</li> </ul> </li> </ul> <p>2- ERE may require additional information regarding the summarized report, if it deems necessary.</p> <p>3 - The quarterly summarized reports and any additional information required from ERE will be published in the licensee website immediately after submitted at ERE.</p>	
Bosnia and Herzegovina	<p><b>NO</b> - Regulators submit annual report on its work to the relevant Parliament</p>	

	Electricity (legal basi)	Gas (legal basis)
Georgia	<p><b>YES</b> - Structural unit of the Commission keeps records of applications and claims in electricity sector</p> <p>GNERC submits an annual report of the previous year activities and sends it to the President of Georgia, the Parliament of Georgia and the Ministry of Energy of Georgia. The Report is available to public</p>	<p><b>YES</b> - Structural unit of the Commission keeps records of applications and claims in natural gas sector</p> <p>GNERC submits an annual report of the previous year activities and sends it to the President of Georgia, the Parliament of Georgia and the Ministry of Energy of Georgia. The Report is available to public</p>
Italy	<b>YES</b> - By the energy regulator	<b>YES</b> - By the energy regulator
Kosovo*	<p><b>YES</b> - In electricity sector, according to the Chapter V, if parties agreed to use ADR regardless if they used negotiation, mediation or other form then the mediator is obliged to monitor the process, it can be also the regulator as a mediator.</p>	
FYR of Macedonia	<b>YES</b> - by the Legal Department of ERC	<b>YES</b> - by the Legal Department of ERC
Serbia	<p><b>YES</b> - Regulator submit annual report on its work to the relevant Parliament. All decision made in ADR may be subject of judicial revision</p>	<p><b>YES</b> - Regulators submit annual report on its work to the relevant Parliament. All decision made in ADR may be subject of judicial revision</p>
Ukraine	<p><b>YES</b> - Quarterly by the 15th of the month following the reporting quarter, suppliers submit to NEURC and State Electrical Inspection Service report on registered requests from electricity consumers or persons intend to become consumers and appealed to the ICC (Annex 3 to the Regulation)</p>	<p><b>YES</b> - According to Article 4 of Law On Natural Gas Market NEURC scope of functions on natural gas market particularly includes monitoring of household customers' complaints.</p>

In most of the analyzed markets ADR is monitored. The the number of disputes that have been solved is available even were monitoring is not in place (cf question 11).

Question 11 In case of monitoring, how many disputes have been solved in 2014 and in 2013? Out of how many claimed?

	2014	2013
Albania	2225 (electricity)	1359 disputes (electricity)
Bosnia and Herzegovina	302 (electricity), 0 (gas)	309 (electricity), 0 (gas)
Georgia	688 (electricity), 551 (gas)	542 (electricity), 427 (gas)
Italy	386 (both electricity and gas) out of 1429 received (1127 were admitted to the procedure; for 456 disputes the operator accepted to take part) Many requests were not admitted because of lack of regularization and non compliance with terms (min and max) for filling the application	194 (both electricity and gas, since 1 <sup>st</sup> april 2013) out of 658 received (491 were admitted to the procedure; for 230 disputes the operator accepted to take part). Many requests were not admitted because of lack of regularization and non compliance with terms (min and max) for filling the application
Kosovo*	7 (electricity)	5 (electricity)
FYR of Macedonia	84 solved out of 125 claimed (electricity) , 0 (gas)	70 solved out of 101 claimed (electricity) , 0 (gas)
Serbia	190 (NRA only) electricity, 11 (NRA only) gas	185 (NRA only) electricity, 17 (NRA only) gas
Ukraine	Of 14674 disputes to the ICC between applicants and the electricity suppliers, 11157 disputes decided in favor of the applicants, and 3401 - for supply	Of 13136 disputes to the ICC between applicants and electricity suppliers, 10466 appeals decided in favor of the applicants, and



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	companies	2595 - for supply companies
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The table shows the number of disputes that were solved in 2013 and in 2014. For some countries also the total number of requests is provided.

Question 12 Can a company mediator be defined as company ombudsman<sup>15</sup>?

	Electricity (legal basis)	Gas (legal basis)
Albania	<b>NO</b> Because the ombudsman is free of charge and the mediator company is not	
Bosnia and Herzegovina	<b>NO</b>	<b>NO</b>
Georgia	<b>NO</b> - Public Defender of Consumers' Interests as Energy ombudsmen Public Defender of Consumers' Interest is NOT a company mediator as defined in the footnote. It is an impartial party, serving as an additional guarantee for protection of consumers' rights.	<b>NO</b> - Defender of Consumers' Interests as Energy ombudsmen Public Defender of Consumers' Interest is NOT a company mediator as defined in the footnote. It is an impartial party, serving as an additional guarantee for protection of consumers' rights.
Italy	<b>NO</b> - As regards the Energy Conciliation Service, an impartial conciliator brings the parties together to help them find an agreement. However, with reference to company mediator, in the energy sector the word Ombudsman is not used.	<b>NO</b> - As regards the Energy Conciliation Service, an impartial conciliator brings the parties together to help them find an agreement. However, with reference to company mediator, in the energy sector the word Ombudsman is not used.
Kosovo*	<b>NO</b> - There is no independent Ombudsperson appointed in the companies	
FYR of Macedonia	<b>NO</b>	<b>NO</b>
Serbia	<b>NO</b>	<b>NO</b>
Ukraine	<b>NO</b>	<b>NO</b>

<sup>15</sup> Company mediator may not be impartial or independent, while an ombudsman has to be. Energy companies may have set up efficient mechanisms to deal with customer complaints or to settle disputes. However, it doesn't seem appropriate to define a company mediator – an entity which operates within an energy company – as a company ombudsman, which should be completely independent.



In all the analyzed markets, company mediator cannot be defined as company ombudsman. This is due to the fact that a company mediator may not be impartial or independent, whereas an ombudsman has to be.

Question 13 *Can the person in charge of dispute resolution network work for a supplier (either the involved supplier or a different one)?*

	Electricity	Gas
Albania	<b>NO</b> The person in charge of dispute resolution cannot work for a supplier because in that case it will be part of a conflict of interest.	
Bosnia and Herzegovina	<b>NO</b>	<b>NO</b>
Georgia	<b>NO</b> - It's the conflict of Interest under the Georgian legislation.	<b>NO</b> - It's the conflict of Interest under the Georgian legislation.
Italy	<b>NO</b> - An impartial conciliator brings the parties together to help them find an agreement	<b>NO</b> - An impartial conciliator brings the parties together to help them find an agreement
Kosovo*	<b>NO</b>	
FYR of Macedonia	<b>NO</b>	<b>NO</b>

	Electricity	Gas
Montenegro	The new Energy law has come into force in January 2016 and it envisages the forming of ADR as a special separate unit within the supplier.	
Serbia	<b>NO</b> - for disputes resolving by the NRA. For disputes which are solving for example via mediation, party involved always may ask for exemption of such a person	<b>NO</b> - for disputes resolving by the NRA. For disputes which are solving for example via mediation, party involved always may ask for exemption of such a person
Ukraine	<b>YES</b> only of ICC (ICC is a structural unit of company)	<b>NO</b>

In the analyzed markets **a person in charge of settling disputes cannot work for the operator** with the exception of Ukraine; this is due to the fact that ICC is a structural unit of the electricity company.

Question 14 Which disputes can be settled through ADR?

	Electricity
Albania	<ul style="list-style-type: none"> <li>- Tariff</li> <li>- Delay</li> <li>- Connection Barrier</li> <li>- Read the Meter</li> <li>- Quality of Supply (Voltage)</li> <li>- Supply Continuance</li> <li>- Wrong contractual conditions</li> <li>- Lack of Information</li> <li>- Order Confirmation</li> <li>- Withdrawal right</li> <li>- Payments</li> <li>- Withdrawal from the contract</li> <li>- Minimum contractual period</li> <li>- Other issues regarding the contracts and selling.</li> <li>- Connection</li> <li>- Reconnection after the interruption</li> <li>- Wrong invoice</li> <li>- Unclear invoice</li> <li>- Technical difficulties in issuing the invoice or difficulties in accessing the invoice</li> <li>- Unjustified invoice</li> <li>- Total debt value</li> <li>- Prices/tariff change</li> <li>- Discrimination on the basis of price Tariff transparence</li> <li>- Social Tariff</li> <li>- Other issues</li> </ul>

	Electricity	Gas
Bosnia and Herzegovina	<ul style="list-style-type: none"> <li>- Connection to the grid</li> <li>- Contracts and sales</li> <li>- Prices/tariffs</li> <li>- Quality of supply</li> <li>- Outage</li> </ul>	<ul style="list-style-type: none"> <li>- Connection to the grid</li> <li>- Prices/tariffs</li> </ul>
Georgia	Disputes arising between licensees, small scale power plants, importers, exporters, suppliers, consumers and Electricity Market Operator.	Disputes arising between licensees, small scale power plants, importers, exporters, suppliers, consumers and Electricity Market Operator.
Italy	Disputes with a distributor or a supplier, with the sole exception of disputes regarding taxation or fiscal issues.	Disputes with a distributor or a supplier, with the sole exception of disputes regarding taxation or fiscal issues.
Kosovo*	<p>Disputes raised by:</p> <ul style="list-style-type: none"> <li>- licensees against other licensees related to the performance of the licensed activity;</li> <li>- by licensees and other energy enterprises regarding third party access to the transmission or distribution electricity system and cross border transmission of electricity, and regarding third party access to the heat distribution system; and</li> <li>- by customers against licensees concerning the service provided but in these cases in order to ensure the protection of household customers, the only form of ADR available is negotiation</li> </ul>	

	Electricity	Gas
FYR of Macedonia	Disputes raised by the systems users or market participants, including household customers, against regulated energy companies. Disputes which refer to application of proscribed terms, methodologies or tariffs for connection, access, balancing and using of the relevant systems and markets, as well as allocation of interconnection capacities in the case when the request for interconnection capacity is rejected by the.	Disputes raised by the systems users or market participants, including household customers, against regulated energy companies. Disputes which refer to application of proscribed terms, methodologies or tariffs for connection, access, balancing and using of the relevant systems and markets, as well as allocation of interconnection capacities in the case when the request for interconnection capacity is rejected by the TSO.
Serbia	Energy Regulator is responsible for resolving disputes related connection and TPA, according to the Energy Law. All others disputes may be solved by mediation	Energy Regulator is responsible for resolving disputes related connection and TPA, according to the Energy Law. All others disputes may be solved by mediation
Ukraine	Disputes concerning the supply of electricity (prices, rates, access, metering, etc.)	Disputes concerning the supply, distribution and transportation of natural gas (prices, rates, access, metering, etc.)

**The topics which can be dealt differ from one country to another. However, ADR is available to solve a wide range of disputes.** In some countries it is even possible to solve disputes regarding connection.

Question 15 Which customers have access to ADR?

	Electricity	Gas
Albania	All type of the customers - household - non household customers	
Bosnia and Herzegovina	All customers The customer has to submit the evidence that she/he has already addressed her/his written request to DSO/supplier authorized to solve his request.	All customers The customer has to submit the evidence that she/he has already addressed her/his written request to DSO/supplier authorized to solve his request.
Georgia	All customers	All customers
Italy	all households; small businesses connected at low voltage (with fewer than 50 employees and a yearly turnover not exceeding 10 million euros); prosumers (in case ADR procedure is run by other entities: cf Tables 1, 2, 3)	all households; condominium for residential use with annual consumptions not exceeding 200.000 cubic meter; small businesses with annual consumptions not exceeding 50.000 cubic meter (in case ADR procedure is run by other entities: cf Tables 1, 2, 3)
Kosovo*	All customers have access to ADR	
FYR of Macedonia	All customers	All customers
Serbia	All customers	All customers

	Electricity	Gas
Ukraine	<p>According to Electricity Law business entities and individuals that use energy for their own needs on the basis of the agreement on sale and purchase have access to ADR.</p> <p>According to Article 20 of Law On citizens' appeals of citizens who have benefits prescribed by law are considered as a priority</p>	<p>According to the Law On Natural Gas Market individuals, entrepreneurs or legal entities receiving natural gas in a contract of supply of natural gas to be used for their own use and not for resale, or use as a raw material have access to ADR.</p> <p>According to Article 20 of Law On citizens' appeals of citizens who have benefits prescribed by law are considered as a priority</p>

In the respondent countries **all customers have access to ADR**. Only in Italy large customers are not entitled to submit a request to the Conciliation Service but they are allowed to benefit from other ADR entities.

Question 16 Does the access to ADR preclude the possibility of seeking redress through court proceeding?

	Electricity	Gas
Albania	<p><b>NO</b> - The decision of ERE can be contested in the court.</p> <p><b>Article 24/4</b> of Law “On Power Sector“ specified that: <i>The submission of the complaint does not deprive any interested party to resort to judicial bodies. In this case if the customer or the supplier under the ADR procedure have an agreement in that case in will be no necessary for seeking redress through court proceeding.</i></p>	
Bosnia and Herzegovina	<b>NO</b>	<b>NO</b>
Georgia	<b>NO</b> - Decisions taken by the Commission may be appealed in court in a manner prescribed by law.	<b>NO</b> - Decisions taken by the Commission may be appealed in court in a manner prescribed by law.
Italy	<b>NO</b> - The agreement, however, has the nature of a mediation contract and in some cases civil law does not permit parties to turn the settled dispute to the court (for example, the mediation agreement cannot be annulled by the Court even though there is a damage or the parties have erred in law).	<b>NO</b> - The agreement, however, has the nature of a mediation contract and in some cases civil law does not permit parties to turn the settled dispute to the court (for example, the mediation agreement cannot be annulled by the Court even though there is a damage or the parties have erred in law).
Kosovo*	<b>NO</b>	
FYR of Macedonia	<b>NO</b>	<b>NO</b>



	Electricity	Gas
Serbia	<b>NO</b> , only for disputes solving by NR	<b>NO</b> , only for disputes solving by NR
Ukraine	<b>NO</b>	<b>NO</b>

In most analyzed markets it is possible to **appeal to the Court in order to challenge the decision/the agreement.**

Question 17 Is it necessary for the customer to be advised by a lawyer or by a third party when approaching ADR?

	Electricity	Gas	Comment
Albania	<p><b>NO</b> - It is not necessary for the customer to be advised by a lawyer when approaching ADR. It is a application form for the complaint which is very easy to understand. In all the procedures the customer are assisted by responsible person which has the duty for advised them in any steps of the procedures.</p> <p>But this does not exclude the fact in case that they wish to have a lawyer or anybody else to help them.</p>		
Bosnia and Herzegovina	<b>NO</b>	<b>NO</b>	
Georgia	<b>NO</b> - It is not necessary to be advised by a lawyer or by a third party, but Public Defender of Consumers' Interests provides necessary assistance during the administrative proceedings. Furthermore, assistance		

	is also provided by the staff of GNER		
	<b>Electricity</b>	<b>Gas</b>	<b>Comment</b>
Italy	<b>NO</b>	<b>NO</b>	
Kosovo*	<b>NO</b>		
FYR of Macedonia	<b>NO</b>	<b>NO</b>	Although it is not necessary, it is advisable to use advice by a lawyer.
Serbia	<b>NO</b>	<b>NO</b>	
Ukraine	<b>NO</b>	<b>NO</b>	It is not necessary however customer has the right to be advised by a lawyer or by a third party when approaching ADR.

In the analyzed markets it is not necessary to be advised by a lawyer. In Albania and Georgia customers are supported and helped. However, the customer is free to choose to be assisted by a lawyer.

### III. SUMMARY AND CONCLUSIONS

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Alternative dispute resolution (ADR) is an efficient tool to solve disputes between a customer and an energy supplier/network operator due to the fact that it offers a simple, fast and low cost solution to disputes.

In addition, the availability of ADR increases customers' trust in the functioning of the market. When a customer is aware that a dispute may be solved quickly and efficiently, s/he is more inclined to be active in the market. This is especially true when ADR is reliable, fast, inexpensive and run by an independent and impartial entity.

Customer protection is one of the main pillars of the Energy Community *acquis communautaire*: Electricity Directive Directive 2009/72/EC<sup>16</sup> and Gas Directive 2009/73/EC<sup>17</sup> devoted provisions of Article 3 to public service obligations and customer protection. Protection of household customers included the measures explicitly mentioned in Annex I of both Directives. As regards the topic of this report, in addition to the Third Package requirements Directive 2009/72/EC<sup>18</sup> requires Energy Community Contracting Parties and European Members States to ensure that an independent mechanism such as an energy ombudsman or a consumer body is in place in order to ensure efficient treatment of complaints and out-of-court dispute settlements. Furthermore, Annex I point f of the above Directive states that consumers at least have the right to benefit from transparent, simple and inexpensive procedures for dealing with their complaints and that such out-of-court dispute settlements procedures shall enable disputes to be settled fairly and promptly, preferably within three months, with provision, where warranted, for a system of reimbursement and/or compensation. The same provisions are included in Directive 2009/73/EC<sup>19</sup> and its Annex I.

On EU level in addition Directive 2013/11/EU<sup>20</sup> and Regulation (EU) 524/2013<sup>21</sup> specifically cover the topic of alternative and online dispute resolution for consumer disputes. Both legal acts are not applicable in the Energy Community Contracting Parties. Still, **despite the lack of a legally binding basis the following positive findings have to be pointed out for the analyzed markets:**

1. **Availability of ADR mechanisms and independence of ADR entities:** according to the information provided by the respondent countries, ADR mechanisms are in place for the energy sector in all countries; Montenegro is about to set up ADR according to the new energy law. Disputes in the energy sector may be solved by more than one institution: in

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<sup>16</sup> OJ L 211 of 14.8.2009, p. 55 et seq; the adapted version applicable in the Energy Community was adopted by Ministerial Council Decision 2011/02/MC-EnC.

<sup>17</sup> OJ L 211 of 14.8.2009, p. 94 et seq; the adapted version applicable in the Energy Community was adopted by Ministerial Council Decision 2011/02/MC-EnC.

<sup>18</sup> Art. 3 (13).

<sup>19</sup> Art. 3 (9).

<sup>20</sup> Directive 2013/11/EU on alternative dispute resolution for consumer disputes, OJ L 165 of 16.8.2013, p 63 et seq.

<sup>21</sup> Regulation (EU) 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes, OJ L 165 of 16.8.2013, p 1 et seq.

most of the analyzed markets ADR is run by independent entities and the energy regulator operates as ADR body; moreover, an industry/company mediator cannot be defined as company ombudsman.

2. **Accessibility to the procedure:** in most of the analyzed markets, the ADR procedure is generally available to all customers and a wide range of disputes can be settled through it. In some countries, customers must contact the trader in the first instance and ADR is a further step in the complaint process. As regards the way of submitting the request to the ADR body, only in two of the analyzed markets on line procedure is available. In other countries the request may be submitted on line. This means that there is room for improvement, if one considers that an entirely on line procedure is able to speed up the resolution of a dispute and it can benefit customers shopping across borders.
3. **Bindingness of the procedure:** in the analyzed markets the operator is generally forced to take part in the procedure.
4. **Bindingness of the solution:** the final outcome of the procedure – be it an agreement signed by the parties with the help of a mediator or an arbitration decision - is reached thanks to a third party and it is binding. The ADR mechanism is an alternative to court, but parties can challenge the decision of the ADR body or the agreement by asking a court to review it.
5. **Duration of the procedure and costs:** in the analyzed markets ADR helps to speed up the resolution of the dispute and to solve it in a simple, quick and inexpensive (free of charge or at nominal charges) manner, away from courts. A maximum time of the procedure is imposed in most of the countries.
6. **Legal advice:** in the analyzed markets the customer is not obliged to be assisted by a lawyer. However, the procedure does not deprive the customer of his right for independent advice or to be represented/assisted by a third party at any stage of the procedure.
7. **Information:** in most of the analyzed markets customers are informed about ADR mechanisms. However, due to the fact that the channels have not been listed with the exception of two countries, there might be room for improvement regarding informing customers about their right to benefit from out of court settlement mechanisms.
8. **Monitoring:** in most of the countries ADR is monitored. However, the number of disputes that have been solved is available even though the monitoring is not in place. As regards the usefulness of monitoring, and taking into consideration that European Commission, ERGEG/CEER and ECRB<sup>22</sup> have during the past years addressed the topic of harmonized methodologies for classifying and reporting consumer complaints and enquiries, also for ADR procedures a classification might be useful.

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<sup>22</sup> COMMISSION RECOMMENDATION of 12.5.2010 on the use of a harmonized methodology for classifying and reporting consumer complaints and enquiries, SEC(2010)572; ERGEG GGP on Customer Complaint Handling, Reporting and Classification, Ref: E10-CEM-33-05, 10 June 2010; ECRB Status Review of the Implementation of the GGP on Complaint Handling, Reporting and Classification as of 1 January 2011, Ref: C11-CEM-45-03, 05-09-2011.