



OUTLINE OF THE SOCIAL STRATEGY IN THE ENERGY COMMUNITY

ENERGY COMMUNITY SECRETARIAT 2013

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1. Introduction

Article 2 of the *Treaty Establishing the Energy Community* refers to social stability alongside economic development as one of the primary interest of the Parties for which the access to stable and continuous energy supply is essential. Chapter IV of the Treaty (Articles 31 – 33) further promotes the social aspects of the energy acquis in the context of provision of energy to citizens and its affordability.

The *Memorandum of Understanding on Social Issues* (MoU) signed in 2007 constitutes the point of departure for the development of the social dimension of the Energy Community. It indicates the political will and intent of the Contracting Parties to take due account of the social dimension and outlines principles of a social dialogue in the energy sector at both, national and regional level.

Following the recommendations of the Memorandum and with guidance of the Energy Community Secretariat starting in the second half of 2008, each Contracting Party (apart from Moldova and Ukraine that joined the EnC in May 2010 and February 2011 respectively) prepared a Social Action Plan, following a template discussed at the Social Workshop in May 2008.

The Social Action Plans were intended to serve as a roadmap to develop and implement necessary measures to deal with social consequences in a socially responsible manner. Four main fields of activity had been identified:

- Ensuring the needed level of protection for vulnerable consumers in line with a sustainable and competitive energy market.
- Establishing and developing mechanisms of information and consultation of social partners in the energy sector.
- Promoting the development of specific employment, training and support services in order to manage the restructuring process in the energy sector in a socially responsible manner.
- Promoting measures to guarantee workers' fundamental rights; to improve working conditions and standards of living; to enhance the working environment concerning the health and safety of workers as well as the promotion of equal opportunities in the energy sector.

During the 5th *Social Forum* held in Montenegro in September 2012, the Secretariat presented the *Energy Strategy of the Energy Community* and received comments linked to stakeholders' interest in also elaborating on the social dimension. The Forum called for addressing the social dimension in more detail and invited the participants to work together towards a development of an outline of a Social Strategy along the envisaged activities in the Energy Community in the context of promoting market and infrastructure development and security of supply.

The 10th *Ministerial Council Meeting* held in October 2012 invited the Secretariat, in cooperation with the social partners, to prepare an outline of the Social Strategy for discussion and eventual adoption at the Ministerial Council meeting in 2013, upon debate and approval by the PHLG.

As agreed at the 27th PHLG Meeting held in December 2012, the Secretariat started a public consultation with all stakeholders, which took place during January and February 2013. All stakeholders, including governments, regulatory authorities, social partners, NGOs and all in line with Article 3 of the MoU were invited to submit their contributions. Finally, the Secretariat received eight responses. Whilst three originate from regional NGOs, the rest came from the FYR of Macedonia ministry, the ECRB, the Austrian energy company EVN, the EU trade union organisation EPSU and from the Regional Cooperation Council.

The MoU on Social Issues addresses two distinct policy areas – the affordability of energy for various categories of consumers in a society, and the social dialogue among partners in the energy sector. The consultation document subsequently consisted of two groups of questions, asked for opinion on Public Service Obligations and Social Dialogue. The opinions received approach these issues from very different directions.

Generally, it was referred to the need for a careful distinction of terms like fuel poverty, energy poverty, affordability, and vulnerability, as they are sometimes used interchangeably. Clear definitions would help in further progressing in these questions. Comments also proved a strong link between the definition of vulnerable customers and energy poverty. In the Secretariats' view, the disposable household income is hence to be considered a core factor.

The European Federation of Public Service Unions emphasised its favour of keeping the essential infrastructure for the electricity and gas industry in public hands. Regarding the protection of users and developing an anti-poverty strategy, it considers regulated prices the best protection for small and household users in what will be a fluctuating market.

Despite the fact that most Contracting Parties face the same unfavourable social situation and similar problems concerning the social dimension, it was stressed that addressing these issues should follow the principle of subsidiarity, i.e. social issues should be addressed on national level taking into account their complexity as well as numerous Contracting Parties' specificities.

Furthermore, reference was made to the strong mutually linkage between the concept of energy efficiency and the protection of vulnerable customers, leading to positive side-effects regarding environmental efforts, especially those to combat climate change. Apart from that, externalities such as health costs would – if taken into consideration – would also be supportive of a strong focus on energy saving measures.

Finally, the Secretariat received the opinion, that research evaluating the scale, depth and particularities of Energy Poverty in the region should precede any discussion on energy affordability and social dialogue. It must be reiterated, that the Secretariat does not dispose over the recourses necessary to conduct such detailed studies.

2. The 3rd European Union Energy Package

In June 2009, the Council of the European Union formally adopted the new liberalization package for the European gas and electricity markets, also known as the 3rd Energy Package.¹ Following the 2nd Energy Package of 2003, it is the outcome of the latest round of energy market reforms put forward by the European Commission and aims at completing the shaping of the internal market in electricity and natural gas, by complementing the existing rules.

The Third Package consists of two Directives – one concerning the internal market in natural gas and one concerning the internal market in electricity – and three Regulations – one on conditions for access to the network for cross-border exchanges in electricity, one on conditions for access to the natural gas transmission networks and access to gas infrastructure and one establishing a new Agency for the Cooperation of Energy Regulators (ACER).

The main objective of the Third Package is to create a fully liberalised market by ensuring strong consumer protection measures are in place; a fully independent regulator; and well developed network ownership arrangements.

Moreover, the package shall ensure a high standard of consumer protection, with a special focus on vulnerable customer protection (Article 3 and Annex I of both Electricity and Gas Directives), by a set of provisions:

- Obligation to ensure that there are adequate safeguards to protect vulnerable customers and in this context to define the concept of vulnerable customers - Article 3(7) of the Electricity Directive, Article 3(3) of the Gas Directive. Defining a concept will be a legal obligation by 2015.
- Flexibility to define vulnerable consumers according to their own particular situation while ensuring a high degree of protection.
- Obligation to take measures to protect final customers in remote areas.
- Addressing energy poverty (to ensure the necessary electricity supply to vulnerable customers) through national energy action plans. Social and energy policies measures (including energy efficiency measures), can interact to protect vulnerable customers but shall not hamper effective competition. Promotion programs (as part of vulnerable consumers protection) establishing efficient energy consumption.
- Supplier switching within three weeks while respecting contractual conditions. Consumers must be offered a wide choice of payment methods, which do not unduly discriminate between customers.

¹The package consists of two Directives and three Regulations: Directive 2009/72/EC of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC; Directive 2009/73/EC of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC; Regulation (EC) No 713/2009 of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators; Regulation (EC) No 714/2009 of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003; Regulation (EC) No 715/2009 of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005.

- Consumption Data: to understand the profile of their own consumption or to allow other suppliers to have access to their consumption data so as to provide them with a new offer of supply.
- Single point of contacts, complaints and dispute settlement: There is an obligation to ensure that there are single points of contact to provide consumers with all necessary information on their rights and how they can have access to the relevant dispute settlement procedure (Articles 3(12) and 3(9) of the Electricity and Gas Directives). Also independent mechanism, such as an energy ombudsman or consumer body, to deal efficiently with complaints and facilitate out-of-court dispute settlements (Articles 3(13) and 3(9))
- Consumer checklist: Practical information relating to energy consumer rights such as their consumption, alternative tariffs and suppliers, contract terms, consumer rights, and consumer protection bodies (Articles 3(16) and 3(12)).
- Smart metering: Intelligent metering systems that help consumers to participate actively in the electricity and gas supply markets (Annex I (2)).
- No disconnection at critical times
- Ensuring interaction with other social policy measures.

3. Protection of vulnerable customers

By signing the *Memorandum of Understanding on Social Issues* in 2007, the signatories proved the political intent to take due account of the social dimension within the context of the Energy Community Treaty. It was understood, that a successful reform of the energy market will increase market efficiency and will contribute to the improvement of living and working conditions of the people. In parallel, the Signatories recognized the need also to face the major social consequences of the implementation.

Moreover, as the Contracting Parties have adopted the 3rd Energy Package, due regard to safeguarding the interests of the most vulnerable customers has become a legal obligation. In so doing, the Signatories aimed to ensure economic, social and territorial cohesion, universal access, and a high level of consumer rights comparable to that which is afforded in Member States of the European Union.

In order to achieve this objective, the Memorandum of Understanding provides that each Signatory in consultation with the relevant social partners should discuss the approach how to further address the social issues. The findings and the appropriate follow-up should be summarized in the form of a Social Action Plan (SAP).² In addition, on suggestion of the Energy Community Secretariat all Contracting Parties agreed to continually update the Secretariat on the Social Action Plans' concrete actions in the energy sector.³

The following Chapter shall provide an overview of the situation in the Contracting Parties on the basis of available information to the Secretariat. It shall further

²Art. 6, Memorandum of Understanding on Social Issues.

³Conclusions of the 5th Energy Community Social Forum, Bečići, Montenegro 11-12 September 2012.

characterize patterns, advantages and possible approaches to those issues, and finally shall conclude some recommendations.

3.1 Defining “Vulnerable Customers”

At the European level, common criteria for defining vulnerable customers do not exist. Pursuant to the EU Directives 2009/72/EC and 2009/73/EC, the competence to set up criteria to defining vulnerable customers remains with the Member States.

„Member States shall take appropriate measures to protect final customers, and shall, in particular, ensure that there are adequate safeguards to protect vulnerable customers. In this context, each Member State shall define the concept of vulnerable customers which may refer to energy poverty and, inter alia, to the prohibition of disconnection of electricity to such customers in critical times. [...]”⁴

At national level, definitions of “vulnerable customers” do not exist in all Contracting Parties. However, definitions on national level are following different approaches. They are either kept in a general manner, located in social welfare or consumer protection legislation, or in an energy sector specific manner, located in energy sector specific legislation.

Generally, typical indicators in use for defining vulnerable customers are:

- Level of monthly income per household
- Seniority
- Children
- Disability
- Health
- Remoteness
- Unemployment

The income criterion is in use in the majority of Contracting Parties and mostly combined with the other ones listed. Hence, the sole fact of seniority, high amount of children, disabilities, health, remoteness or unemployment do not qualify for being protected or supported as vulnerable customer. However, defining a concept of vulnerable consumers on national level will become a legal obligation for all Contracting Parties by 2015.

3.2 Support Schemes

In parallel to different definitions of vulnerable customers, different support systems can be identified among Contracting Parties. Generally, it should be distinguished between economic and non-economic support. Whereas supply specific regulated prices for certain consumer groups or direct subsidies are considered direct economic support, non-economic support consist of protection against disconnection and is in place in 5

⁴Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC.

Contracting Parties only. Furthermore, in parallel to defining vulnerable customers, energy sector specific and not energy sector specific support schemes are to be distinguished.

3.3 Sate of play in the Contracting Parties

3.3.1 Albania

There is no explicit definition of vulnerable customers in the legislation⁵, but there are certain customer categories protected with respect to energy:

- paraplegic and tetraplegic invalids, labour invalids
- people with limited abilities, visor ill people
- unemployed
- some low income state budget categories

The support system applies two different prices considering “first and second needs”.⁶ In addition, the application of different prices shall also promote the usage of alternative sources in favour of energy efficiency and to promote an energy efficient behaviour.⁷ The support scheme is based neither on a season nor on a quantity threshold. The state budget provides direct subsidies

- up to 300 kWh/month 7.7 lekë/kWh (app. EUR 5.5 cent/kWh)⁸
- above 300 kWh/month 13.5 lekë/kWh (app. EUR 9.6 cent/kWh)
- fixed Tariff for customers with 0 monthly consumption is 200 lekë/month (app. EUR 1.43/month)
- total average 9.53 lekë/kWh

As of 2012, 30% of householders were qualifying for economic support in the electricity sector.⁹ However, the number of the families receiving social assistance is increasing. A decision was taken to provide besides the financial assistance food compensation as part of the compensation for the rise in electricity price.

3.3.2 Bosnia and Herzegovina

There is no single definition of vulnerable customers at the state level but the legislation of BIH entities (the Federation of BIH and the Republika Srpska) and the Brcko District of Bosnia and Herzegovina recognize a category of customers that have to be protected with respect to electrical energy consumption. The additional programme for protection of vulnerable customers with respect to energy consumption

⁵Treatment of the vulnerable customers in the Energy Community, ECRB 2011.

⁶“First needs” are basic needs, such as light, refrigeration of foods, audio vision, ironing, cleaning etc, which can’t be covered by other energy-sources. “Second needs” are considered as comfort. Cooking and especially heating, as alternative sources with the same comfort and affectivity exist, are excluded from „First needs”. The monthly average quantity of electric energy to cover basic needs was evaluated to be 277kWh.

⁷SAP Albania 2010.

⁸Tariffs for 2011.

⁹There is no gas-sector in Albania.

exists in Sarajevo Canton (one of 10 cantons in the Federation of BiH). The basic criterion for awarding aid is the social status of consumers and the identification of socially vulnerable groups is based on data available in the ministries in the area of social policy.

9.48% of household electricity customers in BiH received some economic support in 2012 through four different programs, while in gas sector only 0.23% of household customers in BiH received an economic support (through Sarajevo Canton program).

The Federation of Bosnia and Herzegovina

Since July 2011 in the Federation of BiH there are direct budget subsidies for identified vulnerable electricity customers on a monthly basis (2.8 EUR for “Elektroprivreda BiH” Sarajevo customers, 3.6 EUR for “Elektroprivreda HZHB” Mostar customers). Subsidies are clearly stated at the customers’ bills and directed to the following categories:

- pensioners with the lowest pensions (160 EUR) and
- beneficiaries of permanent social financial support.

For both categories monthly consumption has to be below 268 kWh if supplied by “Elektroprivreda BiH” Sarajevo, and below 348 kWh if supplied by “Elektroprivreda HZHB” Mostar.

8.56% of household customers in the Federation of Bosnia and Herzegovina received this support in 2012.

Republika Srpska

A Program of protection of socially vulnerable electricity consumers was adopted in December 2007. The Government paid subsidies in 2008, 2009, 2010 and 2012 to the following categories:

- Pensioners with lowest pensions,
- Beneficiaries of permanent social financial support, maternity allowance, child support and of allowance for support and care of another person.

Criteria to be considered:

- Data from social card (if available),
- Social status, age of beneficiary, type of household (extra urban, urban, rural), type of energy used for heating, cooking and water heating,
- Level of dependency on energy by type of energy,
- Level of vulnerability due to inability to pay for certain type of energy,
- Possibility of substituting one type of energy by another (e.g. available alternative heating in case of inability to pay electricity used for heating),
- Possibility of installing „prepaid“ electricity metering,
- Possibility of applying energy efficiency measures.

The Ministry of Industry, Energy and Mining exercised quarterly allocation of funds to distribution companies and suppliers of tariff customers in the Republika Srpska. During the first half of 2008, 100 kWh of electricity per month per customer was subsidised. In the second half of 2008, this amount increased to 150 kWh of electricity per month. The same amount of kWh was applying in 2009 and 2010. In 2011, the program did not provide any funds for this purpose. In 2012, the amount of the subsidies was 120 kWh per month per customer, except for the last four months, when it was increased to 170 kWh.

9.50% of household customers in the Republika Srpska received this support in 2012.

According to the General conditions for delivery and supply of electricity, a distributor and supplier must take appropriate measures to avoid the suspension of delivery, due to non-payment, during the winter and extreme cold weather, but the suspension of delivery can be used as a measure of last resort. The same document stipulates that a distributor cannot exclude or refuse re-entrance of the building housing on the network if the end purchaser or user of the facility uses electrical-medical equipment necessary to maintain health, and which work is necessary to be supplied by the distribution network, as defined by the agreement on access.

Brčko District

The protection program for vulnerable electricity customers was introduced in 2009. The criteria for vulnerability in electricity are as follows:

- pensioners with monthly pensions not exceeding 158.9EUR,
- war invalids,
- parents of children with special needs,
- social assistance beneficiaries,
- registered unemployed persons aged 60 to 65.

An annual allowance of 34.5 EUR was allocated to defined vulnerable customers in 2012 reaching 33.15% of household customers in Brčko District of BIH.

Sarajevo Canton

Since 2005, Sarajevo Canton has been implementing a program supporting heating of vulnerable customers. Criteria for vulnerability in energy usage/heating¹⁰:

- households whose total revenue per member does not exceed 36.0 EUR,
- single member pensioner less than 85.0 EUR
- two member pensioner household with revenue less than 113.0 EUR,
- households in which one or more persons benefits from assistance and care of other people who are deaf and whose income is less than 62.0 EUR,
- households where one of members are 100% disabled regardless of the income per family member

¹⁰ Includes electricity, gas, district heating, coal or fire wood

A social allowance of 36.0 EUR was paid during 5 winter months (October - February) funded by the cantonal government budget. If the allowance is used for electricity, district heating or gas, the amount is credited to the designated invoice. Otherwise, the allowance is paid in cash.

During 2012, this program supported 0.74% of households in Sarajevo Canton. Those subsidies were used for electricity (31.71%), gas (22.24%), district heating (16.71%); and coal and fire wood (29.34%). It should be noted that beneficiaries of permanent social financial support, in parallel, receive 91.5 EUR on a monthly basis. This amount includes allowance for the payment of utilities' bills during the year.

3.3.3 Croatia

Based on the Act on Energy¹¹, a vulnerable customer is a household in which members:

- have been declared by social welfare authorities as vulnerable and have the need to reduce energy poverty or
- have a certain degree of disability or have special needs or have degraded health, where curtailment or disconnection may lead to endangerment of life or health.

The Act on Energy has envisaged preparation of a Decree on criteria for attaining the status of a vulnerable customer. The Decree is currently under development.

In addition, the Social Welfare Act provides a right for certain social welfare users for support regarding housing expenses (which include electricity, gas, wood and other energy sources). Social welfare users that can receive support are those that have income (as defined by the Social Welfare Act) below a specific threshold and do not have adequate living space.

3.3.4 FYR of Macedonia

There is no definition of a vulnerable customer in the legislation of FYR of Macedonia. However, the Government adopts every year a programme for subsidizing energy consumption defining the beneficiaries eligible for subsidies, such as:

- Households having the right to use social monetary care and
- families beneficiaries of permanent social care.

Subsidized are parts of the energy consumption (electricity, wood, extra light for households/oil for households and district heating). The amount of monthly subsidy for the years 2011 and 2012 was about 10,00 EUR/month (600 denars) and for the year 2013 is around 11.4 EUR/month (700 denars) The subsidization fund is covered by the Budget of the FYR of Macedonia.

Support schemes for protected customers are based neither on a season nor on a quantity threshold.

¹¹ http://narodne-novine.nn.hr/clanci/sluzbeni/2012_10_120_2583.html

The New Energy Law for the purpose of providing energy poverty protection proposed by the Ministry of Economy in cooperation with the Ministry competent for social protection, the Government of the FYR of Macedonia shall adopt the annual program on energy poverty reduction which, *inter alia*, shall anticipate:

- subsidies for energy and energy fuel consumption targeting particular households,
- greater energy end-use efficiency;
- manner of measures implementation,
- sources of budget and other funds intended to finance the measures and authorities responsible for their implementation.

3.3.5 Kosovo*

There is a definition of the vulnerable customer in the current legislation (Law on Energy Regulator). Vulnerable customers are households with:

- low level of income, illness and disability, according to rules set by the Energy Regulatory Office on the basis of qualifying rules established by the Ministry of Labour and Social Welfare,
- customers that receive social aid determined by the Law on Social Aid Scheme,
- customers that receive social aid determined by the Law on Status and rights of the martyr's families, Invalids, Veterans and members of the KLA and the victims' families of civil war
- customers registered at the Ministry of Labour and Social Welfare (MLSW) and benefiting from the Memorandum of Understanding between MLSW and KEK (Electricity Company)

The above mentioned beneficiaries are included in the electrical energy compensation programme to the limit of 500 KWh per month, for all the months they received social assistance.¹²

Support schemes for vulnerable customers are based neither on a season nor on a quantity threshold.

From 2008-2009 the MoU on compensating the consumed electrical energy between these institutions has been modified to 400 KWh/month, for respective month of 2009, including the fixed fee and VAT which amounts to EUR 4.5 million/year.¹³

3.3.6 Moldova

There is a general definition of the vulnerable customer in the current, not energy-related, legislation, including the following categories:

- pensioners,
- people with disabilities,

¹²SAP Kosovo.

¹³SAP Kosovo.

- single mothers with children younger than 16 years,
- people who live in an apartment with one single room with a monthly income less than 1,100 lei (i.e. around 66.6 EUR).

The economic support scheme for the vulnerable customers is provided by the State budget. The support scheme is based on winter season for heating and electricity, gas for the whole year. The compensations are determined and calculated in the following way:

- for electricity, the cost of legal consumption of 60 kWh per month;
- for district heating or natural gas, the cost of heating for 30 m² of total area for a person receiving nominative compensation;
- coal and firewood annually - starting limit the price approved by the Government of 50 % of the cost of one ton of coal and 1m³ of wood;
- specific amounts of compensation shall be determined by the Law on Social Protection of special categories.

The support scheme for vulnerable customers is seasonally based only for heating; within electricity and gas sector is applicable throughout a year.

3.3.7 Montenegro

There is a general definition of the vulnerable customer in the current legislation (Energy Law approved in May 2010).

According to Article 156 of the Law on Energy ("Official Gazette MN" no 28/10), vulnerable customers are households connected to the distributive system of electricity or gas, composed of persons who are¹⁴:

- in need of social support whose social status is determined by a responsible authority,
- disabled, persons with special needs and in poor health condition, who may be exposed to a threat to life or health as a result of a limitation or termination of energy supply.

According to the same article of the law it is the task of the regulatory authority to define the tariffs for vulnerable customers. In July 2012 the regulatory authority published its Decision on electricity tariffs for the supply of vulnerable customers providing for 50% lower final electricity tariff for this category of customers. This discount is applicable for:

- the period 1st April till 30th September: monthly consumption up to 240kWh delivered in higher tariff and 160kWh delivered in lower tariff for customers with two-tariff meter or 400kWh for customers with one-tariff meter;
- the period 1st October till 31st March: monthly consumption up to 360kWh delivered in higher tariff and 240kWh delivered in lower tariff for customers with two-tariff meter or 600kWh for customers with one-tariff meter.

¹⁴SAP Montenegro, Treatment of the vulnerable customers in the Energy Community, ECRB 2011.

For the monthly consumption above these thresholds general prices for public supply are implemented.

In addition to this, the Ministry of Economy continues subsidising users of social protection rights in accordance with the Program of subvention of consumers of electricity. Based on that Program, users of social protection rights had a discount of 40% for the bill of 60,00 EUR, and if the amount of the bill was higher, the amount was decreased for the amount of 24,00 EUR.

3.3.8 Serbia

In 2010 a new Consumer Protection Law (Official Gazette RS No 73/2010) has been adopted, whereby, inter alia, consumer protection has been regulated in the areas that are regarded of as services of general economic interest (electric energy and gas supply, telecommunications, public transport, etc.). According to Art. 83 of the Consumer Protection Law, a vulnerable customer is:

- a consumer who, because of economic or social status, living conditions, disability or other serious personal circumstances, provides a service of general economic interest under particularly difficult conditions.

A new Social Welfare Law has been adopted (Official Gazette RS No 24/2011), envisaging increased number of beneficiaries of all forms (programmes) of social assistance and higher cash benefits for the poorest citizens, as well as development of community-based social protection.

A data base has been in the course of development to be administered and managed by centres for social work in the municipalities, which would hold in addition to the data on beneficiaries of social assistance the data of other persons such as the unemployed, pensioners with minimum pensions, persons who are jobless due to privatization of the undertakings, etc, and which would be utilized for defining the criteria used in identification of vulnerable consumer in terms of the SAP implementation.

The Energy Law (Official Gazette RS No 57/2011) (Article 149) provides a definition of energy-related vulnerable customer¹⁵:

- Household whose member exercises welfare rights based on the act passed by the body competent for welfare issues;
- Household whose member's life or health may be subjected to danger, loss or destruction by the suspension or limitation of delivery of electricity or natural gas due to their health condition, disability or physical incapacity

Taking into account practical aspects and effects of market liberalisation in February 2013 the Government of the Republic of Serbia adopted the **Regulation on Energy Vulnerable Customer**¹⁶ that is in effect as of 1 April. The implications of higher prices

¹⁵Treatment of the vulnerable customers in the Energy Community, ECRB 2011.

¹⁶Regulation on Energy Vulnerable Customer No. 110-2260/2013 dated 21 March 2013.

of electrical energy and natural gas to the poorest groups of population will thus be buffered by social policy measures verified in the Government Regulation.

A definition is provided in Article 2 of this Regulation: Energy vulnerable customer within the meaning of this Regulation shall be the household (individual, family) living in one housing unit with one measurement point in which the consumed electricity or natural gas is measured. Qualification criterion for the status of energy vulnerable customer shall be the total actual monthly income, and specifically:

- Up to RSD 12,900.00 for one member households;
- Up to RSD 18,786.00 for two and three members' households;
- Up to RSD 24,672.00 for four and five members' households;
- Up to RSD 30,558.00 for households with six and more members.

In addition to the income in order to qualify for the status of energy vulnerable customer, a customer must not own any other living quarters other than the housing suitable for the needs of the household in question.

Energy vulnerable customers shall be entitled to discount of monthly liabilities for the consumption of specified amounts of electricity or natural gas.

- For electricity, for all the year:
 1. For one member households with consumption of 120 kWh per month;
 2. For two and three members' households with consumption of 160 kWh per month;
 3. For four and five members households with consumption of 200 kWh per month;
 4. For households with six and more members with consumption of 250 kWh per month.
- For natural gas, for the months of January, February, March, October, November and December:
 1. For one member households with consumption of 35 m³ per month;
 2. For two and three members' households with consumption of 45 m³ per month;
 3. For four and five members' households with consumption of 60 m³ per month;
 4. For households with six and more members with consumption of 75 m³ per month.

Vulnerable energy customers may be entitled to discount for monthly liability for specific amounts of electricity or for specific amounts of natural gas, but not aggregately.

The follow up of the implementation of this Regulation will be an opportunity to identify certain issues and possible problems, and to propose solutions which will be integrated into the Regulation ensuring just and fair protection of the most vulnerable categories of population as energy consumers. These measures of social policy in effect are integral part of social measures in general. They are to allow more integral protection of the vulnerable energy consumer or socially vulnerable categories of population at national level, and to ensure minimum living conditions for certain number of citizens in Serbia.

3.3.9 Ukraine¹⁷

There is no definition of a vulnerable customer in Ukrainian legislation. However the Constitution defines the right of every citizen to social protection. Special laws of Ukraine defined category of individuals who receive state support, particularly in the energy sector by providing benefits. In addition, social protection in terms of lower prices and tariffs, particularly for energy, is provided by decision of the Government to the low-income families in the form of monthly non-cash subsidies to address compensation costs for energy use. Ukrainian legislation also defines the list of category of citizens requiring support, benefits and, depending on the level of income, energy related subsidies to citizens.

The beneficiaries of subsidies are, for example: war veterans, military service veterans, teachers, doctors, children of war, police officers, disabled people, families having many children, invalids and people who suffered from Chernobyl accident, who receive benefits (rebates) for electricity and gas within a limit of the standards (threshold) of consumption.

The subsidies are available for persons whose amount of payment (including benefits) for consumed public utilities and fuels within consumption norm is more than 15 (10) % of their monthly average total income.

For households, which according to legislation have benefits for payment of utility services, these benefits are provided within following standards of consumption, as regards electricity:

- In rural and urban area (except for buildings that are equipped with electric cookers and electro heaters) – within the amount of 75 kWh per family with one or two people per month, including, when both family members are eligible for discount – for an additional 15 kWh per other member of the family, and persons who are not family members, but registered and reside in the same apartment (building) and are eligible for a discount fee, but not more than 150 kWh per month;
- in rural and urban area in buildings that are equipped with electric cookers and electric heaters - within the amount of 100 kWh per family with one or two people per month, including, when both family members are eligible for discount - for an additional 25 kWh per other member of the family, and persons who are not family members, but registered and reside in the idem apartment (building) and are eligible for a discount fee, but not more than 200 kWh per month;
- in rural and urban area in buildings equipped with electro heaters – for 28 kWh per 1 m² of heated area per month during the heating period taking into account the standard of 21 m² of heated space for each person who resides in the house and is eligible for a discount fee, and additional 10.5 m² per family, but not more than the total amount of heated area;

¹⁷Treatment of the vulnerable customers in the Energy Community, ECRB 2011 – update.

- in rural area and towns' citizens to whom, according to legislation, the state provides free of charge housing lighting – in amount of 30 kWh per month.

As regards consumption of natural gas for households:

- when is used for house heating:
- of 21 m² of heated area for each person who resides in a dwelling and is eligible for a discount fee, and an additional 10.5 m² per family - 11 m³ of natural gas per 1 m² per month during the heating season;
- for families consisting only of unemployable persons of 42 m² of heated area for each person who is eligible to a discount fee, and additional 21 m² per family - 11 m³ of natural gas per 1 m² per month during the heating season;
- when is used a gas cooker where available centralized hot water supply - 9.8 m³ per person per month;
- when is used a gas cooker where not available centralized hot water supply and gas heater - 18.3 m³ per person per month;
- when is used a gas cooker and water heater - 23.6 m³ per person per month.

4. Definition of Vulnerable Customers in the Energy Community

4.1 Legal background

The Third Internal Energy Market Package (hereinafter “Third Package”) requires Contracting Parties to ensure protection of so-called “vulnerable customers”.¹⁸ In this context, Contracting Parties *shall define the concept of vulnerable customers*¹⁹.

By Decision 2011/02/MC-EnC of the Energy Community Ministerial Council of 6 October 2011, the Third Package, was incorporated in the Energy Community. In Article 3 of the Decision, the Contracting Parties were given a deadline by 1 January 2015 to transpose and apply the provisions of that Directive. None of the Contracting Parties has implemented the Third Energy Package into national legislation so far. However, Decision 2011/02/MC-EnC also amended Article 11 of and Annex I to the Treaty with immediate effect. Annex I (as amended) lists Directive 2009/73/EC, as adopted by the Ministerial Council, as part of the Energy Community’s “acquis communautaire on energy”.

¹⁸Article 3 paragraphs 7 and 8 as well as recitals 37 and 45 Electricity Directive 2009/72/EC (OJ L/ 211 of 14.8.2009, p 55 et seq) and Article 3 paragraphs 3 and 4 as well as recitals 33 and 50 Gas Directive 2009/73/EC (OJ L/ 211 of 14.8.2009, p 94 et seq).

¹⁹Article 3 paragraph 7 Electricity Directive 2009/72/EC and Article 3 paragraph 3 Gas Directive 2009/73/EC.

4.2 Existing protection schemes in the Contracting Parties

The Energy Community Regulatory Board (ECRB) in its 2009, 2011 and 2012 reports on vulnerable customers²⁰ executed detailed analyses of the existing protection schemes for vulnerable customers in the Energy Community. The assessments showed that a common understanding on the definition of vulnerable customers does not exist and that the existing schemes applied in the Contracting Parties for protection of vulnerable energy customers to a certain extent also address consumer groups whose vulnerability is, at least, questionable.

In combination with the prevailing financial support granted for protection of vulnerable customers and, in particular also, regulated gas and electricity prices, the Secretariat already in its 2012 Report on Regulated Energy Prices²¹ made aware of incompliance of unproportional, unspecified and time-wise not limited protection schemes with the Energy Community Treaty, and in particular Article 3 (2) of Electricity Directive 2003/54/EC²² and Gas Directive 2003/55/EC²³; the provisions of said Articles remain unchanged under the Third Energy Package²⁴.

4.3 Criteria for definition of vulnerable customers

The European Commission²⁵ specified that the concept of vulnerable customers must define the categories of consumer that will qualify as vulnerable customers and anticipated that the actual number of consumers that fall within the category of vulnerable customers will be quite low. This entails the requirement to specify also within a category²⁶.

Article 3 (8) Electricity Directive 2009/72/EC and Article 3 (4) Gas Directive 2009/73/EC require protection measures to not *impede the effective opening of the market*. The European Commission further specified that – while acknowledging that *social policy and energy policy can interact to protect vulnerable customers - it is not the intention that energy policy should in any way substitute for the protection of vulnerable customers through social policy*²⁷. In this context and, in particular, referring to the analysis of chapter 4.2 above, the Secretariat re-iterates its assessment on the

²⁰ECRB, Vulnerable Household Customers - An ECRB Contribution to a Common Understanding (Nov 2009) and ECRB, Treatment of vulnerable customers in the Energy Community (Dec 2011); www.energy-community.org – documents – ECRB customer documents.

²¹ECS, Regulated Energy Prices in the Energy Community – State of Play and Recommendations for Reform (June 2012; <http://www.energy-community.org/pls/portal/docs/1660178.PDF>) with further reference to the related case law of the case law of the European Court of Justice.

²²OJ L 176 of 15.7.2003, p 37 et seq.

²³OJ L 176 of 15.7.2003, p 57 et seq.

²⁴Article 3 (2) of Electricity Directive 2009/72/EC and Gas Directive 2009/73/EC.

²⁵EC, Staff Working Document: Interpretative Note on Directive 2009/72/EC and Directive 2009/73/EC – Retail Markets (January 2010; hereinafter “EC, Retail”), chapter 4.4.

²⁶E.g. disabled or elderly consumers could qualify as being vulnerable but not all consumers within these groups should be considered vulnerable, for example those with high incomes (EC, Retail, chapter 4.4).

²⁷EC, Retail, chapter 4.4.

negative effects of – especially –energy prices regulated at artificially low level below market conditions²⁸.

4.4 Definition of vulnerable customers

The 6th Social Forum agreed that while taking into account diverse situations of energy consumers in different parts of the CPs, the Outline of the Social Strategy could propose a regional definition of vulnerable customer in order to reflect national characteristics. The definition should take into account necessary simplicity to be efficiently adapted to existing administrative capacities in Contracting Parties, to encompass only minority of all customers and to mirror their local characteristics.

In the light of the above considerations and, in particular, having in mind the legal concerns, context and requirements stressed, the Contracting Parties are invited and proposed to implement the following definition into national legislation:

A socially vulnerable customer is an electricity consumer:

- *using energy for supplying her/his permanent housing*
- *Not exceeding maximum energy consumption per person: when defining electricity consumption level per person, Contracting Parties shall consider total consumption of up to 200 kWh/month for a family with up to 4 members and reflect seasonality.*
- *Belonging to a category of citizens with lowest income: for the definition of low income, beside the income all available assets shall be taken into account.*
- *Having her/his electricity consumption supplied through single-phase meter with a connection not exceeding maximum power. When defining power of a mono phase meter Contracting Parties shall consider power of up to 16 Ampere.*

The definition shall not include more than a minority of population. Market prices of the electricity should be cost reflective and consumption of vulnerable customers should be financed by social allowances.

A socially vulnerable customer is also a gas consumer:

- *using gas for supplying her/his permanent housing*
- *not exceeding maximum gas consumption per person: when defining gas consumption level per person, Contracting Parties shall consider total consumption of up to 70 cubic meters/month for a family with up to 4 members and reflect seasonality.*
- *belonging to a category of citizens with lowest income: for the definition of low income, beside the income all available assets shall be taken into account.*

The definition shall not include more than a minority of consumers.

²⁸ECS, Regulated Energy Prices in the Energy Community – State of Play and Recommendations for Reform (June 2012; <http://www.energy-community.org/pls/portal/docs/1660178.PDF>) with further reference to the related case law of the case law of the European Court of Justice. Similarly: ERGEG, End-user energy price regulation: An ERGEG Position Paper (18.07.2007, Ref: E07-CPR-10-03) and fn 20.

Reflecting the possibility to switch from gas to electricity supply, support schemes granted to socially vulnerable gas customers shall not apply in case the same customer benefits from support mechanism for socially vulnerable electricity customers.

5. Fuel and Energy Poverty and Affordability

Fuel poverty or energy poverty is a phenomenon with very different notions depending on the geographical or contextual frame. On the global level, energy poverty often refers to the fact, that people do not have access to energy (especially electricity) at all; almost the half of the world's population is affected by energy poverty when using this broad definition.²⁹

However, Fuel poverty or energy poverty is considered to be a problem also in European countries, where the broad before mentioned definition does not apply. Not surprisingly, Europe has a complete different understanding of energy poverty which is more related to affordability rather than accessibility. Nevertheless, a clear definition doesn't exist, and efforts on national and European level are currently made in order to overcome this lack of definition, to distinguish from general poverty concepts, and to give energy poverty a broadly accepted meaning.

Since we face a growing awareness about a rising number of households who cannot afford the energy they need, energy poverty is increasingly discussed in public. Reasons for this are manifold and include, amongst other things, low income, rising energy prices, and energy-inefficient housing and household appliances. Only in the UK, fuel poor households are clearly identified.

Articles 3(7) of Electricity Directive and 3(3) of Gas Directive require that "*Member States shall define a concept of vulnerable customers which may refer to energy poverty and, inter alia, to the prohibition of disconnection of such customers in critical times*".

5.1 Energy Poverty at EU-level

In its western or European meaning, the energy poverty term covers energy sources of electricity and gas, whereas the term fuel poverty covers electricity, natural gas, LPG, oil, coal, district heating and other solid fuels. Both are an interaction of three different policy areas: energy, housing and income. Understanding and evaluating energy or fuel poverty phenomenon entails an understanding of these areas and their interactions. Affordability is an economic category that deals with the ability of certain consumers or consumer groups to pay for a minimum level of utility service (electricity, district heating and water). Affordability involves parameters that refer to national specificities such as minimum level of consumption and payment capacity.

Existing definitions in the European Union remain vague. Often, energy poverty is seen as a "difficulty" or "impossibility" to adequately heat one's home at "reasonable" costs.

²⁹Energiearmut in Oesterreich. Definitionen und Indikatoren. Energie Control Austria

However, it is not clearly stated what are “reasonable” costs. Such broad definitions are helpful to the extent that they may promote consensus among Europeans. Nevertheless, they are of less value for monitoring the phenomenon over time or, more importantly, developing policy and other instruments to eventually fight it.

The only European country with an established clear definition is the United Kingdom. Energy (or fuel) poor households are defined as to spend more than 10 % of their income on energy, in order to achieve a certain level of warmth and electricity use according to the standards proposed by the WHO.³⁰ This definition has been prominently criticized, arguing, that energy poverty as a combination of an income below the poverty line and required energy costs above the population median in a recent government review.

As for indicators, much relies on the European Union-Statistics on Income and Living Conditions (EU-SILC) and some other household surveys which regularly ask their respondents whether they can afford to keep their homes adequately warm. E-Control Austria³¹ proposes a definition of energy poverty which reads as follows:

Energy poor households are households with a net monthly income below the at-risk-of-poverty threshold but who have to meet above average energy costs.

To capture the variegated nature of energy poverty, E-Control Austria proposes a set of multiple indicators covering

- household income, housing expenses and energy costs to identify energy poor households and households at risk thereof;
- the monitoring responsibilities of the Austrian regulatory agency such as the occurrence of disconnections, deferred payment or installation of pre-payment meters;
- subjective household experience with energy use and non-use due to financial and other constraints such as energy-saving/avoiding behaviours, persistent inability to pay or means of compensation of energy use

The size and composition of the household as well as the costs of housing should be taken into consideration when calculating household income. Above average costs of energy, including electricity and heating, must be noticeably above the median energy costs of the population. E-Control Austria suggests setting the threshold between 140 and 167 percent of the median energy costs. Consequently, this should allow to clearly distinguishing between energy poverty and income poverty, although empirically, these two will often overlap. Moreover, it will identify different causes of energy poverty and, finally, provide the basis to implement a series of targeted measures; above all energy efficiency improvements.

³⁰The UK Fuel Poverty Strategy. London: Department for Industry and Energy

³¹Energiearmut in Oesterreich. Definitionen und Indikatoren. Energie Control Austria

6. Social dialogue

Social dialogue plays an important role in achieving the objective of obtaining decent and productive work in conditions of freedom, equality, security and human dignity.

“Social dialogue and the practice of tripartism between governments and the representative organizations of workers and employers within and across borders are now more relevant to achieving solutions and to building up social cohesion and the rule of law through, among other means, international labour standards.”³²

Social dialogue includes all types of negotiation, consultation and exchange of information between, or among, representatives of governments, employers and workers on issues of common interest. How social dialogue actually works varies from country to country and from region to region. It can exist as a tripartite process, with the government as an official party to the dialogue or it may consist of bipartite relations between labour and management, with or without indirect government involvement. It can be informal or institutionalised, and often is a combination of the two. It can take place at the national, regional or at enterprise level. It can be inter-professional, sectoral or a combination of these.

The EU Energy Roadmap 2050 states the importance of skills and qualifications, education and training in order to manage the transition to a low-carbon economy. In order to manage this change the involvement of the Social Partners at all levels is crucial.

Furthermore, Article 2 of the Treaty establishing the Energy Community refers to social stability alongside economic development. However, market liberalization will affect existing workforce structures and expose the low-skilled and vulnerable groups of workers to higher social risk. Therefore, promoting the social dialogue in relation to the monitoring of the implementation of the Energy Community and its effects is essential.

6.1 Enabling the conditions for Social Dialogue

Successful social dialogue structures and processes have the potential to resolve important economic and social issues, encourage good governance, advance social and industrial peace and stability and boost economic progress. Effective social dialogue depends on:³³

- Respect for the fundamental rights of freedom of association and collective bargaining
- Strong, independent workers' and employers' organizations with the technical capacity and knowledge required to participate in social dialogue
- Political will and commitment to engage in social dialogue on the part of all parties
- Appropriate institutional support

³²ILO Declaration on Social Justice for a Fair Globalization

³³ILO

6.2 Legal basis for functioning of social dialogue

6.2.1 Bipartite social dialogue

Collective bargaining and Collective Agreements (CA) play a major role in determining terms and conditions of employment and any changes in working conditions. Employers are obliged to inform employees of the conditions applicable to the contract or employment relationship, which offers employers an alternative to individual detailed written statements specifying the prescribed terms and conditions.³⁴ Instead, employers may refer to the relevant collective agreement. Among the essential aspects of the contract or employment relationship to be included in the written document provided by the employer are 'the collective agreements governing the employee's conditions of work'.

The collective dimension of changes in working conditions is also reflected in Directive 2002/14/EC of the European Parliament and the Council of 11 March 2002 establishing a general framework for informing employees and consulting with them in the European Community. Information and consultation are critical when working conditions are likely to be affected by developments affecting the undertaking in which the worker is employed. Article 4(1) requires Member States to determine the practical arrangements for exercising the right to information and consultation, and Article 4(2) specifies the scope of information and consultation procedures.

In accordance with these provisions, changes in working conditions are subject to a process of both individual notification and collective information and consultation

6.2.2 Tripartite social dialogue:

Involving the government in a (tripartite) Social Dialogue may take the form of establishing an Economic-Social Council. It may take an advisory function on issues of economic development, policies of the labour market, policy of salaries and prices, labour and social insurance, social protection, health protection, environment, fiscal policy, working conditions and protection on working place, and other areas that influence the economic and social interests of employees and employers.

6.2.3 Role of the Government on the Social Dialogue

Apart from actively (tripartite) participating, the government takes responsibility for the functioning of the Social Dialogue by:

- Strengthen Social Partners' capacities.
- Establishing effective mechanisms for the social partners' information and consultation on Market opening, Increased competition and Restructuring.

³⁴Council Directive 91/533/EEC of 14 October 1991

- Anticipating and managing the social consequences that arise from the implementation of the Treaty establishing the EnC.
- Improving the adaptability of low-skilled and/or low skilled workers.
- Promoting the development of specific employment, training and support services.

6.2.4 Role of the Social Partners

- The participation of the Social Partners in the preparation of the legislation related to the working conditions, health and safety at work.
- The role of social partners in the changes of legislation on the level of EU and to initiate changes of the legislation in direction of improving the working conditions and health and safety at working places.
- The role of the social partners in ensuring appropriate social protection systems for vulnerable customers
- The role of the social partners in promoting access to energy savings measures
- The role of SP in consultation before and during these privatizations/restructuring processes

6.3 Social Dialogue at EU-level

European Social Dialogue is one of the key elements of the European Social Model. The European Sectoral Social Dialogue is the essential means by which the sectoral social partners contribute to the definition of European social standards.³⁵ It is dynamic and keeps attracting new sectors: today 40 sectoral social dialogue committees work to the benefit of some 145 million workers.

European social dialogue refers to discussions, consultations, negotiations and joint actions involving organisations representing the two sides of industry – employers and workers. It takes two main forms:

- a tripartite dialogue involving the public authorities, the European Commission consults the social partners on the possible direction of an initiative, in a first stage, and on the content of an initiative, in a second stage,
- a bipartite dialogue between the European employers and trade union organisations. This takes place at cross-industry level and within sectoral social dialogue committees.

Financial support is given to transnational projects carried out by social partners and others active in the field of industrial relations through the social dialogue budget lines. It is also provided through the European Social Fund (ESF) for capacity-building of social partner organisations at national level.

³⁵Further information: European Sectoral Social Dialogue. Recent developments. European Commission, Directorate-General for Employment, Social Affairs and Equal Opportunities, 2010.

6.4 Example: Austrian Social Dialogue

Austria enjoys a well-developed system of cooperation between the major economic interest groups, and between them and the government. The system of cooperation on economic and social issues is a voluntary arrangement of informal nature and not regulated by law.

The co-operation of the social partners takes place mainly through the institution of the *Parity Commission*. This commission consists of top representatives of the government and the four major interest groups³⁶. The Parity Commission has subcommittees, with the *Advisory Council for Economic and Social Affairs* as a body who conducts studies on economic and social issues. Such studies are usually conducted by experts from all areas of government, academia and business.

Whereas the *Parity Commission* used to mainly deal with price control and combating inflation, it has already become an institutionalised forum for dialogue between the social partners and the government. *The Austrian Advisory Council for Economic and Social Affairs* issues studies and reports on economic and social policy issues containing joint recommendations, addressed to the federal government and the other economic and social policymakers.

It has no binding, written rules of procedure, nor does it have its own premises or budget. The de facto rules of procedure of the Council have been developed by practice, based on precedence. The Chairmanship changes every six months and is shared between the four bodies representing the social partners. The Council meets once a month on the premises of the organisation holding the chair. Its meetings are confidential and not public. Members and presidents are appointed from the four social partner bodies, according to their internal rules of procedure. In principle, their mandate is unlimited in duration and can be withdrawn at any time by the organisation to which they belong.

The activities of the Council members, the chairman and both secretaries-general are unpaid. Any costs incurred in the course of the Council's activities (publications, conferences, etc.) are usually shared equally between the four social partner bodies. The importance of the Council's reports and recommendations lies above all in the fact that expert knowledge is turned to good use in a body close to policy-making circles, in order to work out a consensus view amongst all the social partners.

Collective agreements are negotiated on the employer side usually by the relevant sub-organisations of the Federal Economic Chamber and on the employee side by the Trade Union Federation. It is estimated that 90-95% of private-sector employees are covered by collective agreements.

³⁶Austria's four large representative organisations are the *Trade Union Federation* (ÖGB), the *Federal Economic Chamber* (WKÖ), the *Federal Chamber of Labour* (BAK) and the *Chamber of Agriculture* (LK). The Trade Union Federation is organised as a registered association, whereas the three chamber organisations are self-administrating entities under public law with compulsory membership.

6.5 Social Dialogue in the Contracting Parties

The social dialogue is improving with respect of tripartite social dialogue, whereas bipartite and particular sectoral social dialogue is lagging behind. The national tripartite bodies seem to be more mature but the impact on public policy making appears to be limited. Although collective agreements exist in most companies, they are poorly enforced and the nature of social dialogue is often limited to the negotiation of wages. Given the restructuring of a whole sector that is under way in all countries of the region, though to a varying extent, trade unions seem however be insufficiently involved in this process and information and consultation also seems to be insufficient in most cases.

The social dialogue in the energy sector of the Contracting Parties of the Energy Community is characterised by some unique features and has within recent years shown clear signs of positive developments as in no other sectors.³⁷

- Firstly, Trade Unions in the energy sector of the region are relatively strong on the national level and less fragmented than in other sectors and with very high unionisation up to 75 %.
- Secondly, almost all trade unions of the region are members of their European bodies (EPSU, EMCEF).
- Thirdly, energy workers' trade unions have successfully managed to maintain a common network for the mutual exchange of information and experience.

Trade unions, although by name branch trade unions, are often rather company-level unions. Their counterparts are either private companies or state-owned companies where responsible ministries also get involved in social dialogue. Due to the structure of the sector, company-level collective agreements dominate and where branch level agreements exist they are rather company-level agreements covering only very few companies. It is thus difficult to speak of sectoral social dialogue simply due to the structure of the sector. However, Social dialogue is functioning better than in the other sectors.

On the other hand, the Social Action Plans are not updated, nor followed-up, since the main efforts focus on the transposition of EU directives into national legislation. Fragmentation of trade unions and lack of resources for the national union level often lead to trade unions' complains that governments and employers do not actively participate. The employers are often not organized and including at the EU level. No strong cooperation with Eurelectric and Eurogas.

Few of the Contracting Parties have ratified the ILO Convention 151 concerning Protection of the Right to Organise and Procedures for Determining Conditions of Employment in the Public Service and Convention 154 concerning the Promotion of Collective Bargaining.

³⁷Gesellschaft für Versicherungswissenschaft und -gestaltung e.V., GVG, Cologne, 2010

7. Summary

The Third Energy Package mainly focuses on the sole existence of different social support mechanisms and categories of customers eligible to receive support rather than on an explicit definition of vulnerable customers.

Nevertheless, the Contracting Parties are highly recommended to legally define vulnerable customers in terms appropriate to national circumstances taking into consideration general rules and characteristics. Properly defining vulnerable customers at the national level is crucial in order to avoid abuse. Consequently, combining different criteria as – it is in practice in all analysed Contracting Parties – is strongly recommended.

Customers to be categorized as vulnerable customers should be weak in relation to their service providers. Those who have just forgotten to settle a bill in due time or for any other reasons should thus not be treated as vulnerable.

Issues of consumer protection and the needs of vulnerable customers are considered social issues rather than energy policy issues and should hence be addressed in the context of broader social policy. Social allowances provided by central or local governments should directly or indirectly go to the beneficiaries rather than leaking to other groups. Furthermore, more focus should be put on non-economic support such as protection from disconnection, especially at critical times, e.g. severe winters.

Moreover, the Contracting Parties are encouraged to develop programmes aiming to promote energy efficiency and targeting low-income households. Economic support for such investments increasing energy efficiency should ensure that insulation and other fuel saving measures are realizable for all households. Supporting such investments could consist of single-payments which, compared to continuous financial aid, have the positive long-term effect of reducing households' energy consumption, costs and consequently necessary regular state subsidies. As a positive side effect, subsidising energy saving measures supports efforts to fight climate change.

In few existing national definitions of vulnerable customers income-based systems mostly appear. They should support efforts in avoiding excessive and uneconomic energy use, raise the awareness of energy efficiency and provide the necessary financial support to settle bills.

Therefore also consumption and power limitation as is recommended in the regional definition of vulnerable customers should be taken into account.

As the analysis of support schemes in place proves, protection is primarily needed – and therefore granted – in the electricity sector rather than in the gas sector. In this regard, of course national circumstances have to be taken into consideration.

The national social partners are the drivers of the social dimension of the energy strategy in the Contracting Parties. Contracting Parties' authorities are recommended to further develop social dialogue and information/consultation of Social Partners in accordance with the requirements of the Memorandum of Understanding. Besides the

Ministries for Energy and National Regulatory Agencies, the Ministries for Social Affairs and Members of Parliament's could be more involved.

The urgent need for significant improvements to be made at national level for strengthening the social dialogue shall be emphasized. National tripartite bodies seem to be more mature but the impact on public policy making still appears to be limited. Collective agreements are poorly enforced and the autonomous bipartite and in particular the sectoral social dialogue is still weak; especially compared to the slight improvements made in tripartite social dialogue.

The Contracting Parties' Governments are encouraged to proceed with the implementation of reforms having the social partners on board. Higher participation in designing structural reforms in the labour market and fighting poverty and unemployment is indispensable. Therefore, social dialogue should be placed high on the political agenda of all tripartite actors. Accordingly, strengthening Social Partners' capacities and establishing effective mechanisms for the social partners' information and consultation is strongly recommended to the Contracting Parties. Social Partners must increase their capacities in order to engage in bipartite and tripartite social dialogue and should increase their bargaining power in bipartite negotiations in the private energy companies.

However, balance between law and collective bargaining is important. Where collective bargaining is weak or fragmented, statutory regulations have the primary role in the establishment of working conditions and terms of employment. The development of an anti-poverty strategy under new economic crisis circumstances and an increase of labour inspection are hence recommended to the Contracting Parties.

Effective social dialogue depends on respect for the fundamental rights of freedom of association and collective bargaining, strong, independent workers' and employers' organizations, political will and appropriate institutional support. Few of the Contracting Parties have ratified the ILO convention 151 on labour relations in the public sector and convention 154 on Collective Bargaining. Contracting Parties are invited to put focus on that issue.

Intending to promote security of supply, market and infrastructure development, increased affordability, and to enhance social dialogue among the partners in the energy sector, Contracting Parties decided to establish the Energy Community and to open domestic energy markets. However, it was taken in to account that market liberalization will affect existing workforce structures and expose the low-skilled and vulnerable groups of workers to higher social risk.

The development of a social dimension of the Energy Community had been initiated with regard to that fact. Nevertheless, it is to be understood in line with the Energy Community acquis and the political binding Memorandum of Understanding on the Social Issues thus remains the backbone of this dimension. Moreover, it is of great importance to emphasize, that the Contracting Parties are to further anticipate and manage social aspects related to the implementation of the Treaty establishing the Energy Community.

It is underlined, that the preparation of a regional Social Strategy would be closely linked to economy, labour market, education, demographic trends and income distribution of each Contracting Party. Very detailed studies would be necessary and additional competences and sources for the Secretariat should be provided to fulfil this task. Taking into account the very different historical backgrounds, legal frameworks and approaches to social issues of each Contracting Party a regional Social Strategy or regional social dialogue are for the time being not appropriate.

Furthermore, accepting EPSU's proposal for a regional social dialogue in energy sector and the development of a labour market in the Energy Community related to employment, demographic change, training and mobility in the energy sector would require going beyond the Memorandum of Understanding on Social Issues.

The PHLG endorsed the proposed regional definition of vulnerable customers as proposed in this outline which was further approved by the Ministerial Council 2013. Outline of the Social Strategy presented at 29th PHLG meeting in June 2013, in line with the main topics presented by the Secretariat at the 6th Social Forum in April 2013, perfectly provide the basis for all Contracting Parties to review their positions towards the social dimension and to take further steps in line with legal and political obligations in the context of the Energy Community Treaty, the European Energy Strategy Policy and the memorandum of Understanding on Social Issues.