

★ Central and South-Eastern European Gas Connectivity (CESEC) Initiative

Most countries in Central and South-Eastern Europe have limited gas source diversity due to historical lock-in to long-term supply contracts from a single supplier and missing interconnections or alternative sources. Effective regional cooperation has been recognized as key to achieving the region's energy policy objectives and addressing challenges that EU Member States and Energy Community Contracting Parties face in the gas sector. Therefore a *Memorandum of Understanding on a Joint approach to address the natural gas diversification and security of supply challenges* was signed on 10 July 2015 as part of the Central and South-Eastern European Gas Connectivity (CESEC) initiative. The signatory countries expressed their commitment to jointly resolve challenges related to security of gas supply and promote source diversification by implementing coordinated measures that should enable regionally optimal results. Under the Memorandum of Understanding, the signatories expressed their readiness to sustain the necessary political commitment to oversee the full and timely implementation of the CESEC Action Plan, which includes the following elements:

- Selection of a limited number of key projects benefitting the CESEC region
- Identifying and addressing project-specific challenges
- Financing aspects, including the role of the *European Investment Bank and the European Bank for Reconstruction and Development*
- Addressing market integration challenges.

The Energy Community Secretariat was invited together with the *Agency for the Cooperation of Energy Regulators (ACER)* and the European Commission to closely monitor the implementation of the Action Plan on a regular basis by using all available tools and institutions foreseen by the EU *acquis*. The Secretariat supports the Contracting Parties in their implementation of the Action Plan, with a particular emphasis on addressing the market integration barriers and requirements.

The Secretariat has prepared a list of concrete actions, which are to be taken for the CESEC market integration objectives to be achieved. The list is used as a basis for the Secretariat's monitoring task assigned under the CESEC Memorandum of Understanding. The present monitoring report is the third in a series of bimonthly reports on the progress made by the Energy Community Contracting Parties participating in CESEC.

Signatory Parties of the MoU: European Union, Austria, Albania, Bulgaria, Croatia, Greece, Hungary, Italy, FYR of Macedonia, Moldova, Romania, Serbia, Slovakia, Slovenia, Ukraine

Implementation of Action Points

	Albania	FYR of Macedonia	Moldova	Serbia	Ukraine
Ensuring transparent and non-discriminatory third party access					
Ensuring free flow of gas and provision of competitive framework		 ¹	 ²	 ²	
Infrastructure related measures					
Measures required for market integration					
TSO unbundling			 ³		
NRA independence					

1 With the exception of abolishing destination clauses in supply contracts

2 With the exception of abolishing anti-competitive clauses in intergovernmental agreement/supply and transit contracts

3 In line with the Second Energy Package. / Taking into consideration Energy Community Ministerial Council Decision on postponement of TSO certification in line with the Third Package in Moldova until 2020.



CESEC Gas Infrastructure Projects

The present Energy Community CESEC Report prepared by the Secretariat focuses on the interconnector Bulgaria-Serbia, as one of only two CESEC priority projects where a Contracting Party is involved. While the *Trans Adriatic Pipeline (TAP)* is also labelled as a CESEC priority project, it has been considered as "decided" on the basis of existing transport and supply contracts. The *TAP's* progress is well on track, thus the decision was made not to conduct additional activities within the CESEC process, i.e. a dedicated project implementation group was not established.



Source: ENTSOG map, compiled by the Energy Community Secretariat



Gas Interconnection Bulgaria-Serbia (IBS)

Project description

The aim of the project is to construct a new gas pipeline route connecting the national gas transmission networks of Bulgaria and Serbia. The pipeline will improve diversification of routes and sources and the interconnectivity of natural gas markets in South East Europe.

The interconnection will be 170 km long (62 km in Bulgaria and 108 km in Serbia) and will connect the Bulgarian capital Sofia via Dimitrovgrad with the Serbian city of Niš. The pipeline's capacity is initially planned at 1.8 billion cm/year, with an option to increase the volumes up to 4.5 billion cm/year. The line will be reversible with a pipe diameter of 28 inches (700 mm) and working pressure of 55 bar, thus enabling access to underground storage facilities on both sides - in Serbia and in Bulgaria.

In December 2012 Prime Ministers of Serbia and Bulgaria signed the Memorandum of Understanding for the construction of IBS.

The project is one of the seven CESEC priority projects, a Project of Common Interest (6.10) as well as a Project of Energy Community Interest (G013).

Investment financing

The total expected investment amounts to 135 million EUR. With EU assistance, Bulgaria has already secured financing for its part of the gas pipeline in the amount of 48 million EUR. Serbia is still seeking to secure EU pre-accession funds (IPA) for the construction of the Serbian part of the project. The Serbian government set aside approximately 7.4 million EUR for permitting and land purchase, but the largest amount of funding, approx. 65 million EUR for the construction of the pipeline in Serbia, still remains to be secured.

Project milestones and progress to date

Bulgaria		Serbia	
Feasibility study was completed.		Feasibility study with elements of environmental and social impact assessment (ESIA) was completed. ¹	
According to the Ministry of Energy in Bulgaria, no Environmental Impact Assessment (EIA) study is needed. Spatial planning was contracted in January 2015, and was finalized in December 2015.		The spatial plan was prepared for public consultation, which is on-going. Serbia is expected to conduct an EIA study by June 2017 (including opinions and consents).	
		Preparation of preliminary design for Serbian part is planned to be finalized in February 2017.	
Investment decision was taken and 48 million EUR secured from Operational Programmes: "Competitiveness" and "Innovation and Competitiveness 2014-2020".		The investment decision is conditioned by <i>Srbijagas</i> and the Serbian Government on EU grant funding.	
Construction permit for the Bulgarian part is expected in August 2016.		Construction permit for the Serbian part of the pipeline is foreseen for September 2017, conditioned on the investment decision.	
Completion of the construction works is expected in 2018.		Serbia will start the construction works in February 2018. Completion is expected by October 2019 (conditional on the investment decision).	

¹ According to the JASPERS Project Evaluation Conclusions, a partial feasibility study revision/update will be necessary.



Albania

Energy Community CESEC Report

04/2016



1. Ensuring transparent and non-discriminatory third party access (TPA)

Establish capacity allocation mechanisms and congestion management rules allowing TPA in forward and reverse flow

- The Gas Market Law transposing the Third Energy Package was adopted in October 2015, with a deadline of 18 months for the adoption of secondary legislation. Taking into account the current absence of gas infrastructure and a gas market in Albania, April 2017 is a reasonable deadline. The development of secondary legislation, with the support of the Energy Community Secretariat, started in December 2015 and continued in 2016.
- Harmonisation of secondary legislation with capacity allocation (CAM) and congestion management (CMP) requirements of Regulation (EC) 715/2009 as well with transparency requirements on publication of capacity-related information needs to be ensured.
- Discussions on Albania's early implementation of the CAM and the CMP Network Codes with Italy and Greece and within the ACER Gas Regional Initiative South South East (GRI SEE) are supposed to take place by June 2016.
- The transmission system operators in Albania are expected to start discussions with the existing capacity platform operators in Europe on joint capacity allocations by January 2017.



Establish market-based balancing mechanisms

- The requirements of Regulation (EC) 715/2009 related to balancing, including the calculation of imbalance charges, need to be included in the secondary legislation by April 2017.



Develop transparent and non-discriminatory tariffication rules that do not distort trade across borders

- An entry-exit tariff methodology is expected to be adopted by April 2017, while the implementation of transmission tariffs for all entry and exit points is conditioned on gas market development.



2. Ensuring free flow of gas and provision of a competitive framework

Ensure barrier-free market entry

- The Licensing Rules adopted by the Regulatory Authority in 2011 do not create obstacles to market entry.



Optimise actual capacity use in both directions, including backhaul

- Discussions on reversibility of TAP with transmission system operators and national regulatory authorities in Italy and Greece are expected to be launched by June 2016.





3. Infrastructure related measures

<p>Provide a cross-border cost allocation mechanism in line with Regulation (EU) 347/2013 by January 2017</p> <ul style="list-style-type: none"> Regulation (EU) 347/2013 was incorporated in the Energy Community in October 2015. The Ministry of Energy and Industry has included relevant implementation activities within its work plan for 2016. 	
<p>Ensure a harmonised framework of operation of interconnected systems of EU Member States and Contracting Parties</p> <ul style="list-style-type: none"> Regulation (EU) 703/2015 on Interoperability and Data Exchange Rules needs to be adopted by the Energy Community Permanent High Level Group (PHLG), on the basis of a European Commission proposal, in order to apply to Contracting Parties. 	



4. Measures required for market integration

<p>Discuss possibilities to integrate Energy Community gas markets with neighbouring EU gas markets</p> <ul style="list-style-type: none"> All national gas market stakeholders are expected to join the discussion platform organized under ACER GRI SSE and investigate possibilities for future market integration during 2016, based on the study "Cross-border gas market integration in the Energy Community" of February 2016. 	
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5. Cross-cutting measures

<p>Ensure independence of national energy regulatory authorities based on pre-defined indicators</p> <ul style="list-style-type: none"> Third Package compliant independence requirements have been transposed by the Gas Market Law. The regulatory authority contributed to identifying a list of actions to improve independence based on a list of priority areas elaborated by the Secretariat. The list of actions was expected to be implemented by January 2016. However this has not happened yet. 	
<p>Unbundle and certify transmission system operator in line with the Third Energy Package</p> <ul style="list-style-type: none"> The regulatory authority (ERE) has preliminarily certified the <i>Trans Adriatic Pipeline (TAP)</i>. The decision has been reviewed by the Secretariat, and ERE has 2 months to issue a final certification decision, taking into account the Secretariat's opinion. The transmission system operator <i>Albpetrol</i> has not been unbundled yet and certification cannot be expected by June 2016. However, the Ministry of Economic Development has recently made a decision on an unbundling structure (combined transmission and distribution operator) and initiated amendments to the "Law for the transformation of state companies into trading companies", adopted on 11 February 2016, which would enable the unbundling of <i>Albpetrol</i>. An establishment of a new company – combined operator – is expected in May 2016. 	
<p>Apply for observer status in ACER based on a positive opinion of the European Commission by July 2016</p> <ul style="list-style-type: none"> The application has not been filed yet. As a prerequisite, regulatory independence needs to be ensured and all secondary legislation needs to be adopted. 	
<p>Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Energy Community Secretariat of pending proceedings, and take due account of the Secretariat's opinion (Procedural Act PA/2015/04/MC-EnC)</p> <ul style="list-style-type: none"> The independence of the State Aid Commission should be improved by separating it from the Ministry of Economy. Notification of pending proceedings before administrative authorities is envisaged by the amended Energy Community Dispute Settlement Rules. Whether and how these changes require implementation in Albania needs to be clarified. 	



FYR of Macedonia

Energy Community CESEC Report

04/2016



1. Ensuring transparent and non-discriminatory third party access (TPA)

<p>Establish capacity allocation mechanisms and congestion management rules allowing TPA in forward and reverse flow</p> <ul style="list-style-type: none"> Primary legislation transposing the Third Energy Package has not been adopted. The transmission system operator and the regulatory authority agreed to prepare secondary legislation harmonized with requirements of Regulation (EC) 715/2009 related to capacity allocation mechanisms (CAM) and congestion management procedures (CMP) by October 2016. A working group in charge of preparing a new transmission network code was established in February 2016. Discussions with Bulgaria on implementation of the CAM and the CMP Network Codes via the ACER Gas Regional Initiative South South East (GRI SEE) are supposed to take place by June 2016. The transmission system operator is expected to start discussions with the existing capacity platform operators and relevant transmission system operators in Europe on joint capacity allocations by June 2016. 	
<p>Establish market-based balancing mechanisms</p> <ul style="list-style-type: none"> The transmission system operator and the regulatory authority agreed to prepare secondary legislation harmonized with requirements of Regulation (EC) 715/2009 related to balancing by October 2016. A working group in charge of preparing a new transmission network code was established in February 2016. 	
<p>Develop transparent and non-discriminatory tariffication rules that do not distort trade across borders</p> <ul style="list-style-type: none"> An entry-exit transmission tariff methodology that allows for individual setting of tariffs for all entries to and all exits from the system in a non-discriminatory way needs to be prepared by September 2016 to allow its implementation as of January 2017. So far no activity has been launched. However, the NRA intends to start discussions with consultants and academic organizations in order to specify their technical support in this respect. 	



2. Ensuring free flow of gas and provision of a competitive framework

<p>Remove legal or contractual barriers to competition</p> <ul style="list-style-type: none"> The existing supply contracts apparently include an anti-competitive clause (i.e. destination clause). The Secretariat has not been informed of any activities towards the removal of these barriers. 	
<p>Ensure barrier-free market entry</p> <ul style="list-style-type: none"> The Secretariat is not aware of any rules creating obstacles to market entry. 	
<p>Optimise actual capacity use in both directions, including backhaul</p> <ul style="list-style-type: none"> The transmission system operator agreed to start discussions on the possibility for backhaul with Bulgaria by June 2016. 	



3. Infrastructure related measures

<p>Adopt interconnection agreements</p> <ul style="list-style-type: none"> A discussion on an interconnection agreement with the transmission system operator of Bulgaria was recently launched. The Secretariat has not been informed on any progress towards adoption of the agreement. 	
<p>Provide a cross- border cost allocation mechanism in line with Regulation (EU) 347/2013 by January 2017</p> <ul style="list-style-type: none"> Regulation (EU) 347/2013 was incorporated in the Energy Community in October 2015. Implementation activities in the former Yugoslav Republic of Macedonia have not started yet. 	
<p>Ensure a harmonised framework of operation of interconnected systems of EU Member States and Energy Community Contracting Parties</p> <ul style="list-style-type: none"> Regulation (EU) 703/2015 on Interoperability and Data Exchange Rules needs to be adopted by the Permanent High Level Group, on the basis of a European Commission proposal, in order to apply to Contracting Parties. 	



4. Measures required for market integration

<p>Discuss possibilities to integrate Energy Community gas markets with neighbouring EU gas markets</p> <ul style="list-style-type: none"> All national gas market stakeholders are expected to join the discussion platform organized under ACER GRI SSE and to investigate possibilities for future market integration during 2016, based on the study "Cross-border gas market integration in the Energy Community" of February 2016. 	
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5. Cross-cutting measures

<p>Ensure independence of national energy regulatory authorities based on pre-defined indicators</p> <ul style="list-style-type: none"> The regulatory authority's competences need to be expanded and its independence ensured by implementation of the Third Package. A neutral committee for selecting board members should be introduced and the requirement for applicants to pass a psychological and integrity test be abolished. The regulatory authority contributed to identifying a list of actions to improve independence based on a list of priority areas elaborated by the Secretariat. The list of actions identified is expected to be implemented by January 2016, which did not happen. 	
<p>Unbundle and certify transmission system operator in line with the Third Energy Package</p> <ul style="list-style-type: none"> Unbundling and certification are not possible without a legislative framework in line with the Third Package. However the regulatory authority launched the work on certification rules, in cooperation with the Secretariat. 	
<p>Apply for observer status in ACER based on a positive opinion of the European Commission by July 2016</p> <ul style="list-style-type: none"> The application has not been filed yet. As a prerequisite, the Third Package needs to be transposed, regulatory independence needs to be ensured and all secondary legislation needs to be adopted. 	
<p>Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Energy Community Secretariat of pending proceedings, and take due account of the Secretariat's opinion (Procedural Act PA/2015/04/MC-EnC)</p> <ul style="list-style-type: none"> Effectiveness of the national State aid authority is not satisfactory as it does not intervene in the State aid granted to the energy sectors. Notification of pending proceedings before administrative authorities is envisaged by the amended Energy Community Dispute Settlement Rules. Whether and how these changes require implementation in the former Yugoslav Republic of Macedonia needs to be clarified. 	

Moldova

Energy Community CESEC Report

04/2016



1. Ensuring transparent and non-discriminatory third party access (TPA)

Establish capacity allocation mechanisms and congestion management rules allowing TPA in forward and reverse flow	
<ul style="list-style-type: none">Natural Gas Law transposing the Third Energy Package was expected to be adopted in March 2016, which still did not happen.The transmission system operator and the regulatory authority agreed to prepare secondary legislation harmonized with requirements of Regulation (EC) 715/2009 related to capacity allocation mechanisms (CAM) and congestion management procedures (CMP) by end 2016.Discussions with Ukraine and Romania on implementation of the CAM and the CMP Network Codes via the ACER Gas Regional Initiative South South East (GRI SEE) are supposed to take place by June 2016.The transmission system operator is expected to start discussions with the existing capacity platform operators and relevant transmission system operators in Europe on joint capacity allocations by June 2016.	◻
Establish market- based balancing mechanisms	
<ul style="list-style-type: none">The transmission system operator and the regulatory authority agreed to prepare secondary legislation harmonized with requirements of Regulation (EC) 715/2009 related to balancing by end 2016.	◻
Develop transparent and non- discriminatory tariffication rules that do not distort trade across borders	
<ul style="list-style-type: none">According to the draft primary legislation, the national regulatory authority has 24 months to prepare all secondary legislation, including an entry-exit transmission tariff methodology that allows for individual setting of tariffs for all entries to and all exits from the system in a non-discriminatory way. However the regulator envisaged finalization of the entry-exit tariff methodology only by September 2017.	◻



2. Ensuring free flow of gas and provision of a competitive framework

Remove legal or contractual barriers to competition	
<ul style="list-style-type: none">The existing transit and supply contracts allegedly include anti-competitive clauses (different treatment of cross-border transmission in comparison to national transmission; a destination clause in the supply contracts).	◻
Ensure barrier-free market entry	
<ul style="list-style-type: none">The Secretariat is not aware of any rules creating obstacles to market entry.	⬆️
Optimise actual capacity use in both directions, including backhaul	
<ul style="list-style-type: none">The transmission system operator agreed to start discussions on the possibility for backhaul with Ukraine and Romania by June 2016.	▶️



3. Infrastructure related measures

Adopt interconnection agreements	
<ul style="list-style-type: none"> There is an ongoing discussion between <i>Moldovatransgaz</i> and <i>Ukrtransgaz</i> on an interconnection agreement. There is also a technical agreement between <i>Vestmoldtransgaz</i> and <i>Transgaz (RO)</i>. 	
Provide a cross-border cost allocation mechanism in line with Regulation (EU) 347/2013 by January 2017	
<ul style="list-style-type: none"> Regulation (EU) 347/2013 was incorporated in the Energy Community in October 2015. Implementation activities in Moldova have not started yet. 	
Ensure a harmonised framework of operation of interconnected systems of EU Member States and Energy Community Contracting Parties	
<ul style="list-style-type: none"> Regulation (EU) 703/2015 on Interoperability and Data Exchange Rules needs to be adopted by the Permanent High Level Group, on the basis of a European Commission proposal, in order to apply to Contracting Parties. 	



4. Measures required for market integration

Discuss possibilities to integrate Energy Community gas markets with neighbouring EU gas markets	
<ul style="list-style-type: none"> All national gas market stakeholders are expected to join the discussion platform organized under ACER GRI SSE and to investigate possibilities for future market integration during 2016, based on the study "Cross-border gas market integration in the Energy Community" of February 2016. 	



5. Cross-cutting measures

Ensure independence of national energy regulatory authorities based on pre-defined indicators	
<ul style="list-style-type: none"> The regulatory authority's competences need to be expanded and its independence ensured by implementation of the Third Package, i.e. by Natural Gas Law and Law on Energy that is expected to be adopted by June 2016. There is a need to further monitor actual regulatory independence. The regulatory authority contributed to identifying a list of actions to improve independence based on a list of priority areas elaborated by the Secretariat. The list of actions identified is expected to be implemented by June 2016. 	
Unbundle transmission system operator in line with the Second Energy Package¹	
<ul style="list-style-type: none"> The transmission system operator is legally unbundled, while functional unbundling has to be proven and further monitored by the regulatory authority. 	
Legal and functional unbundling of distribution system operators and supply companies	
<ul style="list-style-type: none"> 12 distribution system operators owned by Moldovagaz are legally unbundled as of 25 January 2016. The other 11 DSOs are not legally unbundled, although the existing law requires unbundling of all distribution companies. However the new Gas Law will allow a possibility to keep a DSO bundled if less than 100.000 customers are connected, i.e. all 11 still bundled DSOs could use this exemption. Functional unbundling has to be properly performed and monitored by the regulatory authority. 	
Apply for observer status in ACER based on a positive opinion of the European Commission by July 2016	
<ul style="list-style-type: none"> The application has not been filed yet. As a prerequisite, the Third Package needs to be transposed, regulatory independence needs to be ensured and all secondary legislation needs to be adopted. 	
Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Energy Community Secretariat of pending proceedings, and take due account of the Secretariat's opinion (Procedural Act PA/2015/04/MC-EnC)	
<ul style="list-style-type: none"> The State aid authority is established as a separate authority within the Competition Council, independent of other institutions. However it is not clear how effective this authority is, i.e. there is no information on cases launched in the energy sector. Notification of pending proceedings before administrative authorities is envisaged by the amended Energy Community Dispute Settlement Rules. Whether and how these changes require implementation in Moldova needs to be clarified. 	

¹ Energy Community Ministerial Council approved postponement of TSO certification in line with the Third Package in Moldova until 2020.



Serbia

Energy Community CESEC Report

04/2016



1. Ensuring transparent and non-discriminatory third party access (TPA)

<p>Establish capacity allocation mechanisms and congestion management rules allowing TPA in forward and reverse flow</p> <ul style="list-style-type: none"> Transmission network codes are mostly harmonized with requirements of Regulation (EC) 715/2009 related to capacity allocation mechanisms (CAM) and congestion management procedures (CMP). Certain provisions related to secondary capacity trading and congestion management are still not covered by the network codes in an appropriate way. Update of the transmission network code, originally envisaged for end December 2015, has not happened. The implementation of the secondary legislation, including publication of capacity-related information, was envisaged by April 2016. However, the implementation depends on functional unbundling of the transmission system operators which is still pending. Discussions with Hungary and Bosnia and Herzegovina on implementation of the CAM and CMP Network Codes via the ACER Gas Regional Initiative South South East (GRI SEE) are supposed to take place in 2016. The transmission system operator is expected to start discussions with the existing capacity platform operators and relevant transmission system operators in Europe on joint capacity allocations during 2016. 	
<p>Establish market-based balancing mechanisms</p> <ul style="list-style-type: none"> The transmission network codes transpose the requirements of Regulation (EC) 715/2009 related to balancing. Their implementation in practice, including the calculation of imbalance charges, was envisaged by April 2016. Again, the implementation depends on the functional unbundling of the transmission system operators, which is still pending. 	
<p>Develop transparent and non-discriminatory tariffication rules that do not distort trade across borders</p> <ul style="list-style-type: none"> An entry-exit transmission tariff methodology allowing for the individual setting of tariffs for all entries to and all exits from the system in a non-discriminatory way has been approved and is implemented since February 2015. 	



2. Ensuring free flow of gas and provision of a competitive framework

<p>Remove legal or contractual barriers to competition</p> <ul style="list-style-type: none"> The existing transit contracts and the intergovernmental agreement related to gas supply allegedly include anti-competitive clauses (different treatment of cross-border transmission in comparison to national transmission; a destination clause in the intergovernmental agreement). The Secretariat has not been informed of any activities towards the removal of these barriers. 	
<p>Ensure barrier-free market entry</p> <ul style="list-style-type: none"> The Secretariat is not aware of any rules creating obstacles to market entry. 	
<p>Optimise actual capacity use in both directions, including backhaul</p> <ul style="list-style-type: none"> The transmission system operator agreed to start discussions on the possibility for backhaul with Hungary by June 2016 and with Bosnia and Herzegovina by December 2016. 	



3. Infrastructure related measures

<p>Adopt interconnection agreements</p> <ul style="list-style-type: none"> A discussion on an interconnection agreement with the transmission system operator of Hungary has been launched. Its finalization is envisaged by June 2016. A discussion on an interconnection agreement with Bosnia and Herzegovina has not been launched yet, because the counterparty on the side of Bosnia and Herzegovina is unclear. 	
<p>Provide a cross-border cost allocation mechanism in line with Regulation (EU) 347/2013 (by January 2017)</p> <ul style="list-style-type: none"> Regulation (EU) 347/2013 was incorporated in the Energy Community in October 2015. The regulatory authority arranged technical assistance related to the implementation of regulatory aspects of the Regulation. 	
<p>Ensure harmonised framework of operation of interconnected systems of EU Member States and Energy Community Contracting Parties</p> <ul style="list-style-type: none"> Regulation (EU) 703/2015 on Interoperability and Data Exchange rules needs to be adopted by the Permanent High Level Group, on the basis of a European Commission proposal, in order to apply to Contracting Parties. 	



4. Measures required for market integration

<p>Discuss possibilities to integrate Energy Community gas markets with neighbouring EU gas markets</p> <ul style="list-style-type: none"> All national gas market stakeholders are expected to join the discussion platform organized under ACER GRI SSE and to investigate possibilities for future market integration during 2016, based on the study "Cross-border gas market integration in the Energy Community" of February 2016. 	
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5. Cross-cutting measures

<p>Ensure independence of national energy regulatory authorities based on pre-defined indicators</p> <ul style="list-style-type: none"> Insufficient autonomy of the regulatory authority over its budget and internal organisation due to limitations stemming from the Law on Maximum Number of Employees in the Public Sector are jeopardizing the authority's independence. The regulatory authority contributed to identifying a list of actions to improve independence based on a list of priority areas elaborated by the Secretariat. The list of actions identified was expected to be implemented by January 2016. However this has not happened. 	
<p>Unbundle and certify transmission system operator in line with the Third Energy Package</p> <ul style="list-style-type: none"> Unbundling and certification of <i>Transportgas Srbija</i> in line with the Third Package has not yet started. If no immediate action is taken, the deadlines envisaged by the Third Package will not be met. However, <i>Yugorosgaz-Transport</i> applied for the certification. 	
<p>Apply for observer status in ACER based on a positive opinion of the European Commission by July 2016</p> <ul style="list-style-type: none"> The application has not been filed yet. As a prerequisite, regulatory independence needs to be ensured and all secondary legislation needs to be adopted. 	
<p>Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Energy Community Secretariat of pending proceedings, and take due account of the Secretariat's opinion (Procedural Act PA/2015/04/MC-EnC)</p> <ul style="list-style-type: none"> Effectiveness of the national competition and State aid authorities in the energy sector is not yet satisfactory. The independence of the Commission for State Aid Control should be improved by separating it from the Ministry of Finance. Notification of pending proceedings before administrative authorities is envisaged by the amended Energy Community Dispute Settlement Rules. Whether and how these changes require implementation in Serbia needs to be clarified. 	



Ukraine

Energy Community CESEC Report

04/2016

1. Ensuring transparent and non-discriminatory third party access (TPA)

Establish capacity allocation mechanisms and congestion management rules allowing TPA in forward and reverse flow

- The Gas Market Law, which entered into force on 1 October 2015, transposed the Third Energy Package in the gas sector
- The Transmission Network Code adopted in November 2015 transposes the capacity allocation (CAM) and congestion management (CMP) requirements of Regulation (EC) 715/2009, as well as the transparency requirements. Its implementation is fully exercised at the cross-border points – capacity allocation procedure was successfully launched in February 2016.
- Publication of all capacity-related information in line with the Annex to Regulation (EC) 715/2009 was expected in January 2016. For now *Ukrtransgaz* is publishing information on capacity for entry and exit points relevant for transit flows as well as other documents relevant for contracting capacity on all entry and exit points.
- The transmission system operator and the regulatory authority joined the discussions on early implementation of the EU CAM and the CMP Network Codes with Poland within the ACER Gas Regional Initiative South South East (GRI SEE), and, within the same framework, started discussions with all three existing capacity platform operators. They agreed to start similar discussions with Hungary, Slovakia, Romania and Moldova during 2016.



Establish market- based balancing mechanisms

- The requirements of Regulation (EC) 715/2009 related to balancing have been transposed. The transmission system operator started to implement these rules, including for the calculation of imbalance charges, but on monthly basis only.



Develop transparent and non-discriminatory tariffication rules that do not distort trade across borders

- The entry-exit transmission tariff methodology was adopted in November 2015 and implemented from January 2016 for cross-border points, while tariffs for internal entry and exit points have been calculated according to the old (volume based) methodology.



2. Ensuring free flow of gas and provision of a competitive framework

Remove legal or contractual barriers to competition

- Transit and supply contracts which include anti-competitive clauses (e.g. different treatment of cross-border transmission in comparison to national transmission and destination clause) are subject to arbitration in Stockholm. Secretariat has not been informed on any activities towards removal of these barriers.
- Gas export quotas were included in the Cabinet of Ministers' Decision on export quotas for 2016. The precise figure is conditioned on the Gas Balance Act which is still pending.



Ensure barrier-free market entry

- The Secretariat is not aware of any rules creating obstacles to market entry. However, the Gas Market Law and the Law on Licensing of Economic Activities grant different bodies the responsibility for issuing supply licences. This discrepancy has to be abolished as soon as possible by amending the Law on Licensing of Economic Activities, still in parliamentary procedure.



Optimise actual capacity use in both directions, including backhaul

- Ukraine maintains a dialogue on reversibility with Poland, Slovakia, Hungary and Romania. Final agreements depend also on the progress achieved by the relevant EU Member States, which is still pending.
- Full compliance with the transparency requirements of Regulation (EC) 715/2009 was expected with the full implementation of the Transmission Network Code by April 2016. This has been achieved for all cross-border points and entries/exits to storages, but still pending for internal entry and exit points





3. Infrastructure related measures

Adopt interconnection agreements

- The transmission system operator *Ukrtransgaz* has concluded interconnection agreements with the Polish and Slovakian operators for pipelines where physical reverse flows take place and with the Hungarian operator for all interconnection points. The latter's implementation is pending due to missing shippers codes. Discussions to conclude interconnection agreements for all interconnection points also started with *Transgaz* (Romania) and are ongoing with *Eustream* (Slovakia) and *Gaz System* (Poland). It is envisaged to conclude those agreements by May 2016. Discussion on interconnection agreement with *Moldovatransgaz* (Moldova) has started already, and agreement was expected to be signed in March 2016. However, this did not happen.



Provide a cross-border cost allocation mechanism in line with Regulation (EU) 347/2013 by January 2017

- Regulation (EU) 347/2013 was incorporated in the Energy Community in October 2015. Implementation activities in Ukraine have not started yet.



Ensure harmonised framework of operation of interconnected systems of EU Member States and Energy Community Contracting Parties

- Regulation (EU) 703/2015 on Interoperability and Data Exchange Rules needs to be adopted by the Permanent High Level Group, on the basis of a European Commission proposal, in order to apply to Contracting Parties.



4. Measures required for market integration

Discuss possibilities to integrate Energy Community gas markets with neighbouring EU gas markets

- All national gas market stakeholders are expected to join the discussion platform organized under ACER GRI SSE and to investigate possibilities for future market integration during 2016 based on the study "Cross-border gas market integration in the Energy Community" of February 2016.



5. Cross-cutting measures

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

- The Law on Regulatory Authority, aiming to set regulatory independence in line with the Third Package, has been developed in the first quarter of 2015. The law has been submitted to Parliament, but has not been approved yet.



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

- The unbundling model has been discussed between the relevant stakeholders in Ukraine and the proposal by the Ministry of Energy and Coal Industry has been submitted for a approval to the Secretariat on 15 February 2016, in accordance with the Gas Market Reform Plan.
- The regulatory authority had to adopt certification rules by end- 2015, which did not happen. However, the public consultation on the proposal has been finalised and approval can be expected soon.



Legal and functional unbundling of distribution system operators and supply companies

- Distribution system operators are legally unbundled from supply companies since July 2015. Functional unbundling has to be properly performed and monitored by the regulatory authority.



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

- The application has not been filed yet. As a prerequisite, regulatory independence needs to be ensured and all secondary legislation needs to be adopted.



Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Energy Community Secretariat of pending proceedings, and take due account of the Secretariat's opinion (Procedural Act PA/2015/04/MC-EnC)

- Notification of pending proceedings before administrative authorities is envisaged by the amended Energy Community Dispute Settlement Rules. Whether and how these changes require implementation in Ukraine needs to be clarified.
- In order for Ukraine to fully comply with the Energy Community rules on State aid, the Antimonopoly Committee has to start implementation and application of State aid rules to the energy sector.

