



# **WB6 Electricity Monitoring Report**

**Energy Community Secretariat  
June 2018**



## Introduction



## Creating a Regional Electricity Market in the Western Balkans

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

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

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

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

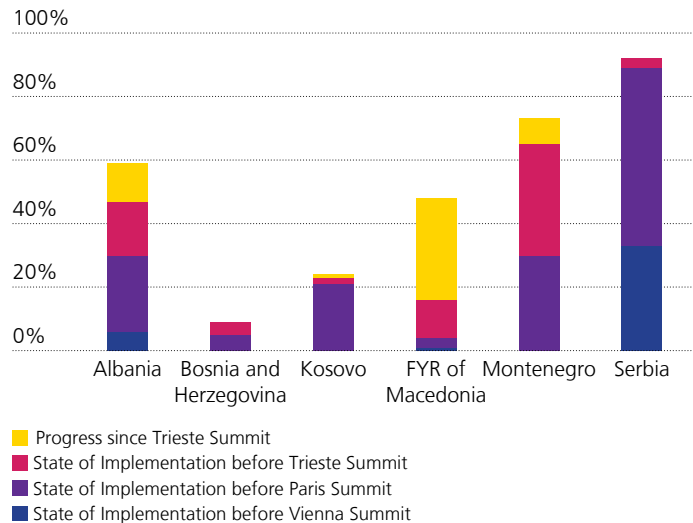
Progress in this reporting period was marked by the adoption of a Third Energy Package compliant Law in former Yugoslav Republic of Macedonia. Now, Bosnia and Herzegovina remains the only WB6 party where primary legislation necessary to reform and integrate the electricity market is still missing.

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

# Overall progress in Soft Measures implementation

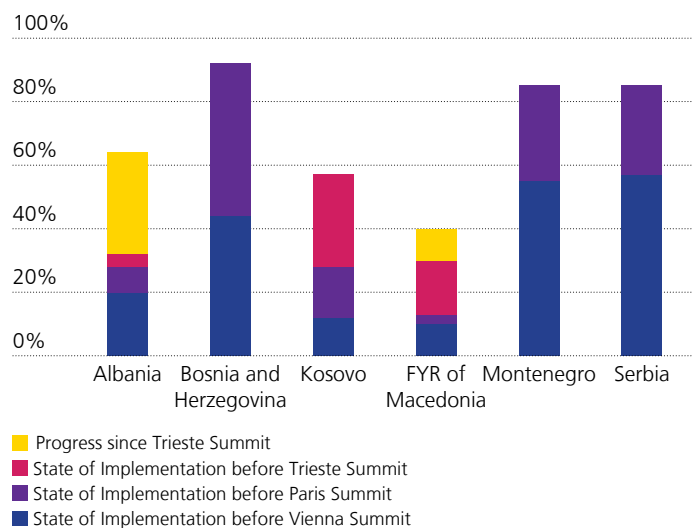
## Spot Market Development

In 2018, the legal framework necessary for setting up a day-ahead market was completed in most of the WB6. Albania removed the remaining legal obstacles to the establishment of a power exchange by amending the Power Sector Law in February. Most recently, former Yugoslav Republic of Macedonia adopted the new Energy Law, which sets the legal ground for the development of a day-ahead market. Now, Bosnia and Herzegovina remains the only WB6 party where responsibilities for organisation of a day-ahead market are not defined. Implementation is still coming at a slow pace. The most advanced is Montenegro, where a power exchange company BELEN was set up in August 2017 and a process of finding a strategic partner is ongoing. Establishment of the Albanian power exchange, to be owned by the transmission system operators of Albania and Kosovo, is pending adoption of the Council of Ministers' decision, whereas in former Yugoslav Republic of Macedonia the market operator is to be spun out from the Macedonian transmission system operator by September 2018. In Bosnia and Herzegovina the process is stalled. The Serbian power exchange, SEEPEX, remains the only operational day-ahead market in WB6.



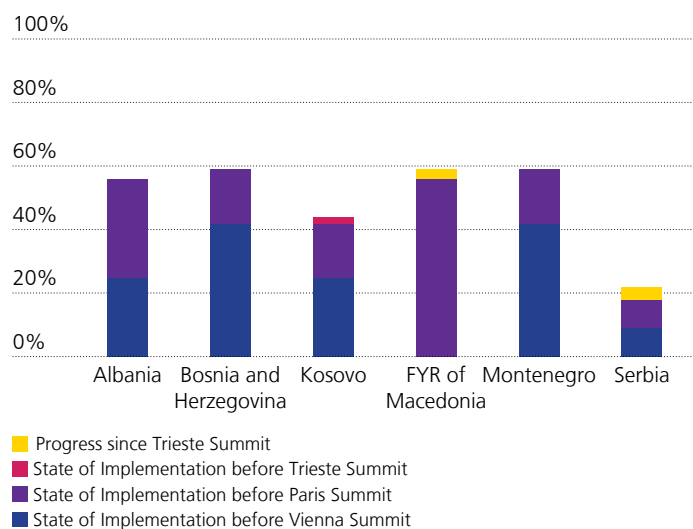
## Cross-border Balancing

Major obstacles to the implementation of a market-based and non-discriminatory balancing and imbalance settlement were removed in the WB6. Former Yugoslav Republic of Macedonia is the only WB6 party where regulated companies are effectively still exempted from balance responsibility. The new Energy Law defines non-discriminatory balance responsibility, but balancing rules that shall implement this provision of the Law are still to be adopted. As of 2018, Albania implemented transitional balancing rules, introducing non-discriminatory imbalance settlement. In practice, the provision of balancing services is essentially limited to one single balancing service provider, namely the incumbent producer, except in Bosnia and Herzegovina, where four big production companies are competing in the balancing market. The provision of balancing services from demand response facilities is exercised in Bosnia and Herzegovina and Montenegro only. Further reform of balancing rules and contractual arrangements are needed in WB6 in order to allow for cross-border integration and access of new entrants into the market.



## Regional Capacity Allocation

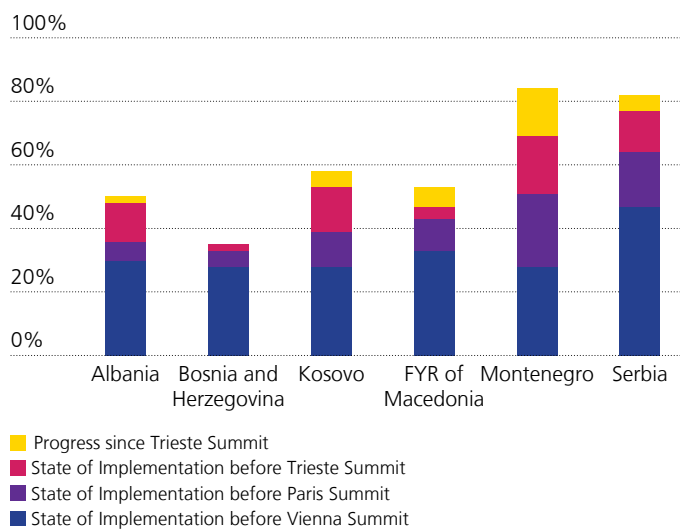
The only achievement in this area was the start of coordinated allocation of capacities on the border between Croatia and Serbia through Joint Auction Office (JAO) as of 2018. However, the transmission system operator of Serbia is still not allocating capacities on other borders through the regional auction office. An agreement with SEE CAO has still not been made. There was also no progress in implementing the bilateral agreements between the transmission system operators of Kosovo and Serbia. The lack of progress with respect to the entry into force of the Connection Agreement between KOSTT and ENTSO-E continues to constitute the single largest obstacle to regional cooperation in the WB6. Negotiations between Serbia and Kosovo on this long-standing dispute are facilitated by the Energy Community Dispute Resolution and Negotiation Centre and supported by technical assistance provided under the WB6 regional energy market connectivity programme. Concrete progress is yet to be made.



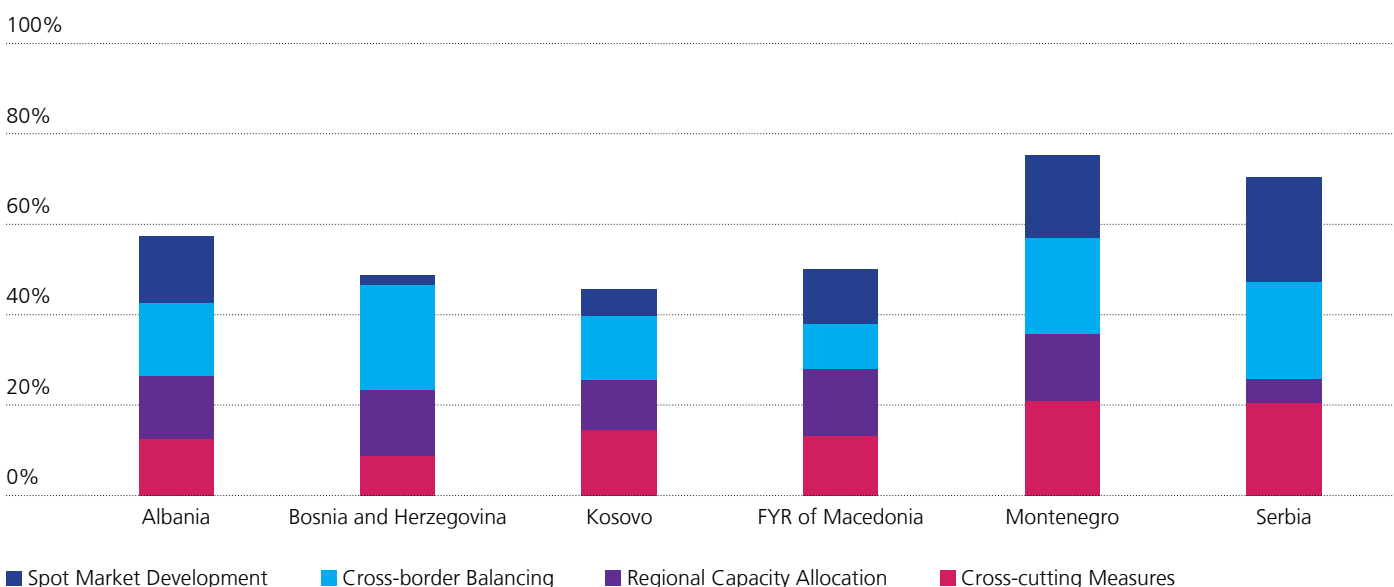
## Cross-cutting measures

In terms of price deregulation, unbundling of system operators and institution strengthening, implementation is still only partial. The lack of progress in these areas is hindering the further opening of the wholesale and retail market. No progress has been made in Albania and Republika Srpska, one of the entities of Bosnia and Herzegovina, to fully deregulate wholesale prices. At retail level, prices for small and household customers continue to be regulated at a level that does not provide an incentive to alternative suppliers to enter the market. Furthermore, Albania withheld a right of customers at voltage levels below 35kV to change their supplier by the 2018 amendments to the Power Sector Law. The legal framework was improved in former Yugoslav Republic of Macedonia, where the new Energy Law phased out regulation of generation prices and established a right of all customers to switch their supplier. However, it is still to be implemented in practice.

The most notable progress was made in Montenegro, where both unbundling of the distribution system operator and certification of the transmission system operator were finalised.



## Overall Implementation of Soft Measures

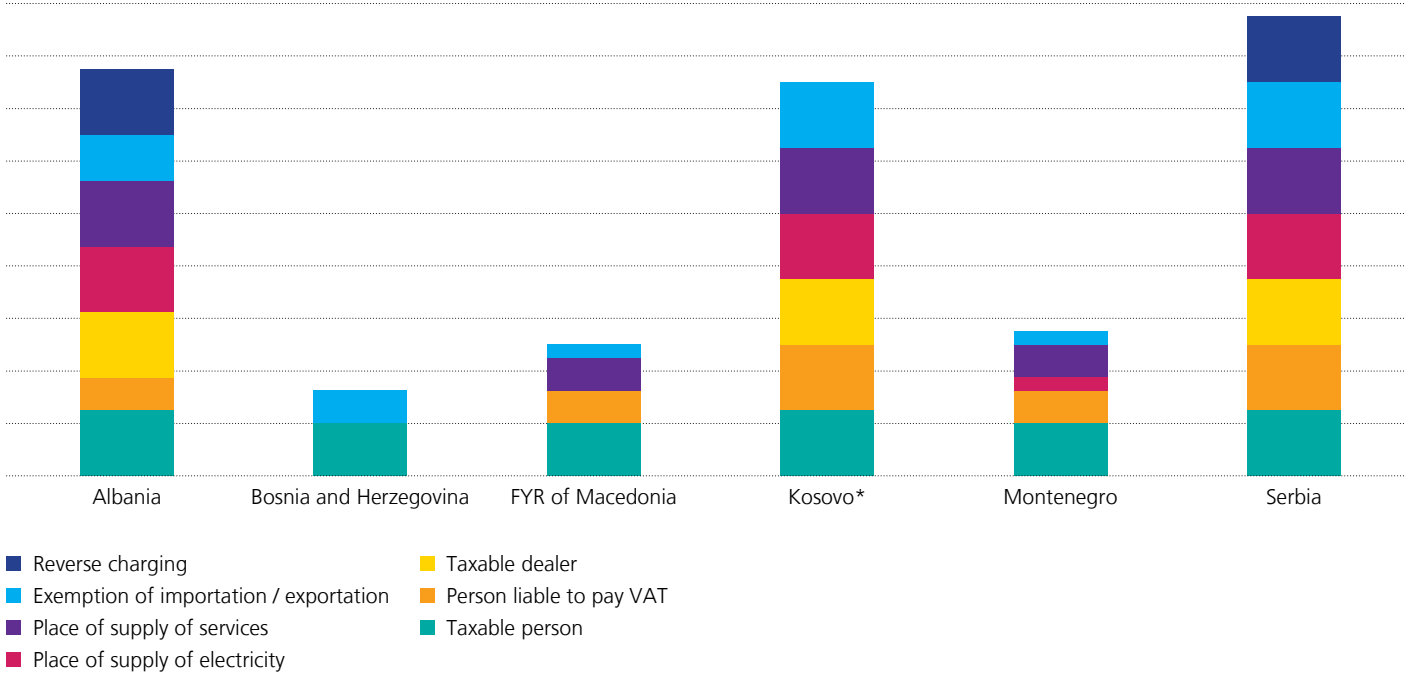


Activities to remove the major legal obstacles to the implementation of day-ahead and balancing markets and their regional integration were generally completed in the reporting period. This shifted the focus of the WB6 to concrete projects for setting up day-ahead market operators and market coupling. These activities were to a large extent supported by the technical assistance to regional energy market connectivity in the Western Balkans, financed by the European Commission and implemented by the Energy Community Secretariat. According to the plans, day-ahead markets in Albania, Bosnia and Herzegovina, former Yugoslav Republic of Macedonia and Montenegro are expected to become operational and ready for coupling with neighbouring markets by July 2019.

Whether these targets will be accomplished will depend not only on the ongoing institutional and regulatory reforms in the energy sector, but also on changes in value added tax regimes in line with EU best practice. Supporting the functioning of the day-ahead markets, VAT law is also needed to prevent and combat VAT fraud in cross-border trade.

Opening of national retail and wholesale markets and their regional and pan-European integration requires a level playing field for all participants, including also harmonization of public procurement rules, in particular procurement of energy by contracting authorities and procurement procedures applicable to energy undertakings.

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



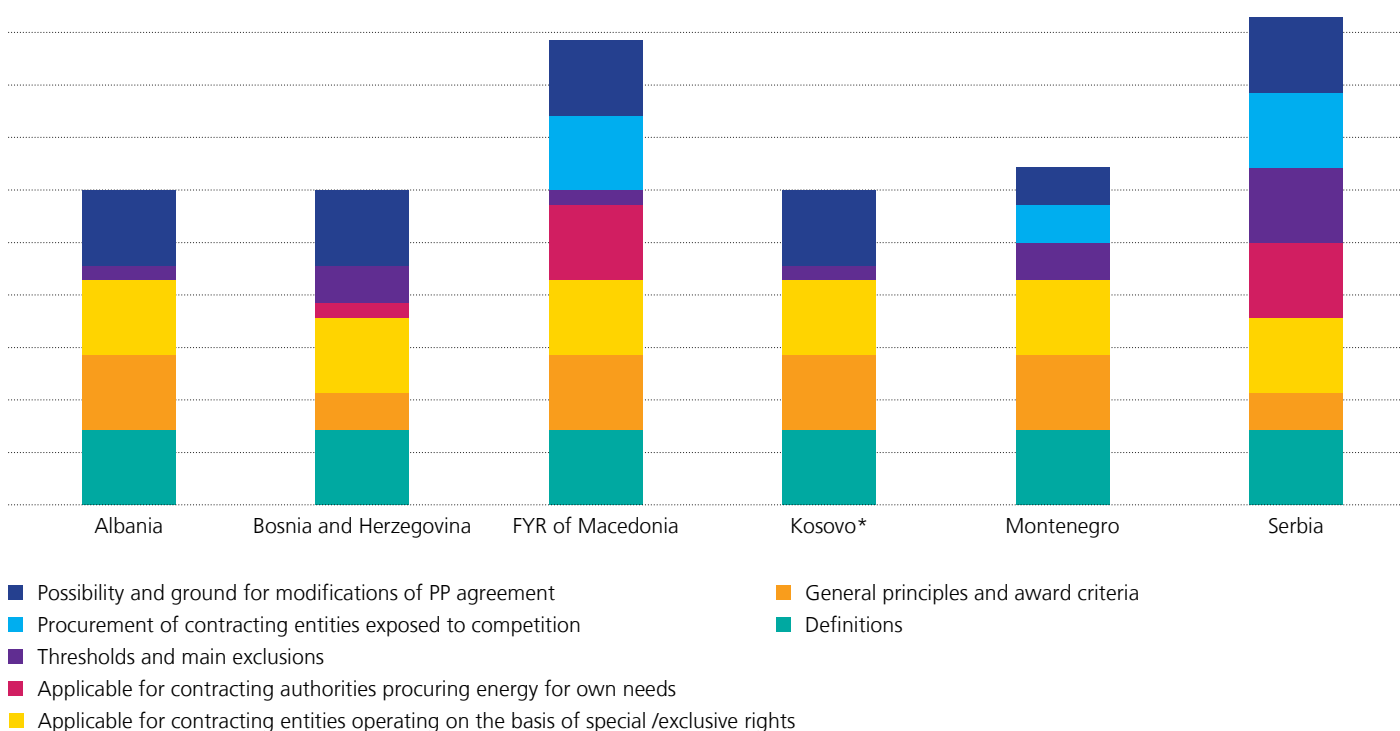
Different regimes for the treatment of value added tax on cross-border transactions in electricity have a deterring impact on market integration, increasing the risks of double taxation, tax evasion and tax fraud. Tax fraud alone poses one of the greatest risks to maintaining confidence in trading on organized markets and market coupling.

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

If an organized market is to be established, pertinent taxation rules must be harmonized across the WB6 and with neighbouring EU Member States, as a precondition for market coupling and cross-border balancing.

Albania, Kosovo and Serbia have already aligned their legislation with EU rules and practice to a great deal. Bosnia and Herzegovina is preparing a new VAT Law to transpose the relevant provisions enabling cross-border trade and market coupling, compliant with EU practice. Montenegro and former Yugoslav Republic of Macedonia, although ahead in the process of setting up a power exchange, have not begun adjusting their VAT legislation.

## Implementation of harmonized public procurement rules for specific energy related procurements



Unlike the case of VAT legislation, implementation of EU law in the area of public procurement is more challenging. Although national legislation is aligned with EU rules to a great extent in most WB6 parties, implementation does not follow. Economic operators in the energy sectors with special and exclusive rights are obliged to apply public procurement rules in all Contracting Parties, but this is not the case in practice.

In addition, the transitional measures in force do not encourage competition on the wholesale level.

The low level of competition in the market is the main reason for delaying the mandatory implementation of public pro-

urement rules by contracting entities, such as is the case of Albania, Kosovo and Montenegro.

Contracting authorities are obliged to apply public procurement rules to procure electricity for their own needs only in Serbia and in former Yugoslav Republic of Macedonia.

Preferential treatment of domestic bidders was introduced in Bosnia and Herzegovina and Serbia.

In addition, there is a need to improve procurement techniques and instruments in all WB6 parties.





### Spot Market Development

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

In mid-February 2018, the Parliament adopted a set of amendments to the Power Sector Law necessary for the establishment and operation of an organised day-ahead electricity market, thus removing the remaining obstacles to the establishment of the Albanian power exchange (APEX). Now there is no more justification not to establish APEX in line with the market model.

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

The 2018 amendments to the Power Sector Law defined a market operator as a body responsible for organising and operating APEX. The Council of Ministers’ decision on the establishment, legal form and ownership structure of the market operator, which is to be adopted within six months following the entry into force of the amendments, is still in the drafting phase. In March 2018, the transmission system operator OST invited the transmission system operators of Kosovo, former Yugoslav Republic of Macedonia and Montenegro to join APEX as shareholders, the transmission system operator of Kosovo confirmed its interest. APEX is expected to go live in the first half of 2019.

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

The market model includes a strategy for promoting liquidity based on so-called import/export zones and other measures for an interim period until market coupling takes place. The model also foresees the mandatory participation of the main market players in a phased approach. However, the Council of Ministers’ Decision on public service obligations (amended in December 2017) continues to oblige the distribution system operator OSHEE to purchase the electricity needed for universal service and losses exclusively from KESh, which is in breach of the acquis. This prevents liquidity in the wholesale market. The transmission system operator is purchasing electricity for covering network losses via an electronic procurement platform.

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

A project on coupling the day-ahead markets of Albania and Kosovo is ongoing under the WB6 regional energy market connectivity programme. A Memorandum of Understanding on day-ahead market coupling between the transmission system operators and national regulatory authorities of Albania and Kosovo is expected to be signed by the end of June 2018. The MoU envisages the coupling of these two markets to be finalised by end June 2019. A Memorandum of Understanding on cooperation on the establishment and operation of the Albanian power exchange between Ministries of Kosovo and Albania was signed in November 2017. No progress on coupling Albania with Montenegro, Italy and Serbia has been reported yet.

**Spot Market Development**

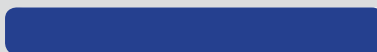
Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat



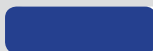
Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade



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



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



**Total for spot market development**







## Cross-border Balancing

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

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

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

In November 2017, ERE adopted transitional balancing rules, drafted with technical assistance from the WB6 regional en-

ergy market connectivity programme. Implementation of a developed mechanism for the cross-border procurement of secondary reserves between the transmission system operators of Kosovo and Albania depends on the entry into force of the Connection Agreement between KOSTT and ENTSO-E.

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

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

#### Cross-border Balancing

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



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



Establishment of a functioning national balancing market based on above model



#### Total for cross-border balancing





## Regional Capacity Allocation

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

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

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

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

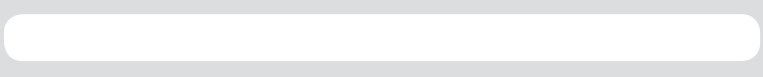
There is no lack of support by WB6 countries. This task depends on support from the European Commission.

#### Regional Capacity Allocation

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



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



#### Total for regional capacity allocation



## Cross-cutting Measures

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

The Power Sector Law deregulated prices of generation and supply for all customers connected to the high voltage grid (110 kV and above) and for those with an annual consumption of over 50 million kWh. According to the Law, the retail price for all customers, except 0.4 kV customers, should have also been already deregulated. As of 2018, the necessary prerequisites for 35 kV customers to switch supplier are in place. In practice, the majority of 35 kV customers have not switched supplier due to the possibility given by the Power Sector Law amendments of February 2018 to continue to be supplied by a last resort supplier for a period of two years as of the date when they are informed by the distribution system operator that they are technically ready to change their supplier. This effectively postponed market opening and infringes the eligibility right of customers. This is a serious setback in Albania's efforts to reform its electricity sector. Moreover, the regulated wholesale supply contract between KESh and OSHEE continues to be in force. According to the amendments to the Council of Ministers' Decision imposing public service obligations, the price and quantity of electricity

that KESh is selling to OSHEE for universal service supply is determined by the Minister.

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

Unbundling of the distribution system operator within the state-owned joint stock company OSHEE has started but not yielded tangible results. The Secretariat initiated a dispute settlement case on the lack of distribution system operator unbundling in January 2018. In March 2018, OSHEE created three new companies - the Universal Service Supplier, the Free Market Supplier and the Distribution System Operator, without, however, taking up any activities. The resources necessary for conducting distribution activities have to be made available urgently to the newly established Distribution System Operator.

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

The Power Sector Law gives the regulator only weak sanctioning powers, which need to be improved by increasing the penalty levels.

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

ERE has not applied for observer status yet.



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

The transmission system operator of Albania was unbundled and certified by the regulator in line with the Secretariat’s Opinion. Following the certification, the transmission system operator became member of ENTSO-E in April 2017. Certain conditions requested by the Secretariat and the regulator were not fulfilled within the deadline of 15 March 2018, which was postponed by a year.

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

The national competition and State aid authorities cooperate

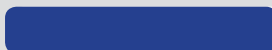
well with the Secretariat. The effectiveness of the national competition and State aid authorities in the energy sector is not satisfactory. Due to the restructuring of the administration, the State aid authority lacks an operational body to whom grantors may notify State aid and which prepares the decisions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

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

The country has not started activities to transpose the Trans-European Network Regulation, despite the fact that the deadline has expired on 1 January 2017. The Secretariat started infringement procedures.

**Cross-cutting Measures**

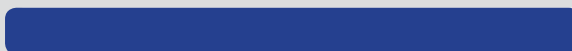
Eliminate price regulation of generation and for other than small enterprises and household customers, and adopt national action plans for phasing out price regulation in general



Legal and functional unbundling of distribution system operators and supply companies



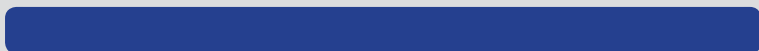
Ensure independence of national energy regulatory authorities based on pre-defined indicators



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



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



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



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



**Total for cross-cutting measures**





## Spot Market Development

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

The Government of Bosnia and Herzegovina again failed to approve the State Law on Regulator, Transmission and Power Market and the complementary law on establishment of a transmission system operator. In October 2017, the Secretariat requested the Energy Community Ministerial Council to establish a serious and persistent breach under Article 92 of the Treaty for failure to transpose the Third Energy Package. No progress has been achieved since a meeting of Prime Ministers and Ministers in charge of energy of both entities and the State in November 2017. The two entity governments have still not submitted to the state Ministry their position on the draft Law. The Ministerial Council of the Energy Community is requested to qualify this as a serious and persistent breach of the Energy Community acquis.

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

Technical assistance to support identifying a viable solution for the establishment of an organised day-ahead market in Bosnia and Herzegovina was provided under the WB6 regional energy market connectivity programme. According to its findings, an optimal solution would be to establish an entity responsible for organising a day-ahead market in Bosnia and Herzegovina. The current legal framework does not define

competences for establishing such an entity, which blocks the process of setting up a day-ahead market in Bosnia and Herzegovina. Although preparatory activities, such as for the selection of a service provider, could well have started without a law, no action has been taken.

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

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

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

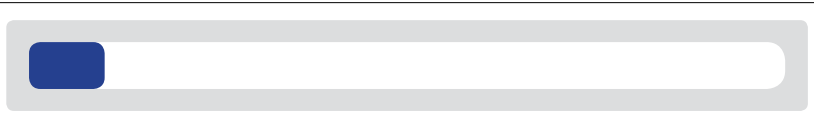
Along with the establishment of the national day-ahead market, implementation of market coupling of Bosnia and Herzegovina with Croatia, Montenegro and Serbia is envisaged under the roadmap for regional day-ahead market integration in Western Balkans. The Croatian day-ahead market operator CROPEX expressed its interest in receiving technical assistance for implementation of day-ahead market coupling between Croatia and Bosnia and Herzegovina under the WB6 regional energy market connectivity programme. The project is blocked by the lack of interest in Bosnia and Herzegovina.

## Spot Market Development

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



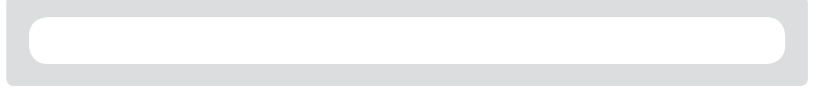
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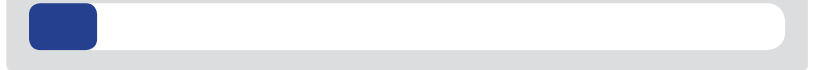
Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc.



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



### Total for spot market development





## Cross-border Balancing

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

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

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

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

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

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

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

#### Cross-border Balancing

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



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



Establishment of a functioning national balancing market based on above model



#### Total for cross-border balancing







## Regional Capacity Allocation

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

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

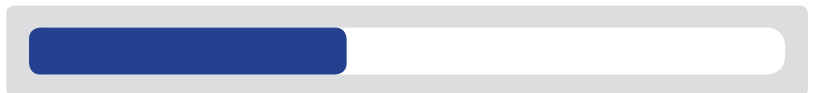
with the transmission system operators of Montenegro and Serbia in August 2015. However, the European Commission has expressed concern about SCC's legitimacy as regional security coordinator given the non-applicability of the System Operation Guideline in the Energy Community and in light of the EMS-KOSTT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

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

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

#### Regional Capacity Allocation

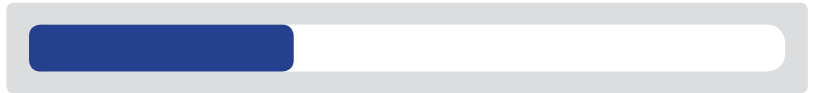
Introduction of a coordinated capacity calculation process for the allocation of day ahead capacities based on a regionally coordinated congestion forecast



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



#### Total for regional capacity allocation



## Cross-cutting Measures

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

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

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

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

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

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

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

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

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

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

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





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

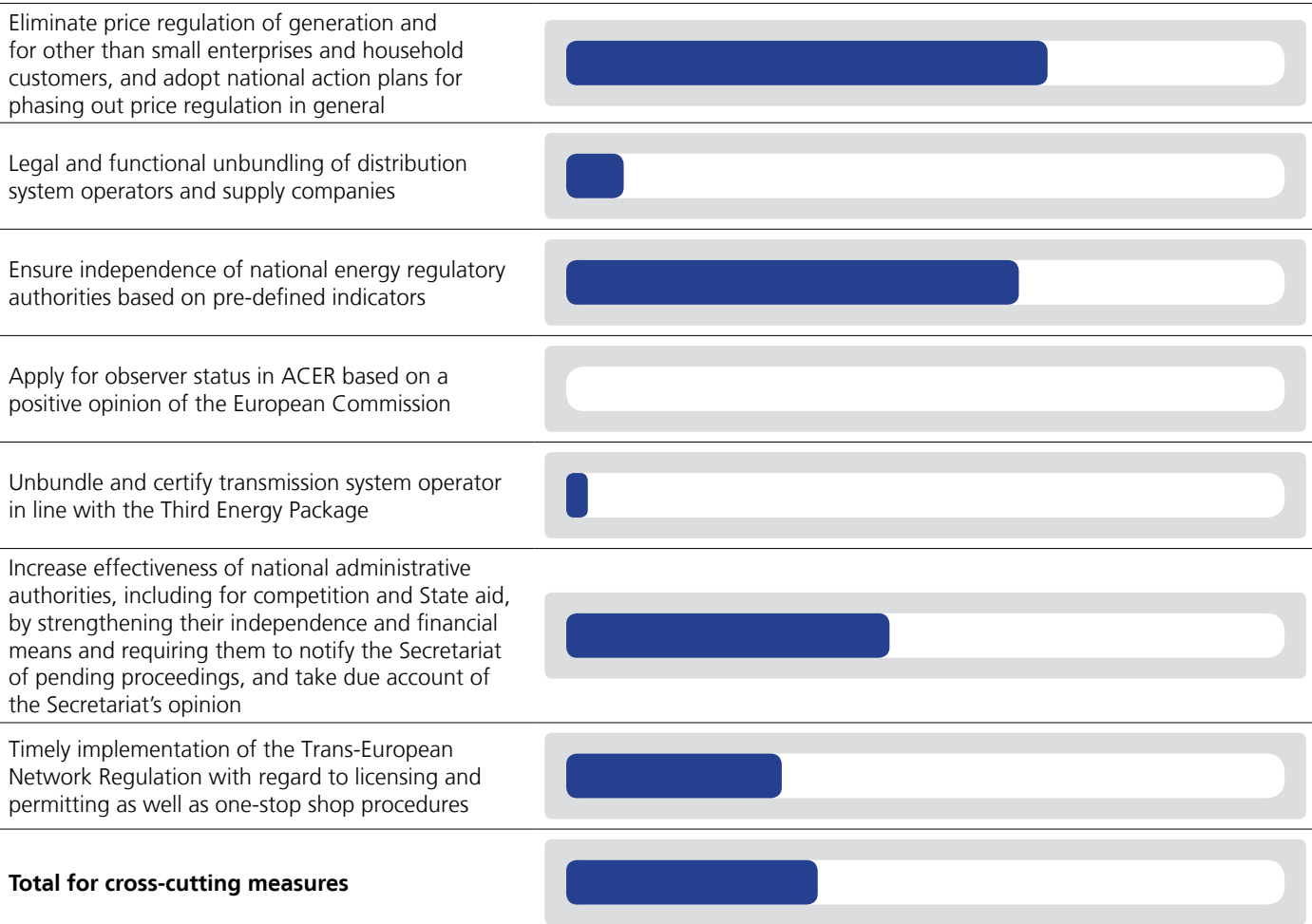
The competition and State aid enforcement authorities do not enforce the respective rules nor do they make use of the cooperation mechanism stipulated under Article 2 of the Energy Community Dispute Settlement Rules. National com-

petition and State aid authorities are not effective. The State Aid Council in particular lacks sufficient human resources.

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

In spite of the provided technical assistance, Bosnia and Herzegovina has still not transposed the Trans-European Network Regulation, the deadline for which expired already on 1 January 2017. The Secretariat started infringement procedures.

**Cross-cutting Measures**





## Spot Market Development

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

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

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

Progress in this area depends on the decision to establish a power exchange in Albania. A Memorandum of Understanding on cooperation on the establishment and operation of the Albanian power exchange between the Ministries of Kosovo and Albania was signed in November 2017. The transmission system operator KOSTT confirmed its participation as a shareholder in the Albanian power exchange.

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

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

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

A project on coupling the day-ahead markets of Albania and Kosovo is ongoing under the WB6 regional energy market connectivity programme. A Memorandum of Understanding on day-ahead market coupling (between the transmission system operators and national regulatory authorities of Albania and Kosovo) was drafted and is expected to be signed by the end of June 2018. The MoU envisages the coupling of these two markets to be finalised by end June 2019. A Memorandum of Understanding on cooperation on the establishment and operation of the Albanian power exchange between the Ministries of Kosovo and Albania was signed in November 2017. However, this project is also jeopardized by the power purchase agreement concluded for Kosovo e Re.

## Spot Market Development

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



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



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



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



### Total for spot market development



## Cross-border Balancing

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

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

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

New balancing rules need to be developed by the transmission

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

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

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

#### Cross-border Balancing

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



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



Establishment of a functioning national balancing market based on above model



#### Total for cross-border balancing



## Regional Capacity Allocation

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

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

on this long-standing dispute are facilitated by the Energy Community Dispute Resolution and Negotiation Centre and supported by the technical assistance provided under the WB6 regional energy market connectivity programme.

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

A methodology for coordinated capacity calculation in the



Western Balkans region is missing. A technical assistance project aimed at developing a common capacity calculation methodology for South-east Europe has been launched under the WB6 regional energy market connectivity programme. The transmission system operator has not made a decision on joining any of the existing regional security coordinators.

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

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

### Regional Capacity Allocation

EMS (Serbia) and KOSTT (Kosovo) to implement the Framework and Inter-TSO Agreement	<div style="width: 100%; height: 20px; background-color: #ccc;"></div>
Introduction of a coordinated capacity calculation process for the allocation of day ahead capacities based on a regionally coordinated congestion forecast	<div style="width: 100%; height: 20px; background-color: #ccc;"><div style="width: 20%; height: 100%; background-color: #0056b3;"></div></div>
The Western Balkan Countries to support signing of agreements between SEE CAO and relevant EU Member States	<div style="width: 100%; height: 20px; background-color: #ccc;"></div>
<b>Total for regional capacity allocation</b>	<div style="width: 100%; height: 20px; background-color: #ccc;"><div style="width: 15%; height: 100%; background-color: #0056b3;"></div></div>

### Cross-cutting Measures

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

As of 1 April 2017, wholesale and supply prices for high voltage customers are deregulated. Transmission and distribution system operators are obliged to procure electricity for network losses at non-regulated prices. An action plan for further deregulation of retail prices is defined in a guideline on market liberalisation in Kosovo, issued by the regulator in January 2017. According to the guideline, prices of supply for medium voltage customers were to be deregulated by 31 March 2018. However, this has not happened. The regulator postponed deregulation of these prices until 1 April 2019.

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

This task was completed. Legal unbundling of the distribution system operator from supply is in effect as of 1 January 2015. The process of functional unbundling was completed in July 2015.

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

The Law on the Energy Regulator of June 2016 overcomes

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

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

ERO has not applied for observer status yet.

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

The Electricity Law foresees unbundling in a way that the Government controls the generation company KEK, while the transmission system operator KOSTT is controlled by Parliament. The transmission system operator has filed the application for certification to the regulator on 3 May 2018. The regulator must adopt a preliminary decision on certification of the transmission system operator within four months from the date of notification and submit it to the Secretariat for its Opinion.

#### Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending

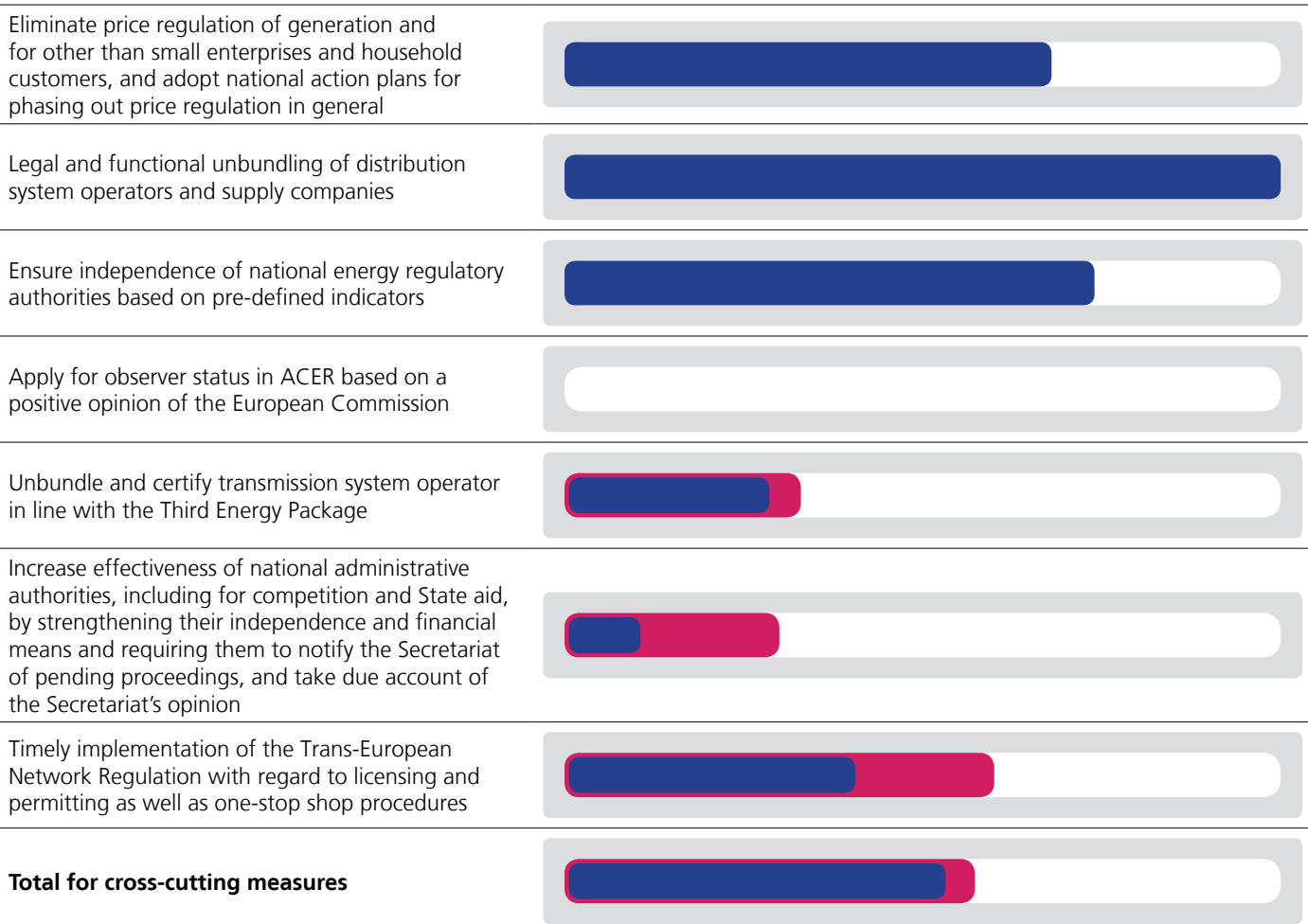
**proceedings, and take due account of the Secretariat’s opinion (July 2016)**

A new law on State aid was adopted in January 2017. According to its provisions, the State Aid Office has been transferred to the Ministry of Finance. Although progress has been made in setting up a State aid authority, the Secretariat intends to continue with the next steps in its infringement procedure based on the lack of effective State aid enforcement. The absence of functioning authorities exacerbates the lack of State aid compliance of the contractual framework for the Kosovo e Re project.

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

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

**Cross-cutting Measures**







## Spot Market Development

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

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

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

The new Energy Law requires a market operator to be established by the transmission system operator in early September 2018. The Energy Law provides the legal basis for the Government to decide either to appoint the market operator as an operator of the organised market, upon proposal by the regulator, or to launch a tender for the selection of an operator of the organised market.

The selection of an efficient way to establish the organised day-ahead market is supported by the technical assistance project under the WB6 regional energy market connectivity

programme. According to the analysis conducted, a market operator with domestic institutional ownership and a cost-effective service provision should be established.

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

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

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

Notable progress has been made towards the coupling of day-ahead markets of former Yugoslav Republic of Macedonia and Bulgaria. The market coupling project was kicked-off by the signature of a Memorandum of Understanding on electricity day-ahead market coupling between TSOs, NRAs and PX of Bulgaria and former Yugoslav Republic of Macedonia on 12 April 2018. The project envisages market coupling based on available transmission capacity and in compliance with requirements of multi-regional coupling (MRC). Ministers of Bulgaria and former Yugoslav Republic of Macedonia supported the project through a Memorandum of Understanding signed on 18 May 2018. The project is supported by the technical assistance project under the WB6 regional energy market connectivity programme.

## Spot Market Development

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



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



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



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



### Total for spot market development





## Cross-border Balancing

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

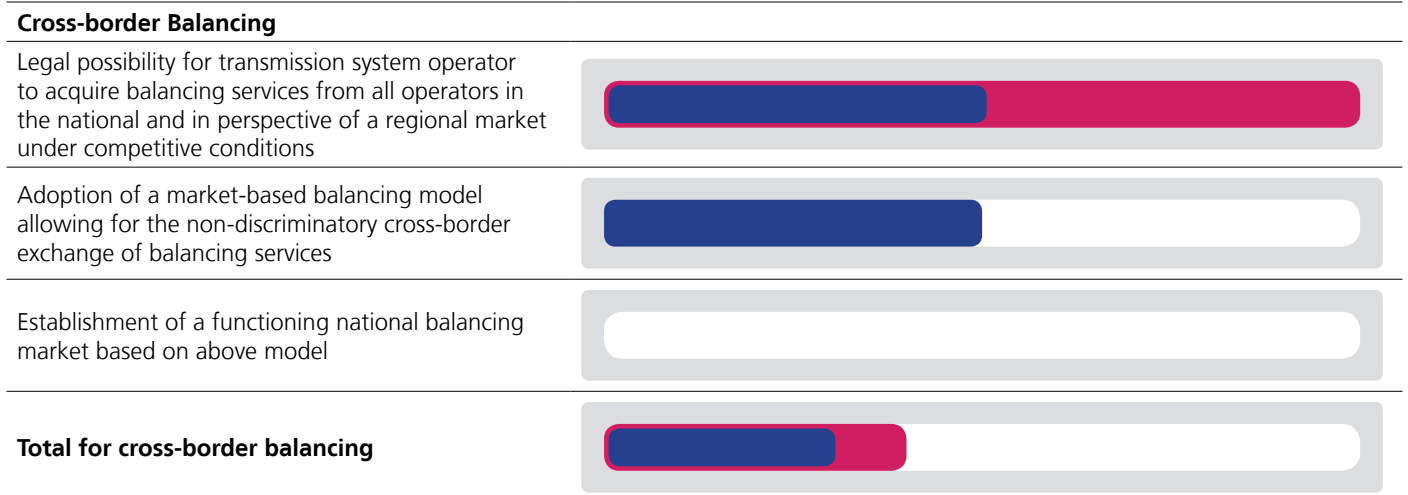
Legal obstacles to the transmission system operator to procure balancing services in a non-discriminatory and market-based manner were removed by the adoption of the new Energy Law.

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

The new Energy Law requires the transmission system operator to adopt new balancing rules by September 2018. The development of new balancing rules is supported by the technical assistance project under the WB6 regional energy market connectivity programme with a view to be finalised by the end of August 2018.

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

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



## Regional Capacity Allocation

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

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

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

A methodology for coordinated capacity calculation in the Western Balkans region is missing. A technical assistance project aimed at developing a common capacity calculation methodology for South-east Europe is ongoing under the WB6 regional energy market connectivity programme. As of March 2018, the transmission system operator is procuring services of a regional security coordinator, including coordi-



nated capacity calculation, from the Security Coordination Centre (SCC). However, the European Commission has expressed concern about SCC's legitimacy as a regional security coordinator given the non-applicability of the System Operation Guideline in the Energy Community and in light of the EMS-KOSTT dispute.

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

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

#### Regional Capacity Allocation

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



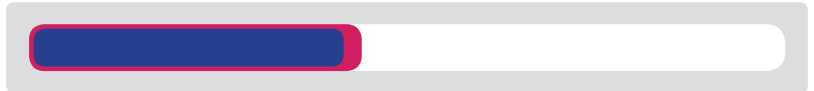
Binding agreements between TSOs from the former Yugoslav Republic of Macedonia, and Serbia with SEECAO on coordinated allocation



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



#### Total for regional capacity allocation



## Cross-cutting Measures

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

This measure was completed. The new Energy Law grants the eligibility right to all customers. The Secretariat withdrew the reasoned request submitted to the Ministerial Council for serious and persistent breaches of the Energy Community acquis.

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

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

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

Requirements for distribution system operator unbundling are fully transposed by the new Energy Law. In practice, the distribution system operator was legally unbundled from regulated supply of last resort in the distribution company EVN. On 1 January 2017, a new daughter company established by EVN was licenced for distribution. This company performs distribution activities with assets leased from the mother company. The compliance programme of EVN Distribution was approved by the regulatory authority in March 2017 and a compliance officer was appointed. A separate identity of the company through rebranding is to be established within six months as of the date when the law entered into force.

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

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

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

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

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

The new Energy Law provides the legal basis for unbundling and certification of the transmission system operator in line with the Third Energy Package. The Law defines the procedure for ownership unbundling of the transmission system operator. The Government shall adopt a decision on the transfer of shares of the transmission system operator to the Ministry of Transport by August 2018. Thirty days later, the transmission system operator shall initiate a certification procedure. The transmission system operator is obliged to appoint a compliance office within 90 days after the Law's entry into force.

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

The Commission for Protection of Competition, as the com-

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

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

Former Yugoslav Republic of Macedonia did not succeed in meeting the transposition and implementation deadlines defined by the Regulation. The manner in which the Regulation should be transposed and implemented was subject to technical assistance provided by the Energy Community Secretariat. Following the consultant's report, the Government adopted an action plan with a timeline for activities related to the transposition of the Regulation, setting 1 October 2018 as the deadline for the preparation and submission of the new law transposing the Regulation.

**Cross-cutting Measures**

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



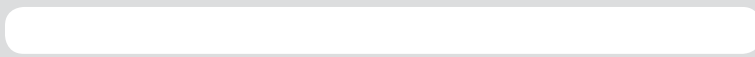
Legal and functional unbundling of distribution system operators and supply companies



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



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



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



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

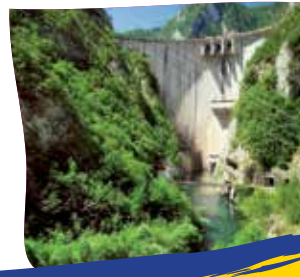


Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures



**Total for cross-cutting measures**





## Spot Market Development

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

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

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

A company responsible for establishing a power exchange, BELEN, was set up by the market operator COTEE, the transmission system operator CGES and the incumbent utility EPCG in August 2017. BELEN is in the process of selecting a strategic partner supported by technical assistance under the WB6 regional energy market connectivity programme. The tender procedure is expected to be finalised in Q3 2018. The launch of the day-ahead market, envisaged for the first half of 2019, will largely depend on an agreement with the selected partner.

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

No additional actions were taken to improve competition in the retail market. There are no alternative suppliers. All customers continue to be supplied by the incumbent supplier. Montenegro is the only WB6 country where a license for wholesale trade is not required, which should have enhanced the potential for market competition. The introduction of mandatory participation and selling of electricity from renewable sources in the day-ahead market are being discussed but no concrete results has been achieved.

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

The roadmap for day-ahead market integration in the Western Balkans includes coupling projects with all neighbouring WB6 parties and with Italy. No concrete progress has yet been made, since the decision on market coupling depends on the selection of the strategic partner.

### Spot Market Development

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



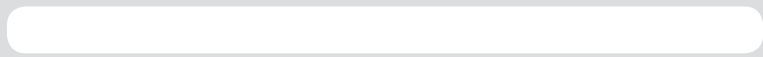
Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade



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



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



**Total for spot market development**





## Cross-border Balancing

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

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

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

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

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

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

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

#### Cross-border Balancing

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



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



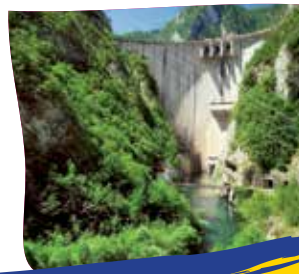
Establishment of a functioning national balancing market based on above model



#### Total for cross-border balancing







## Regional Capacity Allocation

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

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

The transmission system operator is a shareholder of the Security Coordination Centre (SCC), which was established

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

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

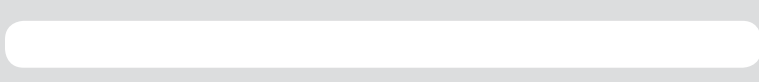
There is no lack of support by WB6 countries. This task depends on the support from the European Commission.

#### Regional Capacity Allocation

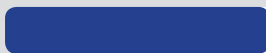
Introduction of a coordinated capacity calculation process for the allocation of day ahead capacities based on a regionally coordinated congestion forecast



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



#### Total for regional capacity allocation



## Cross-cutting Measures

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

The generation of electricity is not subject to price regulation. The Energy Law sets an action plan for market opening and development of competition in the retail market, according to which the prices of electricity supplied to final customers were to be deregulated as of 1 January 2017. The price of electricity supplied to households and small customers is subject to a price cap established by the regulator. The Government failed to select the supplier of last resort as envisaged by the Law. The secondary acts necessary for this process to be completed were drafted and are expected to be adopted by the end of June 2018.

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

This measure was completed. Legal unbundling of the distribution system operator was finalised in June 2016 with the establishment of Montenegrin Electricity Distribution System (CEDIS). A compliance programme of CEDIS was adopted

and approved by the national regulatory authority. A compliance officer was appointed. The first compliance report confirmed that the distribution system operator's behaviour was in conformity with the Law and the compliance programme. Rebranding was done in a compliant manner.

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

With the adoption of the new Energy Law, important improvements have been made in terms of regulatory independence. Still, the regulator lacks the full set of Third Energy Package independence requirements, including full autonomy over its budget, internal organisation and the power to issue penalties. No progress has been made to overcome the remaining shortcomings.

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

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





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

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

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

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

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

Montenegro prepared a draft Law on cross-border exchanges in electricity and natural gas and promotion of strategic projects, which shall transpose Regulation (EU) 347/2013. It is expected to be adopted by September 2018. The national competent authority should also be designated and become fully operational.

**Cross-cutting Measures**

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



Legal and functional unbundling of distribution system operators and supply companies



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



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



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



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



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



**Total for cross-cutting measures**





### Spot Market Development

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

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

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

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

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

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

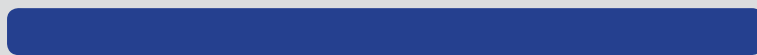
Trading on SEEPEX is voluntary and no regulatory measures promoting liquidity have been taken. In 2017, the trading volume on SEEPEX increased by 60%. A further increase of liquidity requires implementation of additional measures such as purchase of network losses, mandatory sales of electricity from renewable sources, further deregulation of retail prices and abandoning the licencing regime for wholesale.

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

SEEPEX and the Hungarian Power Exchange HUPX initiated activities to merge their businesses, based on the Memorandum of Understanding signed in February 2018 together with the transmission system operators of Hungary and Serbia and the European Power Exchange EPEXSPOT. Further steps are subject to negotiations. No progress on coupling with Montenegro, Albania and Italy has been reported yet.

**Spot Market Development**

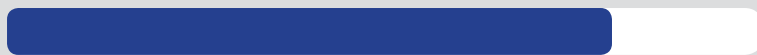
Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat



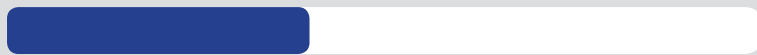
Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade



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



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



**Total for spot market development**



### Cross-border Balancing

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

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

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





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

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

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

No measures were taken to enable competition in the bal-

ancing market, where services are still provided by only one balancing service provider, the incumbent generation company EPS. The price of balancing reserves is still regulated on an annual basis. According to the first report on the need for further regulation of the balancing reserve price, published by the national regulatory authority in May 2017, the price shall continue to be regulated in order to prevent abuse of dominant position of the single reserve provider, EPS. This creates a vicious circle.

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

**Regional Capacity Allocation**

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

The contracts signed by the transmission system operators of Kosovo and Serbia in 2014 are still not implemented. They also failed to make progress in finalising agreements on compensation for past congestion management and ITC for an interim period. Negotiations between Serbia and Kosovo on this long-standing dispute are facilitated by the Energy Community Dispute Resolution and Negotiation Centre and supported by the technical assistance provided under the WB6 regional energy market connectivity programme.

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

Negotiations between the transmission system operator EMS and SEE CAO have stalled. As of 2018, EMS is allocating capacities on the border with Croatia through Joint Auction

Office (JAO), whereas on other borders the capacity allocation mechanism is not regionally coordinated.

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

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



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

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

### Regional Capacity Allocation

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



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



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



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



**Total for regional capacity allocation**



## Cross-cutting Measures

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

Prices of generation and supply were deregulated as of 1 January 2015, except the price of electricity supplied to households and small customers entitled to universal service. The regulated price of guaranteed supply does not provide sufficient incentive for alternative offers to emerge in the market. The lack of competition is used as a justification to continue regulation of these prices and postpone further the selection of a guaranteed supplier in a competitive procedure. This hampers the effective opening of the market for small customers and households.

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

While legal unbundling of distribution system operators from supply has been finalized, functional unbundling has not been completed yet. In June 2016, the regulatory authority approved the compliance programme and appointment of the compliance officer. The first compliance report of 30 June 2017 concludes that independence of the company in terms of organisation and decision-making still does not exist and that the compliance programme is still not implemented. Rec-

tifying this breach requires amendments to the founding act of the distribution system operator. Activities on aligning the statute of the distribution system operator with the Law on Public Enterprises and the Energy Law are ongoing.

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

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

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

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

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

On 4 August 2017, the regulator certified the transmission system operator as compliant with ownership unbundling rules of the Third Energy Package. In its Opinion issued on 15 June 2017, the Secretariat concluded that EMS is not un-



bundled in line with the ownership unbundling model. As the Law on Ministries was changed after the Secretariat issued its Opinion, the Secretariat formally requested the regulator to reopen the certification procedure on 15 September 2017. The Secretariat is currently assessing the reply of AERS received on 7 May 2018.

ed dispute settlement case. Another investigation regarding non-compliance with State aid rules regarding the Kostolac project is pending. The structure of the Commission for State Aid Control, which is closely linked to the Ministry of Finance, prevents the Commission from applying the State aid rules independently.

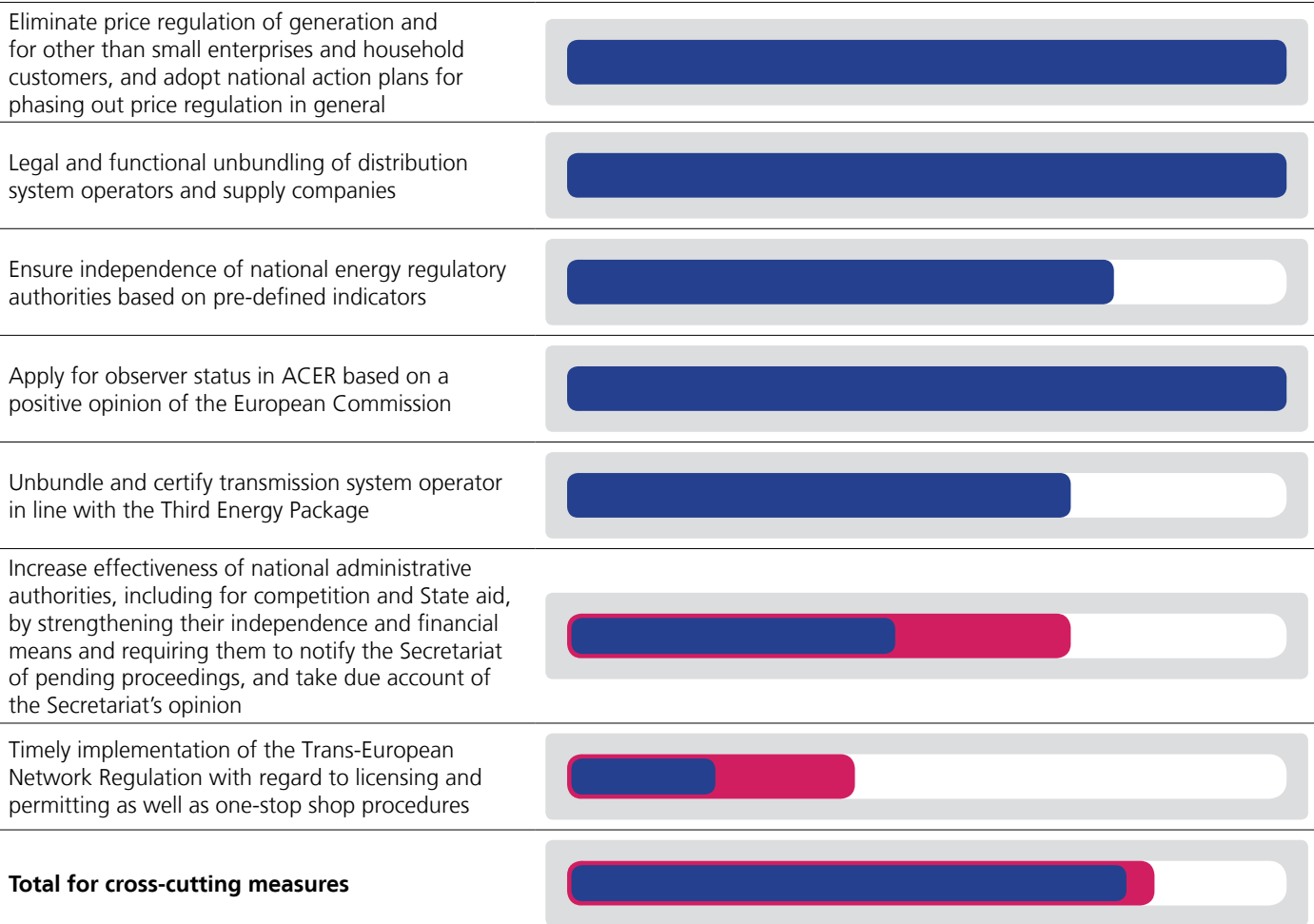
**Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending proceedings, and take due account of the Secretariat's opinion (July 2016)**

The Commission for State Aid Control started to cooperate with the Secretariat effectively. Namely, the Secretariat assisted the Commission for State Aid Control in the assessment of state support for the Kolubara B power plant project and, following the adoption of a compliant decision by the Commission for State Aid Control, the Secretariat closed the relat-

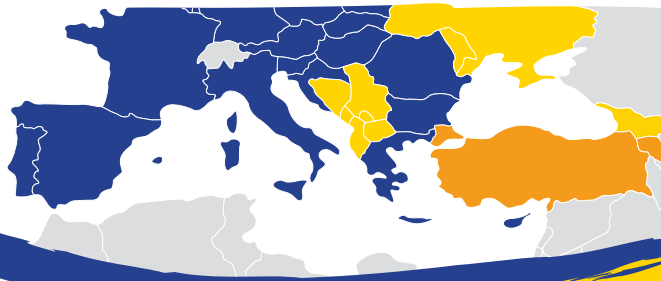
**Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures (January 2017)**

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

**Cross-cutting Measures**







## The Regional Activities

The WB6 initiative to create a regional electricity market in the Western Balkans through the development of market coupling, cross-border balancing and regionally coordinated capacity calculation continues to push for the integration of WB6 markets with those of EU Member States. Starting from the commitments made at the 2015 and 2016 Western Balkan Summits, the 2017 Trieste Summit emphasised the need to couple WB6 markets with those of EU Member States in order to make the best use of transmission infrastructure. The Trieste Summit highlighted the opportunities for cooperation between the WB6 and neighbouring EU Member States building on the WB6 Memorandum of Understanding on Regional Electricity Market Development (WB6 MoU) and the Treaty establishing the Energy Community (Title III). To support these political commitments, the WB6 MoU, initially signed by WB6 ministries, transmission system operators, national regulatory authorities and power exchanges, was reinforced by 15 signatories from the neighbouring EU Member States.

Most recently, it was signed by two ministries of neighbouring EU MSs, namely the Italian Ministry of Economic Development and the Hungarian Ministry of National Development. Previous signatories are the Italian energy regulator, power exchange GME and transmission system operator Terna, the Croatian Power Exchange CROPEX, the Romanian transmission system operator Transelectrica, the Greek transmission system operator IPTO and market operator Lagie, three Hungarian stakeholders, namely the Energy and Public Utility Regulatory Authority, the Independent Transmission Operator MAVIR and the Power Exchange HUPX, and three Bulgarian stakeholders, namely the national regulatory authority EWRC, the transmission system operator ESO and the power exchange IBEX. WB6 MoU signatories agreed on the market integration process starting with market coupling of national organised day-ahead markets with at least one neighbouring WB6 or EU Member States by July 2018 and the development of cross-border balancing cooperation among WB6 countries by December 2018.

Under the WB6 MoU platform, the Programme Steering Committee for day-ahead market integration (WB6 DA MI PSC) developed a roadmap for day-ahead market integration among the WB6 and with EU Member States in line with the CACM Regulation, which is supposed to ultimately lead to the coupling of the WB6 region with the Multi-Regional Coupling (MRC). The roadmap identifies national and regional projects that should lead to the market coupling between the WB6 and with neighbouring EU Member States. Seven market coupling projects were proposed so far, five of which aim at the implementation of market coupling with all neighbouring EU Member States. The Programme Steering Committee for cross-border balancing aims to develop a roadmap towards creating a regional balancing market, including pilot projects for imbalance netting and exchange of balancing energy with common merit order lists.

Implementation of these objectives is financially backed-up by the contract for technical assistance to regional energy market connectivity in the Western Balkans, signed between the European Commission and the Energy Community Secretariat. Regional technical assistance projects to support the WB6 and neighbouring EU transmission system operators, national regulatory authorities and power exchanges in the preparation and implementation of market coupling projects and platforms for cross-border balancing cooperation were kicked-off in December 2017.

The first important milestone towards regional day-ahead market coupling was a Memorandum of Understanding on Electricity Day-Ahead Market Coupling between Ministers of Bulgaria and former Yugoslav Republic of Macedonia signed on the margin of the EU-Western Balkans summit in Sofia on 18 May 2018. The MoU provides political support to the implementation of the market coupling by Q2 2019, subject to the previous go-live of the day-ahead market in former Yugoslav Republic of Macedonia. In April 2018, a Memorandum of Understanding on Electricity Day-Ahead Market Coupling was signed between the implementing bodies, namely the Bulgarian and Macedonian transmission system operators, the national regulatory authorities and the Bulgarian power exchange. According to this Memorandum, the coupling shall be based on the available transmission capacities (ATC) and fully in compliance with requirements of the EU Regulation on capacity allocation and congestion management (CACM) and multi-regional coupling (MRC). This will require closing of the legal gaps between Energy Community Contracting Parties and EU Member States through reform of the Energy Community Treaty and full implementation of the Third Energy Package network codes and guidelines in the Energy Community.

The technical assistance for cross-border balancing is supporting the efforts of the Programme Steering Committee for cross-border balancing to establish platforms for imbalance netting and cross-border exchange of balancing energy by end 2018. The project aims at the development of a legal, contractual and governance framework for the implementation of cross-border balancing cooperation in WB6, in line with the requirements of EU guidelines on electricity balancing and on electricity transmission system operation.

The technical assistance project to support the implementation of regional coordinated capacity calculation between WB6 and with neighbouring EU Member States was launched in May 2018. The final objective of the project is to develop a methodology for coordinated capacity calculation consistent with methodologies that have been developed for other EU capacity calculation regions.



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