



***Energy Community Regulatory Board***

***Annual Report 2023***

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## FOREWORD BY THE ECRB PRESIDENT



Dear ECRB members, partners and friends,

The year of 2023 can be characterized by an increase in the complexity and intensity of our collaboration on transposition of the electricity market integration package in all our Contracting Parties and continuing effort to address negative impacts of the energy crisis on energy consumers and other market participants.

I am pleased to note that we expanded the scope of ECRB working groups to design and implement the key building blocks of electricity market integration and to conduct comprehensive analytical work on monitoring of energy markets and implementation of consumer protection rules.

The several-year long price fluctuations in the energy market, caused by the pandemic, the energy crisis and Russia's military aggression against Ukraine, brought unforeseen effects that are cumulatively and continuously felt in every segment of society, but above all - in the economic sphere. This was a direct occasion for us to reconstruct the regulatory positions and make a roll from creation to action. Practical, fast, and efficient regulatory solutions were imposed. Regulators from ECRB led the new pace, and provided dynamics to the processes, because they were united in the social responsibility in ensuring a reliable and stable supply of energy. The measures were coordinated, using the best practices from each of the countries, and applied respectively to the domestic market.

The regulatory solutions represented an adequate response for ensuring a reliable and stable delivery of energy on the one hand, and on the other - protection of the standard of citizens and ensuring liquidity of the energy sector. We are considering the effects of these unprecedented years in the recent energy history, through the design and implementation of new regulations that aim to stabilize the situation in the energy sector.

We continued in our efforts to facilitate implementation of REMIT consistent with the ACER framework, review gas transmission tariff methodologies, and review of support mechanisms for renewable energy sources and rules for new energy market

participants, such as prosumers, energy communities, aggregators, etc. In parallel, cooperation with the Energy Community Secretariat, European Commission, ACER, fellow regulators in the EU and non-EU countries as well as other partners was crucial in identification and dissemination of regulatory best practices in our Contracting Parties.

On this occasion, I want to announce a new point to which I will insist that we commit ourselves in the future - cyber security - because energy belongs to the group of critical infrastructure.

I would like to express my gratitude to all our partners for their continuing support and my appreciation to many professionals from our Contracting Parties' NRAs and partner institutions for their diligent work on numerous tasks arising from our Work Program. Let us continue to move forward in our regulatory journey towards the integrated energy markets in Europe.

With kind regards,

A handwritten signature in blue ink, appearing to read 'M. Bislimoski', is positioned below the text 'With kind regards,'.

Mr. Marko Bislimoski  
ECRB President

## EXECUTIVE SUMMARY

### Mission and governance of the Energy Community Regulatory Board

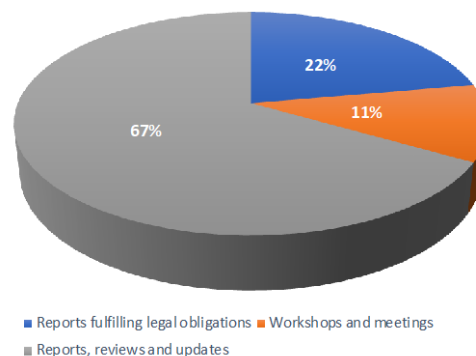
The Energy Community Regulatory Board (ECRB) is the independent regional body of energy regulators in the Energy Community and beyond. Competencies of ECRB are defined in the Treaty Establishing the Energy Community (hereinafter: the Treaty<sup>1</sup>). Over time the ECRB gained a number of new competences to foster integration of Contracting Parties' energy markets in the internal EU electricity and natural gas markets.

ECRB promotes the development of a competitive, efficient and sustainable regional and pan-European energy market that works in public interest. A harmonised and reliable regulatory framework is essential for building trust of investors and customers. ECRB mission is to facilitate this process for the benefit of the Energy Community citizens.

### Overview of the ECRB activities and deliverables in 2023

Over the course of 2023 there were more than 60 staff members of the regulatory authorities and ECRB Unit of the Energy Community Secretariat engaged in preparation of deliverables, consultations, communication and workshops. Jointly they participated in 15 working meetings and provided information, insights, and regulatory expertise to implement the ECRB Work Program<sup>2</sup>. This reflects the priority of the ECRB together with the Energy Community Secretariat and individual regulatory authorities to actively pursue integration of the Energy Community legislation and development of the associated regulatory policies. Overall the ECRB working groups prepared and finalized 18 deliverables in 2023. Out of this total, there were four reports delivered as defined by the Energy Community legislation, representing 100% fulfilment of legal obligations.

Composition of the ECRB Working Programme deliverables



<sup>1</sup> <https://www.energy-community.org/legal/treaty.html>

<sup>2</sup> [https://www.energy-community.org/dam/jcr:fb481109-056c-44cc-92c5-9f26d5b46b97/ECRB\\_WP2023.pdf](https://www.energy-community.org/dam/jcr:fb481109-056c-44cc-92c5-9f26d5b46b97/ECRB_WP2023.pdf)

An overview of the key ECRB working program deliverables is as follows:

#### **A) Reports fulfilling legal obligations**

Following the legal requirements of the Electricity Regulation and the Gas Network Codes, ECRB performed surveys, analyzed legal frameworks and data, to deliver the following reports:

- ✓ Report on electricity transmission and distribution tariff methodologies,
- ✓ Report on congestions at interconnection points of gas transmission system operators,
- ✓ Evaluation of level of multipliers for daily and within day capacity products in gas transmission and
- ✓ Analysis of consultation documents related to reference price methodologies for gas transmission tariffs.

#### **B) Monitoring reports, reviews and updates**

These comprise analytical and technical work on the specific topics arising from the energy market integration package as well as regulatory reporting and represented the bulk of ECRB work program in 2023. The key deliverables were:

- ✓ Wholesale electricity and gas market monitoring reports,
- ✓ Market monitoring report on the functioning of electricity and gas retail markets,
- ✓ Report on energy crisis response,
- ✓ Reviews of implementation of consumer protection rules and of REMIT.

#### **C) Workshops, cooperation and communication**

Exchange of best regulatory practices among ECRB members as well as with the EU and non-EU regulators represents the important part of enhancing the regulatory know how in the Contracting Parties. The key achievements in 2023 were:

- ✓ Consumer protection workshop with CEER and MedReg,
- ✓ Participation of ACER representatives in the ECRB working group meetings and
- ✓ Development and publication of REMIT corner on the Energy Community web page.

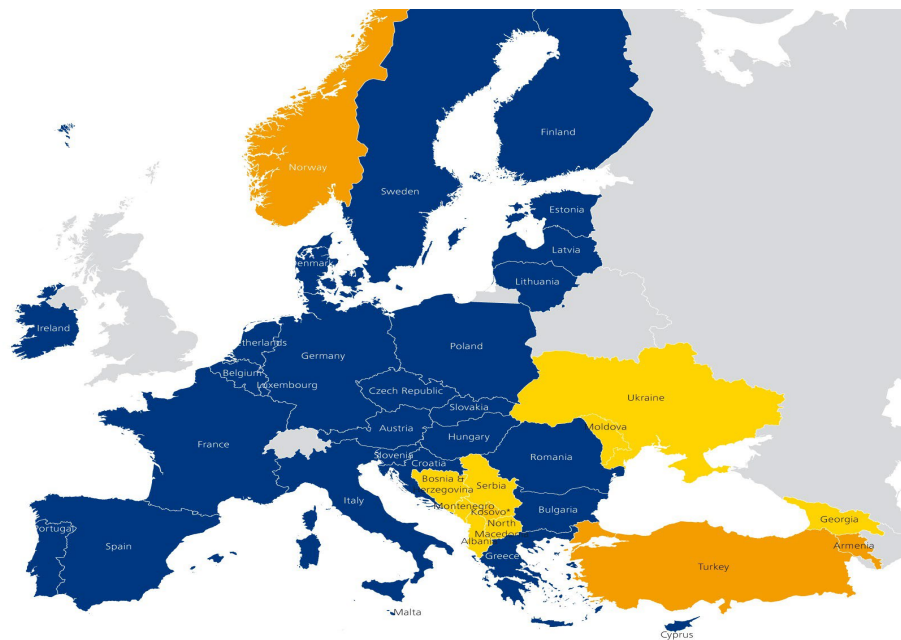
All publications and deliverables of the ECRB working groups are accessible on the Energy Community website at <https://www.energy-community.org/documents/ECRB.html>.

## ECRB IN BRIEF

### Who we are

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The Energy Community Regulatory Board (ECRB) is the independent regional body of energy regulators in the Energy Community and beyond. It is an institution of the Energy Community, consisting of nine members from Southeast Europe and the Black Sea region, and the European Union.



#### Energy Community

The ECRB members of the Energy Community Contracting Parties are:

- ✓ Energy Regulatory Authority, Albania (ERE)
- ✓ State Electricity Regulatory Commission, Bosnia and Herzegovina (SERC)
- ✓ Georgian National Energy and Water Supply Regulatory Commission, Georgia (GNERC)
- ✓ Energy Regulatory Office, Kosovo\*<sup>3</sup> (ERO)
- ✓ National Agency for Energy Regulation, Moldova (ANRE)

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<sup>3</sup> This designation is without prejudice to positions on status and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence.

- ✓ Regulatory Agency for Energy and Regulated Communal Activities, Montenegro (REGAGEN)
- ✓ Energy and Water Services Regulatory Commission, North Macedonia (ERC)
- ✓ Energy Agency of the Republic of Serbia (AERS) and
- ✓ National Commission for State Regulation of Energy and Public Utilities of Ukraine (NEURC).



ECRB meeting, 19th December 2023

## Our structure

ECRB is headed by a Board of high-level representatives from the national energy regulatory agencies of the Energy Community Contracting Parties, Observers and EU Member State Participants. The Board is chaired by a President elected by the ECRB among the heads or commissioners of ECRB members. The European Union, represented by the European Commission, acts as Vice-President and is assisted by the regulatory authorities of Participants and the Agency for the Cooperation of Energy Regulators (ACER).



Our working structure consists of four Working Groups reflecting the key focus of our activities: electricity, gas, market integrity and transparency and customer protection. Cross-sectoral work is organised in dedicated ad-hoc Task Forces.

ECRB is supported by the ECRB Unit of the Energy Community Secretariat seated in Vienna, Austria.

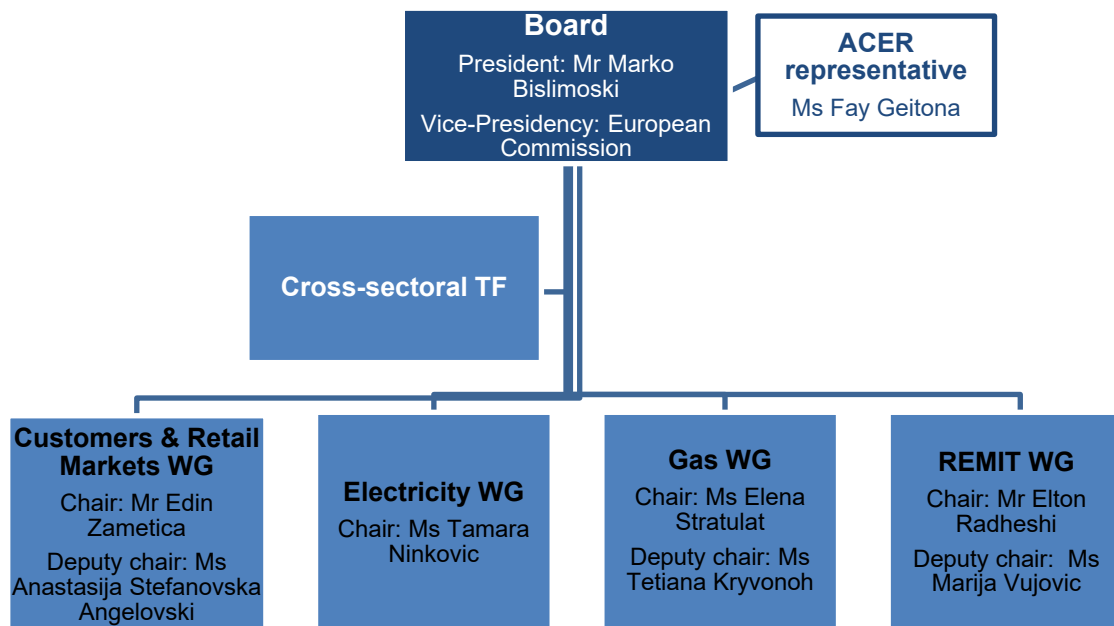


Figure 1 ECRB Structure in 2023

This report covers the activities of the ECRB for the period of 1 January to 31 December 2023.

All publications and deliverables referred to in the present report are accessible on the Energy Community website at [www.energy-community.org](http://www.energy-community.org).

## INTEGRATING WHOLESALE ELECTRICITY MARKETS



The work of the Electricity Working Group (“EWG”) traditionally focuses on wholesale electricity markets and related topics. This involves tracking of compliance with relevant ECRB legal obligations stemming from the Energy Community legislation; review of developments and analysis of practices present in the Contracting Parties and recommendations on improvements;

market monitoring. Energy crisis and war in Ukraine have impacted the focus of the Electricity Working Group throughout 2022-2023. With adoption of the electricity integration package in the Energy Community in December 2022, and deadline for its implementation set in 2023<sup>4</sup>, continuous knowledge sharing on electricity wholesale market integration in the EU and enhanced cooperation with ACER and EU national regulatory authorities have become crucial.

### Key Deliverables and Achievements in 2023

- ✓ **Wholesale market monitoring:** This activity has continued to be in focus of the EWG activity in 2023. Effective wholesale market opening is central for establishing a competitive regional Energy Community electricity market and its integration with the European market. A harmonized regulatory approach is necessary in this context. To that end, EWG provided contribution on the Contracting Parties to ACER Market Integration Report 2023<sup>5</sup>, published in November 2023.
- ✓ **Market transparency:** Remains a central driver for wholesale market development and competition. ECRB therefore in 2023 undertook the activity of reviewing compliance with the publication requirements outlined in Regulation 543/2013 on submission and publication of data in electricity markets. This review aimed to assess the performance of the Contracting Parties in meeting regulatory requirements. The results are published on the Energy Community website<sup>6</sup>.
- ✓ **Update on regulatory framework regarding RES and flexibility:** The report explores the transposition of Energy Community acquis related to renewable energy sources in the Contracting Parties. In particular, it covers issues such as applied support schemes, balancing responsibility requirements of renewable energy producers, treatment of high-efficiency cogeneration, self-consumption

<sup>4</sup> <https://www.energy-community.org/implementation/package/EL.html>

<sup>5</sup> [https://www.acer.europa.eu/sites/default/files/documents/Publications/2023\\_MMR\\_Market\\_Integration.pdf](https://www.acer.europa.eu/sites/default/files/documents/Publications/2023_MMR_Market_Integration.pdf)

<sup>6</sup> <https://www.energy-community.org/aboutus/institutions/ECRB.html>

schemes, and current status of flexibility services. The competences of the regulatory authorities of the Contracting Parties regarding the renewables vary greatly, nevertheless, their contribution is central to this report, which, inter alia, concludes that in the Energy Community:

- The main renewable energy support schemes are feed-in tariffs and market premiums, while other support concepts are also present.
  - The high efficiency cogeneration is entitled to a support scheme that has a lot in common with the treatment of the producers from renewable energy sources.
  - Self-consumption schemes have been introduced.
  - The funds for supporting renewable energy integration are collected from the final consumers via electricity bills.
  - The installed capacity thresholds regarding the balance responsibility of the renewable energy producers have been introduced.
- ✓ **ECRB participation in the JET Energy Community Activity:** Throughout 2023, the EWG Chairwoman represented the ECRB to the JET Energy Community (“JET EnC”), which was set up to serve as a platform for discussions related to the Contracting Parties’ integration into Single Day Ahead Coupling and Single Intraday Coupling. This initiative involves stakeholders from EU Member States and the Contracting Parties. and is tasked to work on the Market Coupling Operation Integration Plan (“MCO IP”), as defined in Art. 7(3) of the Energy Community CACM Regulation. This plan should include detailed descriptions and a timeline for integrating NEMOs from Contracting Parties into the MCO functions.
- ✓ **Report on electricity transmission and distribution tariff methodologies in the Energy Community:** The report is prepared in line with requirements of Article 18 of Electricity Regulation 2019/943. It provides a detailed overview of present transmission and distribution tariff setting, tariff design and values, connection, and reactive energy charges, along with a set of recommendations for their improvement. The report, inter alia, recommends that in Contracting Parties:
- Regulatory authorities only determine the method and parameters for tariff setting, including for closed distribution systems.
  - Incentive-based regulation, including on quality of service is introduced.
  - Tariff methodologies accommodate new market developments.
  - Frequent review of tariff methodologies is avoided to ensure predictability.
  - Stakeholder involvement and transparency in tariff setting are enhanced.
  - Advanced cost models, regular cost review and introduction of cost cascading are considered for transmission tariffs.
  - Capital costs are not covered via energy-based charges.
  - For connection charges - introduction of a cost-sharing compensation mechanism should the infrastructure concerned serve also the future network users.
  - Develop a regulatory framework for projects approved in accordance with TEN-E Regulation,

- Incentives for innovation and research for network operators are developed, to contribute to energy efficiency, network flexibility and integration of newly emerging energy systems.
- ✓ **Report on energy crisis response:** The report focuses on measures undertaken by governments, national regulatory authorities and transmission system operators of the Contracting Parties to mitigate the impact of the electricity and gas price surge. It also includes a special focus on Ukraine, in order to provide a better overview of impact of ongoing war of aggression against Ukraine. The report concludes the following for the Contracting Parties electricity markets:
  - Despite some level of price correlation, the markets remain fragmented due to interventions for the purpose of ring-fencing the end users.
  - A large segment of the electricity markets is still either regulated via public service obligation or isolated via intra-group/companies' arrangements, hence price impact in these market segment has been limited.
  - Importing countries were impacted by the high import prices, whereas producers from exporting countries, reported the highest revenues.
  - Ukraine enacted the Martial Law which grants more powers to the Government in certain aspects of the energy market including through legislative amendments.

ECRB invited regulators to continue market monitoring, exchange experiences and improve market functioning.

## CREATING COMPETITIVE GAS MARKETS



Creating an effective market framework that balances the needs of market players and promotes competition, investments and security of supply continued to be in the focus of the Gas Working Group (“GWG”). The activities of the GWG comprised the monitoring of gas wholesale markets, as one of the core elements of regulatory work, as well as delivering analyses and recommendations to enable the ECRB to fulfil the tasks originating from the so-called Gas Network Codes, introduced in the Energy Community legislation in 2018.

### Key Deliverables and Achievements in 2023

- ✓ **Wholesale market monitoring:** The gas wholesale markets of the Contracting Parties, as those in the European Union, faced significant challenges in 2022. Alongside the surge in global gas prices, the concerns over security of supply also impacted the economies of these markets. The reliance on Russian gas prompted some of them to actively explore ways to diversify their energy sources and reduce vulnerability and reliance on Russian gas. In addition to the analysis of the gas prices and measures to respond to crisis, the report provides details on market structures and performance, transmission tariffs and implementation of the network codes on capacity allocation and balancing. Following the results of the market monitoring, the ECRB recommended increased efforts towards demand reduction and more efficiency, avoiding the excessive usage of gas supply cost subsidies. In parallel, further diversification of supply sources and better market integration, achieved through full implementation of gas network codes, would reduce the risks of gas supply disruptions and extreme price increases.
- ✓ **Report on congestions at interconnection points:** According to chapter 2.2.1 of the Gas Congestion Management Network Code<sup>7</sup>, the ECRB publishes by 1 June of every year, a monitoring report on congestion at interconnection points with respect to firm capacity products sold in the preceding year, taking into consideration to the extent possible capacity trading on the secondary market and the use of interruptible capacity. The report serves as a basis for introducing

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<sup>7</sup> Amended Annex I to Regulation (EC) No 715/2009 on conditions for access to the natural gas transmission networks, as amended at EU level by Commission Decision (EU) 2012/490 of 24 August 2012 and Commission Decision (EU) 2015/715 of 30 April 2015 - adapted and adopted for the Energy Community Contracting Parties by PHLG Decision No 2018/01/PHLG-EnC of 12.01.2018.

implementation of firm-day-ahead use-it-or-lose-it mechanism ('FDA UIOLI'), if it is established that contractual congestions occurred in the prescribed manner. Based on the analysis of relevant capacity bookings in the Contracting Parties in 2022, the ECRB concluded that the national regulatory authorities of the Contracting Parties did not need to request transmission system operators to apply firm day- ahead use-it-or-lose-it mechanism.

✓ **Evaluation of multipliers for daily and within day capacity products:** Tariff Network Code<sup>8</sup> provided a possibility to the ECRB to issue a recommendation on the maximum level of multipliers for daily standard capacity products and for within-day standard capacity products if certain criteria were fulfilled. Taking into account the limited level and timelines of implementation of the Tariff Network Code in the Contracting Parties on one side, and the currently applied levels of multipliers in Ukraine and Moldova, on the other, the report highlighted the importance of implementing the following legal requirements:

- The multipliers for capacity products should remain within the ranges set by Article 13(1) of the Tariff Network Code.
- The regulatory authorities shall conduct a consultation on the levels of multipliers with all directly connected Member States and Contracting Parties and the relevant stakeholders, in line with Article 28 of the Tariff Network Code.
- When adopting the final decision on multipliers, the regulators shall take into account the consultation responses and the following aspects: the balance between facilitating short-term gas trade and providing long-term signals for efficient investment in the transmission system; the impact on the transmission services revenue and its recovery; the need to avoid cross-subsidization between network users and to enhance cost-reflectivity of reserve prices; situations of physical and contractual congestion, as well as the impact on cross-border flows.

• **Analysis of consultation documents related to reference price methodologies:** Following the mandate given by Article 27 of the Tariff Network Code, the GWG analysed the consultation documents submitted by the National Agency for Energy Regulation of the Republic of Moldova ('ANRE'). After assessing the completeness of documents published for consultation as well as the compliance of the proposed transmission tariff methodology with the requirements of the Tariff Network Code, the GWG provided a number of conclusions and recommendations, such as:

- The proposed methodology is appropriate for Moldovan transmission network based on its characteristics and the requirement to apply harmonized tariffs in the single entry-exit system of the country. At the same

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<sup>8</sup> Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a network code on harmonised transmission tariff structures for gas, incorporated and adapted by Permanent High Level Group Decision 2018/07/PHLG-EnC of 28 November 2018.

time, the information on capacity used for calculation tariffs does not ensure compliance with the principle of cost-reflectivity.

- The simplified tariff model enables users to reproduce the calculation of the reference prices. However, the methodology and the model do not allow for an accurate forecast of transmission tariffs due to the lack of information on the allowed revenues in the next years.
- A significant volume risk related particularly to transports across the entry-exit system is not assigned to within-system users. ANRE is advised to assess whether the final customers in Moldova face increased tariffs due to underutilization of the cross-system pipelines.
- With a view to increasing predictability and transparency for network users, ECRB recommended ANRE to provide forecasts of revenues and capacities for the following years, at least five.

## TRANSPARENCY OF WHOLESALE ENERGY MARKETS



Maturity of the wholesale energy markets goes hand in hand with a need to increase transparency of their operation, complemented with regime that prohibits and penalises market abuse. With adoption of Decision D/2018/10/MC regarding Implementation of adapted version of Regulation (EU) No 1227/2011 on wholesale energy market integrity and transparency, the so called “REMIT light”, its implementation in

the Energy Community has become mandatory as of 29 May 2020. ECRB has established the relevant ECRB REMIT Working Group (“REMIT WG”) to monitor transposition and implementation progress of the Contracting Parties, perform ECRB responsibilities under REMIT light, enhance cooperation and knowledge building on REMIT in the Contracting Parties via exchange of experiences with ACER and EU NRAs. The ultimate objective remains full REMIT transposition in the Energy Community.

### Key Deliverables and Achievements in 2023

- ✓ **Regulatory guidance on REMIT:** Guidance issued by ACER is the main document used by the regulatory authorities in the Contracting Parties. In April 2022, ECRB REMIT WG issued the Regulatory Guidance on REMIT. The document provides additional clarification on REMIT applicability in the Energy Community. Activity of the WG in this regard is to ensure that clarification requested by stakeholders are thoroughly reviewed and incorporated into the guidance.
- ✓ **Centralized register:** REMIT Corner<sup>9</sup> has been created on the Energy Community website and includes the centralized register of the wholesale market participants of the Energy Community.
- ✓ **Effective disclosure of inside information:** As required by REMIT Regulation, it is a key to ensure market transparency. ECRB REMIT WG assessed the transposition of Article 4 of REMIT Light in the Contracting Parties, the current status of inside information disclosure, and the necessity for establishing centralized platform with necessary minimum requirements for effective and timely disclosure of inside information. The report concludes and recommends the following:

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<sup>9</sup> <https://www.energy-community.org/implementation/REMIT.html>



- A spectrum of approaches exists regarding inside information disclosure methods, platforms, validation procedures, and regulatory oversight.
- To enhance the disclosure of inside information, employing a dedicated platform for its disclosure is deemed advantageous.
- ✓ **Status of REMIT Implementation:** Monitoring compliance with the requirements of REMIT Light is central to this activity. The Report on Implementation of REMIT provides an overview of status of REMIT Light implementation by the Contracting Parties and recommends the following:
  - Acceleration of transposition and implementation in areas where it is lacking, including via elaboration of a concrete plan with clear objectives to be completed in the shortest time possible.
  - Further action where transposition has occurred, but implementation has been delayed.
- ✓ **Knowledge sharing and capacity building:** cooperation between ECRB REMIT WG and ACER and EU NRAs is crucial for capacity building of the regulatory authorities of the Contracting Parties. In 2023, such collaboration was ensured via participation of ACER and the EU NRAs in ECRB REMIT WG meetings.

## WORKING FOR THE BENEFIT OF CUSTOMERS



The work of the Customer and Retail Markets Working Group (“CRM WG”) builds around various aspects of consumer protection, engagement and awareness raising, fostering effective retail market functioning and energy transition. The cooperation with ACER in the field of market monitoring is here crucial. The CRM WG also actively exchanges regulatory experience with other regional regulatory bodies such as the Council of European Energy Regulators (“CEER”) and the Association of Mediterranean Regulators (“MedReg”).

### Key Deliverables and Achievements 2023

- ✓ **Market monitoring report on the functioning of electricity and gas retail markets:** Based on the information provided by the regulatory authorities of the Contracting Parties and Observers- Armenia and Türkiye, the CRM WG assessed the structure and performance of the retail markets. It identified potential barriers and provided recommendations for improvements. The end-user’s electricity and gas prices and their breakdown were also analysed and recommendations on abandoning their regulation provided. Regarding consumer protection, focus was on supplier of last resort, protection of vulnerable customers, providing information to consumers and the right to switch supplier as well as on the possibilities to settle disputes with service providers. In addition to preparing the ECRB report, the CRM WG also provided input to ACER 2023 Market Monitoring Report- Energy Retail and Consumer Protection.
- ✓ **Consumer protection:** As of 2018, with a view to discussing current regulatory activities related to consumer protection and to sharing best practices, the CRM WG organizes annual joint workshops with CEER and MedReg. In 2023, the Trilateral Workshop was hosted by MedReg and the discussions focused on the electricity market design, uptake of renewable energy sources, demand response and energy communities as well as on ensuring good customer service.
- ✓ **Consumer empowerment and protection:** The new Electricity Directive<sup>10</sup>, which brought a number of new and updated provisions related to consumer protection, has been transposed in the Energy Community regulatory framework in December 2021, with the implementation deadline 31<sup>st</sup> December 2023. In order to facilitate proper

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<sup>10</sup>Directive (EU) 2019/944 of 5 June 2019 on common rules for the internal market for electricity, incorporated and adapted by the Ministerial Council Decision 2021/13/MC-EnC of 30 November 2021 and amended by Decision 2022/03/MC-EnC of 15 December 2022

transposition and implementation of new provisions, the CRM WG analysed the status of their implementation in the Contracting Parties. The analysis of data revealed that:

- Customers' rights regarding free choice of supplier, market-based supply prices, basic contractual rights, switching, billing information, data management, out-of-court dispute settlement, universal service and measures to support vulnerable consumers are already well elaborated.
- Requirements such as the minimum number of days to inform the households about the price adjustments, comparison tools, collective switching schemes and shortening the deadline for the supplier switching after 2026 are yet to be transposed in most of the Contracting Parties.
- Provisions related to consumer empowerment, i.e., aggregation contracts, dynamic price contracts, citizen energy communities, and demand response through aggregation, are not introduced in most of the Contracting Parties. In this regard, it is important to note that these provisions are crucial for enabling the active participation of final consumers in the energy market.