



ANNUAL IMPLEMENTATION REPORT

ENERGY COMMUNITY SECRETARIAT

1 AUGUST 2014

The cover images of the IR 2014 feature the energy sector of Ukraine, the Energy Community Presidency in 2014. The collage shows gas pipelines over a river in the Zakarpattia region. The underground gas storage image originates from the Bilche-Volytsko-Uherske facility, the largest in Europe, not far from the village of Bilche in the Lviv region of western Ukraine. The oil reservoirs are part of the Marine Oil Terminal "Pivdennyi" in the port of Yuzhnyi in the Odessa region.

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2013/2014

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Preface

The Implementation Report is every year the focal product of the Energy Community Secretariat and its monitoring role. It brings together the entire Energy Community family: every single member of the Secretariat, all Permanent High Level Group members and many other officials in our Contracting Parties – all under the excellent conduction of Dirk Buschle, the Deputy Director of the Secretariat.

The Implementation Report evolves every year. Not only because of the developments in our Contracting Parties but also because of the widened scope of the Energy Community *acquis* and newly added content. This year for instance the Report for the first time includes the Annual Report on the Activities of the Energy Community, chapters assessing the independence of National Regulatory Authorities and a wide range of energy statistics. Regarding the latter, we are especially proud since it proves that the bulk of the statistical *acquis* was timely transposed and implemented following a technical assistance project of the Secretariat. Unfortunately not all Contracting Parties were successful in implementing many other parts of the *acquis*.

The Implementation Report covers the period between 1 September 2013 and 1 August 2014. This was one of the liveliest and most dramatic years for the entire Energy Community. The Contracting Parties are transposing the Third Energy Package as the most demanding piece of energy *acquis*. Georgia's negotiations for full-fledged membership are advancing and once concluded will extend our borders towards the very end of the pan-European space, also changing the approach towards some parts of the *acquis*. Dramatic events in Ukraine, which holds the Presidency of the Energy Community in 2014, turned the whole post-World War II constellation upside down and kept us busy with the biggest and most gas vulnerable Contracting Party, with strong repercussions on the EU's security of energy supply. Tragic floods in Serbia and Bosnia and

Herzegovina impeded the reform process as well as electricity production, leaving hundreds of thousands of people without power. Moreover, the Secretariat successfully managed negotiations of two long-lasting disputes, namely between the electricity transmission system operators of Serbia and Kosovo* and between the Czech multinational CEZ and Albania. The resolution of both disputes paved the way for Serbia and Albania to progress in the EU accession process.

Among all these history changing processes and projects, I have to underline probably the most important one: "*An Energy Community for the Future*". A process to improve the functioning of the Energy Community, which was kicked off by the High Level Reflection Group convened under the chairmanship of Prof Jerzy Buzek. The Annual Report summarises the Group's recommendations. These far reaching proposals could redesign the whole pan-European map.

The past year was a period of intensive work of the Secretariat on the adaptation and preparation of new pieces of *acquis*, to some extent also presented in this Report. This work will be even intensified in the future since all Contracting Parties will have to transpose and implement new Network Codes, urgently needed to preserve technical unity of the European electricity and gas system.

Behind the following pages is a tremendous work of the Secretariat's staff and many other individuals who deserve a special thanks for all their efforts. With the implementation of the Third Energy Package, the related Network Codes and the High Level Reflection Group's proposals, the year ahead promises to bring even bigger steps forward in the development of the Energy Community about which we will report in a year's time.

Janez Kopač,
Director of the Energy Community Secretariat





STATE OF IMPLEMENTATION **1**
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1 State of Implementation in 2013/2014

By Dirk Buschle, Deputy Director

a. Introduction

Implementing the Energy Community *acquis* is a long-distance run. Eight years after the Treaty entered into force, this becomes more and more clear. Back in 2006, many Contracting Parties may have underestimated the profoundness of the reforms required and the stamina needed to push them through. And indeed, the Treaty itself was designed for a fast sprint: made to expire in 2016 and providing no financial incentives for compliance nor functioning enforcement mechanisms, it is not fit to support Contracting Parties in reaching the objectives which are equally ambitious as the European Union's, but more difficult to achieve on account of numerous historic relics and socio-economic problems. There is now broad consensus that the Treaty must be reformed if the Energy Community is to succeed also beyond the first decade of its existence.

The Secretariat's push for the Treaty to be reformed will not hush its call for the Contracting Parties to reshape their energy sectors and not slow down their efforts. We have accompanied them over the last eight years in assisting, monitoring and pressing for reforms which go below the surface of transposing the *acquis*. We have witnessed and continue to witness breakthroughs and slackening in this process. Today, in 2014, Contracting Parties such as Montenegro, Serbia and Kosovo* are still pressing ahead, Albania and Ukraine are gathering momentum whereas Bosnia and Herzegovina essentially stands still. Former Yugoslav Republic of Macedonia needs to recover its former level of ambition and commitment to the process, and Moldova seems to stand at a crossroad of deciding which direction to take in the further development of its energy sector.

b. Governance and Liberalization of Energy Markets

The historical focus of the Energy Community was on redesigning energy market governance in line with the European approach. The Implementation Reports of the last years essentially documented how most Contracting Parties managed to yield results quickly in the transposition of the Second Energy Package but failed to implement it in terms of creating truly open markets. In observing a widening gap between transposition and implementation over the years, the Secretariat never failed to mention that similar developments take place also in certain EU Member States. It is not the Contracting Parties which underperform as compared to the Member States' average; it is individual countries on both sides of the Energy Community single market who, for different reasons, fail to take their reform commitments seriously enough. The Report of the High Level Reflection Group offers some insight into why this is the case and makes many reasonable suggestions,

including a greater degree of flexibility in designing the Energy Community *acquis*.

In the current reporting period, two events may turn out to be game-changers with respect to the notorious implementation gap. One is the impending transposition of the Third Package in each Contracting Party, and the other one is a noticeable trend towards liberalization at last, and at least in the electricity sectors.

1. The Third Package – Status Quo and Next Steps

As regards the Third Package, the Secretariat has been involved in all Contracting Parties' endeavours to develop new or amended primary legislation since end of 2013. In some cases, it was the Secretariat submitting a first draft to the authorities in order to kick-start the domestic discussions on time for adoption of new legislation before the end of 2014. In other cases, the Secretariat assisted the drafters by providing comments and explaining the concepts of the *acquis*. It remains to be seen whether all Contracting Parties will manage to keep the deadline. Kosovo*, Montenegro and Serbia had set themselves very ambitious deadlines for adoption of new energy laws which had to be postponed due to domestic politics. As is the case in Albania and the former Yugoslav Republic of Macedonia, draft legislation is still being discussed with the domestic stakeholders. Serbia is the first Contracting Party to submit its draft Energy Law to the Secretariat for comments. In Moldova and Ukraine, the discussions started only recently as both of them are still transposing the Second Energy Package. In Bosnia and Herzegovina, chances that the Third Energy Package will be transposed on time are small due to the fundamental opposition to state-level cooperation in parts of the country.

As to substance, the Secretariat continuously underlined that the drafting of new primary energy legislation is important not only for the inclusion of those few building blocks which the Third Package introduced or reinforced (such as stricter unbundling, strengthening the regulatory authorities and defining vulnerable customers). The Third Package is actually far from providing a complete template for a market design. The incorporation of Network Codes in the Energy Community, which do fill this gap to some extent, should therefore be prioritized. In any event, taking the Treaty's objective for deregulating markets seriously requires the too rigid market structures existing in all Contracting Parties to be revised and opened up. There is plenty of advice and studies on how to create market structures and governance allowing for the transition of markets towards competition. Revisiting primary energy legislation provides a unique opportunity for putting them in the law.

2. The State of Electricity Market Liberalization

The way how the electricity markets in the Energy Community are generally organized is a good illustration of the challenges still ahead of the Contracting Parties but also of a new dynamism which can be observed in several of them today. All Contracting Parties are aware of the importance of gradually opening the markets, the historical *raison d'être* of the Energy Community, and devising their energy sector strategies accordingly. They meet two main obstacles, both legacies from the past and still very relevant today: price regulation as an instrument of social policy on the one hand and market structures created, operated and supervised by the State in various manifestations, on the other. Both factors are powerful inhibitors of liberalization, for obvious socio-political reasons. That deregulation came across under these circumstances had to do with the cognition that domestic capacities for electricity generation, as well as the indigenous natural resources – mostly coal and water – used in the process are limited. Management of scarcity rather than a belief in markets led to the political decision that domestically produced electricity should be reserved for residential consumption at regulated prices. Industry and an increasing share of commercial customers, by contrast, are being referred to a regional market hardly developed and suffering from collusive practices by certain traders. For the incumbent utilities, losing these customers amounts to being dependent on households which in many Contracting Parties are either bad payers, or pay a low regulated price hardly covering costs, or both. Where domestic generation is not even sufficient to supply residential customers, utilities or the State budget are expected to cover the difference between high import costs and the regulated price, at high social costs, as is the case for instance in Albania.

The coexistence of an unregulated and a regulated segment of the domestic electricity system working under entirely different conditions is *status quo* in most Contracting Parties today. Instead, two markets with a far less impermeable dividing line

should be developed, wholesale and retail markets. Barriers to the opening and regional integration of wholesale markets need to be abolished with priority. They include single buyer models and the regulation of generation/wholesale prices still to be observed in Albania and Ukraine, a (statutory or contractual) band of exclusivity between the incumbent generator and the incumbent (public) supplier covering the entire output of the former, the lack of transparent market places such as power exchanges, etc. On retail level, deregulating prices for large customers should go in parallel with the liberalization of wholesale markets, as well as making sure that what the Directives refer to as “universal service” in the regulated residential sector does not, through concepts such as suppliers of last resort, in fact turn into a default supplier as an instrument for the consolidation of monopolies rather than what the Directives envisaged it for.

Despite all this, the Secretariat observes and actively supports that electricity markets are being opened in practice. The leader in this respect is Serbia, while the process in former Yugoslav Republic of Macedonia and Montenegro is moving slower than in previous years. Albania, Bosnia and Herzegovina, Kosovo*, Moldova and Ukraine must take further steps in legal and practical terms as a precondition for real market opening.

3. Weakness of Domestic and Regional Institutions

The ubiquitous State influence over the energy sectors in most Contracting Parties in terms of policy-making, permitting authorities and ownership of companies and natural resources jeopardizes the system of checks and balances introduced by EU legislation, if the institutions charged with supervision and enforcement of national energy markets are not fully independent and/or active. The weakness of national institutions is a topic which increasingly worries the Secretariat. This year's Report for the first time focuses on national regulatory authorities in a separate chapter for each Contracting Party. The independence of national energy regulators is threatened by structural



measures such as reducing staff, budget or salaries but is also subject to direct political intervention. The worst case observed so far concerns the head of the regulator of Moldova who was dismissed first on plain political grounds and then following dubious criminal proceedings. This case casts a bad light also on the national judiciary. Regulatory authorities which are not safe from political influence tend also to be less proactive in liberalizing markets and thus fail to fulfil the role of motors of reforms assigned to them by the Treaty. The same goes, *mutatis mutandis*, for national competition and State aid authorities whose potential for market opening remains almost entirely unused under the given circumstances. Through the Energy Community Competition Network, the Secretariat tries to involve them, while truly effective enforcement would require a system similar as in the European Union.

Where national institutions fail, not only implementation, but also investor confidence suffers. The weaker the first line of defence is, the stronger the second line needs to be. The Secretariat in its enforcement practice takes complaints by investors always very seriously, even when the compliance questions raised are very complex and have not yet been dealt with by EU institutions. The review of tariff methodologies may serve as an example. But the shortcomings of the existing system of dispute settlement become increasingly visible. The system was copied on Article 7 of the EU Treaty, a diplomatic procedure to safeguard fundamental values in the Union, which has never been applied. The European Commission has rightfully expressed its concern that such a procedure is not suitable to deal with legal cases of high complexity. It also lacks independence and a direct access by investors to justice below the high thresholds of arbitration as the last resort. For these reasons, the Secretariat supports the High Level Reflection Group's call for a court as the only dispute resolution forum worthy of the European tradition.

4. The Regional Dimension

While it is true that each Contracting Party faces its own specific challenges, the spirit of working together, supporting and complementing each other in this transition process is still not developed enough. The lack of integration of regional markets still remains an unfulfilled vision of the Energy Community, especially in the so-called 8th Region. This year finally brought progress in the establishment of the Coordinated Auction Office (SEE CAO) which is expected to start operating by a first annual auction in November 2014. Yet, Serbia and former Yugoslav Republic of Macedonia still do not participate either in SEE CAO or any other regionally coordinated capacity allocation scheme. The same goes for Bulgaria as an EU Member State. Furthermore, the level of cooperation between transmission system operators for closer to real-time horizons than what is covered by SEE CAO is not satisfactory. The discussion about the establishment of trading platforms for each bidding zone, namely power exchanges, has continued during the reporting period, but still without any tangible results. The target model for the day-ahead timeframe is not implemented yet in the Energy Community nor has intraday cross-zonal capacity allo-

cation and trading systems at all borders of the 8th Region been achieved. The creation of an integrated day-ahead market will be a priority for the future.

Finally, a regionally coordinated opening of balancing markets is currently being prioritized by the Secretariat, not only because of the efficiency gains to be made but also because functioning balancing markets and non-discriminatory imbalance settlement mechanisms are a precondition for market opening in general. The balancing regimes in the 8th Region are far from being harmonised and are very often characterised by non-market based procurement and dominant market positions. In late 2013, representatives of the ECRB's Electricity Working Group, ENTSO-E's Regional Group Southeast Europe, and the Secretariat launched a Regional Balancing Initiative. The project should ensure the harmonised development of the balancing markets in the 8th Region by 2015. Two other promising projects in the sphere of cross-border balancing cooperation were initiated during the reporting period. The transmission system operators of the control block Slovenia/Bosnia-Herzegovina/Croatia concluded an agreement on the common procurement of balancing reserves, and negotiations within the control block comprising Serbia, Kosovo*, Montenegro and former Yugoslav Republic of Macedonia on the common procurement and sharing of balancing reserves have started.

5. Challenges in the Gas Markets

Despite being treated equally by the *acquis*, the gas sectors in the Contracting Parties – where they exist – are even less open than the electricity markets. The issues which occupied the Energy Community during the last years were typically of a fundamental nature. This includes the complete absence of state-level gas legislation in one Contracting Party, Bosnia and Herzegovina, and the lack of any unbundling of the gas incumbent in another, Serbia. In most Contracting Parties, the reality stands in stark contrast to a sophisticated and widely compliant legislative framework. The lack of infrastructure and the dominance of one single supplier will prevent the development of liquid markets and make the region very vulnerable to threats to security of supply. Any knock-on effect of the current crisis in Ukraine is likely to affect the Contracting Parties in South East Europe significantly.

Beyond the present situation, diversification remains high on the agenda but as in the electricity sector, investment depends on functioning of the general legal and institutional environment which is yet to evolve and to replace the political governance of gas relations. Again, however, more commitment is not only expected from the Contracting Parties but also from some neighbouring Member States which must more actively support the integration of a pan-European single gas market as required by the Treaty. The swift incorporation of instruments such as the Regulation (EU) 994/2010 is a precondition for both pillars of the Energy Community not only to integrate but also move ahead at the same pace in terms of supply security. Security of supply is the one common concern and denominator

upon which a genuine regional cooperation in the gas sector, so far absent in the Energy Community, can be built.

Evidently, the situation in Ukraine was of the Secretariat's greatest concern over the past months. In parallel to the dispute between *Naftogaz* and *Gazprom* and the efforts by Ukraine and the European Union to diversify supply through reverse flows in particular on the border with Slovakia, Ukraine now should engage in serious and structured sector governance reforms. By doing this, the country would make good for years of refusal to go beyond cosmetic changes. The Secretariat provided a draft Gas Law to the country which may serve as a basis for a new set of legislation in line with the Third Package. The Secretariat also reviewed the supply contract between *Naftogaz* and *Gazprom* which is breaching Energy Community competition law in several instances.

6. Energy and Sustainability

Any credible energy policy needs to consider the adverse impact of energy production and consumption on the environment, climate and human health. That impact is bigger in the Energy Community Contracting Parties than in most EU Member States on account of a high share of coal and lignite in the fuel mix, long-standing lack of investments and low energy efficiency. Accordingly, the potential to be tapped by implementing the *acquis* related to environment, renewable energy and energy efficiency is exceptionally high. Looking at the state of implementation (and pre-implementation) of Directives such as the Large Combustion Plants Directive 2001/80/EC or the Renewable Energy Directive 2009/28/EC there is reason to assume that not only a few Contracting Parties will fail to fully comply by 2017 and 2020 respectively. In the area of renewable energy, for instance, the Secretariat had to open infringement procedures against the majority of them for not even submitting national renewable energy action plans (NREAPs).

However, pointing the finger only at the Contracting Parties would fall short of the full complexity of the situation. Implementing the Large Combustion Plants Directive requires invest-

ments of a magnitude that Contracting Parties have difficulties to raise. The Ministerial Council's Decision of October 2013 to activate the flexibility options inherent in the original Directive shows that the Energy Community is capable of adapting its legal framework to the reality without giving up the thrust for changes. In the area of energy efficiency, the Secretariat proposes to substantially adapt Directive 2012/27/EC when incorporating it in the Energy Community. The policy for promoting renewable energy arguably remains the biggest challenge. Support schemes such as feed-in tariffs, which investors usually demand, require either sound budgets or the corresponding absorption capacity of customers. The European Union itself increasingly worries about the negative effects of market interventions to promote renewable energy. Taking the lessons learned by several EU Member States seriously would require the adaptation of the existing legal framework for renewable energy to the specific situation of the Contracting Parties rather than just repeating the same mistakes. This, of course, is no excuse for a general disrespect for fair and transparent administrative procedures or the maintenance of non-cost-reflective energy prices. But it shows again that there is more to the lack of implementation than meets the eye.

c. Conclusions

The Secretariat takes its monitoring task very serious. Among other reasons, we believe that only understanding the situation as it is will allow us to make suggestions for improvement, both on the level of the Parties and the Energy Community itself. The present Report constitutes another step forward in the Secretariat's endeavour to be as concise and outspoken as possible in evaluating compliance with the *acquis*. Once we move beyond mere transposition towards assessing implementation in real terms, there is a growing degree of ambiguity. The Secretariat continues to count not only on all Parties and the European Commission for contributing to illuminating the picture as much as possible but on all stakeholders – authorities, companies, International Financial Institutions (IFIs), NGOs and individuals. This Energy Community is their Energy Community, and without their ownership and responsibility it will not thrive.



Energy Community Ministerial Council, Belgrade, 24 October 2013



2 Introduction

a. The Energy Community

The Energy Community extends the European Union (EU) internal energy market to its neighbouring countries. The principle objectives of the Energy Community are to create a regulatory and market framework which is capable of attracting investments for a stable and continuous energy supply. This paves the way for an integrated energy market, allowing for cross-border trade and integration with the EU market. The Energy Community strives to enhance security of supply and competition, and to improve the environmental situation in its

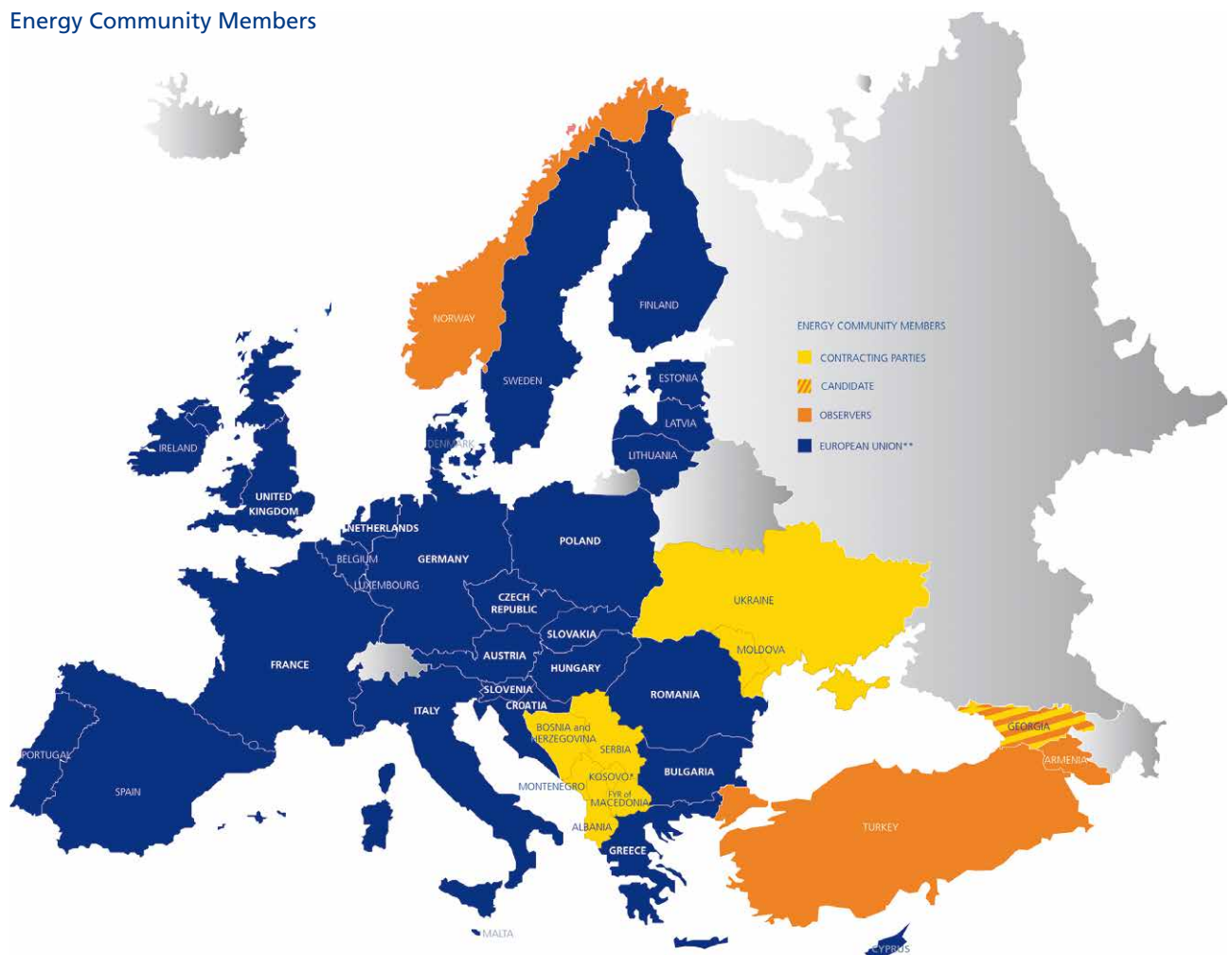
Contracting Parties. The Treaty covers network energy, which includes electricity, gas and oil.

The Treaty establishing the Energy Community was signed in October 2005 in Athens. Following ratifications by all Parties, the Treaty entered into force on 1 July 2006. As of 1 July 2014, the Parties to the Treaty are the European Union, and eight Contracting Parties, namely Albania, Bosnia and Herzegovina, Kosovo*¹, former Yugoslav Republic of Macedonia, Moldova, Montenegro, Serbia and Ukraine.

¹ Following an agreement between the Serbian and Kosovo* Governments reached under EU facilitation, Kosovo* is the only denomination to be used within the framework of regional cooperation.

* Throughout this Implementation Report, this designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence.

Energy Community Members



** 17 of the 28 EU Member States hold a Participant status according to Article 95 of the Energy Community Treaty.

Source: Energy Community Secretariat

Pursuant to the Article 95, the European Union Member States can obtain the status of a Participant to the Treaty. Following Croatia's accession to the EU, currently 17 EU Member States are Participants to the Treaty, namely Austria, Bulgaria, Croatia, Czech Republic, Cyprus, France, Finland, Germany, Greece, Hungary, Italy, the Netherlands, Poland, Romania, Slovakia, Slovenia, and the United Kingdom.

Armenia, Georgia, Norway and Turkey are Observers under Article 96 of the Treaty. Georgia applied to join the Energy

Community as a full member in 2013 and is expected to conclude its accession negotiations in 2014.

The implementation of the *acquis* is backed up by a strong institutional setting. This includes the Ministerial Council, as the supreme decision-making body, and the Permanent High Level Group (PHLG), which prepares the work of the Ministerial Council. The Energy Community Regulatory Board (ECRB), as well as the Fora for electricity, gas, oil and social issues, has an advisory role towards the decision-making bodies.

Energy Community Institutional Setting



Source: Energy Community Secretariat

b. The Secretariat

The Secretariat of the Energy Community is the only permanent and independent institution under the Treaty. In its threefold role, the Secretariat assists the Parties and institutions of the Treaty, enforces the implementation of the Treaty's *acquis* and monitors the state of implementation.

In accordance with Article 67(b) of the Treaty, the Secretariat is to review the proper implementation by the Contracting Parties of their Treaty obligations and submit annual progress reports to the Ministerial Council of the Energy Community.

c. Acquis

The Energy Community *acquis communautaire* under Title II of the Treaty comprises the core EU legislation in network energy, environment, competition, renewable energy, energy efficiency, oil and statistics. In the Energy Community context, network energy consists of electricity, gas and oil.

As a response to the evolution of EU energy law, the Treaty envisages the swift incorporation of new EU legislation to the Energy Community upon proposal by the European Commission. The Treaty also allows for the adaptation of the *acquis* and implementing amendments made to it. After entry into force of the Treaty, the Energy Community *acquis* has been extended several times.

The tables below display the Energy Community *acquis communautaire* presently in force. The implementation deadlines have been set by respective Ministerial Council Decisions. Due to their later accession, the implementation deadlines may differ for Moldova and Ukraine.

On 6 October 2011, the Ministerial Council adopted the so-called Third Energy Package for Electricity and Gas, with a general implementation deadline of 1 January 2015. Currently, the Contracting Parties' implementation commitments still relate to the Second Energy Package. The present Implementation Report measures compliance against that yardstick.



Acquis on Electricity

	Title of Document	General Implementation Deadline	Implementation Deadline Moldova / Ukraine
III. Package	Directive 2009/72/EC concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC	1 Jan 2015	1 Jan 2015
	Regulation (EC) No 714/2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003	1 Jan 2015	1 Jan 2015
	Regulation (EU) No 838/2010 on laying down guidelines relating to the inter-transmission system operator compensation mechanism and a common regulatory approach to transmission charging	1 Jan 2014	1 Jan 2014
II. Package	Commission Decision 2006/770/EC on amending the Annex to Regulation (EC) No 1228/2003 on conditions for access to the network for cross-border exchanges in electricity	27 Jun 2008	Moldova: 31 Dec 2010 Ukraine: 1 Jan 2012
	Directive 2003/54/EC concerning common rules for the internal market in electricity	1 Jul 2007	Moldova: 31 Dec 2009 Ukraine: 1 Jan 2012
	Regulation (EC) No 1228/2003 on conditions for access to the network for cross-border exchanges in electricity	1 Jul 2007	Moldova: 31 Dec 2009 Ukraine: 1 Jan 2012
	Directive 2005/89/EC concerning measures to safeguard security of electricity supply and infrastructure investment	31 Dec 2009	Moldova: 31 Dec 2010 Ukraine: 1 Jan 2012

The electricity *acquis* sets minimum requirements for the establishment of competitive electricity markets, including the development of coherent, transparent and non-discriminatory security of supply policies. The deadline for market opening for households is 1 January 2015. Whilst the general implementation deadline of market opening for non-households was set for 1 January 2008 for the founding Contracting Parties, 1 January 2013 and 1 January 2012 apply for Moldova and for Ukraine respectively.

For the Third Package, Decision 2011/02/MC-EnC sets separate deadlines for Article 9 of Directive 2009/72/EC on the unbun-

dling of transmission system operations, namely of 1 June 2016 and 1 June 2017 for Article 9(1) and Article 9(4) respectively. Article 11 on certification in relation to third parties is to be implemented no later than 1 January 2017.

At the PHLG meeting in March 2014, the Secretariat suggested the adoption of Commission Regulation (EU) No 543/2013 of 14 June 2013 amending Annex I to Regulation (EC) No 714/2009 on Conditions for Access to the Network for Cross-border Exchanges in Electricity. The ECRB issued a Recommendation for the adoption of the Regulation.



Acquis on Gas

	Title of Document	General Implementation Deadline	Implementation Deadline Moldova / Ukraine
III. Package	Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC	1 Jan 2015	1 Jan 2015
	Regulation (EC) No 715/2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005	1 Jan 2015	1 Jan 2015
II. Package	Directive 2003/55/EC concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC	1 Jul 2007	Moldova: 31 Dec 2009 Ukraine: 1 Jan 2012
	Regulation (EC) No 1775/2005 on conditions for access to the natural gas transmission networks	31 Dec 2008	Moldova: 31 Dec 2010 Ukraine: 1 Jan 2012
	Directive 2004/67/EC concerning measures to safeguard security of natural gas supply	31 Dec 2009	Moldova: 31 Dec 2010 Ukraine: 1 Jan 2012

Directive 2003/55/EC and Regulation (EC) 1775/2005 establish the main principles of gas market liberalisation. Directive 2004/67/EC introduces a set of measures to safeguard an adequate level of security of supply. The deadline for market opening for households in the gas sector is 1 January 2015. Whilst the general implementation deadline for market opening for non-households was set for 1 January 2008 for the original Contracting Parties, 1 January 2013 and 1 January 2012 apply for Moldova and for Ukraine respectively.

For the Third Package, Decision 2011/02/MC-EnC sets separate deadlines for Article 9 of Directive 2009/73/EC on the unbundling of transmission system operations, namely of 1 June 2016 and 1 June 2017 for Article 9(1) and Article 9(4) respectively. Article 11 on certification in relation to third parties is to be implemented no later than 1 January 2017. In view of the unique characteristics of its gas market, the Ministerial Council Decision 2012/05/MC-EnC granted Moldova an extended implementation deadline. As regards the provisions of Article 9 of Directive 2009/73/EC, the deadline of 1 January 2020 applies for Moldova.

At the PHLG meeting in March 2014, the Secretariat suggested the adoption of Regulation (EU) 994/2010 of 20 October 2010 concerning measures to safeguard security of gas supply,

including adaptations to the needs of the Energy Community.



Acquis on Environment

Title of Document	General Implementation Deadline	Implementation Deadline Moldova / Ukraine
Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Directives 97/11/EC + 2003/35/EC	1 Jul 2006	Moldova: 31 Dec 2010 Ukraine: 1 Jan 2013
Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC	31 Dec 2011	Moldova: 31 Dec 2014 Ukraine: 1 Jan 2012
Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants	31 Dec 2017	Moldova: 31 Dec 2017 Ukraine: 1 Jan 2018
Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control) - for new plants	1 Jan 2018	1 Jan 2018
Article 4(2) of Directive 79/409/EEC on the conservation of wild birds	1 Jul 2006	Moldova: 31 Dec 2010 Ukraine: 1 Jan 2015

Directive 85/337/EEC aims at identifying and assessing environmental consequences of projects before a building or operation permit is granted. The key objective of the Sulphur in Fuels Directive 1999/32/EC is to ensure effective protection from the risks resulting from SO₂ emissions, by imposing thresholds meant to prevent sulphur deposition exceeding critical loads and levels.

The overall aim of the Large Combustion Plants Directive 2001/80/EC is to reduce emissions of acidifying pollutants,

particles, and ozone precursors. Based on Ministerial Council Decision 2013/06/MC-EnC, the provisions of Chapter III, Annex V, and Article 72(3)-(4) of the Industrial Emission Directive 2010/75/EU are applicable to new plants as from 2018 onwards. This does not affect operators of existing plants, who are only to endeavour the implementation of Directive 2010/75/EU.

Article 13 of the Treaty invites the Contracting Parties to accede to the Kyoto Protocol, which all Contracting Parties with the exception of Kosovo* have already done.



Acquis on Competition

The *acquis* on competition rests on three pillars:

1. The prohibition of anti-competitive agreements established by Article 101 of the Treaty on the Functioning of the European Union (TFEU);
2. The prohibition of abuse of a dominant position provided for in Article 102 of the TFEU; and
3. The prohibition of State aid granted in violation of Article 107 of the TFEU.

With reference to Article 106 of the TFEU, public undertakings, including undertakings providing services of general economic interest, must also comply with the above rules.

The Contracting Parties are under an obligation to introduce, to the extent the trade of network energy between the Contracting Parties may be affected, rules prohibiting cartels (agreements between undertakings, decisions by associations of undertakings and concerted practices), abuses of a dominant position, and rules prohibiting State aid. Moldova and Ukraine are under the same obligation from May 2010 and February 2011 respectively. The respective prohibitions are to be applied to public undertakings and undertakings to which special or exclusive rights have been granted by virtue of Article 19 of the Treaty.



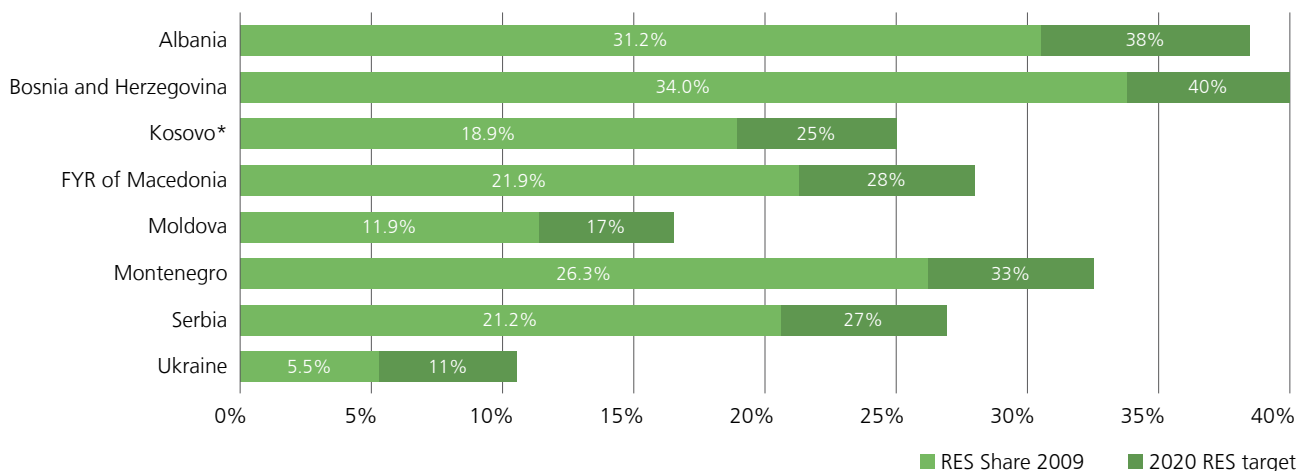
Acquis on Renewable Energy

Title of Document	General Implementation Deadline	Implementation Deadline Moldova / Ukraine
Directive 2009/28/EC on the promotion of the use of energy from renewable sources	1 Jan 2014	1 Jan 2014

By Decision 2012/03/MC-EnC, the Ministerial Council adopted Directive 2009/28/EC and determined the Contracting Parties' binding national targets to be achieved through the use of

renewable energy in the electricity, heating and cooling, and transport sectors by 2020. For determining the targets, a similar methodology as for the EU Member States was applied.

Energy Community Renewable Energy 2020 Targets



Source: Energy Community

Acquis on Energy Efficiency	
Title of Document	General Implementation Deadline
Directive 2006/32/EC on energy end-use efficiency and energy services and repealing Council Directive 93/76/EEC	31 Dec 2011
Directive 2010/30/EU on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products	31 Dec 2011
Directive 2010/31/EU on the energy performance of buildings	30 Sep 2012

Directive 2006/32/EC strives for the adoption of an indicative energy savings target of 9% for the ninth year of application of this Directive, and the development of National Energy Efficiency Action Plans (NEEAPs). Directive 2010/31/EU provides the legal framework for setting minimum energy performance requirements for new and existing buildings. Directive 2010/30/EU and the corresponding implementing legislation establish the legal framework for labelling and

consumer information regarding energy consumption for energy-related products.

The Energy Community is presently preparing for the adoption of Directive 2012/27/EU on energy efficiency. Once adopted, it would entail binding energy efficiency targets. In October 2013, the Ministerial Council adopted a Recommendation as a basis for preparing the adoption of the Directive.

Acquis on Oil	
Title of Document	General Implementation Deadline
Council Directive 2009/119/EC imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products	1 Jan 2023

Aiming to maintain a high level of security of oil supply, the Directive requires stockholding for 90 days of net imports or 61 days of inland consumption in the preceding year. Moreover the

competent authorities are to be in a position to release quickly, effectively and transparently some or all of their stocks in the event of a major supply disruption.



Acquis on Statistics

Title of Document	General Implementation Deadline
Directive 2008/92/EC concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users	31 Dec 2013
Regulation (EU) No 147/2013 amending Regulation (EC) No 1099/2008 on energy statistics, as regards the implementation of updates for the monthly and annual energy statistics	31 Dec 2013
Regulation (EC) No 1099/2008 on energy statistics	31 Dec 2013

The Ministerial Council's Decision 2013/02/MC-EnC to include statistical *acquis* aims to ensure the collection, compilation and dissemination of consistent, accurate and coherent energy related data. The annual and monthly statistics shall follow

harmonized methodology developed by the Statistical Office of the European Union (EUROSTAT) and the International Energy Agency (IEA). Price statistics shall follow EUROSTAT rules and methodology.

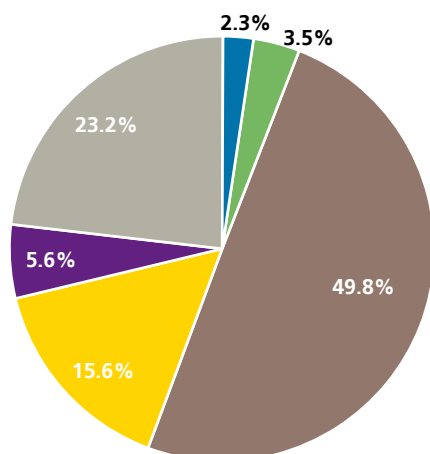
d. Energy Sector Overview

The economic and energy landscapes in the Energy Community are diverse, but at the same time have many features in common. The Western Balkans and Moldova have small and

fragmented energy markets, mainly dependent on imported fossil fuels from the East. Apart from coal, no significant fossil fuel reserves have been used in the Western Balkans or Moldova. Additionally to its role as a transit country for Russian gas, Ukraine is a big natural gas producer (21.45 bcm in 2013).



Energy Community Fuel Mix in Primary Production in 2012



Total primary production 106735.4 mtoe

- Solid fossil fuel
- Natural gas
- Crude oil
- Nuclear
- Hydro
- RES (Geotherm, solar, wind, biofuels)

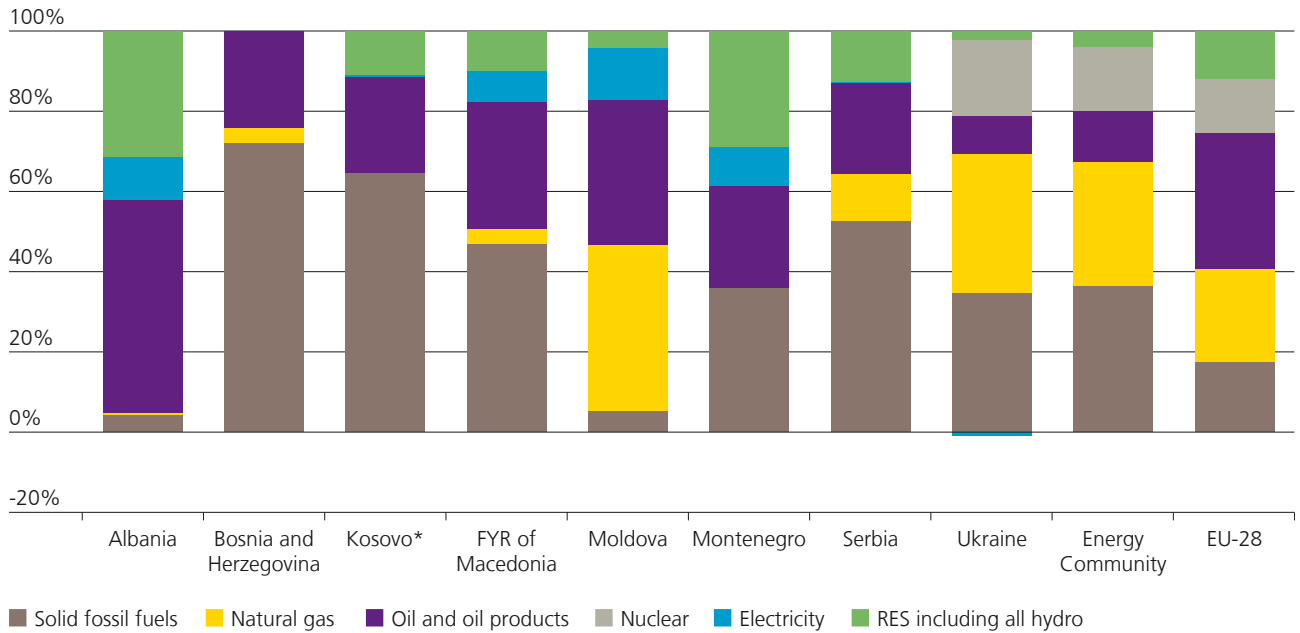
Source: Energy Community

The structure of the energy mix is rather diverse, with some Contracting Parties having a balanced portfolio of energy sources and others being dependent only on a few types of energy. A common feature is that many elements of the energy

infrastructure (e.g. power plants) were built in the 1960s and 1970s. Their age, the type of technology, and their inadequate maintenance raise now serious policy challenges.



Shares of Fuel in Gross Inland Consumption in 2012



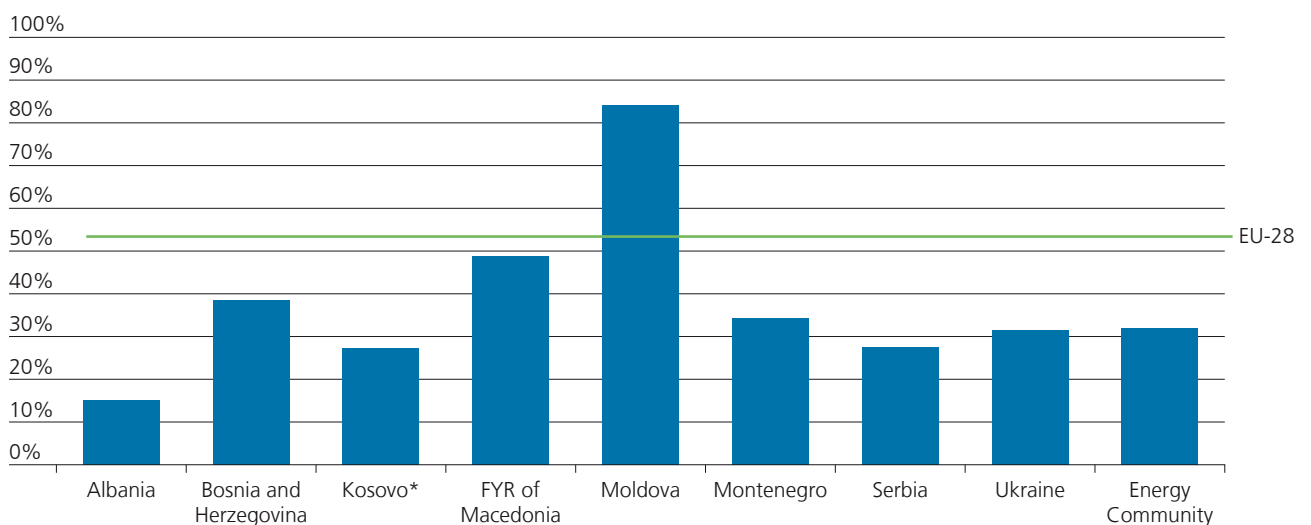
Source: Energy Community

Coal, mainly domestic lignite, represents a significant share of the gross inland consumption of energy, especially in Serbia (53%), former Yugoslav Republic of Macedonia (47%), Kosovo* (65%), Montenegro (36%), and Ukraine (35%). Oil and oil products, on the other hand, play an important role in the energy mixes of Albania (53%), Moldova (36%)² and former Yugoslav Republic of Macedonia (31%). Ukraine is the only Contracting Party with electricity generated from nuclear

power. The share of gas is significant in Moldova (42%), Ukraine (35%) and Serbia (11%). As pointed out by several studies, renewable energy has a great growth potential in the Energy Community region. Currently, hydropower is the most commonly used type of renewable energy. In Albania, hydro accounts for 20% of the gross domestic consumption. However, also the production of waste and biofuels is continuously gaining ground (e.g. Montenegro 17%).



Energy Import Dependency in 2012 (in %)



Source: Energy Community, EUROSTAT for EU-28

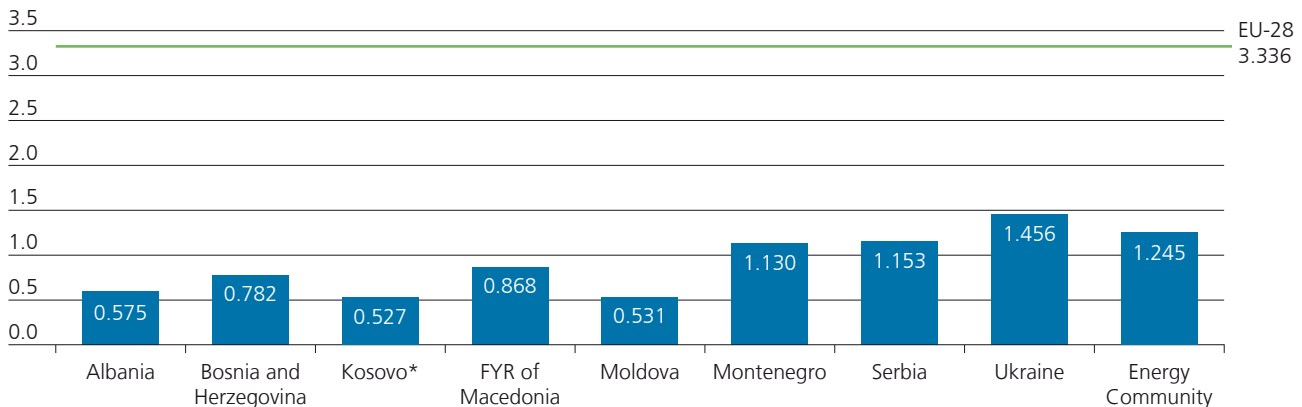
² Annual data does not include respective figures for Transnistria region. Energy supplied from Transnistria to the rest of Moldova is recorded as production of Moldova.

As a whole the Energy Community imports substantially more crude oil and oil products than it produces (18.1 mtoe import of oil versus 5.7 mtoe production in 2012). The same applies for gas, although access to gas is still limited. The share of net imports in gross inland consumption indicates the country's

overall energy dependency. Whilst the average EU dependency on energy imports levels at 53%, the ratio for the Energy Community Contracting Parties amounts to approximately 32%. Energy dependency is the highest in Moldova (85%).



Final Energy Consumption in 2012 (in toe/capita)



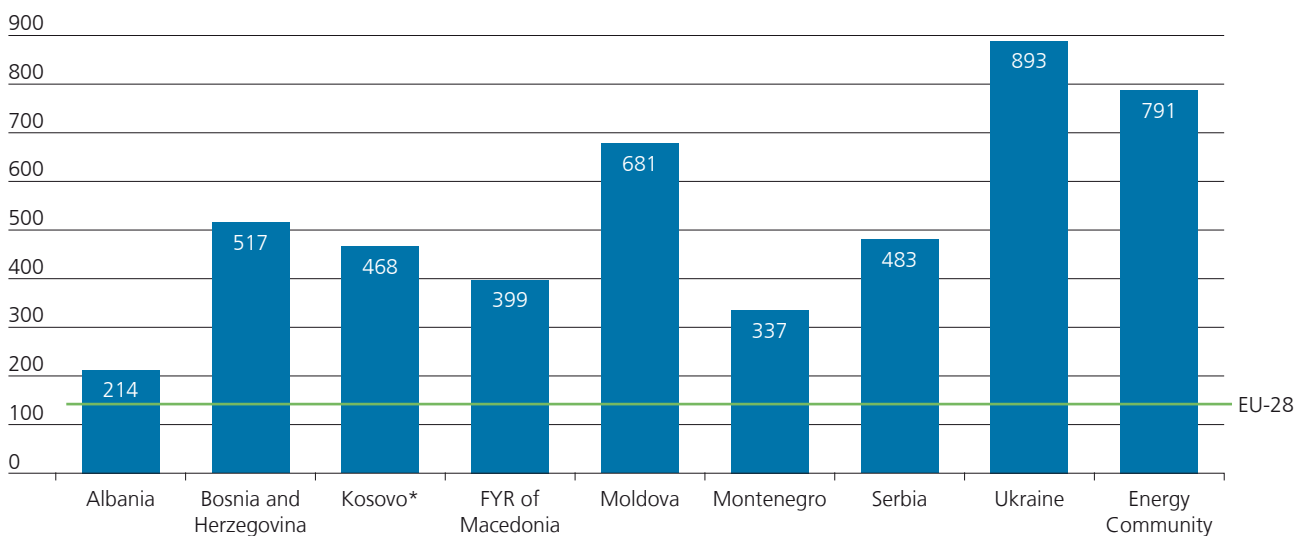
Source: Energy Community for energy consumption, UN SD for population, EUROSTAT for all EU-28 data

The final energy consumption per capita quantifies the amount of energy consumed per inhabitant. When comparing to the average EU final energy consumption per capita, the energy

use in the Energy Community is still substantially lower. This could be seen as an indicator of lower economic development in the Energy Community region.



Energy Intensity of the Economy in 2012 (Gross inland consumption/gross domestic product in kgoe/1000 EUR)



Source: Energy Community for energy consumption, UN SD for GDP at current prices, EUROSTAT for all EU-28 data. GDP for EU-28 at chain-linked volumes, reference year 2005

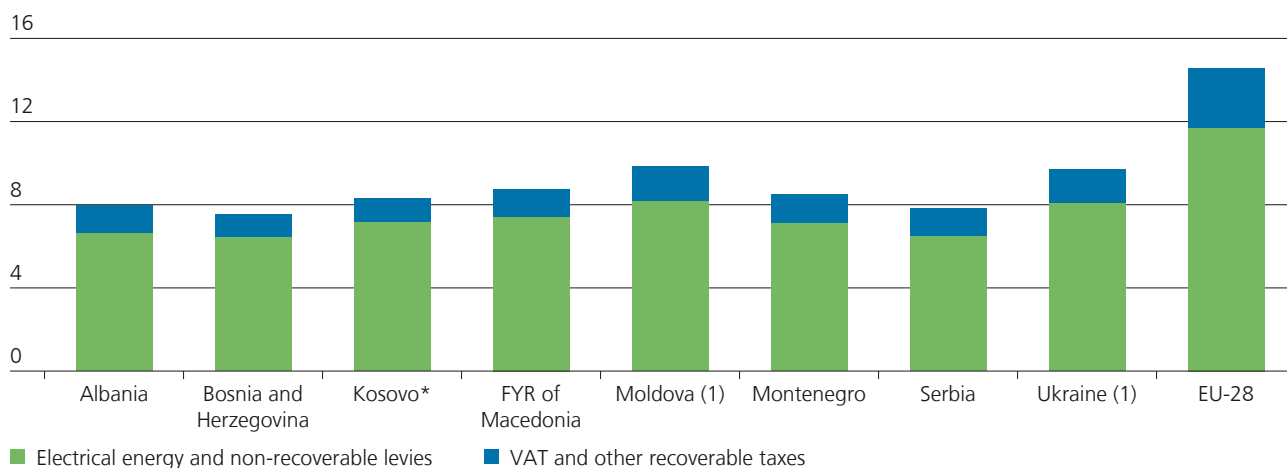
The table above displays the energy intensity in the Energy Community Contracting Parties. Gross inland consumption of energy per gross domestic product shows the energy used to

produce one unit of GDP (energy/GDP in toe per million EUR). Whilst the value can vary widely among countries, it strongly correlates with the level of industrialization and the economy's

mix of services and manufacturing. Undoubtedly, also the attention which a country pays to energy efficiency, together with the policies in place, plays an essential role. In 2012, the

energy intensity in the Energy Community was five times higher than the average energy intensity in the EU.

Prices of Electricity Charged to Industrial End-Users (consumption band IC) in EUR cent/kWh, in second half of 2013



(1) prices for all industrial end-users

Source: EUROSTAT, NSI Pilot survey

The old, inadequately maintained energy industry is one of the reasons for the high energy intensity in the Energy Community region. At the same time, the still widely spread practice of price regulation keeps the region's energy prices at an artificially low level. With the low price level, there is little impetus to increase energy efficiency or competitiveness.

Following the adoption of the statistical *acquis*, the Contracting Parties now have the obligation to report on their prices

charged to industrial end-users. The table above displays the prices for the second half of 2013, benchmarked with the respective prices for electricity industrial end-users in the EU. Among the Contracting Parties, the price differences in electricity charged to industrial end-users are rather limited. In terms of energy costs, this implies a business environment with a similar level of competitiveness. When compared with the EU average, the Energy Community electricity prices for industrial end-users were roughly 40% lower.



3 Annual Report

This Annual Report on the Activities of the Energy Community outlines key Energy Community activities and achievements in the period from 1 September 2013 to 1 August 2014 following the requirements of Article 52³ of the Energy Community Treaty. Over this period, the Energy Community Contracting Parties and institutions have worked intensively towards implementation of the Treaty *acquis*, as reflected in detail in the Annual Implementation Report.

a. This Year's Highlights

1. An Energy Community for the Future – Report of the High Level Reflection Group

In October 2013, the Energy Community Ministerial Council decided to extend the duration of the Energy Community Treaty for a period of ten years, until 2026. On this occasion, Ministers also launched a process of reforming the organisation by establishing a High Level Reflection Group (HLRG) tasked to assess independently the adequacy of the institutional set up and working methods of the organisation to the achievement of the objectives of the Energy Community Treaty, taking into consideration the evolution of this organization over the past years and its extended Membership, and to make proposals for improvements to the Ministerial Council in 2014.

Prof. Jerzy Buzek was appointed as the Group's Chairman. Ms Vesna Borozan, Mr Walter Boltz, Mr Fabrizio Donini Ferretti, Mr Volodymyr Makukha and Mr Goran Svilanović were designated as members of the Group. The Group's final report⁴ was published on 11 June 2014.

The Group agreed that the Energy Community process suffers from certain shortcomings including, *inter alia*, the lack of implementation of the legal commitments entered into by the Contracting Parties in real terms; weak enforcement mechanisms; and lack of flexibility in the use of the Treaty. Based on these findings, the Group made concrete reform proposals to be implemented and adopted by the competent Energy Community institutions.

Public consultation with stakeholders was an important part of the HLRG's work. An online public consultation took place on the basis of a questionnaire. 38 individual responses were received from representatives of non-governmental organisations (NGOs), governments, industry and civil society. In March 2014, a public hearing took place in the European Parliament, which was attended by over 150 participants.

"The Energy Community is a win-win instrument. On the one hand, cooperation with our neighbours, via the Energy Community, is a key to ensuring the EU's energy security and affordable energy prices. On the other hand, for the non-EU states it is a precondition for economic and social stability attracting investment, securing the necessary energy supply and raising citizens' welfare in a most sustainable way. Rendering Energy Community's rules and institutions more effective will bring concrete benefits for all its members - from within and outside the EU."

Prof. Jerzy Buzek, Chairman of the Energy Community High Level Reflection Group and of the European Parliament Committee on Industry, Research and Energy



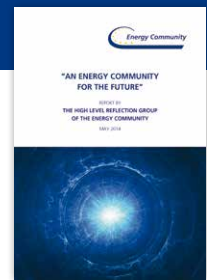
Public Hearing on the Future of the Energy Community, European Parliament, Brussels, 20 March 2014

³ Article 52: The Ministerial Council shall submit an annual report on the activities of the Energy Community to the European Parliament and to the Parliaments of the Adhering Parties and of the Participants.

⁴ <http://www.energy-community.org/pls/portal/docs/3178024.PDF>.



Summary of Key Proposals of the High Level Reflection Group



Additional measures to create a Single European Energy Market. The Group recommends that the current Energy Community *acquis* should be widened to include *inter alia* additional rules on competition, State aid and public procurement in the energy sector and new environmental *acquis*. Moreover, Energy Community institutions should be better linked to EU energy institutions created by the Third Energy Package – ACER, ENTSO-E and ENTSO-G. At the same time, the Group concluded that EU rules need to be better adapted to the socio-economic situation of the participating non-EU countries. It also recommended strengthening and expanding Title IV of the Treaty, which allows for designing true pan-European energy governance for a Single European Energy Market.

A toolkit to increase investment flows. The Group recommends the introduction of risk mitigation schemes for investments, such as an Energy Community Risk Enhancement Facility providing investment guarantees or insurance products and an entity allowing for demand aggregation for imported gas. The Group also suggests the harmonization of permitting procedures and criteria in order to enhance transparency and shorten the duration of such procedures.

Stronger enforcement. The Group proposed for the current dispute settlement procedure to be gradually replaced by a Court of Justice and financial sanctions to be introduced, as in the EU. Moreover, the court should also be accessible directly by individuals and companies, as having access to a vigorous and independent judicial system is also fundamental for investors.

More funding. Increased funding should be made available in bilateral and multilateral support, including from international financial institutions and the EU, for technical assistance and investments, especially for Projects of Energy Community Interest. All funding should be conditional on compliance with the Energy Community obligations.

A more flexible membership structure. The Group believes that the Energy Community should be open to those countries willing and able to apply the rules. No geographical limitations should be set. The Energy Community should declare a strategic interest in Eastern Partnership countries, Switzerland, Norway and Mediterranean countries. A more flexible structure should be introduced allowing for new members to commit to a certain core set of EU rules with the possibility to “opt-in” to implement rules pertaining to additional policy areas and improved enforcement procedures and easier access to financing.

Increased transparency. The Group recommended that the role of civil society and business in the institutions should be strengthened by granting them an observer role in the Permanent High Level Group.

2. A Competitive and Integrated Energy Market – Implementing the Third Package for Electricity and Gas

Given the approaching deadline of 1 January 2015 to transpose the Third Energy Package in the Energy Community, the Secretariat has provided extensive technical assistance and support to the Contracting Parties. Special focus was given to the three main features of the Third Package, namely the unbundling of transmission system operators and access to network infrastructure, independence of national regulatory authorities and protection of vulnerable consumers. The Secretariat has organised focused workshops, conducted country missions to all Contracting Parties and was actively engaged in the drafting of new energy laws. Preparing for the incorporation of the Third Package Network Codes in the Energy Community, the Secretariat has prepared the EU Network Codes on Congestion Management Procedures and Capacity Allocation Mechanism in Gas Transmission Systems for adoption in the Energy Community.

At the same time, the Secretariat intensified its enforcement activities related to non-implemented elements of the Second Package. A number of new cases were initiated, and the first-ever case (against Bosnia and Herzegovina) was referred to and decided by the Ministerial Council in October 2013. Unfortunately, the Ministerial Council’s Decision remained without consequences. The Secretariat also mediated negotiations between

the transmission system operators of Kosovo* and Serbia, as well as the settlement of a high-profile investment dispute in Albania.

3. Towards a Regional Electricity Market

Following intensive efforts by the Energy Community, the Co-ordination Auction Office in South East Europe (SEE CAO) was established on 27 March 2014. The SEE CAO is expected to become operational in the second half of 2014, starting with monthly allocation periods. The Energy Community Regulatory Board has been leading the work on regional auction rules as the key next step.

Other initiatives to support the establishment of a functioning regional electricity market include the launch of the Energy Community Regional Balancing Initiative, which aims to establish balancing market integration, and a Market Coupling Simulator, the first publically available software providing a comprehensive simulation of market coupling processes and roles. The Energy Community Distribution System Operators (DSOs) and Market Operators for electricity have set up informal, member-driven working groups supported by the Secretariat as another means of facilitating market integration.

In order to increase data transparency and make electricity market information more precise and comparable, the Sec-

retariat has prepared Regulation EU 543/2013 on submission and publication of data in electricity markets for adoption in the Energy Community.

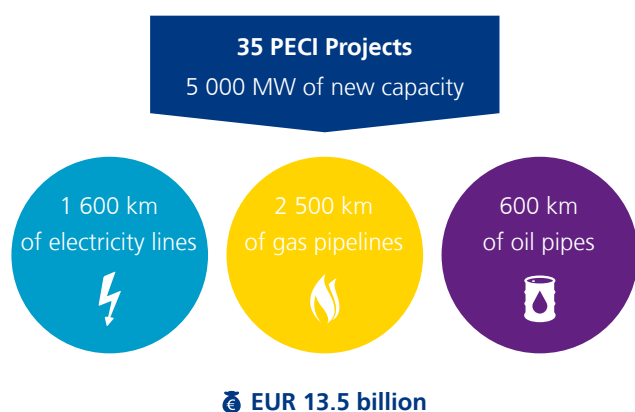
4. Working to Boost Investment – The PECI Projects

"The PECI label will help to attract much needed investment into the region – almost 40 billion EUR is required until 2020."

Mr Günther Oettinger, European Commissioner for Energy

One of the Energy Community's key objectives is to attract infrastructure investment into the region. Almost EUR 40 billion until 2020 is required to diversify existing energy resources and replace ageing power plants in the region. As a next step in the implementation of its Energy Strategy, the Energy Community adopted a list of 35 "Projects of Energy Community Interest" (PECIs) at the Ministerial Council meeting in October 2013. Fourteen electricity generation, nine electricity infrastructure, ten gas infrastructure and two oil infrastructure projects were selected due to their importance for the development of cross-border trade and energy markets in the region, following an extensive public consultation.

The list translates into over 5 000 MW of new capacity to be installed, over 1 600 km of electricity lines, 2 500 km of gas pipelines and over 600 km of oil pipes, accruing to a staggering volume of investments of approximately EUR 13.5 billion. The projects may benefit from investment incentives and enhanced regulatory conditions, once EU Regulation 347/2013 on guidelines for trans-European energy infrastructure will be adopted in the Energy Community. The Secretariat has proposed its adaptation to the needs and realities of the Energy Community⁵.



5. Enlarging our Family – Opening of Accession Negotiations with Georgia

Extending the EU internal energy market and a stable regulatory and market framework is the mission of the Energy Community. Negotiations with Georgia to accede to the Energy Community were launched in February 2014. Georgia is expected to join the

Energy Community by the end of 2014, following acceptance by the Ministerial Council and ratification. Georgia's membership will move the Energy Community's borders to the Caucasus.

6. Secure Energy Supply

The Energy Community Security of Supply Coordination Group has continued to improve mechanisms and tools to raise the overall preparedness for dealing with gas and electricity supply crisis. In May 2014, the Energy Community Security of Supply Electricity Subgroup was activated in order to facilitate communication and mutual assistance at regional level in response to the tragic consequences of flooding in Bosnia and Herzegovina, Serbia and Croatia. The Energy Community Distribution System Operators coordination platform was used to coordinate emergency assistance to distribution system operators in the affected regions.



Energy Community Gas Forum, Ljubljana, 25-26 September 2013

In September 2013, the Secretariat published a study on the security of gas supply, whose key recommendation is the adoption in the Energy Community of EU Regulation 994/2010 on measures to safeguard security of gas supply. The EU Regulation sets higher standards for risk assessment procedures, emergency planning and regional mechanisms to respond to disruptions. The Regulation, adapted to the situation in the Energy Community, has been endorsed by the Permanent High Level Group, but not yet adopted.

7. The Energy Community Regulatory Board

The Energy Community Regulatory Board (ECRB)⁶ contributed to the establishment of a single energy market in the Energy Community and beyond by providing regulatory support to the establishment of SEE CAO and other elements of regional electricity wholesale market development and work on regulatory aspects of the Gas Ring and enhancing transparency in the electricity markets. In 2013, the Board for the first time provided coordinated input to the public consultations related to the Third Package Network Codes and Framework Guidelines for Electricity and Gas. The Board also continued putting strong emphasis on customer protection, including consumer awareness of energy market liberalisation and treatment of vulnerable customers.

⁵ Investment Report can be found on pages 193-199.

⁶ The ECRB published a separate annual report on its activities in 2013 - <http://www.energy-community.org/pls/portal/docs/3104035.PDF>.

8. Cooperation with our Partners

The Energy Community works actively with a number of international as well as regional organisations and donors in order to maximize synergies. Among our partners, we can count on technical assistance and investment programmes supported by EU through the Western Balkans Investment Framework (WBIF), INOGATE, the World Bank, the European Bank for Reconstruction and Development (EBRD), Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), the U.S. Agency for International Development (USAID), the European Investment Bank (EIB) and Kreditanstalt für Wiederaufbau (KfW). The Energy Community Secretariat actively cooperates with other EU and international organisations, including the Regional Cooperation Council (RCC), EUROSTAT, the International Energy Agency (IEA) and specialized organisations of the United Nations.

The types of cooperation are diverse. Examples during the reporting period include the “Regional Energy Efficiency Programme”, supported by WBIF and managed by EBRD in close

cooperation with the Energy Community, which is focussed on transposition of the Energy Performance of Buildings Directive and improvement of energy efficiency in public procurement. Following the Energy Community’s launch of its own association of Distribution System Operators (DSOs) for electricity in March 2014, the Secretariat has struck a partnership with USAID to collaborate with its Southeast Europe DSO Working Group on issues of common interest.

The Energy Community Regulatory Board cooperates regularly with its counterparts around the globe – the Energy Regulators Regional Association (ERRA), the Agency for the Cooperation of Energy Regulators (ACER) and the Council of European Energy Regulators (CEER) to ensure a streamlined understanding of energy market regulation. The European Network of Transmission System Operators for Electricity (ENTSO-E) and the European Network of Transmission System Operators for Gas (ENTSO-G) are our key partners for the implementation of the Third Energy Package and related Network Codes.



b. Events

In the reporting period, the Energy Community organised more than 60 official events, which attracted around 2,000 participants. These ranged from smaller workshops and taskforce meetings to large scale, high level conferences such as the 2013 Investment Conference – “The Sustainable Energy Supply Challenge”, which attracted more than 110 key stakeholders, and the second “Vienna Forum on European Energy Law”, which was attended by more than 140 participants. The Secretariat also organised the second meeting of “The Friends of the Energy Community”, which annually brings together Parliamentarians from the Contracting Parties, to increase awareness of Energy Community obligations and discuss topical issues.

- “Development and Application of a Methodology to Identify Projects of Energy Community Interest”;
- “Implementation of the Energy Statistics Acquis” (2 studies);
- “Need for Modernisation of Large Combustion Plants in the Energy Community”; and
- “Impact Assessment of Directive 2012/27/EU on Energy Efficiency”.

In addition, the Secretariat published the “Energy Community Strategy and Projects of Energy Community Interest”.

c. Communication Tools

The Secretariat has continued to use its website and news/publication subscription services as a key communication tool with stakeholders. In 2013 there was a 35% increase from the previous year in the number of distinct individuals who visited the Energy Community website. The Secretariat published 101 news items/press releases in 2013. This represents a 58% increase from the previous year. Individual news subscribers almost doubled from 2012 to 2013. Moreover, the Secretariat maintains excellent relations with journalists and experts’ commentary frequently feature in the media.



83,922 unique website visitors in 2013

In the reporting period, the Secretariat launched three online discussion platforms for members of its Competition Network, Energy Efficiency Coordination Group and Distribution System Operators for Electricity. Based on the results of the “Energy Community Reputation Survey 2013”, the Secretariat adopted a new corporate design manual for internal and external communication and increased the dynamics of the Energy Community website.

d. Studies, Projects and Publications

During the reporting period, the Secretariat funded the production of an Energy Community Market Coupling Simulator software and continued to finance technical assistance on oil stockholding policy. The Secretariat published five studies:

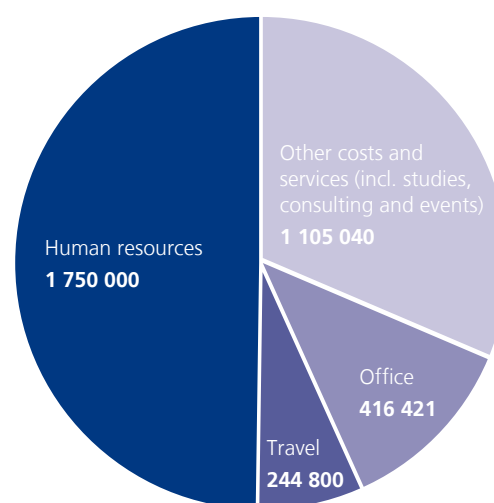
- “Implementation of the Regulation (EU) 994/2010 Concerning Measures to Safeguard Security of Gas Supply in the Energy Community”;



e. Energy Community Budget 2013

The Energy Community’s budget consists of members’ contributions; donations from the Republic of Austria; bank interest and other income (amounting to less than 1% of the total budget). The EU is by far the largest contributor, accounting for almost 95% of the contributions.

Final Budget 2013 (in EUR)



The final budget for 2013 amounted to EUR 3,516,261. Approximately 7% of the final budget was unspent and returned to the contributors.

f. Staff

In the reporting period, the Energy Community employed 24 permanent staff members holding 15 nationalities at its Secretariat in Vienna. Moreover, four interns, two secondees and one research fellow from the Energy Community member and observer countries gained valuable knowledge at the Secretariat and contributed to its work.



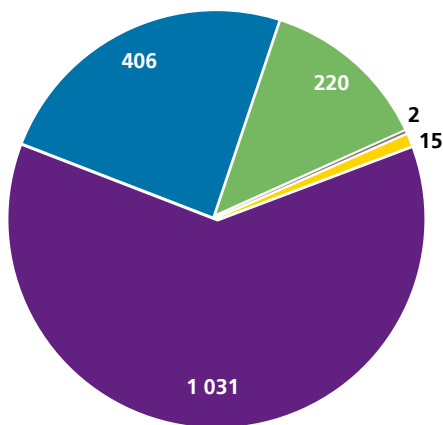
Albania is at a crucial point of development of its energy sector, which has been seriously neglected over the last years. The recent settlement of the investment dispute with CEZ and the selection of *Trans Adriatic Pipeline (TAP)* as the pipeline opening the Southern Corridor are two important milestones which could and should turn into real game-changers.

The potential arrival of gas and the abundance of renewable energy make Albania an interesting destination in terms of

energy. In order to take advantage of that, the sector needs to be completely rebooted.

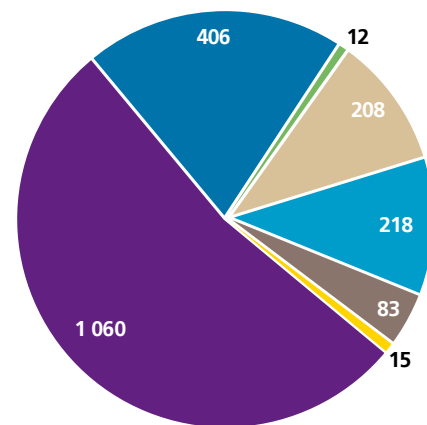
This, in turn, requires designing a compliant legal framework essentially from scratch, improving the financial situation of the state-owned companies, curbing the unsustainably high share of unpaid electricity and establishing truly independent and proactive enforcement authorities.

Energy mix in primary production in 2012
in ktoe (total 1 673 ktoe)



■ Solid fuels
 ■ Natural gas
 ■ Crude oil
 ■ Hydro
 ■ RES

Gross inland consumption in 2012
in ktoe (total 2 002 ktoe)



■ Solid fuels
 ■ Natural gas
 ■ Oil and oil products
 ■ Hydro
 ■ Geothermal, solar, wind
 ■ Electricity (imported)

Source: Released data by National Agency for National Resources, compiled by the Energy Community Secretariat





Albania

4.1 Electricity

Description of data [unit]	2012	2013	
Electricity production [GWh]	4,722	6,956	
Net imports [GWh]	3,230	2,322	
Net exports [GWh]	336	1,425	
Total electricity supplied [GWh]	7,616	7,853	
Gross electricity consumption [GWh]	7,737	7,957	
Losses in transmission [GWh]	169	210	
Losses in transmission [%]	2.21%	2.30%	
Losses in distribution [GWh]	3,178	3,218	
Losses in distribution [%]	46.38%	45.04%	
Consumption of energy sector [GWh]	21	28	
Final consumption of electricity [GWh]	4,369	4,501	
Consumption structure [GWh]	Industrial, transport, services and other non-residential sectors	2,206	2,239
	Households (residential customers)	2,163	2,262
Net maximum electrical capacity of power plants [MW]	1,824	1,878	
Net maximum electrical capacity of power plants [MW]	Coal-fired	0	0
	out of which: multi-fired	0	0
	Gas-fired	0	0
	out of which: multi-fired	0	0
	Oil-fired	98	98
	Nuclear	0	0
	Hydro	1,726	1,780
	out of which: small hydro	195	200
	pumped storage	0	0
	Other renewables	0	0
out of which: wind	0	0	
Horizontal transmission network [km]	380 kV or more [km]	320	395
	220 kV [km]	1,228	1,180
	110 kV [km]	1,285	1,343
	HVDC [km]	0	0
	Substation capacity [MVA]	3,846	3,846
Electricity customers	Total	1,046,972	1,161,626
	out of which: non-households	298,253	397,225
	Eligible customers under national legislation	7	7
	Active eligible customers	7	7
Internal market	Electricity supplied to active eligible customers [MWh]	596,850	602,972
	Share of final consumption [%]	13.66%	13.40%

Source: Energy Regulatory Entity

Refer to page 203 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

The wholesale market in Albania is monopolized by the state-owned generation company *Korporata Elektroenergjitike Shqiptare (KESH)*. It operates the three state-owned large hydro generation plants and the (non-functional) thermal power plant (TPP) Vlora. *KESH* also functions as a “wholesale public

supplier” under the Power Sector Law and is appointed as supplier of last resort.

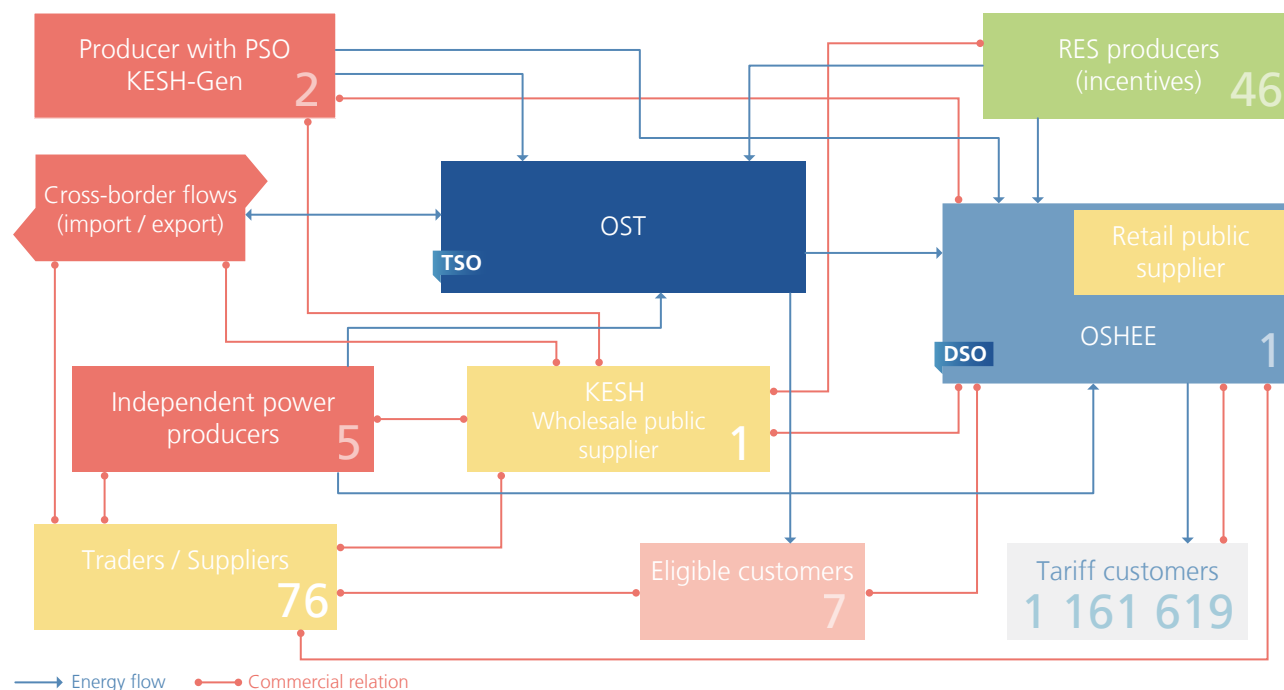
The retail market is dominated by *Operatori i Shperndarjes se Energjise Elektrike (OSHEE)*, former *CEZ Shperndarje*, acting as distribution system operator and public retail supplier. The company was privatized in 2009 by selling the majority of shares

(76%) to the Czech company CEZ. Failing to contain the rising level of unpaid electricity, the company stopped purchasing electricity to cover losses and got its licenses withdrawn by the regulatory authority in January 2013. The ensuing dispute was settled after six months of negotiations mediated by the Secretariat in June 2014. Subject to ratification of the settlement agreement, the shares will be bought back by the State.

OSHEE supplies electricity to all categories of customers under regulated prices.

The state-owned company *Operatori i Sistemit te Transmetimit (OST)* operates the transmission system of Albania and performs central dispatching and administration of the electricity flows.

Albania's Electricity Market Scheme



Source: Energy Community
Refer to the market schemes legends on page 207 for a more detailed description.

The electricity system of Albania is interconnected with the neighbouring systems of Greece (400 kV), Montenegro (400 and 220 kV), and Kosovo* (220 kV). A new 400 kV interconnection with Kosovo* is currently being built and should be operational early 2016. The Supervisory Control and Data Acquisition (SCADA) system installed in 2013 is expected to be applied on the entire network soon. After several years of testing, in April 2014 ENTSO-E decided for permanent synchronous operation of the Albanian electricity transmission system with the continental European system. This will allow OST to sign a long-term agreement and to be represented in ENTSO-E as a member.

In legal terms, the Power Sector Law of 2003 is still applicable. Based on a draft provided by the Secretariat, the Ministry in charge of energy currently discusses a new law supposed to transpose the Third Energy Package. The Energy Regulatory Entity (ERE) sets the tariffs and regulates prices of electricity produced by KESH and delivered by OSHEE (former CEZ Shperndarje).

b. State of Compliance

1. Authorisation

The criteria and procedures for authorisation of new generation capacity are only superficially transposed in the Power Sector Law of Albania with missing requirements for transparency and treatment of refusals. The procedure for projects involving concessions is governed by the Law on Licenses, Authorizations and Permits. For other projects in the domain of energy, the authorization is processed by the Ministry and granted according to a procedure approved by the Government.

Tendering procedures are not treated in the Power Sector Law but indirectly governed by the Law on Concessions. There is no independent authority designated as required by Article 7 of Directive 2003/54/EC.

In practical terms, the National Licensing Centre is supposed to shorten procedures and increase transparency, however with marginal competences in energy and limited impact so far.

2. Unbundling

The basic requirement for legal unbundling of network operators is not transposed in the Power Sector Law, and the criteria for independence stipulated in Articles 10 and 15 of Directive 2003/54/EC are missing. In practice the transmission system operator *OST* is legally unbundled, unlike the distribution system operator *OSHEE*. The Third Package requires further unbundling, a precondition of which is the adoption of a new Power Sector Law.

OSHEE is not yet functionally unbundled in supply and distribution which violates Directive 2003/54/EC. It has not even unbundled the accounts for supply to eligible and captive customers, as required by Article 19(3) of that Directive. Legal unbundling needs to be accomplished by 1 January 2015.

3. Third Party Access

Provisions such as mandatory third party access and treatment of refusals and appeals are lacking in the Power Sector Law which constitutes a serious breach of Article 20 of Directive 2003/54/EC. In practice, network access is granted only through technical rules such as the grid codes, connection rules and rules for the allocation of interconnection capacity. Network tariffs are set and published by ERE.

In terms of cross-border transmission, the Power Sector Law does not transpose the minimum requirements on congestion management and provision of information as required by Regulation (EC) 1228/2003. This lack of compliance is compensated by the rules for the allocation of interconnection capacity. Auctions are currently applied only for yearly and monthly allocation. No daily auctions are in place and intra-day residual capacity is administered on a pro-rata basis. No joint auctioning with neighbouring countries takes place. However, Albania participates in the SEE CAO project even though VAT-related issues still await solutions by the legislature and financial authorities.

4. Eligibility

The criteria for eligibility in the Power Sector Law, based on voltage level or annual consumption and not on customer categories, are not in compliance with Article 21 of Directive 2003/54/EC. This excludes certain non-household customers. ERE treats eligibility as a status it grants (and could possibly revoke), subject to fulfilment of the criteria for annual consumption of electricity. The inadequate treatment of eligibility is one of the largest obstacles to the effective opening of the market.

5. Market Opening and Price Regulation

Only seven large customers have acquired eligibility status as defined by the Law which not only gives them the right but also forces them to contract their electricity supply outside the regulated system. They are supplied by small domestic generators licensed as “qualified suppliers of eligible customers” or by traders. For the remaining customers, the market is practically fully foreclosed, both on the wholesale level (by the legal monopoly granted to *KESH* as a single buyer and the exclusive supply relations between *KESH* and *OSHEE* and on the retail level by the monopoly of *OSHEE*. The Law and the applied market structure thus not only establish an import monopoly, they also allocate the entire indigenous production primarily to the (regulated) supply in a manner infringing the free movement of energy supply (Article 41 of the Treaty). The unlimited persistence of price regulation for all customer categories is not in compliance with Article 3 of Directive 2003/54/EC. Abolishment of regulated generation/wholesale prices in particular must be a priority.

6. Balancing

The requirements of Article 11 of Directive 2003/54/EC in the context of balancing are not transposed in the Power Sector Law. The provisions in the market rules related to balancing are applied selectively.

Balancing groups, the mechanism of netting out of positive and negative imbalances, balance responsibility of *KESH* and *OSHEE*, reference price for imbalances and incentive conditions for accurate nominations have not been defined. In practice, *KESH* is balancing the entire system. The cost for positive imbalances corresponds to its (regulated) price, whereas the price for negative imbalances is calculated by adding a surcharge on the import price of *KESH* (either 10% or the average price of independent power producers + 20% when *KESH* did not import). The principle of cost-reflectivity applies only for traders and eligible customers. The large hydro power plants connected to the transmission network do not bear balance responsibility nor are they subject to individual costs of imbalance.

7. Customer Protection and Protection of Vulnerable Customers

The Power Sector Law does not address quality of service, supplier switching, contractual obligations and provision of information to customers. This shortcoming is partly compensated by the licences which include rules on quality of service, handling of customer complaints, penalties, and calculation of economic damage.

The requirements of the Third Package concerning the definition and protection of vulnerable customers still need to be transposed and applied. Currently, household customers supplied by *OSHEE* benefit solely from a consumption-based

subsidy structure (“block tariff”) of reduced tariffs for consumed quantities below 300 kWh per month. This is a demand management measure not related to the status of being a vulnerable customer.

c. Conclusions and Priorities

Settling the dispute with CEZ cleared away the biggest obstacle to reform in the Albanian electricity sector. However, the largely non-compliant legal framework, the unsustainable volumes of unpaid electricity as well as the critical financial situation of the power companies remain problems of serious concern.

Bringing the Power Sector Law in line with the *acquis*, including the Third Package, needs to be achieved urgently. This needs

to go hand-in-hand with the design of a new market structure. Among other things, this design must allow for spot-trading (*i.e.* day-ahead and intra-day markets) and market-based balancing structures. The generation price needs to be deregulated. Furthermore, *OST* and *OSHEE* must be given the possibility to pass on the costs of their losses in an adequate and cost-reflective manner. The steps already taken by the task force, established in order to reduce losses and improve collection rates, need to be monitored and supported by the Ministry and ERE through consistent enforcement including penalties for non-cooperation or pre-paid metering as well as through reprogramming of debts, improved public relations and tariff reviews, as applicable. The restructuring of *OSHEE* in line with the unbundling requirements is another important step.



Albania

4.2 Gas

a. Sector Overview

The exploitation of petroleum during the last century included gas production which reached its annual maximum of ca. 0.45 bcm/year in the 1980s. Subsequently, it diminished to some 17 - 16 mcm/year. Today, natural gas is mainly used in refineries and for production at oil and gas fields, with only very limited supply to final customers. Albania has the potential for liquefied natural gas (LNG) terminals and underground storage which is currently not used.

The state-owned *Albpetrol* is involved, among other things, in production and supply of natural gas. Furthermore, *Albpetrol* owns all gas infrastructures in Albania, *i.e.* ca. 500 km of pipelines which are mostly not operational or partially missing. Some 10 km of transmission and distribution networks are currently in operation, supplying small entrepreneurs and households in the city of Kucova.

No interconnection with neighbouring countries exists. The realization of the *Trans Adriatic Pipeline (TAP)* will connect Albania with Greece and Italy, and provide the possibility for interconnections with other Contracting Parties.

The legislative framework consists of the Law on Natural Gas Sector of 2008. The Law has transposed main principles of Directive 2003/55/EC and vests the national regulatory authority ERE with regulatory powers in the gas sector. The Law was complemented in 2011 by Rules and Procedures on Licensing, Modification, Partial/Full Transfer, Revocation and Renewal of Licenses adopted by ERE. Except for the issuance of two licenses in 2012 for operation of the natural gas transmission and

distribution system to *Albpetrol*, this legislation has not been implemented further in practice.

Once again, the main focus of activities in the gas sector during the reporting period was related to the development of *TAP* in Albania. In line with the Market Test Guidelines issued by the three regulatory authorities involved, *TAP* launched the second phase of the Market Test, the binding capacity booking phase, between 17 March 2014 and 19 May 2014. One of the companies booking capacity was *Albpetrol* which requested capacity on behalf of the Ministry.

Apart from this, little progress can be reported. A market model, a gas penetration plan and tariff methodologies still have to be developed. Most importantly, the Third Energy Package needs to be transposed in Albania as well. One of the conditions for an exemption set by the Secretariat is that the Third Package is fully transposed by Albania before the start of operation of *TAP*. The Secretariat, in April 2014, submitted a draft for a new Gas Law to the Ministry in charge in order to speed up that process. The draft is being developed further within a working group set up by the Ministry.

b. State of Compliance

Despite the lack of a functional natural gas market in Albania, the Law on Natural Gas Sector currently in force transposes the main principles of Directive 2003/55/EC and Regulation (EC) 1775/2005, and provides a basis for further legal and regulatory developments in the natural gas sector of the country, as well as for gas penetration plans.

1. Authorisation

The Law on Natural Gas Sector tasks ERE with licensing transmission, distribution, supply and trade activities in natural gas, as well as the operation of storage and LNG facilities. The general principles applied in the licensing procedure are set by the Law, with a reference to the Power Sector Law, as well as by the Licensing Rules adopted by ERE. The conditions and procedure for licensing are defined in compliance with Directive 2003/55/EC. The fact that besides the license issued by ERE, the construction and use of natural gas infrastructure, including direct lines, also requires a permit by the Government must be considered excessive red tape and should be reviewed.

2. Unbundling

The Law on Natural Gas Sector requires the transmission system operator to be independent at least in terms of its legal form, organisation and decision-making from other activities not relating to transmission. Further criteria for unbundling and independence of the transmission (or distribution) system operator have not been transposed however.

In practical terms, *Albpetrol*, which produces natural gas in Albania, is licensed as both the country's only transmission and distribution system operator. It is thus not unbundled in accordance with Directive 2003/55/EC (legal, functional and accounting), and Albania is currently in a state of non-compliance in this respect. This needs to be rectified urgently. As the deadline for transposing the Third Package is approaching, this should be done already in line with the requirements of Directive 2009/73/EC, preferably by ownership unbundling.

According to the Joint Opinion on *TAP*'s exemption issued by the Greek, Albanian and Italian Regulator, *TAP* is required to be fully certified before the start of the construction of the pipeline, and not later than 1 January 2018, based on an independent transmission operator model.

3. Third Party Access

The requirements for non-discriminatory access to the transmission and distribution network, as well as to storage and LNG facilities, are established by the Law on Natural Gas Sector. Access is granted pursuant to the rules and tariffs approved by ERE. In terms of general principles, the Law on the Natural Gas Sector is compliant with Directive 2003/55/EC and Regulation (EC) 1775/2005. Most notably, however, Albanian legislation runs counter to the *acquis* to the extent it treats differently domestic and cross-border (transit) gas transmission. Such differentiation is violating Directive 2003/55/EC and needs to be addressed urgently.

The provisions of the Regulation related to third party access services, congestion management and capacity allocation, as well as certain transparency related requirements, have also

been transposed by the Law. In the absence of significant gas network activities in Albania, neither those provisions nor tariffs for network operators have been implemented.

TAP was granted an exemption from regulated tariffs for initial and expansion capacity in forward flow for 25 years under the conditionality of providing the relevant methodology in due time and performing a market test for expansion. The tariffs for reverse flow will have to be regulated.

The possibility for an exemption from third party access to new infrastructure is defined in the Law on Natural Gas Sector considering requirements of Directive 2003/55/EC. It is worth noting that the exemption granted to the *TAP* project was already based on the corresponding rules and procedures of the Third Package.

4. Eligibility

The definition of eligible customers stipulated in the Law on Natural Gas Sector is not compliant with Directive 2003/55/EC. The Law limits eligibility to three defined groups of customers, namely final customers that consume more than an amount of natural gas defined by ERE during a year, power plants consuming natural gas for generation of electricity, and power plants consuming natural gas for the combined production of electricity and heat.

5. Market Opening and Price Regulation

Deadlines for market opening, required by Directive 2003/55/EC as adapted in the Energy Community, have not been set by the Law on Natural Gas Sector. The new Law should ensure full opening of the market from 1 January 2015, even if at the moment such opening is of no significant practical effect. Furthermore, the fact that all eligible customers may still be supplied by the distribution system operator under regulated tariffs must be reconsidered as it both impedes market opening and violates the unbundling requirements for distribution networks. Across-the-board price regulation must be replaced by a phase-out approach to the regulation of supply prices, if price regulation cannot be abandoned immediately and completely once a market comes into existence.

6. Balancing

The majority of the provisions of Regulation (EC) 1775/2005 have been transposed into the primary legislation of Albania, including those related to balancing and imbalance charges. The Law on Natural Gas Sector provides that balancing rules have to be prepared by the transmission system operator and approved by ERE. The current stage of transposition only provides a general legal basis upon which more detailed secondary legal acts need to be developed once the market comes into existence. Despite having a transmission system operator (TSO) licence since 2012, *Albpetrol* did not prepare the relevant rules.

7. Security of Supply

The provisions of Directive 2004/67/EC on reporting in relation to the security of supply, as well as safeguard (emergency) measures and mechanisms in case of major disruption of supplies, are transposed by the Law on Natural Gas Sector. The Law also defines standards and measures for security of gas supply along with the key institutions and market players. However, distribution of duties and powers between ERE and the responsible Ministry with regard to the security of supply is not fully clear and consistent. Furthermore, a definition of minimum security of supply standards and protected customers, as well as a list of instruments for security of gas supply, is currently missing.

8. Customer Protection and Protection of Vulnerable Customers

The provisions of Directive 2003/55/EC dealing with customer protection measures, such as transparency of general contractual terms and conditions, provision of information and dispute settlement, are not properly transposed by the Law. They have to be duly addressed before any further developments in the natural gas market.

The Law on Natural Gas Sector defines a “vulnerable customer” as a customer who, based on his income, cannot afford gas prices and thus benefits from Government subsidies. From the perspective of the Third Package, this concept needs to be further refined for compliance. Furthermore, the Ministry in charge of the energy sector is obliged to develop programmes for protection of vulnerable customers in cooperation with other authorities.

c. Conclusions and Priorities

The existing legal framework for the natural gas sector in Albania is currently sufficient to allow for the development of natural gas infrastructure, including participation in regional gas penetration initiatives, as well as for the development of a domestic natural gas market. However, the Law needs to be substantially upgraded to ensure full and proper transposition of the Third Energy Package. These legal changes need to be complemented by increasing the capacity of the regulatory authority and other competent institutions. The evolution of the TAP and potentially the *Ionian Adriatic Pipeline (IAP)* project provide for a perfect momentum in Albania for this process.



Albania

4.3 Regulatory Authority

a. Organisation and Competences

The Energy Regulatory Entity (ERE) is the single authority for regulating the gas and electricity sector of Albania, as required by the Third Energy Package. ERE is headed by a Board of five Commissioners appointed by the Albanian Parliament based on a proposal of a selection team composed of two Parliament representatives, the Chairman of the Permanent Commission of Production Activities, Trade and Environment and the Chairman of the Permanent Commission of Economy and Finance respectively, as well as the Minister responsible for energy. The Board members' terms are five years, based on a rotation scheme.

ERE's competences need to be extended to the complete set of regulatory powers and objectives foreseen under the Third Energy Package, in particular related to the right to carry out investigations, impose measures to promote competition and proper market functioning and issue penalties to gas and electricity undertakings that do not comply with their obligations or to propose to the Albanian Competition Authority or a competent court to impose such penalties.

b. Assessment of Independence

ERE is granted a significant level of independence by law, including explicit reference to autonomous and directly binding decision-making that is subject to judicial review only. The Board is exclusively responsible for defining the authority's organisation. Also, the selection procedure for appointment of Board members provides for relevant transparency and neutrality, compared to direct appointment existing in other Contracting Parties. Dismissal of Board members is by law limited to cases of conflict of interest or the carrying out of a criminal act and thereby uncritical in terms of potential political intervention.

In practical terms ERE, however, does not live up to its legally granted independence to the maximum possible extent. While cases of political intervention in regulatory decision-making have not been explicitly notified, ERE still does not take up the active role necessary for tackling competition barriers in the Albanian energy market. To this extent, its complete independence has not been proven yet. The regulator complies with transparency standards required in the context of independence by publishing Board decisions, as well as information

on the authority's organisation and structure, on its website. Deliberative sessions and hearings of the Board are open to the public. However, improvements should be made by publishing decision-making rules and information on the reflection of stakeholders' views in Board decisions. The corresponding publications in English should be duly updated.

Financial independence is, in principle, foreseen in legislation by granting ERE the right to autonomously set regulatory fees for licensees, which form the regulator's budget. Also, the Board has the exclusive authority to define the salaries of ERE's staff and hire external experts. The Board members' salaries are defined by the Parliament. However, salaries of technical staff are by law required to follow those of civil servants which leads to brain drain to the regulated industry with significant negative effects on the regulator's human resources. The Secretariat is of the opinion that staff salaries need to correspond to salary levels of the regulated industry and should be entirely decided by the regulator's management. More generally, ERE's staffing level also needs to be extended in order to address the additional duties under the Third Energy Package.

c. Conclusions and Priorities

The following adjustments in law and regulatory practice are key priorities for ERE:

1. Competences need to be extended to the complete set of regulatory powers and objectives foreseen under the Third Energy Package.
2. Transparency should be improved in relation to decision-making rules and information on the reflection of stakeholders' views in Board decisions.
3. ERE needs to make more active use of its independence.
4. Staff salaries need to correspond to salary levels of the regulated industry and should be entirely decided by the regulator's management.
5. ERE's staffing level needs to be extended in order to address the additional duties under the Third Energy Package.



Albania

4.4 Oil

a. Sector Overview

Albania is an exporter of crude oil through the oil port *Vlora-1*. In 2013, oil production was around 1.2 mt, 15.6% higher than in 2012 which is due to significant foreign investment. Exports amounted to 1.116 mt compared to 937 kt in 2012, an increase by 24.5%.

The state-owned *Albpetrol* is active in the development, production and trade of crude oil. *Bankers Petroleum* is the biggest investor in the Albanian oil sector. It achieved a record level of crude oil production of over 1 mt during 2013, representing an increase by 17% compared to 2012. Production in 2014 is expected to increase even further due to increased investments in the *Patos Marinza* oil field. The companies *Petromanas Energy* and *Royal Dutch Shell* are currently exploring oil and gas production in Albania by performing test drillings. The first phase of tests discovered significant amounts of light oil at the *Shpiragu-2* well. *Petromanas Energy* is drilling at the *Molisht-1* well expected to reach a total depth of approximately 5,500 m.

As regards the production of refined petroleum products, the volume of 63.2 kt processed in 2013 constitutes a decrease by 41.5% compared to 2012. Yet the volume of petroleum products exported increased by 5% to 20 kt. At the same time, the import of petroleum products also increased by 2.6% to a level of around 1 mt in 2013. The overall consumption of pe-

troleum products in 2013 is estimated at 1.094 mt (an increase of 8.5% compared to 2012).

Albania is currently considering how to redesign its emergency oil stockholding system. The existing legislation related to oil stocks stipulates requirements which currently cannot be met and is not in compliance with Directive 2009/119/EC. The Government has established an interinstitutional working group, which will review the existing legal and institutional framework and will present to the Government within 2014 a proposal for the reform of oil stockholding policy.

b. Conclusions and Priorities

The main priorities for reforming the oil sector governance should be the national incumbent's *Albpetrol* restructuring and privatisation. Moreover, the existing legislation related to oil stocks should be seriously modified or completely replaced in the very near future. Among other changes, a financing scheme should be established, and preferably based on a fee which avoids impacting the public budget. Albania will also need to establish a monthly reporting system as a precondition for compliance with Directive 2009/119/EC. The collection of information and monitoring of the domestic oil market must also be improved. The necessary amendments should leave industry an appropriate transition period to the new system.



Albania

4.5 Renewable Energy

a. Sector Overview

1. State of Play, Legislation and Promotion of Renewable Energy

At the end of 2013, the overall electricity capacity installed in Albania reached 1878 MW, most of which was hydropower. At present, the electricity generation is strongly dependent on the volatility of the water run-off of a major river course, the Drin. Hydro capacity increased by 54 MW during the year. So far, the Ministry in charge of energy has awarded concessions for 100 large, medium and small HPPs of about 1300 MW. Less than 50% of Albania's hydropower potential is currently exploited.

Under Directive 2009/28/EC, Albania committed to a binding 38% target of energy from renewable sources in gross final energy consumption in 2020, compared with 31.2% in 2009.

In May 2013, Parliament adopted a Renewable Energy Law dealing mostly with electricity from renewable sources, and only marginally with energy produced from renewable sources for heating. In accordance with this Law, the Government must formally adopt the 38% target, including a 10% target of renewable energy in transport. However, in March 2014, the Parliament decided to postpone the implementation of crucial elements of the Renewable Energy Law to 1 January 2015, including the provisions related to the adoption of the National Renewable Action Plan and the adoption of support schemes. The reason given for this postponement was the harmonization with the new Power Sector Law currently being drafted.

A National Renewable Energy Action Plan (NREAP) required for setting out the measures necessary to reach the target of 38% is currently being revised by the Ministry of Energy and Industry, the institution also in charge of monitoring the Plan's implementation.

As regards the promotion of energy from renewable sources, the Renewable Energy Law appoints the wholesale public supplier, the state-owned generation company *KESH*, as a single buyer of renewable energy from small HPPs (producers with capacities less than 15 MW). *KESH* signs power purchase agreements for a period of 15 years. The purchase prices for electricity from old and new small HPPs are based on the import price of electricity in the previous year, adjusted with an inflation index and approved annually by the Energy Regulatory Entity (ERE). Small HPPs are also not obliged to pay for the water used nor do they pay State property taxes. Moreover, the construction of new renewable electricity capacities benefits from customs duty exemptions for equipment. A proper support mechanism for energy from other types of renewable sources has to be adopted by ERE.

With respect to permitting, a national licensing centre is designated by the Law to act as a one-stop-shop for all investors who won a tender for a concession, or have been awarded an authorization for construction. ERE can adopt simplified procedures for licensing producers with capacities below 15 MW. The Renewable Energy Law also obliges the network operators to connect with priority all renewable energy producers to the closest point in the grid. However, the methodology for grid connection of renewable energy producers and a standard connection agreement has not yet been adopted by ERE due to the postponement of the entry into force of the Law.

2. Renewable Energy in Transport

Final energy consumption in the transport sector in 2009 (the base year for the targets set by the Ministerial Council in adapting Directive 2009/28/EC) in Albania was 438 ktoe. The actual share of biofuels is not known, even though the legislation in place requires monitoring and reporting. The draft NREAP shows a share 0.11% for 2012. In any event, assessing Albania's progress in real terms is very difficult. An Italian-Albanian joint venture produces biodiesel in Porto Romano since 2011, with a production capacity of 100,000 tons per year. However, all raw materials are imported and all produced biodiesel is exported so that it cannot count towards Albania's target.

Other than setting a 10% target by 2020, the new Law on Renewable Energy as of 2013 does not apply to renewable energy in transport. The Law for the Production, Transport and Trade of Biofuels and other Renewable Fuels in Transport of 2008 deals with functional and organizational aspects of production, transportation and trade in biofuels. The Law also sets annual targets which are now outdated (an indicative target of 15% as of 2015) and imposes blending obligations on traders. The Law also gives some incentives such as tax advantages for machineries, equipments and materials necessary for the construction and commissioning of biofuels plants etc. However, the secondary legislation needed for the implementation of the Law has not even been drafted since its entry into force. The Law is currently under review by a working group with a view to transpose the requirements of Directive 2009/28/EC with regard to sustainability criteria and the certification system, and to introduce more adequate incentive measures. The proposal is supposed to be prepared by 30 September 2014.

b. State of Compliance

The Renewable Energy Law transposes Directive 2009/28/EC only partly. The Biofuels Law of 2008 is in line only with Direc-

tive 2003/30/EC, but not Directive 2009/28/EC. Albania must thus be considered non-compliant.

1. National Renewable Energy Action Plan

Albania did not submit an NREAP by 30 June 2013 under Directive 2009/28/EC. The Secretariat launched an infringement procedure related to this failure in February 2014.

2. Cooperation Mechanisms

The provisions related to possible cooperation mechanisms between Albania and Contracting Parties or EU Member States have not been transposed.

3. Administrative Procedures

Directive 2009/28/EC has not been properly transposed by Albania. The timeframe for applications and the coordination between different institutions will be positively affected by the National Centre for Energy Applications, the one-stop-shop for renewable energy projects. The future handling of applications will show whether its establishment will really benefit investors.

4. Grid Access

The Law on Renewable Energy provides for priority access of renewables to the network. Secondary legislation is still missing. Under the current legal framework, renewable energy producers may claim compensation in case of lack of grid capacity. In practical terms, transmission and distribution system operators have to improve transparency in terms of the costs of connection to the grid or grid reinforcements. Currently, Albania fails to comply with the requirements related to grid access.

5. Guarantees of Origin

Legislation related to issuing, transfers and cancellation of guarantees of origin remains to be adopted by ERE as the designated body. Currently, there is no compliance with this requirement.

6. Renewable Energy in Transport

The Law in 2008 had foreseen the renewables share of the transport fuel market at 5% in 2010 which was in line with Directive 2003/30/EC. The new Law on Renewable Energy transposes the 10% target from Directive 2009/28/EC. Beyond transposition, the actual share is not known.

The existing Law on Biofuels of 2008 will have to be amended to transpose the requirements for the sustainability regime and to establish a certification scheme and the relevant body as required by Article 18 of Directive 2009/28/EC. Without a certification scheme in place and regardless of actual biofuels production, uncertified quantities cannot be counted towards Albania's target or be exported to the EU market.

c. Conclusions and Priorities

With the adoption of the Renewable Energy Law, Albania increased compliance with the renewable energy *acquis*. Putting its application on hold, however, is a step back even though alignment with the general legal framework for electricity makes sense in view of the many overlaps. In any event, the immediate adoption of the NREAP should be the first priority of the Ministry of Energy and Industry. The network operators have to increase transparency regarding connection and access to the grids. ERE must also implement the system for certifying energy produced from renewable sources based on guarantees of origin. When reforming the electricity market model to allow for opening of the market, Albania needs to focus not only on the supply side but also on generation, as a precondition to attract further investments in renewable energy.

A full review of the Law for the Production, Transport and Trade of Biofuels and other Renewable Fuels in Transport and its implementation is immediately needed. The focus should be on the certification system, as biodiesel production seems to take place already in the country.

Finally, the current difficult financial situation of the electricity sector caused by high energy losses, accumulated bad debts and reduced collection rates create high risks also for new investments made in renewable energy projects.





Albania

4.6 Energy Efficiency

Energy Efficiency Action Plan (EEAP)*					
Period covered by EEAP	2010 – 2018				
Overall energy savings target - Directive 2006/32/EC (ktoe / % / year)	168 / 9 / 2018				
EEAP status	First (rough) draft 2 nd EEAP submitted on 24 November 2013				
Achieved energy savings 2010 – 2012	Not elaborated				
Key institution(s) in charge	Ministry of Energy and Industry (MEI), Albanian National Agency of Natural Resources (AKBN)				
Main data and energy efficiency indicators**		2009	2010	2011	2012***
Total primary energy supply (TPES)	ktoe	2,068	2,059	2,173	2,002
Energy Intensity (TPES/GDP)	toe / 1,000 USD	0.20	0.19	0.20	0.18
TPES/Population	toe/capita	0.65	0.64	0.68	0.63
Total final energy consumption (TFEC)	ktoe	1,911	1,937	1,925	1,848
Share of TFEC by sector	Residential	25%	25%	26%	27%
	Services	9%	8%	9%	9%
	Industry	12%	15%	16%	17%
	Transport	38%	38%	40%	40%
	Others	7%	8%	7%	5%
	Non-energy use	9%	6%	2%	2%

* Source: 1st EEAP of Albania, available at: http://www.energy-community.org/portal/page/portal/ENC_HOME/AREAS_OF_WORK/ENERGY_EFFICIENCY/NEEAPs; 2nd EEAP still not adopted

** Source: International Energy Agency

*** Indicators calculated by the Energy Community Secretariat based on preliminary energy balances for 2012

Refer to page 206 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

Albania applies a Law on Energy Efficiency of 2005. At the time of its adoption, Directive 2006/32/EC was not yet in force in the EU. Despite the fact that the Law on Energy Efficiency addresses some important aspects, such as the development of national energy efficiency programmes, energy audits, energy labelling, financing through an energy efficiency fund, etc., it has never been properly implemented. Most of the implementing legislation was never adopted, and the envisaged Energy Efficiency Fund was never created.

A new Law on Energy Efficiency was prepared in 2011 in close cooperation with the Secretariat. However, its adoption was delayed for more than two years. As a consequence, the Secretariat initiated infringement action against Albania in November 2013 for the lack of transposition and implementation of Directive 2006/32/EC. The Ministry of Energy and Industry replied to the Secretariat's Opening Letter in January 2014, presenting an ambitious timetable for adoption of legislation and strategic documents in 2014. In April 2014, the draft Law on Energy Efficiency was updated with the aim to transpose Directive 2006/32/EC and certain provisions of the new Directive 2012/27/EU, such as energy management. The draft provides for an indicative energy savings target, the Energy Efficiency Action Plan (EEAP) and its monitoring, the exemplary role of the public sector, energy audits and promotion of the market for energy services. It also envisages institutional strengthening,

i.e. the establishment of the Energy Efficiency Fund and the Energy Efficiency Agency. The approval of this Law by the Government has been postponed until the third quarter of 2014. Its adoption, especially if the Secretariat's latest comments of April 2014 are included, would significantly improve Albania's state of transposition of Directive 2006/32/EC.

Albania submitted a first and very rough draft for the second EEAP in November 2013. It did not contain a satisfactory description of energy efficiency improvement measures planned to reach the targets, nor does it include a thorough analysis and evaluation of the first EEAP and the fulfilment of intermediate energy savings targets. The Ministry of Energy and Industry is working to finalise the second EEAP.

The Law on Indication by Labelling and Standard Product Information of the Consumption of Energy and Other Resources by Household Appliances of April 2009 transposed the old Directive 92/75/EEC. New requirements of Directive 2010/30/EU were included in the new Law on Information of the Consumption of Energy and Other Resources by Energy-related Products that entered into force in January 2013.

The Law on the Conservation of Thermal Energy in Buildings of 2002 establishes the legal basis for setting up secondary rules and taking mandatory action for the conservation of thermal energy in buildings. However, the Law and the Energy Building Code have not been amended in line with Directive 2010/31/

EU. Further work on transposition of the Directive 2010/31/EU will be done under technical assistance provided by the "Regional Energy Efficiency Program".

The Ministry of Energy and Industry and the Albanian National Agency of Natural Resources are currently the key bodies responsible for the development of energy efficiency policy and the overall control and monitoring of EEAP implementation. In September 2013, a new Directorate for Renewable Energy Sources and Energy Efficiency was established within the Ministry of Energy and Industry. Discussions on the establishment of the Energy Efficiency Fund and the Energy Efficiency Agency are ongoing.

b. State of Compliance

1. Directive 2006/32/EC

To date, Albania has not yet adopted legislation amending or replacing the existing Law on Energy Efficiency, which in itself is not in compliance with Directive 2006/32/EC. In particular, the draft Law on Energy Efficiency, by which transposition of the Directive could be achieved to a large extent, has not yet been enacted. Albania also did not adopt the second EEAP within the deadline set. The country thus fails to fulfil its obligations under Directive 2006/32/EC.

2. Directive 2010/30/EU

With regards to the Energy Community's labelling requirements, the Law on Information of the Consumption of Energy and Other Resources by Energy-related Products transposed the recast Directive 2010/30/EU. However, the adoption of relevant secondary legislation for energy labelling of specific appliances is still pending. Therefore Albania is still not in compliance with the Delegated Acts on Labelling.

3. Directive 2010/31/EU

With regard to energy efficiency in buildings, the adoption of draft legislation is also still pending. The deadline for the transposition of Directive 2010/31/EU expired on 30 September 2012. The Albanian laws, regulations and administrative provisions are not in compliance with Directive 2010/30/EU.

c. Conclusions and Priorities

The Secretariat is expecting that the Ministry of Energy and Industry finalises and approves the Energy Efficiency Law, as envisaged by the Ministry's own timetable. Adopting the new Law on Energy Efficiency would be of essential importance for the further development of the legislative framework and for the implementation of energy efficiency measures foreseen for the achievement of energy efficiency targets.

Furthermore, Albania needs to improve and adopt immediately the second EEAP, following requirements of the Directive 2006/32/EC and the template developed by the Energy Efficiency Coordination Group.

Besides this, the institutional framework should be developed and strengthened, with clearly defined roles and responsibilities. The establishment of the Energy Efficiency Fund will significantly contribute to the implementation of the EEAP. Stronger promotion of the exemplary role of the public sector by EEAP measures is equally important for effective implementation of Directive 2006/32/EC, in addition to the creation of proper legal, institutional and financial frameworks.

Another priority should be the development of legislation and regulation dealing with labelling of energy-related products and energy efficiency in buildings in order to comply with the Delegated Acts on Labelling and Directive 2010/31/EU by adopting the necessary law(s) and updating the existing Building Code.



Albania

4.7 Environment

a. Sector Overview

1. Environmental Impact Assessment Directive

The Law on Environmental Protection of 2002 lays down the basic principles of the procedure. The Laws on Environmental Impact Assessment and on Environmental Permits are in force since February 2013. A Decision laying down Rules, Procedures and Deadlines for Environmental Impact Assessment also entered into force in 2013. Amendments to the Law on Envi-

ronmental Impact Assessment were prepared by the Ministry of Environment during the reporting period. Their purpose is to replace the National Licensing Centre by the National Environmental Agency as competent authority, and to fully transpose Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment into national law.

A Governmental Decision on the Approval of Rules, Requirements and Procedures for Informing and Involving the Public in

Environmental Decision-Making was adopted in April 2014. The Decision contains important provisions on public participation in the environmental impact assessment procedure, in particular by specifying the responsibilities of the National Environmental Agency, the project developer and the local government related to public participation. A total of 28 environmental impact assessments related to energy projects (construction, re-construction, operation and energy production) were carried out between September 2013 and April 2014.

2. Sulphur in Fuels Directive

The Decision on the Quality of Some Liquid Fuels for Civil and Industrial Thermal Usage and for the Use in Water Transportation Vehicles (sea, rivers and lakes) transposes the Sulphur in Fuels Directive into national law. With regard to the existing breaches of Energy Community law (see below), no progress has been reported.

3. Large Combustion Plants Directive

Albania has one combustion plant that falls under the scope of the Large Combustion Plants Directive, the currently non-operational TPP Vlorë. It is already capable of meeting the requirements of the Industrial Emissions Directive.

The Law on Environmental Permits adopted in 2011 transposes the requirements of the Large Combustion Plants Directive into national law and the emission limit values are fully aligned with those of the Directive. The Law requires continuous monitoring for plants with a rated thermal input of 100 MW or more which is also in line with the Directive's requirements. Amendments to this Law were adopted in June 2014. According to these amendments, a three-level environmental permitting system (type A, B and C) is established based on the size of the installation, its activity and its potential to cause environmental pollution and to threaten human health. All activities referred to in Annex I to the Industrial Emissions Directive, including large combustion plants, belong to type A activities (with the highest potential to cause harm to human health or the environment).

b. State of Compliance

As regards environmental impact assessment and large combustion plants, Albania is in the position to fully implement the provisions of both directives. At the same time, Albania must

fully and properly implement the Sulphur in Fuels Directive in the shortest possible timeframe.

1. Environmental Impact Assessment Directive

Albania made significant improvements and reached complete transposition of the Environmental Impact Assessment Directive with the adoption and the recent entry into force of the new Law as well as the Decision on the Approval of Rules, Requirements and Procedures for Informing and Involving the Public in Environmental Decision-Making. The list of projects subject to environmental impact assessment is aligned with Annexes I and II of the Directive.

Besides legislative changes, the full implementation of the Directive hinges on appropriate financial and human resources given to the regional authorities as well as the Ministry of Environment in Albania.

2. Sulphur in Fuels Directive

Albania failed to ensure that within its territory heavy fuel oils are not used if their sulphur content exceeds 1.00 % by mass and gas oils are not used if their sulphur content exceeds 0.1 % by mass and thus breaches the *acquis*. Albania has postponed the introduction of requirements in accordance with the Directive until the end of 2014. The Secretariat addressed this breach by way of starting infringement action. Should Albania not comply with the requirements of the Directive, the Secretariat will continue the procedure.

3. Large Combustion Plants Directive

With regard to the Large Combustion Plants and the Industrial Emissions Directives, Albania is already in the position to fully and completely implement the provisions of both Directives.

c. Conclusions and Priorities

Except for the Sulphur in Fuels Directive, Albania has reached a high level of transposition of the Energy Community environmental *acquis* into national law. The efforts should be focused on the practical implementation of the Directives as well as on capacity building for the authorities responsible for their implementation.



Albania

4.8 Competition

a. Sector Overview

Competition law in Albania is governed by the Law on Competition Protection of 2003, as amended in 2010. The Law provides for a prohibition of cartels with individual exemptions for horizontal and vertical agreements. The Law also stipulates a prohibition of the abuse of dominant position. The Law further contains provisions analogous to Article 106 of the Treaty on the Functioning of the European Union (TFEU), covering public undertakings and undertakings entrusted with the operation of services of general economic interest. The Law on Competition Protection applies also to public and local administration bodies, as well as public authorities and entities when they are engaged in economic activities. The authority enforcing the Law on Competition Protection is the Albanian Competition Authority (ACA).

In the reporting period, there have been no legislative amendments. In terms of application of competition law to the energy sector, the ACA acted upon a complaint filed by the electricity trading company *Gen I* against *OSHEE* for a potential abuse of dominant position on the market for buying energy for covering electricity losses in the network. According to the complainant, *OSHEE* abused its dominant position by applying unfair trade conditions, delaying payment for more than 90 days, not submitting bank guarantees, and applying different conditions from those published in the tenders. The ACA concluded that delayed payment by *OSHEE* was due to its difficult financial state, whereas the terms of the tenders for procuring electricity were based on the existing rules defined by the regulatory authority ERE. Interestingly, the ACA concluded that ERE's rules have established non-transparent tendering conditions and procedures, without defining deadlines for payment for the procured electricity and without rules regarding the monthly tendering procedures. In December 2013, the ACA dismissed the complaint and addressed ERE with a letter recommending increase of transparency, changes in the regulation regarding procurement of electricity for covering the losses and establishing rules for monthly procurement.

The review of the functioning of the electricity market started by the ACA in 2013 was completed at the end of 2013. The ACA concluded that the Albanian electricity market is highly concentrated and that each segment of the market is monopolised. ACA recommended immediate changes in the legal framework and amendment of the market model in line with the *acquis* and in particular with a view to implement the Third Energy Package. To the Secretariat's knowledge, this remained without practical consequences.

The Law on State Aid, in force since 2006 and amended in October 2009, governs State aid control in Albania. The Law stipulates a prohibition of State aid in line with Article 107(1) TFEU. It covers aid granted to private as well as public undertakings. The Law on State Aid establishes the State Aid Commission (SAC) as an enforcement authority and an "operationally independent" decision-making body. The chairman of that Commission is the Minister of Economy, Trade and Energy, while the other members are appointed by the Government. The Commission is supported by a State Aid Department within the Ministry of Economy. Decisions taken by SAC may be appealed to the District Court of Tirana.

In March 2014, the SAC approved two decisions by the Government approving sovereign guarantees for loans to *KESH* from *Raiffeisen Bank Albania* and *Intesa Sanpaolo Bank Albania* respectively. The SAC analysed the guarantees for the loans and concluded that they do not constitute State aid.

b. State of Compliance

Articles 18 and 19 of the Energy Community Treaty have been properly transposed into Albanian law.

1. Competition Law

The Law on Competition Protection transposes Articles 101, 102 and 106 TFEU.

In previous years, the ACA has been one of the region's most proactive competition authorities in the energy sector. Its monitoring of the electricity market is to be welcomed. However, the monitoring did not result in a single case being opened *ex officio* or any investigation initiated.

2. State Aid Law

The State aid rules have been transposed in the Albanian law. However, the institutional structure and the enforcement system raise continuous concerns. The independence of both SAC as a decision-making body and the State Aid Department remains questionable, as they are closely linked to the Ministry of Economy. As a matter of fact, the State extensively grants aid to its energy undertakings, for instance by subsidizing electricity imports by the state-owned *KESH*. The SAC ruled that the sovereign guarantees in favour of *KESH* do not confer an economic advantage on the latter because it is entrusted with providing services of general economic interest. An analysis of how the guarantees comply with the 2008 Commission Notice on the application of the State aid rules in the form

of public service compensation, on which the SAC explicitly relies, is missing. This is not a first time that the SAC approves subsidies to *KESH* as not constituting State aid without a proper analysis. It must thus be concluded that the enforcement of State aid rules remains an area where Albania fails to fulfil the standards of the *acquis*.

c. Conclusions and Priorities

It is necessary for the ACA to become more active in enforcing competition law in the energy sector besides continuing its competition advocacy activities which so far were of little practical relevance. The Secretariat further recommends that the ACA should become competent for State aid and increase the unacceptably low level of enforcement in this area as well.



Albania

4.9 Statistics

a. Sector Overview

The Law on Statistics of 2004 defines the Institute of Statistics (INSTAT) as a national body responsible for official statistics. INSTAT is responsible for the publication of statistical data and for collection of price data. At the same time, a Decision of the Government from April 2007 authorized the National Agency of Natural Resources (AKBN) to collect information about the use of natural resources, including annual and monthly data on energy products. An agreement between AKBN and INSTAT is currently under preparation with the aim to improve energy data collection.

Besides, the Ministry of Energy and Industry (MEI) is mandated by several sector laws to monitor security of supply (including collection of short-term data), emissions of pollutants, energy efficiency and other indicators and provide inputs for projections and modelling of energy supply and demand. According to the Law on Refining, Transportation and Trading of Oil, Gas and their By-Products, importers of oil products are obliged to report to MEI. The energy regulatory authority ERE is responsible for monitoring of energy markets and prices in the regulated electricity and gas sectors, generation of energy from renewable sources and cogeneration under sector-specific laws.

b. State of Compliance

1. Annual Energy Statistics

As required by law, AKBN compiles an annual energy balance and questionnaires as defined by Regulation (EC) 1099/2008. The questionnaires were submitted to the IEA on time and clarified in accordance with the procedure. As regards quality, AKBN is working on improving its methodologies and procedures, primarily on surveying consumption and renewable energy. Whilst large energy consumers are required by law to submit annual data on energy consumption, other consumers are to submit only upon request. As for energy consumption in households, the agriculture and transport sectors, local energy offices are mandated to conduct surveys and collect data on energy consumption, in accordance with the format requested

by the AKBN. In the majority of cases, AKBN needs to process the data, especially those related to the demand side of each sector and by commodities. The practice applied so far is not compliant with the *acquis*.

2. Monthly Energy Statistics

The obligations related to preparation and dissemination of monthly statistics are assigned to AKBN. The practical implementation has started in March 2014 through a pilot survey financed by the Energy Community. Currently only electricity data are provided monthly. Questionnaires and methodologies for oil are currently being developed. The *acquis* is currently not implemented by Albania, which is largely due to the lack of resources.

3. Price Statistics

Price statistics fall under the responsibility of INSTAT in principle. In the absence of a clear separation of duties, however, AKBN began collecting data in cooperation with ERE. In particular, AKBN collected data on electricity tariffs for 2012 - 2014 from ERE and compiled a first set of electricity prices charged to end-users in Albania applying the EUROSTAT methodology. However, the set of data still contains deficiencies. Reporting mechanisms for price systems and quality reporting have not been established yet to the extent required in the *acquis*.

c. Conclusions and Priorities

In order to strengthen the basis for energy statistics, MEI should prepare secondary legislation related to the setting up of an energy balance, defining a methodology compatible with EUROSTAT and the IEA. Such legislation would set the institutional framework and define the content, frequency and deadlines for data management.

Furthermore, the current lack of clear separation of duties and responsibilities between INSTAT and AKBN, together with lack of resources for the responsible institutions, are key obstacles to improving the quality of statistics.

Since questionnaires and methodologies for price reporting are in place, regular and systematic data collection is being held up only by the lack of an administrative framework with a clear allocation of tasks.

Albania still has to comply with the remaining obligations from the Treaty, particularly as regards consumption structure, monthly data and quality assurance for all collections.



Albania

4.10 Open Infringement Cases

a. Non-participation of the Transmission System Operator in Regionally Coordinated Capacity Allocation

On 20 January 2011, the Secretariat sent an Opening Letter to, *inter alia*, Albania in Case ECS-1/11. The case concerns the lack of the transmission system operators' participation in a common coordinated congestion management method and procedure for the allocation of capacity to the market, according to their obligation pursuant to the Decision by the Ministerial Council of 2008. In March 2014, the transmission system operators of Albania, Bosnia and Herzegovina, Croatia, Greece, Montenegro, Kosovo* and Turkey established a Coordinated Auction Office which committed to start with annual allocations in November 2014. Until then, the case remains open.

b. Non-compliance with the Sulphur in Fuels Directive

On 11 February 2013, the Secretariat sent an Opening Letter to, *inter alia*, Albania, in Case ECS-1/13. The Secretariat comes to the preliminary conclusion that Albania has not yet transposed and implemented the requirements of Directive 1999/32/EC as required by Article 16 and Annex II of the Treaty. Directive

1999/32/EC aims to reduce emissions of SO₂ resulting from combustion of heavy fuel oils and gas oils. The Secretariat is currently preparing a Reasoned Opinion against Albania in this case.

c. Non-transposition of the Energy Efficiency Directive

In Case ECS-10/13 initiated on 25 November 2013, the Secretariat challenged the lack of transposition of Directive 2006/32/EC on Energy End-Use Efficiency and Energy Services in Albania.

d. Lack of Adoption of a National Renewable Energy Action Plan

On 11 February 2014, the Secretariat sent an Opening Letter to, *inter alia*, Albania, for failure to comply with Energy Community law related to renewable energy. In the Opening Letter in Case ECS-3/14, the Secretariat addresses the failure by the country to adopt and submit to the Secretariat a National Renewable Energy Action Plan, the deadline for which expired on 30 June 2013.





BOSNIA AND HERZEGOVINA 5

5

Bosnia and Herzegovina

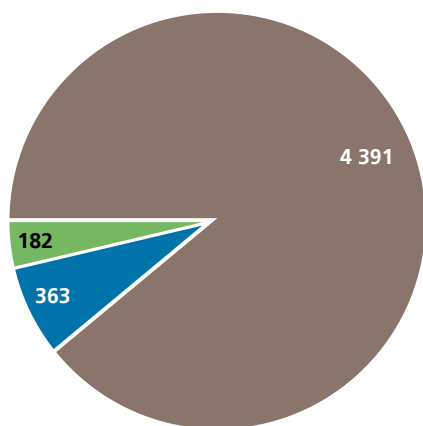
Unlike most other Contracting Parties, Bosnia and Herzegovina has not drawn the full benefits from its membership in the Energy Community to improve the governance of its energy sectors. Stagnation has been the characteristic feature over the last years. The reasons for this are well-known and are not limited to energy.

Despite the competence and dedication of the experts, political leadership and the structures they create prevent progress in terms of transposing and implementing the *acquis*. This fail-

ure manifests itself in the categorical refusal to cooperate at state-level, without which the Third Package cannot be transposed and the serious breaches identified by the Ministerial Council in the gas sector cannot be rectified.

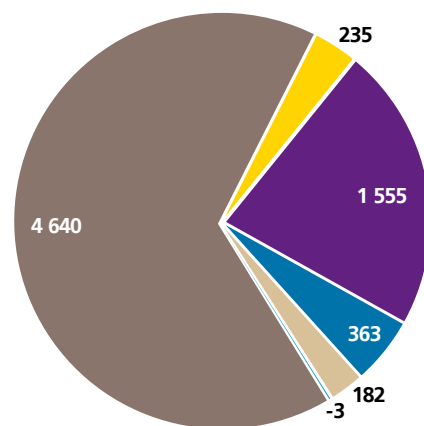
Under these circumstances, investor confidence will remain low and the frustration of the international community will continue to grow. How to deal with Contracting Parties such as Bosnia and Herzegovina will be a litmus test for the functioning of the Energy Community.

Energy mix in primary production in 2012
in ktoe (total 4 936 ktoe)



■ Solid fuels ■ Hydro ■ RES

Gross inland consumption in 2012
in ktoe (total 6 970 ktoe)



■ Solid fuels ■ Natural gas ■ Oil and oil products
■ Hydro ■ Waste, biofuel ■ Electricity (exported)

Source: Released data by BHAS and estimates of the Energy Community Secretariat





Bosnia and Herzegovina

5.1 Electricity

Description of data [unit]	2012	2013	
Electricity production [GWh]	12,935	16,303	
Net imports [GWh]	4,179	3,167	
Net exports [GWh]	4,489	6,911	
Total electricity supplied [GWh]	12,624	12,559	
Gross electricity consumption [GWh]	12,624	12,559	
Losses in transmission [GWh]	308	343	
Losses in transmission [%]	1.84%	1.81%	
Losses in distribution [GWh]	1,188	1,105	
Losses in distribution [%]	12.46%	11.55%	
Consumption of energy sector [GWh]	81	22	
Final consumption of electricity [GWh]	11,047	11,088	
Consumption structure [GWh]	Industrial, transport, services and other non-residential sectors	6,449	6,464
	Households (residential customers)	4,599	4,624
Net maximum electrical capacity of power plants [MW]	3,696	3,711	
Net maximum electrical capacity of power plants [MW]	Coal-fired	1,588	1,588
	out of which: multi-fired	36	36
	Gas-fired	0	0
	out of which: multi-fired	0	0
	Oil-fired	0	0
	Nuclear	0	0
	Hydro	2,107	2,120
	out of which: small hydro	60	72
	pumped storage	420	420
	Other renewables	0.80	2.45
out of which: wind	0.00	0.30	
Horizontal transmission network [km]	380 kV or more [km]	865	865
	220 kV [km]	1,525	1,525
	110 kV [km]	3,920	3,920
	HVDC [km]	0	0
	Substation capacity [MVA]	12,369	12,369
Electricity customers	Total	1,475,934	1,492,214
	out of which: non-households	121,041	122,662
	Eligible customers under national legislation	121,041	122,662
	Active eligible customers	1	1
Internal market	Electricity supplied to active eligible customers [MWh]	911	885
	Share of final consumption [%]	8.24%	7.98%

Source: State Electricity Regulatory Commission

Refer to page 203 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

The legislative and regulatory competences of Bosnia and Herzegovina on the state-level are allocated to the Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina (MoFTER) and the State Electricity Regulatory Commission (SERC) respectively. State legislation covers transmission, system operation and cross-border trade. The main legal acts are the

Law on Electricity Transmission, Regulator and System Operator of 2002, the Law Establishing an Electricity Transmission Company and the Law Establishing an Independent System Operator for the Transmission System, both dating back to 2004.

Electricity production, distribution system operation and supply of electricity are governed by legislation of the two entities, Federation of Bosnia and Herzegovina and Republika Srpska, and

the Brčko District. In the Federation of Bosnia and Herzegovina, the Federal Ministry of Energy, Mining and Industry and the Federal Electricity Regulatory Commission (FERC) are the key institutions. The sector is governed by the Law on Electricity adopted in 2013. In 2014, the Federal Government adopted Provisional Guidelines for Electricity Policy - essentially a roadmap for security of electricity supply and sustainable development of the electricity sector, and a Restructuring Programme for the Electricity Sector aimed at corporatization of the public utilities and legal unbundling of the distribution system operators. Both documents still need approval by the Federal Parliament. The Federal Government also issued a Decree on the Rules, Criteria, Form and Content of the Application for Issuing Energy Permits for Construction of New and Reconstruction of Existing Generation Capacities which increase transparency in the administrative procedures.

In Republika Srpska, the Law on Electricity of 2008 and the Energy Law of 2009 are implemented by the Ministry of Industry, Energy and Mining and the Regulatory Commission for Energy of Republika Srpska (RERS). In 2013 and 2014 the regulatory framework of RERS was updated. The Rules for Licensing and Issuing Permits for Construction were adjusted to the Customer Switching Rules, and Rulebooks for Incentives and for Guarantees of Origin were adopted.

The local Government of Brčko District is responsible for the Electricity Law of the District of 2004. SERC is appointed as the regulatory authority for the District. The Electricity Law of Brčko District was amended in 2013. The amendments bring the criteria for eligibility in compliance and improve the conditions for access to distribution networks, the conditions for supply, the licensing regime and the powers of SERC.

As concerns transposition of the Third Energy Package, EU-funded consultants drafted a complete set of laws and principal acts of secondary legislation for all jurisdictions in Bosnia and Herzegovina. Whereas Republika Srpska and Brčko District started drafting amendments to their respective legislation, no such activities have been commenced by the State authorities or the Federation of Bosnia and Herzegovina.

Transmission of electricity is governed on state-level and is split between the independent system operator *Nezavisni Operator Sistema BiH (NOS BiH)* (responsible for dispatching, balancing and allocating the cross-border interconnection capacities) and *Elektroprenos* (owns the transmission network and is in charge of connections, transmission, metering, maintenance and development of the infrastructure). The transmission network of Bosnia and Herzegovina is interconnected with the bordering systems of Croatia, Serbia and Montenegro. Under the Rules on Allocation of the Right of Use of Cross-Border Transmission Capacity of 2010, *NOS BiH* performs daily, monthly and annual explicit auctions for 50% of the capacity. Intra-day allocations take place on a "first-come, first-served" basis. *NOS BiH* is a shareholder of the SEE CAO. In the period between 2007 and 2013, *Elektroprenos* was in a management stalemate, its

planning and investment capacity was effectively blocked. In 2014 the Law establishing an Electricity Transmission Company was amended and a new management board was appointed. Moreover, the 2014 Investment Plan and a Long Term Transmission Network Development Plan until 2022 were developed as well as Network Investment Plans for the period between 2014 and 2016. The Secretariat reviewed the investment plans before their approval by SERC.

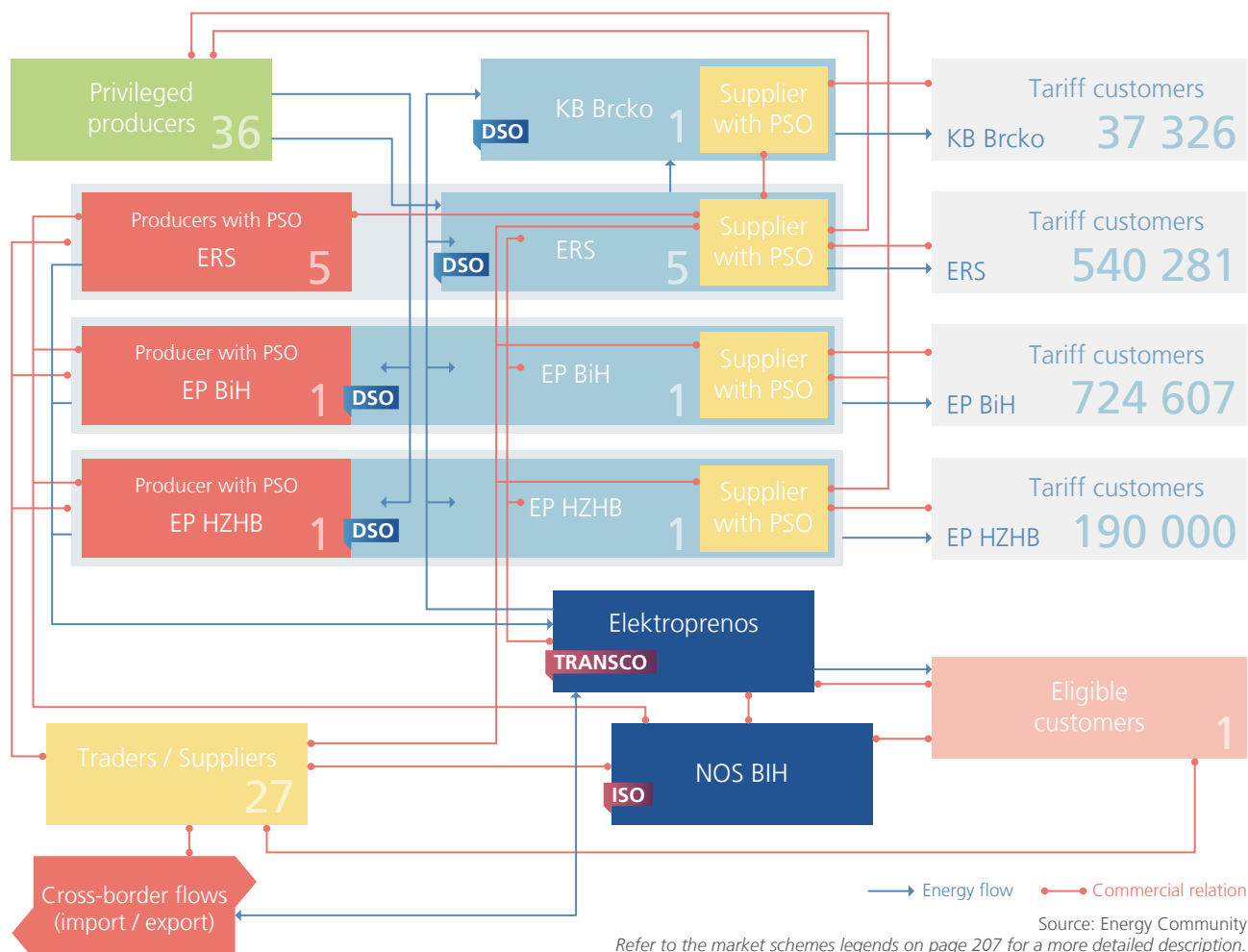
In the Federation of Bosnia and Herzegovina, the electricity distribution, as well as dominant parts of the generation and supply, is performed by two vertically integrated enterprises – *Elektroprivreda Bosne i Hercegovine (EP BiH)* and *Elektroprivreda Hrvatske Zajednice Herceg-Bosne (EP HZHB)* – each active on its own territory. In Republika Srpska the holding *Elektroprivreda Republike Srpske (EP RS)* owns five legally unbundled subsidiaries for electricity generation and five companies for distribution and supply. The enterprise *Komunalno Brčko (KB)* is a horizontally and vertically integrated communal utility which operates the distribution network and provides electricity supply to all customers in the District. In the absence of local generation capacities, Brčko District is supplied by *EP RS*.

The electricity market in Bosnia and Herzegovina operates through bilateral over the counter (OTC) agreements between the incumbent suppliers (utilities), producers and licensed traders. Transactions are aimed mainly to compensate for insufficient local production rather than to compete in the supply. There is no organized spot market or local power exchange in Bosnia and Herzegovina. 27 companies are registered for electricity trade out of which 25 are licensed for cross-border trade.

The energy for balancing is usually provided by the incumbent generators under prices regulated by SERC. Only in case of shortage *NOS BiH* can import balancing energy under the market clearing price. In practice most of the imbalances are netted out internally and compensated between the responsible parties, including regular exchanges of energy between the bordering control areas. Balance responsible parties in Bosnia and Herzegovina are only the three power utilities, each responsible for the imbalances of its own dominion. The provision of ancillary services for system operation is regulated and included in the costs of transmission.

In 2014 SERC and *NOS BiH* completed the draft concept for balancing and ancillary services, introducing market-based mechanisms for assessment and acquisition of reserve capacity for balancing and ancillary services in secondary and tertiary control, nominations for balancing energy and setting of prices, as well as assessment of imbalance quantities, prices of imbalance and financial settlement. The new balancing mechanism should be applied starting 1 January 2015. In 2014, *NOS BiH* also signed an Agreement on Common Frequency Control Reserves in the Control Block SHB with the transmission system operators of Slovenia (*ELES*) and Croatia (*HOPS*).

Bosnia and Herzegovina's Electricity Market Scheme



b. State of Compliance

The fragmented legal, administrative and political structure of Bosnia and Herzegovina prevents progress in implementation of most if not all basic principles of European electricity legislation, such as unbundling, transparency, efficient and independent regulation, liberalization and integration of the electricity market. This makes the country one of the worst performers in terms of implementing the *acquis*.

1. Authorisation

Rules on authorization and tendering for new generation capacity as well as their application are in the competence of the two entities. In both of them they are not fully compliant with Articles 6 and 7 of Directive 2003/54/EC. In Republika Srpska the Licensing Rules applied by RERS cover the authorization procedure in sufficient detail. The tendering of new capacity is duly covered by the Concession Law of 2013, however, without limiting tender procedures to cases of lack of interest. The Law on Electricity of 2013 of the Federation empowers the responsible Ministry and the Federal Government with issuing permits

and tendering, but does not appoint an independent authority. In practice, investors regularly complain about administrative delays, lack of transparency and inconsistencies. In Brčko District there are no rules for new generation capacity authorisation.

2. Unbundling

The unbundling of the transmission system is transposed in the State legislation by the establishment of an independent system operator inspired by US models. Five years of deadlock of the transmission company and non-investment proved that the framework is ineffective and independence in terms of decision-making non-existent. Transposition of the Third Package has still not started on the state-level. There is a high probability that the country will fail to properly unbundle transmission operation on time.

As regards unbundling of distribution system operation, the recent Law on Electricity in the Federation of Bosnia and Herzegovina still does not transpose legal unbundling. In practice, the distribution system operators *EP BiH* and *EP HZHB* are not even functionally unbundled from supply but only in terms of

accounts. In Republika Srpska, system operation is also still legally and functionally bundled with supply in all five subsidiaries of *EP RS*. The Electricity Law prevents the operator only from supplying eligible customers. Accounting unbundling is enforced and applied. Finally, the horizontally integrated power utility *Komunalno Brčko* performs electricity distribution and supply in Brčko District. Accounting unbundling is required by the Electricity Law and applied in practice.

3. Third Party Access

The right of third party access to transmission is only partially transposed. The state-level legislation does not fully transpose the provisions related to refusal as required by Article 20 of Directive 2003/54/EC. Furthermore, the Law mandates SERC to set transmission network tariffs with no sufficient detail on the charges and revenues as required by Articles 4 and 6 of Regulation (EC) 1228/2003. This results in inadequate tariffs and consequent non-compliant treatment of the revenues and accumulated funds during and after the years of reduced management capacity and insufficient network investments of *Elektroprenos*.

With respect to capacity allocation and congestion management, the primary legislation fails to transpose the provisions stipulated in the Congestion Management Guidelines. Some principles have been included in the Market Rules and the Grid Code. The congestion management methods applied on the borders and the use of congestion revenue are still short of compliance with the Congestion Management Guidelines.

Both entities and Brčko District apply third party access to distribution grids based on their respective laws. The responsible regulatory authorities have approved and published distribution tariffs in each jurisdiction.

4. Eligibility

Eligibility is being dealt with exclusively on entity level. In the Federation of Bosnia and Herzegovina, the Law on Electricity of 2013 transposes the concept of eligibility correctly. However, the FERC Rules for Electricity Supply to Eligible Customers of 2012 envisage gradual implementation of eligibility rights according to voltage level, in a transitional period expiring at the end of 2014. This is in violation of the *acquis*. In Republika Srpska, the Law on Electricity violates the *acquis* by setting the eligibility threshold at an annual consumption of 10 GWh and granting RERS the right to alter the threshold. On the level of secondary law, the 2011 Rules on the Eligible Customer of RERS “grant” eligibility rights to all customers in Republika Srpska except households, and to households starting 1 January 2015. According to the Law on Electricity as well as the Rules for Electricity Supply to Customers in Brčko District, households and “small customers” are exempted from switching until 2015. This is also not compliant with Directive 2003/54/EC.

5. Market Opening and Price Regulation

All consumers in Bosnia and Herzegovina except *Aluminij – Mostar* (8% of Bosnia and Herzegovina’s consumption in 2013) are captive customers of their local incumbent utilities. There are no cases of contracting the supply outside the local utility borders. The incumbent local suppliers were appointed as “reserve suppliers” in the transitional period before 2015 and “suppliers of last resort” by the regulatory authorities in all jurisdictions, and are likely to delay market opening in the future.

Wholesale market opening suffers from the absence of liquid trading platforms. Trading takes place through bilateral transfers between dominant utilities and registered traders, including exports and transits.

In terms of price regulation, the Law on Electricity in the Federation of Bosnia and Herzegovina allows for access to regulated supply for all eligible customers, including large ones and without limitations. This violates Article 3 of Directive 2003/54/EC. Even worse, the price of generation for the supply of customers supplied at regulated prices (*i.e.* the wholesale price) is also regulated. The Law on Electricity in Republika Srpska makes electricity supply at regulated prices by subsidiaries of *EP RS* available to all customers. This exceeds what is allowed under Article 3 of the Directive. The Law similarly supports price regulation for production by *EP RS* sold to local utilities and *Komunalno Brčko*. The Electricity Law in Brčko District also misinterprets the concept of public service in providing regulated supply of all captive customers. This prevents supplier switching in practice.

All three regulatory authorities have adopted rules for supplier switching and price methodologies for supply services available to eligible customers in the transition period before 1 January 2015, and to households and small customers as last resort supply.

6. Balancing

The legal framework for balancing, defined on state level, basically transposes Article 11 of Directive 2003/54/EC. Market-based procedures for covering losses and cost-reflective imbalance charges, however, are missing. The Grid Code also fails to enact market-based balancing. In practice, the electricity is supplied by the incumbent generators under regulated prices subject to approval by SERC, while in case of shortage *NOS BiH* may purchase balancing energy from abroad under the clearing price of the market where the energy was purchased. The costs of imbalance are transferred to the customers as a component of the regulated cost of supply.

7. Customer Protection and Protection of Vulnerable Customers

The Electricity Law in the Federation of Bosnia and Herzegovina fails to fully transpose customer protection provisions of Article 3 and Annex 1 of Directive 2003/54/EC, in particular on contractual data and customer information. The Electricity Law of Republika Srpska suffers from the same deficiency, as well as on provisions of universal service. The Brčko District legal framework does not provide for protection of customers not qualified for public service. The laws together with the regulatory acts such as general conditions for electricity supply and the rules for supply of eligible customers adopted in all three jurisdictions promote customers' protection in terms of conditions for disconnection, complaints and information rights. However, transposition remains piecemeal, fragmented and asymmetrical.

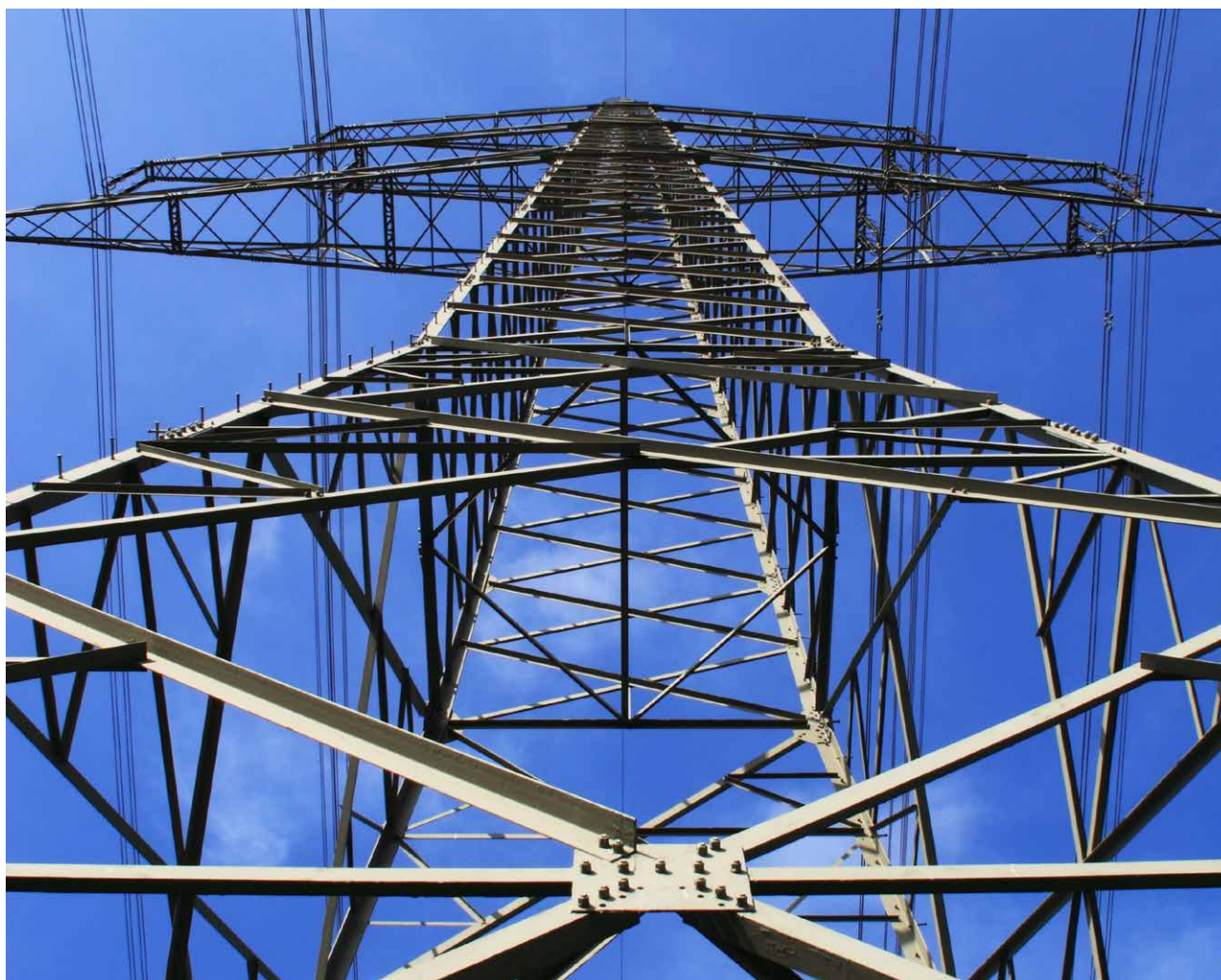
Vulnerable customers are not defined or subject to special treatment in any jurisdiction. The practice of price regulation is non-compliant with Article 3 of the Directive and curtails options for more focussed support measures. The aspects of vulnerability in the context of electricity supply will have to be dealt with in the transposition of the Third Package.

c. Conclusions and Priorities

The electricity market in Bosnia and Herzegovina is structurally underdeveloped despite its potentials and the commercial activities of the industry. All jurisdictions of Bosnia and Herzegovina need to update their legislative framework, not only for the purpose of transposing the Third Package. Legislation on state level needs to be urgently and thoroughly redesigned. The existing model for transmission has never truly achieved unbundled and independent operation. On distribution level, functional and accounting unbundling must be implemented in all integrated utilities in Bosnia and Herzegovina.

The Third Package also calls for a revision of the structure of the regulatory authorities, with more competences being given to the state level.

Furthermore, the market must be opened in real terms, including between the entities. This would require at least a coordinated process of further liberalization of the supply chains and full recovery of costs, together with a system for the protection of socially vulnerable customers outside price regulation.





Bosnia and Herzegovina

5.2. Gas

		2012	2013
Natural gas production [Bcm]		0	0
Imports flows [Bcm]		0.254	0.187
Exports flows [Bcm]		0	0
Stock changes [Bcm]		0	0
Total supply [Bcm]		0.254	0.187
Consumption in energy sector [Bcm]		0	0
Available for final consumption of natural gas [Bcm]		0.254	0.187
Interconnectors' capacity [Bcm]	Total	0.750	0.750
	out of which bidirectional	0	0
Storage working capacity [Bcm]		0	0
Length of transmission network [km]		202.2	202.2
		FBiH 138 / RS 64.2	FBiH 138 / RS 64.2
Length of distribution network [km]		1,503	1,504
		FBiH 1,400 / RS 103	FBiH 1,400 / RS 104
Natural gas customers	Total	69,744 FBiH 65,400 RS 4,344	69,980 FBiH 65,400 RS 4,580
	Non-households	FBiH n/a RS 376	FBiH n/a RS 407
	Eligible customers under national legislation	FBiH n/a RS 370	FBiH n/a RS 407
	Active eligible customers	FBiH n/a RS 6	FBiH n/a RS 0
	Households	FBiH n/a RS 3,968	FBiH n/a RS 4,173
Internal market	Gas supplied to active eligible customers [Bcm]	n/a	0
	Share of total consumption [%]	n/a	0
Final consumption of natural gas per sector [Bcm]		0.254 FBiH 0.194 RS 0.061	0.187 FBiH 0.137 RS 0.050
	Energy transformation	FBiH 0.034 RS 0.001	FBiH 0.029 RS 0.016
Consumption structure [Bcm]	Industry and commercial customers	FBiH 0.124 RS 0.055	FBiH 0.073 RS 0.015
	Households	FBiH 0.036 RS 0.005	FBiH 0.035 RS 0.019

Source: Ministry of Energy, Mining and Industry (FBiH) and Ministry of Industry, Energy and Mining (RS), compiled by the Energy Community Secretariat
Refer to page 205 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

Bosnia and Herzegovina has no domestic sources of natural gas. Supplies are exclusively based on imports from a single source (Russia) passing through Ukraine, Hungary and Serbia. The existing transmission pipeline connects the sole cross-border entry point in Zvornik with the cities of Kladanj, Sarajevo and Zenica. The gas market in Bosnia and Herzegovina is dominated by key incumbent companies, all of which still remain fully bundled and active in, or at least licensed for, both network and supply activities in the sector. In the Federation of Bosnia and Herzegovina both transmission and supply of natural gas are exclusively performed by a vertically integrated undertaking *BH Gas*, which operates the largest part of the transmission

pipeline in the country within the territory of the Federation, and remains the dominant supplier of natural gas in both entities accounting for over 90% of the market. The Federation of Bosnia and Herzegovina participates in the *Ionian Adriatic Pipeline (IAP)* project, and develops an interconnection with the Croatian gas system. A transmission pipeline from Zenica to Travnik was completed in December 2013.

In Republika Srpska, two companies are authorised for transmission activities, *Gas Promet a.d. Istocno Sarajevo-Pale* and *Sarajevo-gas a.d. Istocno Sarajevo*, which also share the ownership of the existing transmission network within Republika Srpska. *Gas Promet* is licensed for transmission of natural gas and operation of the transmission system. Its license for activities of

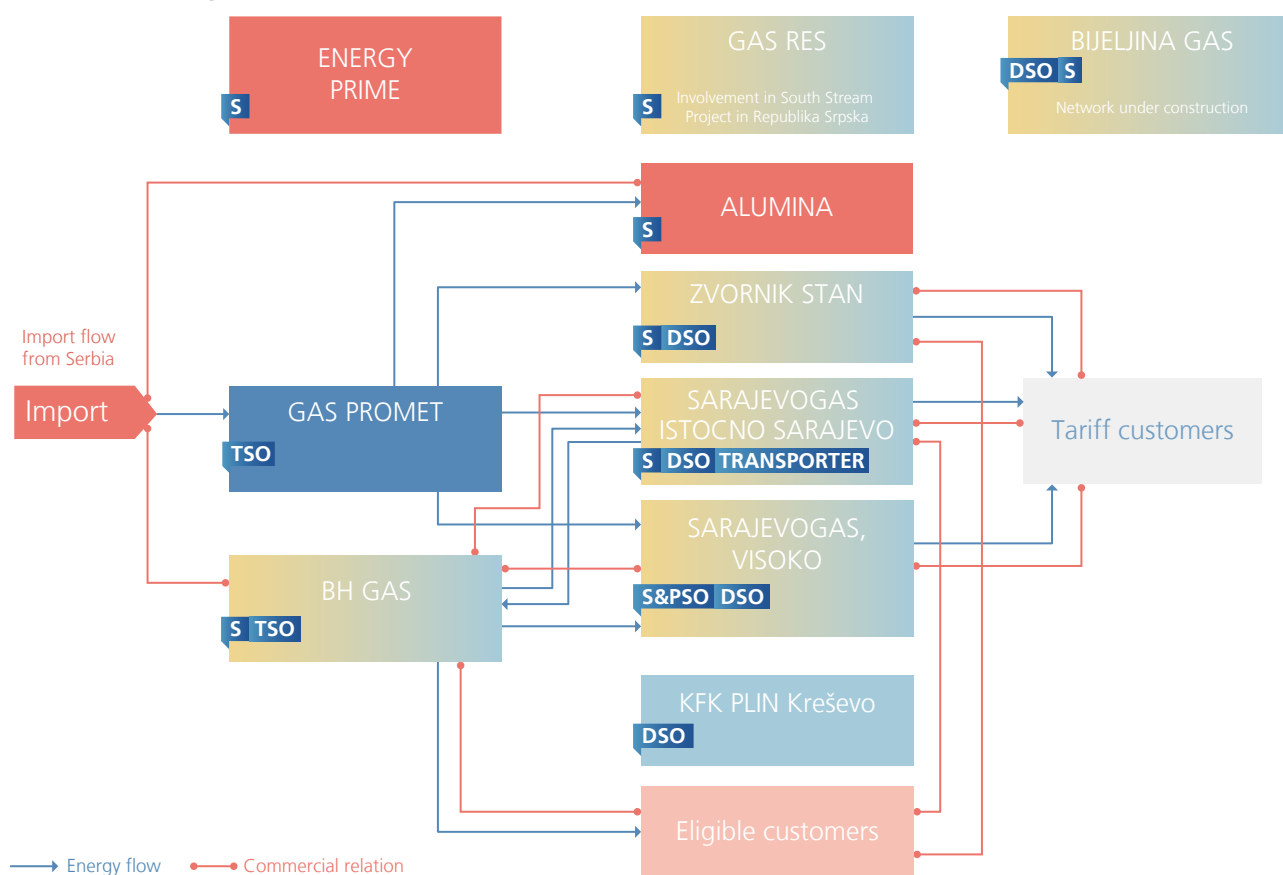
trade in and supply of natural gas was revoked. *Sarajevo-gas* is licensed for transmission and distribution of natural gas, as well as for trade in and supply of natural gas. Gas supply in Republika Srpska is carried out by *BH Gas*, *Sarajevo-gas* and *A.d. Zvornik Stan Zvornik*. The latter is also licensed for distribution of natural gas. In 2012 a trade and supply license was also issued to *Bijelina-gas* for supplies of natural gas to be delivered through a newly-built distribution pipeline from Sepak to Bijelina. In the first half of 2014, licenses for trade and supply were issued to three companies in Republika Srpska, including *Alumina Zvornik*, which is the major gas consumer.

Republika Srpska intends to develop an interconnector to the Serbian gas system as a branch of the *South Stream* project.

Several concessions were granted for developments of the internal gas system.

The natural gas sector in Bosnia and Herzegovina is regulated at the level of the entities. In the Federation of Bosnia and Herzegovina, a Governmental Decree of 31 October 2007 applies. The adoption of a new draft Gas Law has been pending in the Parliament for more than a year. The draft Law is non-compliant with the *acquis* in its present form. In Republika Srpska, the natural gas sector is regulated by the Law on Gas adopted in 2007 and further amended in 2012. No steps were taken to develop state level legislation for natural gas. Overall, no actual progress was made since the beginning of 2013.

Bosnia and Herzegovina's Gas Market Scheme



Source: Energy Community

Refer to the market schemes legends on page 207 for a more detailed description.

b. State of Compliance

Bosnia and Herzegovina's gas sector is in breach of Energy Community law on at least 14 accounts, as confirmed by the Ministerial Council's Decision 2013/04/MC-EnC of 24 October 2013. These breaches persist since the entry into force of the Treaty and several of them are very serious. The Secretariat has been invited to request sanctions against the country, in the first-ever case in history. Only the adoption of a State law

can rectify these breaches while transposing the Third Energy Package at the same time. There is not much hope that the situation improves in the short term.

1. Authorisation

In the Federation of Bosnia and Herzegovina, the governmental Decree on Gas fails to define the authorisation criteria and procedures. It is not in compliance with Directive 2003/55/EC. In

Republika Srpska, the authorisation procedures are compliant. Licenses for natural gas activities are issued by the Regulatory Commission for Energy of Republika Srpska (RERS) under the terms and conditions stipulated in the Law on Gas and in the Licensing Rules. Construction of new natural gas facilities by a company other than the existing operator is subject to a concession awarded for a period not exceeding 30 years or, in case exceptional circumstances appear to require longer term investment (not defined by the Law), not exceeding 50 years. In 2012 the Government of Republika Srpska established a company *Gas RES Banja Luka* for development of a branch pipeline of the *South Stream* project, apparently without having been awarded a concession.

2. Unbundling

While the existing legislation in both entities transposes the requirements of legal and functional unbundling of transmission system operators, as well as for unbundling of accounts, none of these were timely implemented in practice as confirmed by Decision 2013/04/MC-EnC. In June 2014, the trade and supply license of *Gas Promet* was revoked which completes its legal unbundling. However, no actions were taken to implement functional unbundling. All other companies engaged in the transmission and distribution remain fully bundled. On the eve of Third Package implementation, this is alarming.

The company structures of *BH Gas*, the transmission system operator in the Federation of Bosnia and Herzegovina, still allows for all natural gas activities to be performed in a unified organisational and management format. The company is actively involved both in network and commercial activities in the natural gas sector. In Republika Srpska, *Sarajevo-gas* remains fully bundled, being authorised both for the transmission and supply of natural gas. *Sarajevo-gas* acts as one of the incumbent suppliers of natural gas in Republika Srpska, including supplies to tariff customers. In *Sarajevo-gas*, organisational and decision-making independence of its transmission activities is not ensured, the compliance program is not yet in place and the requirements for unbundling of accounts is not properly implemented.

Moreover, in both entities distribution activities are performed by the same companies engaged in the supply of and trade in natural gas. Legal and functional unbundling of distribution system operators is not implemented.

3. Third Party Access

In the Federation of Bosnia and Herzegovina, system operators are obliged to ensure efficient and non-discriminatory access to the grid. However, the responsible Ministry has a mandate to decide on a case-by-case basis whether access should be provided in a regulated or negotiated manner, which is a severe violation both of Directive 2003/55/EC and of Regulation (EC) 1775/2005. In practice, in the Federation of Bosnia and Herzegovina, neither separate tariffs for gas transmission and

distribution nor the methodology for their calculation have been adopted, published or applied. Instead, upon proposal of the vertically integrated *BH Gas*, the responsible Ministry of the entity sets "bundled" prices for transmission and supply, and the cantonal Ministry for distribution and supply. The governmental Decree also provides that any third party access exemption decision shall be issued by the responsible Ministry, thus failing to involve a regulatory authority as required by Directive 2003/55/EC.

In Republika Srpska, system operators are obliged to enable non-discriminatory and transparent access to the system. The amended Law on Gas transposed provisions on third party exemptions for new gas infrastructure in line with Directive 2003/55/EC. It also vests RERS with the competence to develop methodologies for calculation of grid fees. Based on this tariff system, charges are to be determined by the respective operators and published. Even if the amended Law on Gas vests RERS with the competence to develop methodologies for calculation of grid fees, so far only a distribution tariff and prices for supply of tariff customers have been put into force, whereas a transmission tariff was adopted only for spur of the transmission pipeline Karakaj-Zvornik.

Furthermore, a draft inter-governmental agreement between Bosnia and Herzegovina and the Russian Federation for construction and operation of two branch pipelines of the *South Stream* project allows the operator to establish transmission tariffs and vests the Russian company *Gazprom* with an exclusive right to use all capacities of the pipelines in violation of the Treaty.

4. Eligibility

The amended Law on Gas of Republika Srpska correctly transposes the eligibility criteria from Directive 2003/55/EC. The eligibility criteria stipulated in the governmental Decree of the Federation of Bosnia and Herzegovina are non-compliant with Directive 2003/55/EC, as it defines the eligibility status by reference to additional criteria, *i.e.* limiting it to the customers that use gas for generation of electricity and final customers that consumed more than 150 mcm of gas in the past calendar year. Thus, the Federation of Bosnia and Herzegovina does not only fail to implement the eligibility requirements, but also their proper transposition in the domestic legislation is pending. The draft Law on Gas is expected at least to provide the legal background for full eligibility of all customers from 1 January 2015.

5. Market Opening and Price Regulation

All natural gas consumers in Bosnia and Herzegovina are supplied by the respective incumbent at regulated prices. The market must be considered highly foreclosed. A phase-out of the regulation of supply prices has to be introduced and coupled with supporting mechanisms such as public service obligations and vulnerable customer protection.

6. Balancing

None of the provisions of Regulation (EC) 1775/2005 have been transposed or implemented in the Federation of Bosnia and Herzegovina. The balancing regime lacks a clear and consistent regulatory background. The requirements of the *acquis* with regard to the setting of imbalance charges are not applied.

In Republika Srpska, the Rulebook on the Operation of Natural Gas Transmission is applied as adopted by *Gas Promet* and approved by RERS. The Rulebook mainly covers technical rules and some basic principles of capacity allocation and balancing. The practice in Republika Srpska fails to make any calculation methodology for imbalance charges and final tariffs public.

7. Security of Supply

The governmental Decree of the Federation of Bosnia and Herzegovina fails to transpose Directive 2004/67/EC. The Decree provides a definition of protected customers and the roles and responsibilities of different gas market players. However, a list of measures and responsibilities in case of emergency, the scope of reporting and cooperation with the neighbouring countries, as well as definitions of supply standards and a major supply disruption, are missing.

In Republika Srpska, the Decree on Security of Supply and Delivery of Natural gas, adopted in 2011, transposes key elements of Directive 2004/67/EC such as the definition of protected customers, the definition of roles and responsibilities of different market players, a list of measures and responsibilities in case of emergency, as well as the scope of reporting and cooperation with its neighbours. However, a definition of supply standards is still missing.

8. Customer Protection and Protection of Vulnerable Customers

The existing legislation of the Federation of Bosnia and Herzegovina only provides obligations for the supplier of tariff customers. The relevant requirements of Directive 2003/55/EC have not been properly transposed. Furthermore, price regulation applied for some of the tariff customers allows for discrimination between customers. The concept of vulnerable customers is not defined. On the other hand, the definition of protected customers contains certain elements of the socially vulnerable status of customers. However, this may not be

considered as proper transposition of the *acquis* requirements on establishing protection measures for vulnerable customers.

In Republika Srpska, the Law does not provide for the protection of customers other than a reference to the Energy Sector Development Strategy. The lack of clear legal instruments regulating the protection of customers in line with the *acquis* must be considered as non-compliant.

The Third Package's concept of vulnerable customers is not reflected in the existing natural gas sector legislation of both entities, let alone at the national level.

c. Conclusions and Priorities

The gas sector governance in Bosnia and Herzegovina is in such a bad condition that only a thorough and deep reform in the context of implementing the Third Package can rectify the multitude of breaches identified by the Ministerial Council in Decision 2013/04/MC-EnC. This will have to include legislation at the state level, including the setting up of a state-level regulatory authority. The Secretariat offered its assistance in the drafting process, however without receiving a response.

Legal and regulatory reform in the natural gas sector of Bosnia and Herzegovina has to target various relevant fields, including *inter alia* unbundling of system operators, transparent tariff systems and deregulation of prices, effective supplier switching rights and compliant eligibility criteria, so as to ensure full opening of the natural gas market from 1 January 2015. This task is a key priority for Bosnia and Herzegovina and requires the strengthening of resources at national level and political consensus at different levels of government to be reached without any delay.

It is also very important that any further infrastructure developments in the country proceed in line with the *acquis* requirements.

The Third Energy Package, being a key priority for the Contracting Parties, has to be transposed in the domestic legislation by 1 January 2015. The Secretariat continuously remains on hand to assist Bosnia and Herzegovina in proceeding with any respective reforms, including the necessary legal, regulatory, political and cross-border arrangements.



Bosnia and Herzegovina

5.3 Regulatory Authority

a. Organisation and Competences

The State Electricity Regulatory Commission (SERC) holds a unique position among the Energy Community regulatory authorities, as it is the only regulatory authority without any jurisdiction in the gas sector. The Secretariat has opened an infringement case against Bosnia and Herzegovina for this reason. To this extent, the country has not taken measures to overcome non-compliance as tasked by the Ministerial Council Decision of 2013. Also, SERC's powers do not cover the country's entire electricity sector but share competences with regional (entity) energy regulatory authorities. SERC's current organizational set-up will not stand the requirements of the Third Energy Package for a single regulatory body at national level equipped with all regulatory duties foreseen by Directives 2009/72/EC and 2009/73/EC.

SERC is headed by three Commissioners appointed for a period of five years. A rotation scheme as required under the Third Energy Package is already in place.

Beyond the need for extending SERC's powers to the country's gas sector and the entire electricity sector, competences also need to be expanded to the complete set of regulatory powers and objectives foreseen under the Third Energy Package, in particular related to the right to carry out investigations, impose measures to promote competition and proper market functioning and issue penalties to gas and electricity undertakings that do not comply with their obligations or to propose to a competent court to impose such penalties.

b. Assessment of Independence

In terms of legal provisions, SERC is granted independence. On a practical level, the strict ethnicity requirements reflecting appointment of the Commissioners, as prescribed by law, is likely to entail political influence, which is reinforced by the need for unanimous decision-making of the three Commissioners. Such a platform, together with the relatively porous legislative framework has proved to be inefficient in enforcement of the regulatory powers, curtails the independence of SERC and effectively blocks the execution of its duties.

Also, the appointment procedure for SERC's Commissioners is solely based on proposals of the entities' Governments and Parliaments and the State Council of Ministers. Legal provisions do not explicitly stipulate independence from political or regulated sector engagements as a condition for appointment. However, the law requires SERC to establish a code of ethics governing conflicts of interest for the Commissioners and staff members.

A related document is published on the regulator's website prohibiting connections with politics and regulated industry. Dismissal of a Commissioner is by law limited to cases of conflict of interest or the carrying out of a criminal act and thereby, in principle, uncritical in terms of potential political intervention. Still, the legally foreseen reason for dismissal consisting of a Commissioner's failure to participate in SERC's proceedings for a period longer than six weeks has to be considered as too limited in terms of length of time and a potential for politically motivated dismissal. A relevant threat to independence is the practice of extreme delays in the appointment of Commissioners, which results in them overstaying their terms in office (without a renewed mandate) for a significant period of time.

SERC complies well with transparency standards required in the context of independence by publishing Board decisions, including the basis of rulings, as well as information on the authority's organisation and structure, on its website. However, improvements should be made by publishing decision-making rules and information on the reflection of stakeholders' views in Board decisions.

Financial independence is foreseen in legislation by granting SERC the right to autonomously set regulatory fees for licensees, which form the regulator's budget. The requirement for the regulator's annual budget to be sent to the Parliamentary Assembly cannot be considered an undue intervention in SERC's independence since this, by law, does not entail parliamentary approval nor involves intervention on the detailed use of the budget. Compared with other regulatory authorities in the region, SERC does not suffer from a threat to its financial independence in terms of adequate salary levels.

In general, SERC's staffing level needs to be extended in order to address the additional duties under the Third Energy Package.

SERC participates actively in the regulatory discussions in the Energy Community Regulatory Board (ECRB), including chairmanship of the ECRB Customer and Retail Markets Working Group. Further to this, the cooperation between SERC and the competition authority of Bosnia and Herzegovina – manifested via a Memorandum of Understanding in June 2014 – has to be considered positively in terms of the regulator's readiness to take an active role in promoting competitive market structures.

c. Conclusions and Priorities

The following adjustments in law and regulatory practice are key priorities for SERC:

1. The powers of SERC need to be extended to the country's gas and electricity sector as foreseen by Directives 2009/72/EC and 2009/73/EC.
2. SERC's competences need to be expanded to the complete set of regulatory powers and objectives foreseen under the Third Energy Package.
3. The unanimity rule regarding the Commissioners' decision-making should be replaced by majority voting entailing a larger number of Commissioners.
4. The dismissal reason regarding a Commissioner's failure to participate in SERC proceedings for a period longer than six weeks should be cancelled or extended time wise.
5. Commissioners' terms in office should be renewed promptly after the expiry of their mandate (or they should be replaced by other candidates); Commissioners in office should not be without a mandate.
6. SERC's staffing level needs to be extended in order to address the additional duties under the Third Energy Package.
7. Transparency should be improved in relation to decision-making rules and information on the reflection of stakeholders' views in Board decisions.



Bosnia and Herzegovina

5.4 Oil

a. Sector Overview

In Bosnia and Herzegovina there is no domestic production of crude oil. Crude oil is imported mainly from Russia. Imports in 2013 were above 1.017mt/year, around 4% higher than in 2012. In 2013, Bosnia and Herzegovina processed around 856 kt of oil, a decrease by around 6% compared to 2012. The export of petroleum products decreased by 12.5% to 162 kt, whereas the import of petroleum products increased by around 5% to a level of around 744 kt in 2013. The overall consumption of petroleum products in 2013 was 1,438 kt.

Bosnia and Herzegovina has around 800,000 cm of storage capacity, out of which 532,707 cm are located in the *Bosanski Brod* refinery. Bosnia and Herzegovina also owns a terminal in the port of *Ploče* with a storage capacity 84,000 cm.

Bosnia and Herzegovina currently has no legislation on compulsory stocks of oil and petroleum products on the state level. However, Republika Srpska adopted an Oil Market Law and

intends to start with the establishment of oil stocks in 2015. The Federation is expected to adopt an Oil Market Law during 2014. Both entities have been made aware that the oil stocks they intend to create based on their respective Oil Market Laws are not emergency oil stocks in compliance with Directive 2009/119/EC.

b. Conclusions and Priorities

Bosnia and Herzegovina was the only Contracting Party that could not benefit from the Coordinated Technical Assistance organised by the Secretariat during 2013, as it was not requested by the Ministry of Foreign Trade and Economic Relations. The Secretariat is still offering technical assistance during 2014 in order to proceed with the preparations for implementing Directive 2009/119/EC. The Secretariat considers the transposition of Directive 2009/119/EC on the state level as a priority. Bosnia and Herzegovina should establish a working group for this purpose.



Bosnia and Herzegovina

5.5 Renewable Energy

a. Sector Overview

1. State of Play, Legislation and Promotion of Renewable Energy

Bosnia and Herzegovina produces about 45% of its total electricity consumption from hydropower. Biomass used for heating was at a level of 789 ktoe in 2009. Since the last reporting period, the total renewable energy capacities increased by about 15 MW, mostly in small hydropower plants. There is 1.5 MW installed in solar photovoltaic (PV) in the Federation and 0.5 MW in Republika Srpska, but no significant wind project has yet been commissioned.

Bosnia and Herzegovina committed to a 40% renewables target for 2020, starting from 34% in 2009. However, for operational security of the electricity system, the independent transmission system operator capped the capacity of wind farms to be connected to the grid. Capacity is currently limited to a conservative level of 350 MW. Currently there are many more applications for the connection of wind farms pending than the existing capacity cap. Moreover, no strategy or legislation dealing with renewable energy exists at state level. There is also no institution at state level or defined procedures to deal with development of renewable energy projects and international cooperation. Renewable energy falls within the competence of the entities. Two separate renewable energy laws were adopted by the two Parliaments of Republika Srpska and the Federation of Bosnia and Herzegovina in May 2013 and August 2013 respectively. In 2014, Renewable Energy Action Plans were adopted by both entities.

In Republika Srpska, a Government Decree sets an indicative target of 35.98% of energy generated from renewable energy sources in 2020, starting from a share of 29.1% in 2005. The Decree also sets a 10% renewable energy target in transport and a target of 33.73% of electricity from highly efficient cogeneration by 2020. The Renewable Energy Action Plan however, set an entity target of 48%, starting from a share of 42% in 2009.

The Renewable Energy Law in the Federation of Bosnia and Herzegovina establishes the framework for the promotion of renewable electricity and heat and efficient cogeneration. The Renewable Energy Action Plan of the Federation of Bosnia and Herzegovina sets an entity target of 41%, starting from a 36% share in 2009.

Both entities, Republika Srpska and the Federation of Bosnia and Herzegovina promote electricity generated from renewable sources through feed-in tariffs or feed-in premiums. Support

is granted for 12 years in the Federation of Bosnia and Herzegovina and for 15 years in Republika Srpska.

In Republika Srpska, the regulatory authority adopted rules on the certification of renewable energy or cogeneration facilities and rules on support schemes. Support is granted for 15 years. It can take the form of feed-in tariffs or premiums offered on top of an administratively set electricity market price and financed through an uplift charged on all final customers in Republika Srpska. By a unit created within *Elektroprivreda Republika Srpska* the company functions as a single buyer for incentivized renewable electricity. In the future, this role will be given to a separate company. Producers that opt for selling the electricity on the market to other suppliers receive feed-in premiums and have to take balance responsibility. The energy regulatory authority REERS is appointed as issuing body for the guarantees of origin.

In the Federation of Bosnia and Herzegovina, all incentivized renewable energy is bought by a newly established institution - the "renewable energy operator" - as a single buyer. The same body also issues guarantees of origin and sets up a registry of producers of renewable energy. The feed-in tariff is paid for energy from small hydro, wind and solar and financed through an uplift charge applied to end-customers. The Law also stipulates priority connection to the grids and priority dispatch of electricity for privileged producers. Whereas all producers are required to submit generation forecasts, only producers with installed capacities above 150 kW are required to take balance responsibilities.

2. Renewable Energy in Transport

As regards biofuels, both entities introduced blending obligations on traders and set up the targets in line with Directive 2003/30/EC, i.e. 5.75% by 2010. Republika Srpska also commits to a yearly increase of 0,5% until reaching the share of 10% by 2020. No information exists on whether these targets have been achieved. According to IEA, the share of renewable energy in transport in Bosnia and Herzegovina was 0% in 2012.

Republika Srpska is the more active entity in terms of biofuels. In 2011, the Government adopted a Decree on Generation and Consumption of Energy from Renewable Energy Sources which defines incentive measures and targets. A decree on types, contents, quality and share of biofuels in transport is being drafted but was not reviewed by the Secretariat. Two companies producing biodiesel from pure vegetable oils and used oil are located in Republika Srpska.

b. State of Compliance

Despite the significant progress in the recent years in adoption of renewable energy laws and renewable energy action plans at entity level, Bosnia and Herzegovina still has to create a state framework for the promotion of renewable energy. This includes the adoption of a national renewable action plan which will describe the policy measures to achieve the binding 40% target in 2020.

1. National Renewable Energy Action Plan

Both entities of Bosnia and Herzegovina have adopted Action Plans, but a State NREAP is missing. The binding targets for 2020 are not stipulated by any legal act. Therefore Bosnia and Herzegovina fails to comply with Directive 2009/28/EC in this respect. The Secretariat started and will continue with infringement action.

2. Cooperation Mechanisms

No legislation regarding cooperation mechanisms exists. Currently the country does not comply with the requirement.

3. Administrative Procedures

The administrative procedures for permitting, authorization and licensing are better coordinated and streamlined in Republika Srpska. The complexity of the administrative set-up for authorization and permitting in the Federation of Bosnia and Herzegovina is a cumbersome barrier in unlocking the great potential present in the region. Both entities have to simplify the procedures and provide clarity, predictability and transparency for applicants. Currently, Bosnia and Herzegovina does not properly implement the administrative procedures.

4. Grid Access

The laws of the entities stipulate the obligations and the procedures, which are defined and adopted by the regulatory authorities at state (transmission) and entity level (distribution). A state-level law that imposes priority or guaranteed access for energy from renewable sources to the transmission network and priority dispatch is not in place. Moreover, requirements for the development of the transmission network to integrate more renewable energy and market integration of energy from renewable sources at state level are not transposed. Bosnia

and Herzegovina fails to comply with provisions of Article 16 of Directive 2009/28/EC.

5. Guarantees of Origin

Legislation for guarantees of origin exists in both entities and the bodies in charge of issuing, transferring and cancelling guarantees of origin for energy from renewable sources have been appointed. The two registries at entity level and a reliable, accurate and fraud-resistant system of issuing, transferring and cancelling guarantees of origin at state level have yet to be put in place. Currently, there is no compliance with Article 15 of Directive 2009/28/EC.

6. Renewable Energy in Transport

Article 17 of Directive 2009/28/EC related to sustainability criteria for biofuels and bioliquids has not been transposed at all. No certification scheme has been defined or relevant body for certification established. Bosnia and Herzegovina is non-compliant with Directive 2009/28/EC.

c. Conclusions and Priorities

The existing framework for the promotion of energy from renewable sources is non-compliant. Legislation is split between entities without any State legislation that would deal with the obligations to adopt a NREAP or the possibility to enter into cooperation mechanisms to reach the targets in the most cost-effective way. The TSO's role in connecting new renewable energy producers to the network and the principles of operation of the transmission network for electricity from renewable sources have to be included in State legislation.

It is of utmost importance to adopt a National Renewable Energy Action Plan. The implementation of a state-level framework for the promotion of renewable energy to supplement the existing framework in both entities is key for the use of renewable energy sources. The simplification of the procedures and the reduction of the number of regional and local/cantonal institutions as well as improving transparency of the processes have to be considered another key priority.

In the area of biofuels, sustainability criteria need to be urgently implemented, and an adequate certification system set up.



Bosnia and Herzegovina

5.6 Energy Efficiency

Energy Efficiency Action Plan (EEAP)*					
Period covered by EEAP		2010 – 2018			
Overall energy savings target - Directive 2006/32/EC (ktoe / % / year)		298 / 9 / 2018			
EEAP status		EEAP not adopted at state level Draft 1 st EEAP in Federation of Bosnia and Herzegovina 1 st EEAP adopted in Republika Srpska in December 2013			
Achieved energy savings 2010 – 2012		Not calculated			
Key institution(s) in charge		State Ministry of Foreign Trade and Economic Relations, entity Ministries in charge of energy and buildings and energy efficiency funds			
Main data and energy efficiency indicators**		2009	2010	2011	2012***
Total primary energy supply (TPES)	ktoe	6,161	6,451	7,095	6,970
Energy intensity (TPES/GDP)	toe / 1,000 USD	0.49	0.50	0.54	0.54
TPES/Population	toe/capita	1.64	1.72	1.89	1.82
Total final energy consumption (TFEC)	ktoe	3,031	3,222	3,339	2,997
Share of TFEC by sector	Residential	26%	26%	25%	29%
	Services	0%	0%	0%	17%
	Industry	17%	18%	20%	18%
	Transport	38%	35%	34%	35%
	Others	15%	16%	16%	1%
	Non-energy use	5%	5%	6%	0%

* Source: draft 1st EEAP of Bosnia and Herzegovina, 1st EEAP of Entity Republika Srpska

** Source: International Energy Agency

*** Indicators calculated by the Energy Community Secretariat based on preliminary energy balances for 2012

Refer to page 206 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

In Bosnia and Herzegovina the entity Ministries are in charge of developing the energy efficiency legislation, while the State Ministry of Foreign Trade and Economic Relations (MoFTER) participates, coordinates and reports about activities within the Energy Community.

By the end of 2012, energy efficiency primary and secondary legislation was drafted in both entities (Federation of Bosnia and Herzegovina and Republika Srpska), with the Secretariat's active involvement. The package included a set of Energy Efficiency Laws, Energy Efficiency Action Plans (EEAPs) and by-laws. This package was intended to transpose all three key energy efficiency directives. However, it was never adopted in any entity. Each entity has established an Energy Efficiency and Environmental Fund, which is supplied mostly by fines imposed on environmental polluters and may be used to finance energy efficiency projects.

In Republika Srpska, the Law on Energy Efficiency transposing Directive 2006/32/EC was adopted in May 2013. It provides for an EEAP, energy efficiency in public procurement, obligations of energy distributors, distribution system operators and energy suppliers, the development of a market for energy services and provisions related to metering and informative billing of energy

consumption. A Rulebook describing a methodology of evaluation of costs of the offers for energy services was adopted in February 2014. Moreover, the Law on the Environmental Fund and Financing of Environmental Protection of 2011 establishes the Fund for calculating the achieved energy savings and for annual reporting. The Law on Spatial Planning and Construction adopted in May 2013 prescribes different obligations on energy audits for buildings. The EEAP was adopted by the Government of Republika Srpska in December 2013, but it did not include reporting on the implementation of measures taken in the previous period (2010 - 2012). However, an Operational Plan to improve energy efficiency in central entity authorities (with a reporting obligation) was adopted in May 2014, while the development of energy efficiency action plans of the local self-governing units and annual reports is ongoing, based on an instruction adopted in December 2013.

The Federation of Bosnia and Herzegovina only drafted an Energy Efficiency Law and the EEAP, but did not adopt either. The draft Energy Efficiency Law was submitted to Parliament for adoption in June 2014.

In the Brčko District, there is no legislation in force to transpose Directive 2006/32/EC according to the available reports.

As regards the transposition of the Labelling Directive 2010/30/

EU, Laws on Energy Efficiency and the corresponding technical regulations were drafted for both entities in 2012. However, the adoption of this package is still pending in the Federation and partially in Republika Srpska, where the provisions of the Directive are now part of the Energy Efficiency Law and the adoption of a technical rulebook on the energy class of products is pending.

With regard to the transposition of Directive 2010/31/EU, Republika Srpska adopted in May 2013 the Law on Physical Planning and Construction. This Law includes the main requirements of the Directive (definitions, minimum energy performance requirements for new and existing buildings, certification of buildings etc.) and creates a basis for further transposition of Directive 2010/31/EU through secondary legislation. In the Federation of Bosnia and Herzegovina, the Law on Physical Planning and Land Utilization was adopted in 2010. Under this general framework, secondary legislation on methodology for calculation of energy performance of buildings, energy audits of buildings and energy certification of buildings has been adopted, and its implementation is ongoing. The draft Law on Energy Efficiency is expected to take over some main provisions of the current Law on Physical Planning related to the implementation requirements of Directive 2010/31/EU, while the remaining ones will be transposed by amending the secondary legislation.

b. State of Compliance

Despite some progress achieved recently in Republika Srpska, the state of transposition of the energy efficiency *acquis* in Bosnia and Herzegovina is still not sufficient.

1. Directive 2006/32/EC

Republika Srpska recently adopted the Law on Energy Efficiency and the EEAP, while the Federation of Bosnia and Herzegovina is in the final phase of parliamentary discussion and approval of a similar law. However, in the absence of a full package of primary and secondary legislation transposing Directive 2006/32/EC in each entity and the Brčko District, as well as the adoption of a state-level EEAP and changes in the state-level Law on Public Procurement to include energy efficiency criteria, Bosnia and Herzegovina fails to comply with this Directive. The Secretariat initiated infringement action in March 2014.

2. Directive 2010/30/EU

In the absence of the required framework regulation(s) transposing Directive 2010/30/EU and the Delegated Regulations, Bosnia and Herzegovina fails to comply with Directive 2010/30/EU.

3. Directive 2010/31/EU

The degree of compliance with Directive on the Energy Performance of Buildings differs between the entities.

In the Federation of Bosnia and Herzegovina, the Directive's requirements related to the calculation methodology for minimum energy performance of buildings, energy audits and energy certification of buildings are already transposed through the existing Law on Physical Planning and Land Utilization, as well as several by-laws. However, certain issues related to the Directive still need to be completed, such as cost-optimal calculations, definition and plans for realization of nearly zero-energy buildings, which is a matter of non-compliance with Directive 2010/31/EU.

In Republika Srpska, the key requirements of Directive 2010/31/EU have been transposed through the new Law on Physical Planning and Construction of May 2013 (energy performance of new and existing buildings, certification of buildings, energy audits of buildings, public sector exemplary role), but need to be further elaborated through secondary legislation.

Despite some progress in this area, Bosnia and Herzegovina still fails to fully comply with the requirements of this Directive.

c. Conclusions and Priorities

Bosnia and Herzegovina has still not developed fully the appropriate legislative and institutional framework for energy efficiency in line with the *acquis*.

The energy efficiency legislation in the Federation of Bosnia and Herzegovina, including for energy efficiency in buildings, needs to be immediately adopted. The same goes for the EEAP and the accompanying secondary legislation.

Moreover, the Labelling Directive and the Delegated Regulations need to be quickly transposed.

Finally, a state-level EEAP and amendments to the State Law on Public Procurement to include energy efficiency criteria need to be adopted. The coordination between authorities at the entity and state levels as a precondition for any progress needs to be improved. A state-level structure for monitoring the implementation must be established and adequately sourced with funds and personnel.



Bosnia and Herzegovina

5.7 Environment

a. Sector Overview

1. Environmental Impact Assessment Directive

No legislation exists on environmental impact assessment at state level.

In the Federation of Bosnia and Herzegovina, the Environmental Impact Assessment Directive is transposed through the Law on Environmental Protection and delegated legislation. The existing legal framework was established in 2003 and has reached a general high degree of transposition, albeit with certain flaws (related mainly to public participation) that were repeatedly pointed out by the Secretariat in its implementation reports. During the reporting period, a new Law on Environmental Protection aimed at improving the level of compliance with the Environmental Impact Assessment Directive was drafted and submitted to Parliament. The draft has not been submitted to the Secretariat for review.

In Republika Srpska, the Law on Environmental Protection was adopted in 2012. It covers also environmental impact assessment. Furthermore, a Rulebook on the Content of the Environmental Impact Assessment, was adopted in the course of 2013. This Rulebook transposes Annex IV of the Directive.

In Brčko District, a Law on Environmental Protection of 2004 governs also environmental impact assessment. There was no development during the reporting period, both from legislative and implementation perspective.

During the reporting period, no environmental impact assessments related to projects in the energy sector were carried out in/by either entity in Bosnia and Herzegovina.

2. Sulphur in Fuels Directive

The legal framework aimed to transpose the Sulphur in Fuels Directive includes the entities' Laws on Air Protection adopted in 2002 (Republika Srpska), 2003 (Federation of Bosnia and Herzegovina) and 2004 (Brčko). At state level, the Government adopted a Decision on Liquid Fuels Quality in 2002. There was no progress related to the implementation of the Sulphur in Fuels Directive, neither at state nor at entity level.

3. Large Combustion Plants Directive

Bosnia and Herzegovina has four plants falling under the scope of the Large Combustion Plants Directive with a total of nine units and a total installed capacity of 1,775 MW. All units use

lignite as a fuel.

No legislation exists on large combustion plants at state level.

In the Federation of Bosnia and Herzegovina, no steps have been taken so far as regards the transposition of the Large Combustion Plants Directive and the Industrial Emissions Directive.

In Republika Srpska, a draft Rulebook on Measures for Preventing and Reducing Air Pollution and Improving Air Quality is being prepared in accordance with the Law on Air Protection of 2011 with the aim to partially transpose the Large Combustion Plants Directive and the Industrial Emissions Directive. The authorities of Republika Srpska committed to presenting the Secretariat the draft before adoption.

b. State of Compliance

1. Environmental Impact Assessment Directive

In the Federation of Bosnia and Herzegovina, the 2003 Law contains most provisions of the Environmental Impact Assessment Directive. However, the provisions on public participation cannot be considered as completely transposed given the wide range of possibilities for refusing access to environmental information and the very flexible possibility to charge applicants for such access.

Republika Srpska has transposed the Environmental Impact Assessment Directive by its Law on Environmental Protection of 2012 and the related Rulebooks. The Secretariat received a complaint regarding the improper implementation of the provisions of the Environmental Impact Assessment Directive in the case of TPP Stanari, a large combustion plant in Bosnia and Herzegovina currently under construction. The Secretariat is in the process of analyzing the allegations made by the complainant.

2. Sulphur in Fuels Directive

Regarding the implementation of the Sulphur in Fuels Directive, the Secretariat in 2013 launched infringement action against Bosnia and Herzegovina based on the incorrect transposition of the Directive's provisions into national law. The Secretariat concluded that by maintaining and applying a derogation clause in the Government Decision Setting Out the Rules Regulating the Sulphur Content of Liquid Fuels, Bosnia and Herzegovina fails to implement the provisions of the Directive related to the maximum sulphur content allowed in heavy fuel oil and gas oil. Furthermore, granting domestically produced petroleum products more favourable treatment with regard to the maximum

sulphur content as compared to imported ones constitutes discrimination based on the origin of the fuel in violation of Articles 7 and 41 of the Treaty. The Secretariat also concluded that the legislation in place in Bosnia and Herzegovina related to the sulphur content of gas oil, on State and entity level, fails to transpose the provisions of the Directive dealing with gas oil because the legislative limit values have not been set at 0.1% by mass by the date specified in the Treaty.

Against what has been announced by the authorities, full implementation was not ensured by mid-2013, when the *Brod* refinery was expected to comply with the requirements of the Directive.

3. Large Combustion Plants Directive

As regards the Large Combustion Plants Directive and the Industrial Emissions Directive, no significant steps have been recorded so far, neither at State nor at entity level, that would suffice to ensure the timely implementation of the Directives by 31 December 2017. It is also not clear whether Bosnia and Herzegovina intends to adopt and implement a national emission reduction plan under Article 4(6) of the Large Combustion Plants Directive.

c. Conclusions and Priorities

Despite the efforts made by Bosnia and Herzegovina to increase the level of transposition of the environmental *acquis*, the level of transposition and implementation remains weak.

The Federation of Bosnia and Herzegovina should intensify its efforts for the transposition of the provisions of the Environmental Impact Assessment Directive immediately. In Republika Srpska, efforts should be focused on the practical implementation of the already transposed provisions of the Directive as well as on capacity building for the authorities responsible for their implementation.

Bosnia and Herzegovina must make sure that the provisions of the Sulphur in Fuels Directive are complied with.

Bosnia and Herzegovina should intensify its efforts in preparing for the implementation of the Large Combustion Plants Directive, in particular by the preparation and adoption of a national emission reduction plan.



Bosnia and Herzegovina

5.8 Competition

a. Sector Overview

Competition law in Bosnia and Herzegovina is governed by the Competition Act of 2005, as amended in 2007 and 2009. The Act provides for a prohibition of cartels, which generally corresponds to Article 101 TFEU, as well as for exemptions. The Act also defines the notion of dominant position and lists a number of actions to be considered as an abuse of dominance. The Competition Act applies to public undertakings, as well as to “state and local self-government units directly or indirectly participating in or having influence on the market”. The state-level authority enforcing the competition law is the Competition Council established in 2004. As a follow up to the joint meeting of the Regulatory Board and the Energy Community Competition Network last year, the Competition Council and SERC in May 2014 signed a Memorandum of Cooperation aimed at sharing data and coordinating their powers in order to more efficiently implement their rules and common tasks in the liberalization of the electricity market.

No new legislative acts were adopted and no cases of application of competition law to the energy sectors were initiated in the reporting period.

The Law on System of State Aid in Bosnia and Herzegovina

was adopted in February 2012 following infringement action by the Secretariat. The Law governs the general conditions for granting, monitoring, allocation and use of State aid, as well as approval and recovery of illegally granted State aid. The Law considers financial support to undertakings performing services of general economic interest as compatible aid, if the aid is only compensation for performing such services and if in that manner the competition on the market is not distorted and the international obligations undertaken by Bosnia and Herzegovina are not frustrated.

The State Aid Council was established as an enforcement authority in November 2012. Three of its members are appointed by the Government of Bosnia and Herzegovina, two are appointed by the Government of Republika Srpska, two by the Government of the Federation of Bosnia and Herzegovina, and one representative is appointed by the Government of District Brčko. The Council is assisted by a Secretariat, which became operational in January 2013, and performs organizational, technical and administrative tasks.

In the reporting period four by-laws were adopted, two by the Government of the Federation of Bosnia and Herzegovina and two by the Government of Republika Srpska. This secondary legislation governs the application, the criteria and conditions

for the allocation of State aid in the two entities, as well as the manner and procedure for application of State aid in both entities. The Council reported that five measures have been notified so far, and two decisions were adopted, none of which concerns the energy sector. Those decisions are unfortunately not public.

b. State of Compliance

Articles 18 and 19 of the Energy Community Treaty have been transposed into the laws of Bosnia and Herzegovina but more rigorous enforcement is needed.

1. Competition Law

The Competition Act transposes Articles 101 and 102 TFEU in Bosnia and Herzegovina, but the Competition Council does not enforce competition law in the energy sector. Besides a review of a few mergers in the previous years, the Competition Council in this Contracting Party is the only enforcement authority that has not applied competition law to the energy sectors. It has also never performed a sector inquiry or specific monitoring of the energy market in Bosnia and Herzegovina. Given the structure of the electricity market in the country, the Competition Council should urgently become active in removing barriers to developing competition in the energy markets.

2. State Aid Law

State Aid Law in Bosnia and Herzegovina generally follows the

principles of the *acquis* on State aid and thus transposes Article 18(c) of the Treaty. However, enforcement of the Law remains problematic. In particular, the procedure for notifications and decision-making is very burdensome. That the Council does not receive notifications directly from the authority granting the aid, but through the respective Government together with an opinion of the latter, as well as the fact that the Council cannot take a negative decision before the aid is granted, limits the powers of the Council significantly. The requirement for a 7/8 majority unduly exacerbates decision-making. In addition, the independence of the State aid enforcement system is questionable, as both the decision-making body and the administrative unit are closely linked to the respective Governments in terms of nomination and financing. The Law was adopted almost two years ago, the institutions have been established but no case in the energy sector has been notified or reviewed *ex officio* by the Council. The system of State aid enforcement in Bosnia and Herzegovina must be considered non-functional. The Secretariat will thus proceed with the next stage in the infringement proceedings.

c. Conclusions and Priorities

Bosnia and Herzegovina must start applying competition law to the energy sectors. In particular, it is advisable to start its activities by performing a sector inquiry in the electricity sector. The independence and effective decision-making of the State Aid Council must be ensured and enforcement of the State Aid Law in the energy sector must start. This may require amendments to the State Aid Law.



Bosnia and Herzegovina

5.9 Statistics

a. Sector Overview

The legal framework for the organization of statistics is regulated by the Law on Statistics of Bosnia and Herzegovina. The Agency for Statistics of Bosnia and Herzegovina (BHAS) is responsible for organizing, compiling, producing, and disseminating statistical data.

The Federation of Bosnia and Herzegovina and Republika Srpska established their respective legal frameworks to collect the relevant data for planned energy balances and to design the energy policies and measures in their competence. The entities established their own authorities for collecting, compiling and disseminating statistical data, namely the Institute for Statistics of the Federation of Bosnia and Herzegovina (FZS) and the Institute of Statistics of Republika Srpska (RZS RS). They are obliged to deliver statistical data to BHAS. In order to ensure a uniform

quality of statistical data, all three authorities have signed an agreement on implementation of harmonized methodologies and standards in producing the statistical data of Bosnia and Herzegovina. By a Memorandum of Understanding signed by BHAS with State Electricity Regulatory Commission SERC, the latter collects and compiles information on electricity prices in accordance with Directive 2008/92/EC. Tasks related to gas price collection have not been explicitly assigned.

Under the Secretariat's project of technical assistance, a pilot survey on energy consumption is carried out on 100 households as a basis for future survey planning. A comprehensive survey of supply and consumption of renewables in Bosnia and Herzegovina is planned in 2014 - 2015 with the support of the Energy Community in order to establish a reliable, complete and accurate database on renewable energy.

b. State of Compliance

1. Annual Energy Statistics

The annual energy statistics in Bosnia and Herzegovina are published in three reports: the electricity and heat balance, the coal and coke balance and the natural gas balance. A balance of oil and petroleum products for 2012 was not compiled, although RZS RS compiled and published balances of oil and petroleum products of Republika Srpska for the years 2011 and 2012. Annual questionnaires, except for oil, are communicated to IEA, but with delay. The data on solar, wind or geothermal energy are also not compiled so far in accordance with the Treaty.

2. Monthly Energy Statistics

BHAS compiles monthly reports for electricity and gas. Methodologies and questionnaires for monthly energy statistics have been developed and tested recently, including a pilot survey for solid fuels, while collection of data on oil and oil products remains a permanent problem. While the legal basis for implementation was established, the country will continue to fail to comply until sufficient resources are designated for this task.

3. Price Statistics

BHAS regularly reports semi-annual data for electricity and natural gas prices to EUROSTAT. The prices charged to industrial and household end-users are compiled and aggregated in the format and tables defined by EUROSTAT. The compilation procedure enables regular gas price data reporting in accordance with Directive 2008/92/EC. Electricity prices are collected and compiled by SERC, whereas gas prices are communicated by the biggest supplier. Under the Secretariat's project of technical assistance, a new methodology and questionnaires were

developed in 2013 with the aim to improve data collection on electricity prices and establish a more comprehensive system for gas prices. A pilot survey on gas prices was conducted by MoFTER for the second semester 2013. These steps show that Bosnia and Herzegovina possesses the methodological and administrative capacity to comply with its obligation defined in Directive 2008/92/EC, but has only started to produce information as requested in the *acquis*.

c. Conclusions and Priorities

The completion of annual datasets and their timely preparation must be addressed urgently. More efforts, particularly in the Federation of Bosnia and Herzegovina, are needed to provide data related to supply and consumption of oil and petroleum products. Capacity building, including considerations on adequacy of available staff, is priority in order to collect and report annual energy statistics as defined in the Treaty.

Better cooperation and coordination among stakeholders is vital to ensure cost-effective data collection, including using agriculture statistics, household budget statistics, institutions responsible for promotion of renewable energy and energy efficiency, etc. It is further necessary to develop an adequate data collection system for renewable energy, relying on the assistance by the Secretariat.

After the completion of the pilot survey for monthly data collections for solid fuels, monthly surveys should be conducted regularly in line with EUROSTAT requirements. Collection and compilation of monthly data on oil and oil products should be addressed in the same manner.

In addition to completing the administrative framework for gas price collection, reporting on price systems and quality reporting should be addressed soon.



Bosnia and Herzegovina

5.10 Open Infringement Cases

a. Lack of Effective State Aid Enforcement

On 21 September 2010, the Secretariat sent an Opening Letter to Bosnia and Herzegovina in Case ECS-1/10. The Secretariat takes the view that the country failed to fulfil its obligations under the Energy Community Treaty by not adopting legislation prohibiting State aid and enforcing that prohibition, as required by Articles 6 and 18 of the Treaty. In February 2012, Bosnia and Herzegovina adopted the Law on System of State Aid in Bosnia and Herzegovina which follows the principles of the *acquis* on

State aid and transposes Article 18(c) of the Treaty. However, the procedure for notifications and decision-making is very burdensome and the effective implementation in practice is still pending. Even though the institutions have been established, no case in the energy sector has been notified or reviewed *ex officio* by the Council.

The system of State aid enforcement in Bosnia and Herzegovina is considered non-functional and the Secretariat will continue this case.

b. Non-participation of the Transmission System Operator in Regionally Coordinated Capacity Allocation

On 20 January 2011, the Secretariat sent an Opening Letter to, *inter alia*, Bosnia and Herzegovina in Case ECS-2/11. The case concerns the lack of the transmission system operators' participation in a common coordinated congestion management method and procedure for the allocation of capacity to the market, according to their obligation pursuant to the Decision by the Ministerial Council of 2008. In March 2014, the transmission system operators of Albania, Bosnia and Herzegovina, Croatia, Greece, Montenegro, Kosovo* and Turkey established a Coordinated Auction Office which committed to start with annual allocations in November 2014. Until then, the case remains open.

c. Non-implementation of the Acquis on Gas

On 7 October 2011, the Secretariat initiated dispute settlement proceedings against Bosnia and Herzegovina for non-compliance with several provisions of Directive 2003/55/EC and Regulation (EC) No 1775/2005 by an Opening Letter in Case ECS-8/11. Following a Reasoned Opinion in January 2013, the case was submitted to the Ministerial Council by way of a Reasoned Request on 21 May 2013. The Reasoned Request was broadly upheld by the Advisory Committee and in October 2013 the Ministerial Council, by unanimity, adopted a Decision establishing a breach of Energy Community law and requiring Bosnia and Herzegovina to take all appropriate measures to rectify the breaches identified by June 2014. Since compliance was not achieved and the infringement continues the Ministerial Council is expected to determine a serious and

persistent breach and impose sanctions pursuant to Article 92 of the Energy Community Treaty at its next meeting on 23 September 2014.

d. Non-compliance with the Sulphur in Fuels Directive

On 11 February 2013, the Secretariat sent an Opening Letter to, *inter alia*, Bosnia and Herzegovina in Case ECS-2/13. The Secretariat comes to the preliminary conclusion that Bosnia and Herzegovina has not yet transposed and implemented the requirements of Directive 1999/32/EC as required by Article 16 and Annex II of the Treaty. Directive 1999/32/EC aims to reduce emissions of SO₂ resulting from combustion of heavy fuel oils and gas oils. The Secretariat is currently preparing a Reasoned Opinion against Bosnia and Herzegovina in this case.

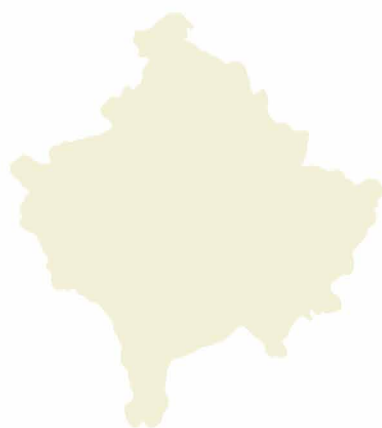
e. Non-transposition of the Energy Efficiency Directive

On 3 March 2014, the Secretariat opened dispute settlement proceedings in Case ECS-1/14 against Bosnia and Herzegovina for incomplete transposition of Directive 2006/32/EC on energy end-use efficiency and energy services.

f. Lack of Adoption of a National Renewable Energy Action Plan

On 11 February 2014, the Secretariat sent an Opening Letter to, *inter alia*, Bosnia and Herzegovina, for failure to comply with Energy Community law related to renewable energy. In the Opening Letter in Case ECS-4/14, the Secretariat addresses the failure by the country to adopt and submit to the Secretariat a National Renewable Energy Action Plan, the deadline for which expired on 30 June 2013.

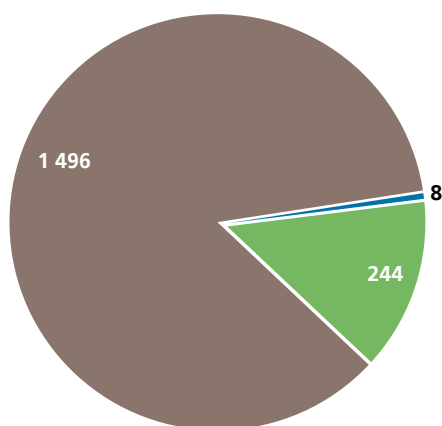




Reforming Kosovo*'s energy sector in line with the European model is an enormous challenge. Poverty, the dependence on an outdated and environmentally unsustainable coal-fired power plant, the difficult investment climate and unsettled issues with its neighbour Serbia continue to make the situation very difficult.

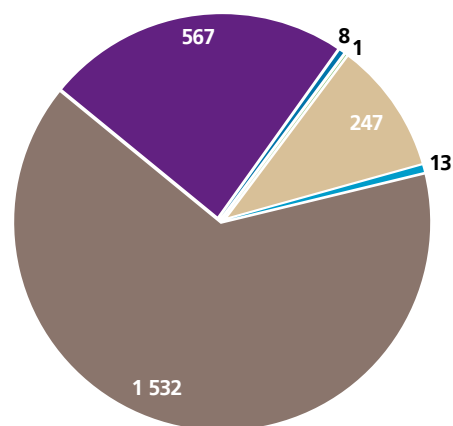
Against this background, the Kosovo* authorities have performed very well in transposing the *acquis*. Living up to this record by implementing the transposed legislation, in terms of opening up the foreclosed electricity market, complying with emission limits, increasing the share of renewable energy and strengthening institutions still remains to be improved.

Energy mix in primary production in 2012
in ktoe (total 1 749 ktoe)



■ Solid fuels ■ Hydro ■ RES

Gross inland consumption in 2012
in ktoe (total 2 368 ktoe)



■ Solid fuels ■ Oil and oil products
■ Geothermal, solar, wind ■ Hydro
■ Waste, biofuel ■ Electricity (imported)

Source: Released data by Ministry of Economic Development, compiled by the Energy Community Secretariat





Kosovo*

6.1 Electricity

Description of data [unit]	2012	2013	
Electricity production [GWh]	5,314	5,862	
Net imports [GWh] *	572	522	
Net exports [GWh] **	371	857	
Total electricity supplied [GWh]	5,514	5,527	
Gross electricity consumption [GWh]	5,468	5,520	
Losses in transmission [GWh]	109	110	
Losses in transmission [%]	1.35%	1.32%	
Losses in distribution [GWh]	1,750	1,704	
Losses in distribution [%]	36.69%	35.54%	
Consumption of energy sector [GWh]	118	128	
Final consumption of electricity [GWh]	3,492	3,577	
Consumption structure [GWh]	Industrial, transport, services and other non-residential sectors	1,408	1,447
	Households (residential customers)	2,084	2,130
Net maximum electrical capacity of power plants [MW]	1,204	1,204	
Net maximum electrical capacity of power plants [MW]	Coal-fired	1,171	1,171
	out of which: multi-fired	0	0
	Gas-fired	0	0
	out of which: multi-fired	0	0
	Oil-fired	0	0
	Nuclear	0	0
	Hydro	42.07	42.58
	out of which: small hydro	10.07	10.58
	pumped storage	0	0
	Other renewables	1.35	1.35
out of which: wind	1.35	1.35	
Horizontal transmission network [km]	380 kV or more [km]	188.49	188.49
	220 kV [km]	231.83	231.83
	110 kV [km]	791.3	802.7
	HVDC [km]	0	0
	Substation capacity [MVA]	5,470	5,579
Electricity customers	Total	458,323	468,663
	out of which: non-households ***	70,023	70,793
	Eligible customers under national legislation	70,023	70,793
	Active eligible customers	0	0
Internal market	Electricity supplied to active eligible customers [MWh] ****	0	0
	Share of final consumption [%]	0%	0%

* Net imports include imports with contracts in amount of 458 GWh and import as exchange in amount of 64 GWh

** Net exports include the amount of energy exported through contracts (756 GWh) and energy exported through exchange (101 GWh)

*** In 2013 all non-household customers were eligible to chose their own supplier, however all of them were supplied by a public supplier

**** Due to lack of other suppliers, all eligible consumers are supplied by a public supplier under regulated prices

Source: Energy Regulatory Office

Refer to page 203 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

The electricity sector legislation of Kosovo* is codified in three main laws, the Law on Energy, the Law on Electricity and the Law on the Energy Regulator. The Ministry of Economic Devel-

opment, as the authority responsible for energy legislation and policy, is now in the process of transposing the Third Energy Package.

The electricity sector of Kosovo* in recent years has experi-

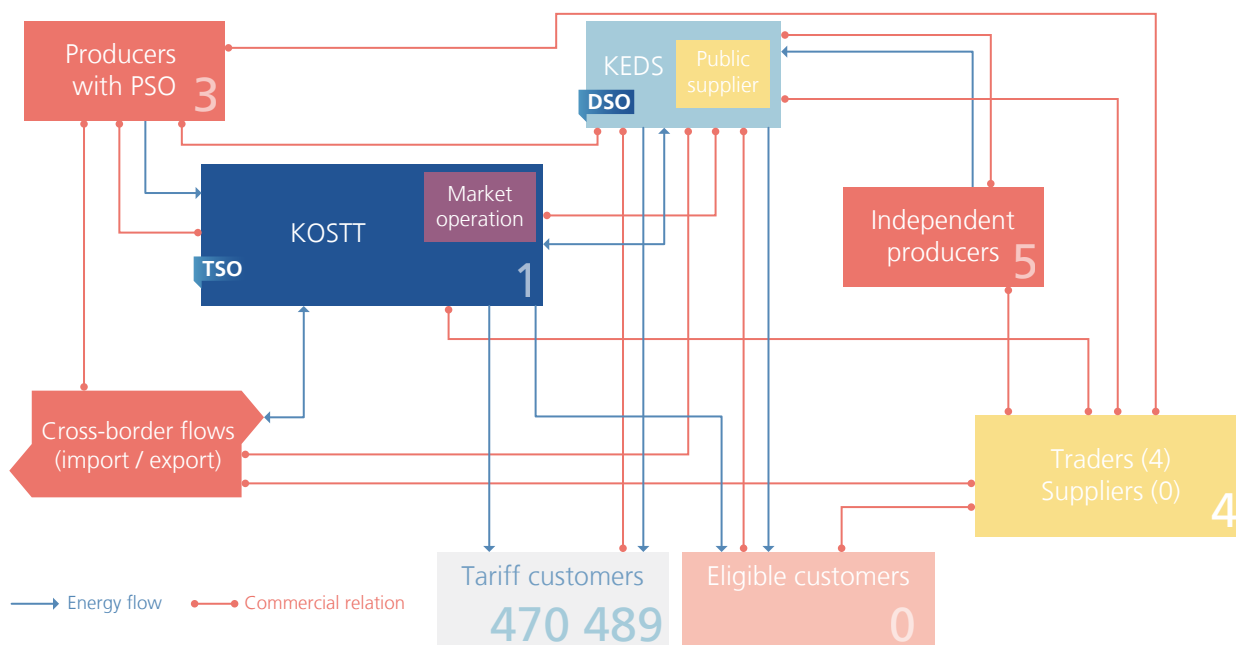
enced a partial unbundling of the formerly vertically integrated undertaking, followed by a privatization of distribution and supply. Electricity activities are now organized within three main companies, the public generation utility *Kosovo Energy Corporation (KEK)*, the public transmission system and market operator *KOSTT* and the privatized joint-stock company *Kosovo Electricity Distribution and Supply (KEDS)*.

The transmission system and market operator *KOSTT* is also responsible for balancing the system and operating interconnection capacities. Being still included in the control area of the Serbian *EMS*, *KOSTT* has so far not allocated these capacities. This is subject to a dispute settlement procedure but

also ongoing negotiations facilitated by the Secretariat. After a framework agreement was signed in February 2014, a set of additional contracts including an inter-TSO agreement is expected to be signed imminently. As market operator, *KOSTT* is responsible for the administration of the centralized electricity market in Kosovo* and the settlement process.

Progress made in the reform of the electricity market in Kosovo* was very limited during the reporting period. New Market Rules were published by *KOSTT*, upon approval of regulatory authority ERO, in December 2013. The full implementation of the Market Rules is still pending and depends on the signature of the inter-TSO operational agreement between *KOSTT* and *EMS*.

Kosovo's* Electricity Market Scheme



Source: Energy Community
Refer to the market schemes legends on page 207 for a more detailed description.

b. State of Compliance

1. Authorisation

The provisions in the existing energy legislation are in compliance with the *acquis* and implemented in practice. Authorisation procedures for the construction of new capacities, including generation capacities and direct electricity lines, are being carried out by the regulatory authority ERO and are subject to the Rule on Authorisation Procedure for Construction of New Generation Capacities. If ERO decides that the authorisation procedure has not resulted in sufficient capacities to ensure security of supply, the Government may launch a tendering procedure. Until now this possibility has not been used.

2. Unbundling

The Law on Electricity is only partly compliant with the *acquis*. Unbundling of system operators in terms of their legal form, organization and decision-making is compulsory, while accounting unbundling of the companies licensed for generation, distribution and supply is not mandatory until 1 January 2015, which is in breach of Directive 2003/54/EC.

In practice, the transmission system operator *KOSTT* is fully unbundled in line with the *acquis*. The unbundling of the distribution system operator from the supply activity within *KEDS* has still not been implemented. According to the privatization contract signed on 8 May 2013, *KEDS* was supposed to fully unbundle within one year upon signing. *KEDS* so far has only

undertaken preparatory activities for the unbundling, namely separating distribution and supply activities into two internal divisions. Unbundling of shared services still needs to take place. ERO is currently developing guidelines for this.

KEDS so far has also not prepared and submitted to ERO a compliance programme as required by law. According to the Law on the Energy Regulator, ERO is responsible for monitoring and enforcing the unbundling requirements. ERO developed guidelines for unbundling of *KEDS* in terms of legal form, organization and decision-making, and expects to finalise the unbundling process by the end of 2014.

3. Third Party Access

The requirement to grant third party access based on published, objective and non-discriminatory tariffs has been transposed in line with the *acquis* and implemented in practice. Transmission and distribution tariffs are now set for a multi-year regulatory period 2013 - 2017 by setting the maximum allowed revenue.

In the absence of agreements with *EMS*, *KOSTT* still does not perform cross-border transmission capacities allocation and congestion management. It has been agreed in the course of negotiations that *EMS* will continue to perform these activities on behalf of *KOSTT* until the establishment of separated scheduling areas as of 1 January 2015. Long-term cross-border capacities with neighbouring systems will be allocated by *KOSTT* through the SEE CAO.

4. Eligibility

According to the Law on Electricity, all customers except households are eligible to purchase electricity from the supplier of their choice. Starting from 1 January 2015, all customers will be eligible. This is in compliance with the *acquis*. In addition, general principles of the supplier switching procedure are defined in accordance with Directive 2003/54/EC and will be further specified once the new Market Rules are being applied.

5. Market Opening and Price Regulation

Eligibility and supplier switching remain theoretical in Kosovo* as they are not being used in practice. The electricity market is fully regulated. The public production company *KEK* is under a public service obligation to provide the public supplier *KEDS* with the electricity needed to supply its customers under regulated prices. According to the Law on Electricity, all producers

with an installed capacity of over 5 MW must provide their entire capacity at regulated prices to *KEDS*. *KEDS* sells on the electricity to all customers at regulated prices. Market opening would be an option but depends on ERO's assessment of the market conditions. ERO decided that regulated tariffs will apply to all customers in Kosovo* based on an assessment in 2012 that there is no efficient competition in the electricity market. This makes Kosovo* the most foreclosed electricity market in the Energy Community and exceeds what is tolerable under Article 3 of Directive 2003/54/EC. It goes without saying that regulated prices without any exemption do not provide any incentive for wholesale or retail market competition.

6. Balancing

Balancing rules and the imbalance settlement mechanism are defined by the new Market Rules. Some preparatory activities for the implementation of balancing have taken place. Practical implementation is still pending as balancing falls under the inter-TSO agreement not yet signed.

7. Customer Protection and Protection of Vulnerable Customers

The rules regarding vulnerable customers, contractual terms and conditions and transparency of information are already in conformity with the Third Package. Customer rights regarding supply standards, complaint handling and dispute settlement are subject to a set of rules adopted by ERO.

c. Conclusions and Priorities

Most importantly, Kosovo* must abandon excessive public service obligations and price regulation in the production and supply of electricity, as well as providing electricity for network losses. The current overregulation is impeding wholesale market competition and regional market integration. According to the Law on the Energy Regulator, ERO shall discontinue regulating prices to customers supplied by the public supplier after 1 January 2015, unless it is not satisfied with the level of competition. ERO must not abuse this discretion to delay market opening further. In any event, regulation of wholesale prices and prices for electricity covering network losses must be abolished immediately.

Furthermore, unbundling of *KEDS* must proceed and, if necessary, be effectively enforced by ERO. Finally, the efforts to transpose the Third Energy Package need to be stepped up in order to achieve transposition before 1 January 2015.



Kosovo*

6.2 Gas

a. Sector Overview

Currently there is no natural gas market in Kosovo*. However, the Energy Strategy of 2009 - 2018 envisages gas penetration in Kosovo* through connection to the regional gas infrastructure projects, such as the Energy Community Gas Ring Project for Southeast Europe, a priority policy objective.

The legal and regulatory framework for the natural gas sector of Kosovo* was established by the Law on Natural Gas adopted in 2009 and by the Law on Energy and the Law on the Energy Regulator amended in 2010. These laws aim at establishing a regulatory background for the future development and organisation of the gas sector in Kosovo*, including the promotion of large scale energy investment projects and facilitation of gas penetration.

Since 2010, there have been no significant developments in Kosovo* with regard to the legal and regulatory framework for the natural gas sector. However, at the end of 2013 the work on a new package of laws transposing the Third Energy Package started. The authorities seem to be committed to full transposition of the Energy Community gas *acquis* and strengthening their capacities in this field.

b. State of Compliance

No actual changes could be identified with regard to the state of compliance with the gas *acquis* over the last couple of years. Directive 2003/55/EC was transposed fairly well, thus enabling Kosovo* to start the development of a domestic gas market and to participate in regional initiatives for gas infrastructure developments. However, full and proper transposition of Directive 2004/67/EC and Regulation (EC) 1775/2005 is still pending.

1. Authorisation

With certain *de minimis* exemptions, undertakings willing to perform any activity related to the natural gas in Kosovo* are required to obtain a license issued by the regulatory authority, the Energy Regulatory Office (ERO). The Law on Energy Regulator and ERO's Rules on Licensing set conditions and procedures for licensing in the natural gas sector in compliance with Directive 2003/55/EC. However, there is no undertaking licensed for natural gas activities in Kosovo* to date. An authorisation by ERO is also required for the construction of new transmission and distribution systems.

2. Unbundling

The Law on Natural Gas and the Law on the Energy Regulator set the requirements for unbundling and independence of the transmission and distribution system operators in line with the provisions of Directive 2003/55/EC.

Transposition of the Third Energy Package in Kosovo* will require a new regime for unbundling and certification of any future transmission system operator, namely ownership unbundling. Additional requirements for unbundling of the distribution and storage system operators will also have to be introduced in line with Directive 2009/73/EC.

3. Third Party Access

The general requirements for non-discriminatory access to the transmission and distribution networks as well as to storage facilities are stipulated by the Law on Natural Gas. The principles related to regulated tariffs and tariff methodologies in the Law on the Energy Regulator are compliant with Directive 2003/55/EC and Regulation (EC) 1775/2005. The possibility for exemption from third party access to new infrastructure is defined in the Law on Natural Gas. However, full compliance would require involving the Secretariat in the procedure, a deficiency to be corrected in the process of transposing the Third Package.

4. Eligibility

The eligibility of natural gas customers in Kosovo* is defined in line with the Treaty. The Law on Natural Gas provides that all customers, whether household or non-household, shall be eligible from 1 January 2015. All non-household customers are already treated as eligible from 1 January 2008.

5. Market Opening and Price Regulation

The natural gas market model in Kosovo* allows for full opening of the market from 1 January 2015. There are no specific provisions regulating prices of the natural gas supply. However, any practical implications would become relevant only after the gas system becomes operational in Kosovo* and first participants enter the market.

6. Balancing

The Law on Natural Gas requires the transmission system operator to adopt objective, transparent and non-discriminatory

balancing rules for the natural gas transmission system, including rules for charging system users for energy imbalance. Furthermore, the Law provides that the Energy Regulatory Office has to adopt the methodology for balancing services. In principle, Kosovo* thus complies with Directive 2003/55/EC. Regulation (EC) 1775/2005, including *inter alia* provisions related to the balancing rules and imbalance charges, has not yet been transposed.

7. Security of Supply

The provisions of Directive 2003/55/EC relevant for security of supply, *i.e.* the roles and responsibilities of different market players, monitoring and safeguarding measures, were transposed adequately by the Law on the Energy Regulator and the Ministerial Regulation on Security of Supply in the Natural Gas Sector adopted in 2010. The transposition of Directive 2004/67/EC should be tackled before the development of a natural gas market.

8. Customer Protection and Protection of Vulnerable Customers

A vulnerable customer is defined by the Law on the Energy Regulator as a household customer whose low level of income, ill-health or disability qualifies him/her for protection or assistance according to the rules set by ERO, on the basis of

eligibility rules established by the Ministry in charge of social affairs. Furthermore, the Law foresees the protection of vulnerable customers from disconnection of energy supplies and envisages governmental subsidies to be applied in a targeted and transparent manner and in such a way as shall be least likely to distort competition in the supply of energy. It remains to be seen if and how these general rules not designed specifically for energy will be applied to the gas sector once it comes into existence. The provisions of Directive 2003/55/EC (or rather Directive 2009/73/EC) related to customer protection will have to be transposed in that case as well.

c. Conclusions and Priorities

Kosovo*'s large degree of compliance in the natural gas is obviously rather virtual in the absence of a gas sector. However, the established legal framework allows for future developments of natural gas infrastructure, including participation in regional gas penetration initiatives, as well as for the development of a domestic natural gas market. In order not to lose touch with the developments in the jurisdictions and markets around it, Kosovo* must also fully and timely transpose the Third Energy Package, especially considering independence and competences of the national regulatory authority, designation and certification of the transmission system operator, access to the networks and customer protection.





Kosovo*

6.3 Regulatory Authority

a. Organisation and Competences

The Energy Regulatory Office (ERO) is the single authority for regulating the energy sector of Kosovo*, as required by the Third Energy Package. It is directed by a Board of five members, including a Chairperson. Board members are nominated by the Parliament for a five-year term, renewable once. Special rules exist for Board members that have been appointed under the previous law for a second term and may complete their term. To this extent a rotation scheme as required by the Third Package exists in practice but is not explicitly required by law.

ERO's competences need to be extended to the complete set of regulatory powers and objectives foreseen under the Third Energy Package, in particular related to the right to carry out investigations, impose measures to promote competition and proper market functioning and issue penalties to energy undertakings that do not comply with their obligations or to propose to a competent court to impose such penalties.

b. Assessment of Independence

Legislation establishes ERO as an independent body. For Board members, independence from the Government, any political party and the energy sector is explicitly required. Dismissal of Board members is by law limited to cases of conflict of interest or the carrying out of a criminal act and thereby uncritical in terms of potential political intervention. The Board is granted autonomy in designing its internal structure and organization of work, including staff salaries. However, the salary of Board members is set in accordance with those of senior public servants. The Secretariat is of the opinion that the Board members' salaries should be better adjusted to those of other independent national bodies, such as e.g. the National Bank. The annual report does not require approval by but only submission to the Parliament.

Financial independence is, in principle, granted by autonomous establishment of the annual budget that is financed from licensing fees, issuing certificates of origin and resolution of administrative disputes. The legally stipulated cases when the fund can be used and relevant content requirements are kept general and therefore do not unduly intervene in ERO's financial independence. In the case collected fees would not be sufficient to cover ERO's costs, the regulator is entitled to ask to cover the shortfall. *Vice versa* the Law on Energy Regulator grants ERO autonomy to stop payment by licensees once its budgetary needs are covered. The recently reported limitation of the regulator's budget via provisions of the Budget Law clearly interfere in ERO's financial independence and are contradictory to the

budgetary autonomy granted by the Law on Energy Regulator. Related budget reductions have a direct negative effect on staff salary levels that are already significantly below those of the regulated industry (*KEK* and *KOSTT*). The Secretariat is of the opinion that staff salaries need to be compatible with salary levels of the regulated industry to avoid brain drain to industry and enable ERO to attract and keep sufficient qualified human resources to execute its responsibilities.

An additional threat to ERO's ability to efficiently cover its duties is the lack of appointment of two out of the five Board members. Having in mind the legally required quorum of three Board members for decision-making, vacancy of two posts in practice leads to the need for unanimous voting and thereby the potential for blocking of decisions.

ERO is among those regulators of the Energy Community that do not live up to the legally granted independence and do not take up the active role necessary for tackling competition barriers in the energy market. To this extent, complete independence has not been proven yet. The reported lack of sufficient human resources certainly may be a driver for this.

In terms of transparency standards required in the context of independence, it has to be highlighted that ERO is the only regulator in the Energy Community that is explicitly required by law to execute public consultations on decisions with significant impact. Further to this, ERO complies with transparency standards by publishing decisions, as well as information on the authority's organisation and structure, on its website. Sessions of the Commission are public. However, improvements should be made by publishing decision-making rules and information on the reflection of stakeholders' views in Board decisions.

In general, ERO's staffing level needs to be extended in order to address the additional duties under the Third Energy Package.

c. Conclusions and Priorities

The following adjustments in law and regulatory practice are key priorities for ERO:

1. A rotation scheme for Board members needs to be introduced.
2. ERO's competences need to be extended to the complete set of regulatory powers and objectives foreseen under the Third Energy Package.
3. ERO's staffing level needs to be extended in order to address

- the additional duties under the Third Energy Package.
4. Board member salaries should not be set in accordance with those of senior public servants but with those of other independent national bodies, such as e.g. the National Bank.
 5. Staff salaries need to be orientated towards salary levels of the regulated industry.
 6. Interventions into the regulator's budget via decisions based on the Law on Budget have to be abolished.
 7. The vacant posts of two Board members should be filled without delay.
 8. Transparency should be improved in relation to decision-making rules and information on the reflection of stakeholders' views in Board decisions.



Kosovo*

6.4 Oil

a. Sector Overview

Kosovo* neither produces nor refines crude oil. Petroleum products imported and consumed in 2013 amounted to some 596 kt, an increase by 4% compared to 2012.

The main law governing the oil sector is the Oil Market Law of 2005, as amended in 2009. It includes provisions encouraging free and fair competition, defines tax and fiscal duties and aims to ensure quality, safety and security of supply. A revised Oil Market Law, meant to transpose Directive 2009/119/EC, was drafted and discussed but ultimately rejected by Parliament in mid-2013. The Ministry of Trade and Industry (responsible for oil and petroleum products) drafted a new Law on Emergency Oil Stockholding in March 2014. It pursues the objective of achieving a high level of security of supply of petroleum products through the establishment, storage and availability of mandatory reserves of petroleum products and determines the manner and conditions of formation and maintenance of these stocks.

Monthly oil data available in Kosovo* is entirely based on customs information. No information on oil stocks is collected. Hence there is not enough information collected on the oil flows on the Kosovo* market. Such information is necessary for establishing monthly reporting under Directive 2009/119/EC.

A Law on Trade of Oil and Petroleum Products in Kosovo* is currently also being drafted.

A 10% customs duty is levied to imports of petroleum products, LPG, lubricants and bitumen from all countries other than Central European Free Trade Agreement (CEFTA) parties. These customs duties are in violation of Article 41 of the Treaty. The Secretariat initiated infringement action in July 2014.

b. Conclusions and Priorities

Kosovo* should focus on adopting the new draft Law on Emergency Oil Stocks and the subsequent secondary legislation during 2014, as well as on improving data collection.



Kosovo*

6.5 Renewable Energy

a. Sector Overview

1. State of Play, Legislation and Promotion of Renewable Energy

The total installed electricity capacity from renewable sources in Kosovo* is 44 MW and comes almost entirely from hydro-power, with only 1.35 MW installed in wind.

Under Directive 2009/28/EC, Kosovo* committed to a binding target of 25% of energy from renewable sources in gross final

energy consumption in 2020 compared with 18.9% in 2009. This latter share consisted of 18.1% biomass and 0.8% share of hydro electricity.

The National Renewable Energy Action Plan (NREAP) has been adopted and submitted to the Secretariat in 2013. Going beyond its mandatory target under Energy Community law, Kosovo* envisages meeting a voluntary target of 29.47% in 2020 according to the NREAP.

In December 2013, the Government adopted an Administrative Instruction on the Use and Support of Energy Generation from Renewable Sources which transposes the main requirements of Directive 2009/28/EC. It also defines support schemes, introduces provisions on information and training, and sets European technical standards for the installation of renewable energy technology (such as thermal solar installations, heat pumps, biomass heating, etc.).

Support mechanisms consist of feed-in tariffs to be set by the Energy Regulatory Office (ERO) according to the Laws on Energy, Electricity and the Energy Regulator. Feed-in tariffs are currently only adopted for HPPs with a capacity of less than 10 MW, wind, biomass and biogas power plants. No support is granted to solar PV or solar thermal, despite the existing potential. Furthermore, a Government Decision gives the possibility to renewable energy producers to conclude a power purchase agreement of ten years with the public supplier *KEDS* for electricity produced from renewable sources and cogeneration. Producers of renewable electricity are required to pay only 25% of their imbalance. For system security, they are obliged to forecast wind speed and submit it to the transmission system operator up to 30 hours ahead of scheduling time and to provide the wind speed measurement to the transmission system operator.

ERO is also mandated by the Law on the Energy Regulator to issue guarantees of origin for electricity or heat produced from renewable sources. ERO has established the system of guarantees of origin for electricity produced from renewable sources.

2. Renewable Energy in Transport

As regards renewable energy in transport, Kosovo* intends to achieve the 10% target with liquid biofuels exclusively. It is envisaged to rely fully on biofuel imports until the end of 2017, after which domestic production should contribute to fulfilling the 10% target. The Ministry of Trade and Industry is responsible for the transport sector. Since the beginning of 2014, it is developing an administrative instruction with the aim to transpose Articles 17 to 21 of Directive 2009/28/EC. As long as there is no domestic biofuel production, voluntary industrial certification schemes recognized by the European Commission, as allowed by Directive 2009/28/EC, will be used.

b. State of Compliance

Kosovo* intends to fully transpose Directive 2009/28/EC through amendments to the existing legal and regulatory framework (*i.e.* its Electricity, Energy and Regulatory Laws) in 2014, along with the transposition of the Third Energy Package.

1. National Renewable Energy Action Plan

Kosovo* has adopted the NREAP and submitted it to the Secretariat. The overall 25% target and the separate 10% target in

transport in 2020 were already transposed through the Ministry of Economic Development's Administrative Instruction in January 2013. The HPP Zhur (305 MW) is instrumental in reaching the 2020 target. The fact that there are currently no concrete investment plans for expanding production in Zhur is of concern. Only one HPP (35 MW) is currently being constructed. During 2013, three authorisations have been issued for HPPs with a total installed capacity of 33.5 MW and 13 preliminary authorisations for renewable energy projects.

2. Cooperation Mechanisms

Provisions on cooperation mechanisms based on statistical transfer and joint projects between Contracting Parties and joint projects between Kosovo* and EU Member States have been transposed through a Governmental Administrative Instruction at the end of 2013. The act fails to transpose the possibilities for statistical transfer and joint support schemes between Kosovo* and EU Member States as envisaged by Articles 8, 9 and 11 of Ministerial Council Decision 2012/04/MC-EnC. Furthermore, the provisions related to implementation of external audits need to be transposed. Currently, Kosovo* fails to fully comply with this requirement.

3. Administrative Procedures

Authorisation procedures involving permitting, licensing or certification for renewable energy projects involve around 10 national and local authorities, depending on the location or the renewable source involved. The authorities are considering simplifying the number of authorities involved (but not a one-stop-shop) and the time required for processing applications. Currently it takes 90 days for ERO to issue a decision authorizing renewable electricity generation after all permits and authorisations have been obtained. Simplified procedures for small projects (below 1 MW) are stipulated in by-laws but no clear guidance has been adopted so far. Full compliance remains to be achieved.

4. Grid Access

Access to the network for renewable energy projects remains a critical issue. Despite the adoption of the Wind Grid Code by the transmission system operator and the methodology for connection charging, connections to the grids are blocked due to lack of reserve capacity to deal with intermittent generation. Furthermore, there is little technical capacity, lack of experience and balancing rules to manage the electricity grid with intermittent generation. Two wind park projects (48 MW and 45 MW) which applied for grid connections will possibly be delayed due to grid constraints. The requirement for notification of wind schedules 30 hours in advance of real-time is a significant burden for producers. It has to become as close as possible to real-time. Currently, there is no compliance with Article 16 of Directive 2009/28/EC.

5. Guarantees of Origin

ERO must implement the system for issuing, transferring and cancelation of guarantees of origin. Currently, compliance is not achieved.

6. Renewable Energy in Transport

In relation to biofuels, there is no certification scheme defined or relevant body established, thus Kosovo* is non-compliant with Directive 2009/28/EC.

c. Conclusions and Priorities

Kosovo* must make concrete investments in the flexible generation capacities and in the transmission and distribution networks and adopt a new market design (possibly coupled with

Albania) to be able to integrate new renewable energy into the grids and advance the use of renewable energy sources. The existing policy framework is almost complete but the real test will be staying on the trajectory till 2020. Monitoring the achievement of the targets needs to be enforced and barriers in administrative procedures for authorisation and permitting of renewable energy projects have to be removed. Without the HPP Zhur, envisaged to contribute to the target starting 2017, the achievement of the 25% renewables target in 2020 is at risk and Kosovo* might be requested to submit a revised NREAP.

Developing an appropriate framework for renewable energy in transport in line with Directive 2009/28/EC becomes an urgency, as biofuel imports are foreseen from 2014, according to the NREAP approved in 2013. Uncertified quantities cannot count towards the target, whose achievement in turn depends on sustainability criteria and an adequate certification system in place.

Energy Efficiency Action Plan (EEAP)*					
Period covered by EEAP		2010 – 2018			
Overall energy savings target - Directive 2006/32/EC (ktoe / % / year)		92 / 9 / 2018			
EEAP status		2 nd EEAP adopted on 3 December 2013			
Achieved energy savings (ktoe / % / year)		32 / 3 / 2012			
Key institution(s) in charge		Ministry of Economic Development; Kosovo Energy Efficiency Agency; Ministry of Environment and Spatial Planning; Ministry of Infrastructure			
Main data and energy efficiency indicators**		2009	2010	2011	2012***
Total primary energy supply (TPES) ktoe		2,435	2,496	2,528	2,368
Energy intensity (TPES/GDP) toe / 1,000 USD		0.53	0.52	0.50	0.46
TPES/Population toe/capita		1.38	1.41	1.41	1.31
Total final energy consumption (TFEC) ktoe		1,172	1,190	1,317	1,258
Share of TFEC by sector	Residential	39%	39%	37%	38%
	Services	10%	9%	9%	9%
	Industry	20%	23%	23%	22%
	Transport	29%	27%	25%	26%
	Others	2%	2%	1%	2%
	Non-energy use	1%	1%	4%	3%

* Source: 2nd EEAP of Kosovo*

** Source: International Energy Agency

*** Indicators calculated by the Energy Community Secretariat based on preliminary energy balances for 2012

Refer to page 206 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

The Ministry of Economic Development is the lead Ministry in the field of energy sector development, energy efficiency policy planning and monitoring of implementation. With the adoption of the Law on Energy Efficiency in 2011, Kosovo* made a significant step towards the creation of an appropriate legislative and institutional framework for energy efficiency.

This Law transposes the key requirements of Directive 2006/32/EC and sets the legislative and institutional framework for the implementation of the energy efficiency policy in Kosovo*, as well as the legal basis for future development/amendment of secondary legislation. It stipulates the development of energy efficiency plans, obligatory energy efficiency measures in the public sector, energy management, energy auditing and determines the role of different organisations dealing with energy

efficiency. Amendments to this Law are planned for 2014, with the objective to improve the incentives scheme for energy efficiency measures and to introduce stricter penalty provisions. The Administrative Instruction for the Promotion of Energy Efficiency for Final Consumers and Energy Services was adopted in October 2012. Furthermore, an Administrative Instruction for Energy Auditing and a Regulation on the Establishment of the Certification Commission on Energy Auditors and Managers apply since 2012. One of the remaining barriers for financing is the insufficiently developed framework for innovative financial mechanisms on energy efficiency, including the setting up of the Energy Efficiency Fund stipulated in the Law, and the development of the market for energy services and operation of energy service companies (ESCOs).

Based on the Law on Energy Efficiency, the Kosovo Agency for Energy Efficiency (KEEA) was established and its core staff appointed in April 2012. This was an important step forward for building strong institutions for the promotion of energy efficiency in Kosovo*. KEEA is responsible for monitoring the EEAP and verification of the achievement of the indicative energy saving targets.

Kosovo* was the first Contracting Party to have submitted a draft for the second EEAP in May 2013, which was adopted in December 2013. It is of very good quality and proposes an adequate package of energy efficiency measures in all sectors. It includes a thorough analysis and evaluation of the first EEAP, including a report on the energy savings and fulfilment of the intermediate target (32 ktoe or 3% in 2012). The household and transport sectors, having the largest share in total final energy consumption, are properly treated in the second EEAP and tackled by various energy efficiency measures. Energy efficiency policy is also focused on the public sector, including the obligatory development of state and municipal plans, energy management and energy audits, as well the already implemented and planned retrofit programmes in central government and municipal buildings.

The transposition of Directive 2010/30/EU on Labelling of Energy-Related Products and the Delegated Regulations was achieved with the adoption of an Administrative Instruction on Labelling of Energy-Related Products in June 2012. The labelling obligation is in effect from January 2013.

The implementation of Directive 2010/31/EU on Energy Performance of Buildings remains one of the main challenges, since it is a joint obligation of both the Ministry of Economic Development and the Ministry of Environment and Special Planning. The amendments to the Law on Construction adopted in 2012 did not transpose the requirements of the Directive. In July 2013, Kosovo* decided to prepare a separate Law on the Energy Performance of Buildings. A working group was established to deal with the transposition of the Directive. KEEA is the national body responsible for coordination and reporting on implementation of Directive 2010/31/EU.

b. State of Compliance

1. Directive 2006/32/EC

Certain key provisions of the Directive 2006/32/EC were already transposed by the Energy Efficiency Law (energy efficiency targets and plans, exemplary role of the public sector, energy management, energy auditing, role of state institutions and different organisations dealing with energy efficiency) and further implemented by secondary legislation and the second EEAP. The second, EEAP adopted in December 2013, complies with all requirements of Directive 2006/32/EC. The amendments to the Law on Public Procurement of 2011 introduced energy efficiency criteria in the procurement of energy efficient equipment and vehicles, in line with Annex VI of Directive 2006/32/EC. However, there is no secondary legislation in place. Secondary legislation on financing instruments, metering and informative billing, ESCO etc. still needs to be adopted for full compliance.

2. Directive 2010/30/EU

In the area of labelling, the Administrative Instruction on the Labelling of Energy Related Products transposes Directive 2010/30/EU and the Delegated Regulations. Consequently, Kosovo* complies with the Labelling Directive.

3. Directive 2010/31/EU

The amendments to the Law on Construction adopted in 2012 are not sufficient to implement Directive 2010/31/EU as it only opened a possibility to transpose the Directive through secondary legislation. Pending the adoption of a separate Law on the Energy Performance of Buildings and secondary legislation, Kosovo* fails to comply with Directive 2010/31/EU.

c. Conclusions and Priorities

Kosovo* made significant progress during the reporting period, in particular with the adoption of the second EEAP. The priority for Kosovo* remains the adoption of the missing secondary legislation under the Energy Efficiency Law. This includes the development of new financing instruments and a national framework supporting ESCOs, the preparation of local plans and the strengthening of interinstitutional cooperation.

Furthermore, KEEA is currently under-staffed compared to its eminent responsibilities and obligations. Both institutional capacity and energy efficiency statistics should be improved to enable successful monitoring, evaluation and verification of the achieved savings.

Another priority should be timely finalisation and adoption of primary and secondary legislation on energy efficiency in buildings and procurement, which is important for implementation of the planned measures under the EEAP.



Kosovo*

6.7 Environment

a. Sector Overview

1. Environmental Impact Assessment Directive

Kosovo* has transposed the requirements of the Environmental Impact Assessment Directive into national law by the Law on Environmental Impact Assessment of 2010 and several acts of secondary legislation adopted during 2011. No legislative changes during the last reporting period took place.

Twenty-seven environmental impact assessments were concluded by the competent authorities during the last reporting period. Between September 2013 and April 2014, fourteen requests for development consent related to the energy sector were submitted to the competent authorities.

2. Sulphur in Fuels Directive

Kosovo* has transposed the requirements of the Sulphur in Fuels Directive into national law via the Administrative Instruction on the Quality of Oil Products of 2012.

3. Large Combustion Plants Directive

Kosovo* has two plants falling under the scope of the Large Combustion Plants Directive with a total of five units and a total installed capacity of 1,288 MW. All units are fired by lignite. It aims to transpose the requirements of the Large Combustion Plants Directive as well as the relevant provisions of the Industrial Emissions Directive via an Administrative Instruction on the Rules and Standards of Emissions into the Air by Stationary Sources of Pollution of 2007. The Administrative Instruction obliges the operators of large combustion plants to fulfil EU standards until 31 December 2017 without further details on the nature of the standards. Furthermore, it contains emission limit values and monitoring requirements for a wide range of industries, including large combustion plants. The Administrative Instruction requires the continuous measurement of emissions into the air in the case of large combustion plants. While some requirements are aligned to those of the Large Combustion Plants Directive, the emission limit values included therein are significantly higher on several accounts.

According to the rules of the Administrative Instruction on the Rules and Standards of the Discharge on Air by the Stationary Sources of Pollution, operators have to prepare a separate emission reduction plan for each plant which could serve a basis for the national one. Those activities are in the process of implementation, through the process of obtaining the Integrated Pollution Prevention and Control (IPPC) permit. The

preparation of the national emission reduction plan will start in December 2014.

In 2013, the new Energy Strategy of Kosovo* was prepared and submitted to the National Assembly for deliberation. During the preparation of the Strategy, the requirements and obligations arising from the Treaty were taken into account, including the obligations arising from the Large Combustion Plants and Industrial Emissions Directives.

b. State of Compliance

1. Environmental Impact Assessment Directive

Overall, Kosovo* has transposed the provisions of the Environmental Impact Assessment Directive into national law. Therefore, efforts should be focused on the practical implementation of the legislative measures in environmental impact assessment procedures, with particular regard to energy projects that are currently in a planning phase such as *Kosova e Re* (New Kosovo).

2. Sulphur in Fuels Directive

Kosovo* achieved complete transposition of the requirements of the Sulphur in Fuels Directive through the Administrative Instruction of 2012. Therefore, efforts should be focused on the full and complete practical implementation of the requirements of the Directive, with particular regard to its requirements on monitoring. In relation to that, the Secretariat received a complaint regarding the improper implementation of the provisions of the Sulphur in Fuels Directive related to sampling and analysis in Kosovo*. According to the complainant, the Kosovo* authorities are unable to ensure that it is exclusively those fuels that are compliant to the requirements of the Directive's thresholds that are allowed on the market.

3. Large Combustion Plants Directive

With the adoption of the Administrative Instruction on the Rules and Standards of Emissions into the Air by Stationary Sources of Pollution, Kosovo* has already started transposing some of the relevant requirements of the Large Combustion Plants Directive into national law. The provisions are, however, not yet in line in with those of the Large Combustion Plants and Industrial Emissions Directives and therefore the Administrative Instruction needs to be updated. Kosovo* has not yet decided whether it will prepare and implement a national emission reduction plan.

c. Conclusions and Priorities

As regards the Environmental Impact Assessment and the Sulphur in Fuels Directives, Kosovo* should focus its efforts on the implementation of the Directives' provisions.

In the case of large combustion plants, Kosovo* should bring

the Administrative Instruction on the Rules and Standards of Emissions into the Air by Stationary Sources of Pollution in line with the requirements of the Large Combustion Plants and Industrial Emissions Directives by the end of 2017. Kosovo* should also urgently decide on the adoption of a national emission reduction plan in view of the submission deadline of end 2015 for such plans.



Kosovo*

6.8 Competition

a. Sector Overview

The Law on Competition was adopted in 2010. The Law is in line with Articles 101 and 102 of the TFEU and is applicable to public undertakings, including those in the energy sector. The Competition Commission (KCC) is the enforcement authority in charge of applying the competition law. In the reporting period, Kosovo* continued the process of approximation of its legal framework with the *acquis* by adopting amendments to the Competition Act in March 2014. The amendments provide a legal basis for adopting block exemption regulations. Moreover, the market share as a presumption that an undertaking has a dominant position has been changed from 40% to 25%, whereas collective dominance is now presumed if the undertaking's market share is higher than 40%. Also the amount of turnover in the international market of all participating undertakings together has been lowered from EUR 100 to 20 million. The amendments also introduce a fine for the person in charge of an undertaking or a public authority if involved in violations of the Law on Competition besides the fine for the undertaking or the authority in question.

The approval of the takeover of the electricity distribution system operation and supply company *KEDS* by *Kosovo Çalik Limak Energy* was the only instance of applying competition law in the energy sector by KCC. The work of the KCC has been *de facto* blocked because only one Commissioner is in office, whereas the appointments of the other members of the Council are being delayed by the Parliament.

State aid is governed by a law which entered into force in 2012 following infringement action by the Secretariat. The Law governs the general conditions for granting, monitoring, allocation, use, approval and recovery of State aid. According to the Law, a State Aid Office within KCC with six employees should be established. The Office should review notified aid schemes and draft decisions to be submitted to the State Aid Commission. The five members of the State Aid Commission should be appointed by the Government, namely the Minister of Finance, Minister for European Integration, Minister for Trade, one representative from the civil society and the chair-

man of the association of municipalities. In October 2013, the Minister of Finance issued a Regulation on the organization and functioning of the State Aid Commission. However, the Commission as a decision-making body has not started any activities, and the State Aid Office with only two out of the six officials engaged has not become operational in practice. Thus, no case of State aid has been assessed yet.

b. State of Compliance

Articles 18 and 19 of the Energy Community Treaty have been transposed in the domestic legislation but need to be implemented by independent, competent and proactive authorities.

1. Competition Law

The competition rules have been transposed well. However, the fact that the KCC is not functioning raises serious concern. The lack of enforcement in the energy sectors remains an open issue.

2. State Aid Law

Even though Kosovo* transposed Article 19 of the Treaty with the entry into force of the State Aid Law in 2012, its effective implementation is still pending. Moreover, the Law failed to stipulate criteria for assessment of aid granted "to remedy a serious disturbance in the economy or to promote the execution of an important project," a potential blanket clause. It also does not include criteria for guaranteeing the independence of the State Aid Commission. The fact that the Law considers "financial budgetary aid or any other aid granted to public-private partnerships in compliance with the Law on public-private partnership" compatible aid, potentially exempts aid especially in the energy sectors against the intention of the *acquis*. Since the enforcement authority has not been established and has not become operational yet, the Secretariat will proceed with the next stage in its open infringement proceedings against Kosovo*.

c. Conclusions and Priorities

Appointment of the remaining commissioners in the KCC and resuming its enforcement activities should be a priority. Since the KCC is not operational, the remaining staff of the State Aid Office within the KCC has not yet been employed. In addition,

the State Aid Commission still needs to be appointed and needs to start applying State Aid Law to the energy sectors. Establishing well-functioning enforcement authorities and initiating competition and State aid enforcement should be the priority for Kosovo*, on which closure of the open infringement case depends.



Kosovo*

6.9 Statistics

a. Sector Overview

The Law on Official Statistics determines the fundamental principles for the organization, production and publication of official statistics. In particular, the Law defines the role of producers of official statistics, namely the Kosovo Agency for Statistics (KAS), the Central Bank and the Ministry in charge of finance. KAS is established within the Prime Minister's Office with the task to coordinate the statistical system of Kosovo*.

Reporting requirements for energy data are defined in the rules on energy balances introduced by an Administrative Order of the Ministry of Economic Development (MED). The Administrative Order determines the reporting requirements, units, format and communication lines, as well as all institutions responsible for specific data. Responsibility for the compilation of the energy balance lies with the MED which reports annual data to IEA since 2012. A Memorandum of Cooperation between KAS and MED was signed to ensure a smooth handover of responsibilities for energy statistics to KAS as from 2015.

Legislation regarding energy prices has not been established yet. The best approach to a system for price statistics is currently being considered. The assistance project of the Secretariat supported KAS in conducting its first collection of electricity prices.

b. State of Compliance

1. Annual Energy Statistics

Kosovo* produces quarterly and annual energy balances. So far, energy consumption studies have been conducted for the industry sector, the household sector, the agriculture sector and the services sector. A survey of the transport sector is planned for 2014.

The energy balances compiled for 2010, 2011, 2012 include data on firewood, hydro, wind and solar energy and other bio-fuels. KAS has carried out a municipal waste survey four times, the last one for 2010. In general, annual energy statistics are collected and disseminated as required by the *acquis*.

2. Monthly Energy Statistics

Monthly statistics in Kosovo* do not exist yet. KAS as the official institution responsible for statistics does not have enough human and financial capacity for monthly reporting as defined in the *acquis*. In December 2013 an EU-financed project was launched providing technical assistance to KAS on monthly statistics.

3. Price Statistics

KAS conducted a pilot survey on electricity prices in the household and industry sectors. The data for the first and second semester of 2013 for industrial and household consumers were compiled and aggregated in the format and tables defined by EUROSTAT.

Electricity prices are reported by the distribution system operator and public supplier of electricity. The established compilation procedure enables regular price data reporting in compliance with Directive 2008/92/EC. Gas prices are still not relevant for Kosovo*.

c. Conclusions and Priorities

The legislative framework needs an upgrade in order to give KAS the competence to request and obtain the necessary information. In parallel, KAS needs administrative and institutional strengthening to become more independent. Its role should be developed into a central office and coordinator of the national statistics system, with full control over implementation of the statistical programme. The required liberalization of the electricity market will make market-related information, including prices, more complex to collect, which requires even further institutional building. KAS also has to develop and implement a quality policy and a dissemination policy.

Moreover, cooperation and coordination between the authorities, including the regulatory authority is crucial to streamline reporting requirements, reduce the burden for individual reporting units and cut costs.



Kosovo*

6.10 Open Infringement Cases

a. Lack of State Aid Law

On 8 February 2011, the Secretariat sent an Opening Letter to Kosovo* in Case ECS-7/11. It takes the preliminary view that Kosovo* failed to fulfil its obligations under the Energy Community Treaty by not adopting legislation prohibiting State aid and enforcing that prohibition, as required by Articles 6 and 18 of the Energy Community Treaty. Following the Opening Letter, Kosovo* adopted a State Aid Law in July 2011 that entered into force on 1 January 2012. The newly adopted State Aid Law transposes Article 18(c) of the Treaty to a large extent. However, the State Aid Commission and its Secretariat have not been fully established and have not become operational. The Secretariat is currently preparing a Reasoned Opinion in this case.

b. Customs Duties on Petroleum Products

On 18 July 2014, the Secretariat initiated infringement action against Kosovo* because it levies customs duties on imports of certain petroleum products from EU Member States to Kosovo*. In 2008, the scope of the Treaty was extended to include the oil sector. Consequently Article 41 of the Treaty, prohibiting all customs duties on the import of energy, is applicable to the case and prevents Kosovo* from maintaining such import duties.





FORMER YUGOSLAV
REPUBLIC OF MACEDONIA **7**

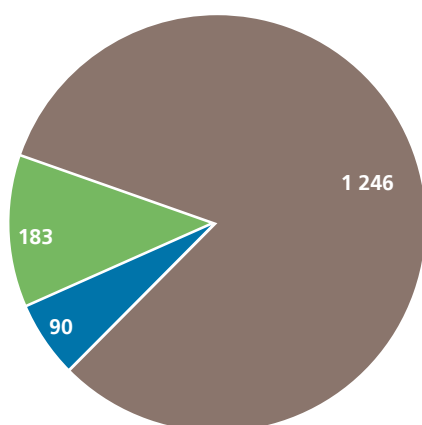
Former Yugoslav Republic of Macedonia used to be a front-runner not only in transposing the *acquis* but also in effectively tackling energy reforms. Over the last few years, the pace of reforms has slowed down.

The electricity market in particular is being opened more sluggishly than in Contracting Parties with a similar maturity of their legal framework, whereas the gas sector still requires

fundamental restructuring before a true market can come into existence.

The country has the potential to achieve this, together with the transposition of the Third Package, by the end of the year. However, the independence of enforcement institutions and their involvement in energy sector liberalization needs to be significantly improved as is the case in many Contracting Parties.

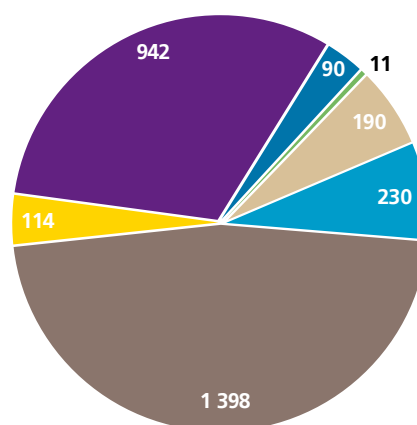
Energy mix in primary production in 2012
in ktoe (total 1 518 ktoe)



■ Solid fuels ■ Hydro ■ RES

Source: State Statistical Office

Gross inland consumption in 2012
in ktoe (total 2 974 ktoe)



■ Solid fuels ■ Natural gas ■ Oil and oil products
■ Hydro ■ Geothermal, solar, wind
■ Waste, biofuel ■ Electricity (imported)





Former Yugoslav Republic of Macedonia

7.1 Electricity

Description of data [unit]	2012	2013	
Electricity production [GWh]	5,845	5,676	
Net imports [GWh] *	2,741	2,491	
Net exports [GWh] **	72	51	
Total electricity supplied [GWh]	8,514	8,116	
Gross electricity consumption [GWh]	8,514	8,139	
Losses in transmission [GWh]	187	159	
Losses in transmission [%]	2.2%	2.0%	
Losses in distribution [GWh]	1,107	990	
Losses in distribution [%]	17.4%	16.4%	
Consumption of energy sector [GWh]	1.30	1.40	
Final consumption of electricity [GWh]	7,220	6,989	
Consumption structure [GWh]	Industrial, transport, services and other non-residential sectors	3,962	3,932
	Households (residential customers)	3,257	3,057
Net maximum electrical capacity of power plants [MW]	1,940	1,953	
Net maximum electrical capacity of power plants [MW]	Coal-fired	800	800
	out of which: multi-fired	0	0
	Gas-fired	287	287
	out of which: multi-fired	0	0
	Oil-fired	210	210
	Nuclear	0	0
	Hydro	639	649
	out of which: small hydro	35.6	45.8
	pumped storage	0	0
	Other renewables	3.8	7.2
out of which: wind	0	0	
Horizontal transmission network [km]	380 kV or more [km]	507	507
	220 kV [km]	38	0
	110 kV [km]	1492	1722
	HVDC [km]	0	0
	Substation capacity [MVA]	2700	2700
Electricity customers	Total	678,740	682,356
	out of which: non-households	78,508	78,391
	Eligible customers under national legislation	9	9
	Active eligible customers	9	9
Internal market	Electricity supplied to active eligible customers [MWh]	1,755,456	1,753
	Share of final consumption [%]	24.31%	25.08%

Source: Energy Regulatory Commission

Refer to page 203 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

Key players in the electricity market are the state-owned incumbent utilities *Elektrani na Makedonija (ELEM)* and *EVN Makedonija*. *ELEM* owns the majority of generation plants and operates a small distribution network. *EVN Makedonija*, in which the Austrian utility *EVN* holds 90% of the shares, owns most of the distribution assets.

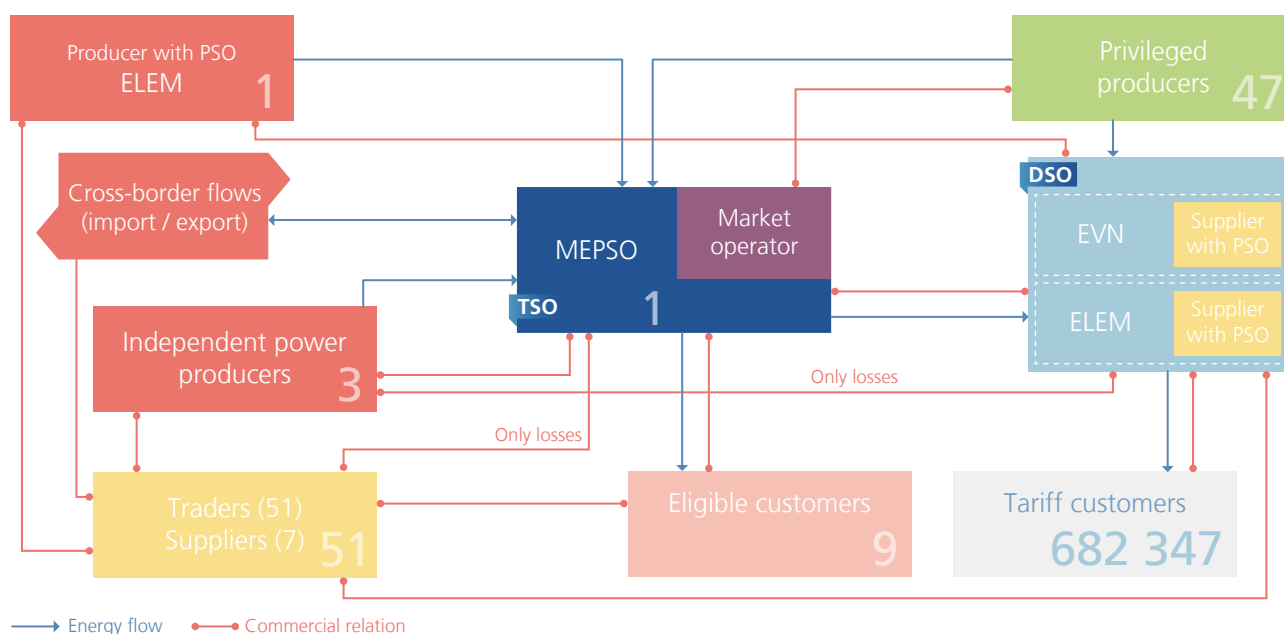
All household customers in the country and more than 99.9% of all non-household customers are connected to the distribution system of *EVN Makedonija*. The company also supplies 98% of electricity to the remaining tariff customers under regulated prices. The licenses for *EVN* and *ELEM* to supply customers at regulated prices under regulated terms and conditions expire at the end of 2014. Subsequently, they will become suppliers of last resort for households and small customers.

Altogether, the national regulatory authority ERC issued seven licenses for supply of electricity to end-customers and 51 licenses for trade on the wholesale market.

The transmission network is operated by *Makedonski Elektro-prenosen Sistem Operator (MEPSO)*, a state-owned company responsible for electricity transmission, electric power system control and balancing. *MEPSO* also performs the functions of a market operator.

The legal framework for electricity sector governance is the Energy Law of 2011. The market was belatedly opened on 1 April 2014 for all non-household customers with more than 50 employees and a turnover above EUR 10 million. They may not be supplied at regulated prices anymore. The work on drafting a new Energy Law compliant with the Third Energy Package started in late 2013. So far, no draft has been presented to the Secretariat for review.

Former Yugoslav Republic of Macedonia's Electricity Market Scheme



Source: Energy Community
Refer to the market schemes legends on page 207 for a more detailed description.

b. State of Compliance

1. Authorisation

The procedure for permits for construction and operation of new facilities set by the Energy Law and secondary legislation is compliant with the Treaty. Energy Regulatory Commission (ERC) issues licenses for all major energy activities.

2. Unbundling

Unbundling of the transmission network operator, *MEPSO*, is required by the Law and has been implemented according to the *acquis*. As regards distribution system operation, however, the unbundling requirements have not been properly implemented which makes former Yugoslav Republic of Macedonia non-compliant with the Treaty. Implementation of the Third Energy Package will require further unbundling measures. Both distribution network operators (*EVN Makedonija* and *ELEM*) supply customers at regulated prices. They submit to ERC data separately for distribution and supply, but still do not publish their financial statements separately for each of their regulated

activities. Functional unbundling is doubtful, in any event a compliance program is missing. The regulatory authority ERC fails to monitor and enforce the implementation of these requirements.

3. Third Party Access

Provisions on third party access in the Energy Law and the respective Grid Codes comply with the *acquis*. Yet implementation needs to be improved, particularly as regards information on the terms and conditions for access. The network tariffs for transmission and distribution network operators are set by ERC for a three-year period, subject to annual review. In January 2014, ERC adopted new network tariffs providing for cost-reflective allocation of distribution costs and transparency of information on the cost drivers in the tariff structure. In June 2014 ERC adopted new transmission and distribution network tariffs.

The allocation of cross-border capacity is conducted through yearly, monthly, weekly and intra-day auctions. Capacities are split 50:50 with neighbouring systems. The allocation rules

approved by ERC comply with Regulation (EC) 1228/2003. However, agreements on joint auctions are not implemented because the revenues from congestions are subject to value added tax (VAT). Taxation problems allegedly also prevent *MEPSO* from joining the regional capacity allocation body SEE CAO. Former Yugoslav Republic of Macedonia must remove these obstacles to trade and market integration.

4. Eligibility

Eligibility has been defined by the Law in line with the Treaty. Small non-household customers are eligible, but have been given an option until the end of 2014 to stay with the incumbent supplier. Switching rules are defined by ERC in its Rules for the Supply of Electricity. According to these rules, final customers with outstanding debts are not permitted to switch supplier, which constitutes an undue obstacle to eligibility in practice.

The Law also defines that households shall become eligible as of 1 January 2015.

5. Market Opening and Price Regulation

All electricity customers except small non-household and household customers, were obliged to switch from 1 April 2014. The list of eligible customers which do not fall in the category of small customers is published by *MEPSO*. New suppliers entered the market. Several large customers, mainly state-owned companies obliged by public procurement law to purchase electricity through tender procedures, did not manage to find a supplier by 1 April 2014. As a response, ERC obliged the incumbent suppliers to continue supplying these customers for 60 days. Mandatory and lengthy public procurement procedures thus implicitly impede market opening.

As a rule, public services are provided at regulated prices. Public services include supply of last resort and generation to meet the demand of the suppliers of last resort.

All small (non-household) customers decided to stay with the incumbent supplier at regulated tariffs. These suppliers will continue to offer electricity at regulated prices for small customers and households as suppliers of last resort.

The price at which the incumbent generator *ELEM* sells electricity to the suppliers of tariff customers is also regulated by ERC. This is an excessive public service obligation and can only be accepted for a short transitional period.

Moreover, ERC also sets the price for the sale of electricity in the wholesale market and the price at which *ELEM* as a generator with public service obligation sells its surplus of electricity on the competitive market. Again, this constitutes a violation of Article 3 of Directive 2003/54/EC and is detrimental to the functioning of the market.

6. Balancing

The Market Rules of February 2014 establish principles for balance responsibility of market participants. Nominations and metering are set, and imbalances are settled on an hourly basis. Although imbalances are calculated for all balancing groups, the costs of imbalances are charged only to eligible customers and their respective balancing groups. Undertakings with obligation to provide public services are exempted from imbalance charging until 31 December 2014.

Ancillary services are currently provided by *ELEM* under its public service obligation. From 1 January 2015 *MEPSO* will be obliged to procure ancillary services in a market based procedure on the balancing market. The procurement and provision of balancing energy remains regulated until 31 December 2014. This poses an obstacle to regional initiatives in this respect.

7. Customer Protection and Protection of Vulnerable Customers

ERC is in charge of the protection and promotion of rights of consumers and system users. Principles of customer protection are defined in the supply rules.

The notion of vulnerable customer has not been defined. At present, the Government develops an annual programme for the reduction of energy poverty, including financial subsidies for the monthly bill for consumed energy. This allows households under the social protection scheme to claim reimbursement of incurred monthly expenditures for energy consumed at home.

c. Conclusions and Priorities

The ongoing revision of the Energy Law must be used not only to reflect requirements of the Third Package but also to improve implementation of the current *acquis*, particularly in terms of market opening, unbundling and efficient regulatory powers and independence.

Any obstacles to trade and market integration should be removed. Particular attention must be paid to obstacles of fiscal nature, in particular VAT legislation.

Excessive price regulation, such as wholesale price regulation, must be eliminated without delay. The scope of public service must be redesigned to constitute a tool for customer protection only to the extent needed, and not be a tool to maintain market shares. The function of supplier of last resort is likely to foreclose the retail market for years to come.

Furthermore, the Market Rules need to be effectively implemented, particularly as regards the procurement of balancing energy and setting prices for ancillary services and balancing energy.



Former Yugoslav Republic of Macedonia

7.2 Gas

		2012	2013	
Natural gas production [Bcm]		0	0	
Imports flows [Bcm]		0.137	0.159	
Exports flows [Bcm]		0	0	
Stock changes [Bcm]		n/a	n/a	
Total supply [Bcm]		0.137	0.159	
Consumption in energy sector [Bcm]		0.000836	0.000945	
Available for final consumption of natural gas [Bcm]		0.136	0.158	
Interconnectors' capacity [Bcm]	Total	0.800	0.800	
	out of which bidirectional	0	0	
Storage working capacity [Bcm]		0	0	
Length of transmission network [km]		180	180	
Length of distribution network [km]		20	28.6	
Natural gas customers	Total	71	99	
	Non-households	67	60	
	out of which:	Eligible customers under national legislation	4	3
		Active eligible customers	4	3
	Households	0	36	
Internal market	Gas supplied to active eligible customers [Bcm]	0.102	0.125	
	Share of total consumption [%]	74.56%	78.75%	
Final consumption of natural gas per sector [Bcm]		0.136	0.158	
Consumption structure [Bcm]	Energy transformation	0.071	0.085	
	Industry and commercial customers	0.037	0.041	
	Households	0.029	0.032	
		0	0.00041	

Source: Energy Regulatory Commission, compiled by the Energy Community Secretariat
Refer to page 205 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

There is no domestic gas production in the country. Almost the entire consumption, around 160 mcm/year, is imported from Russia through the only entry point at the Bulgarian border. Natural gas is mainly consumed for electricity and heat production and by industrial customers on the transmission pipeline. Households have only a very small share of consumption. The distribution network in the city of Strumica, in the South of the country, is not connected with the transmission network at all and supply is ensured by truck transport of compressed natural gas (CNG) from Bulgaria.

There are only two active traders, *Makpetrol*, under a long-term contract with *Gazprom*, and since last year *GEN-I*, under a contract with *Gazexport*, which is involved in the import of Russian gas and in wholesale trade on the national market. *Prom-gas*, a subsidiary of *Makpetrol*, acts as a supplier to customers under a regulated tariff. A transmission system operator, *GAMA*, is jointly controlled by *Makpetrol* and the State, operating 98 km of the transmission network. A long-standing dispute between

GAMA and the Energy Regulatory Commission (ERC) regarding the transmission tariff was settled in November 2013 under mediation by the Secretariat.

In terms of gas infrastructure development, a law concerning the construction of the pipeline section Klecovce – Block Station 5 (near Shtip) was adopted in 2014. This 60 km long section of the pipeline Klecovce-Shtip-Negotino-Kavadarci will be built within the framework of a clearing agreement with the Russian Federation by *Macedonia Energy Resources (MER)* and a Russian company. Construction is expected to start at the end of 2014. Negotiations with EBRD for a loan for the construction of another 300 km section of transmission are ongoing (Shtip-TEP Negotino-Kavadarci, Negotino-Prilep-Bitola, Shtip-Radovish-Hamzali to the border with Bulgaria, Hamzal i-Stojakovo to the border with Greece, and Skopje-Tetovo-Gostivar).

The Government also opened a public tender for a public partner partnerships (PPP) contract for the development of a gas distribution system in the Skopje region. Two interested parties submitted bids by 26 June 2014. The conclusion of the contract

is expected by the end of 2014. Two further tenders for the Eastern and the Western region respectively are envisaged in the course of this year.

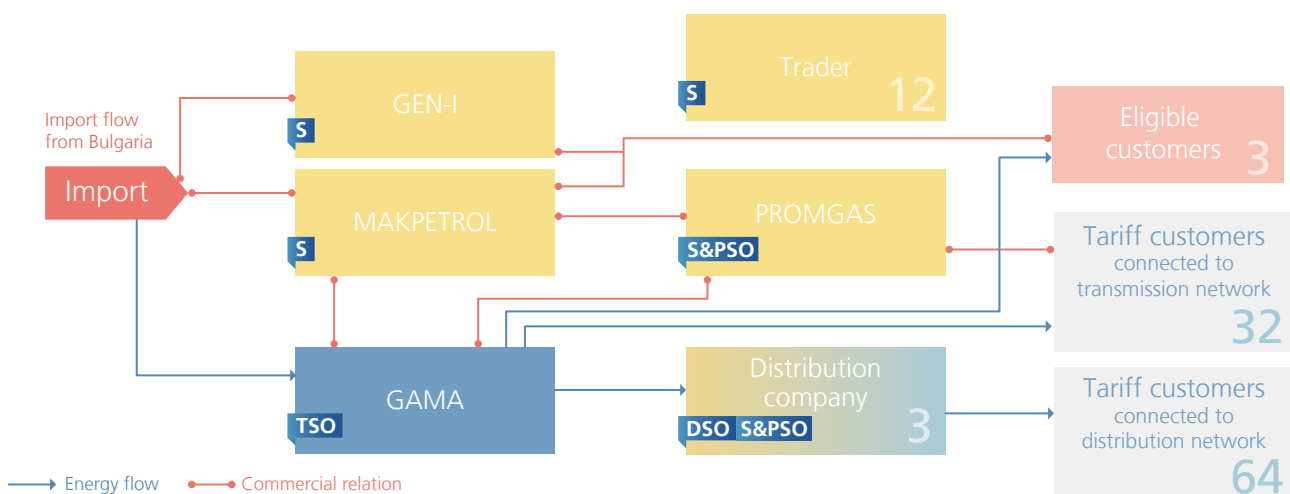
The natural gas market is governed by the Energy Law of 2011 and corresponding secondary legislation: the Supply Rules, the Rules on Supply of Last Resort, the Transmission Grid Code, and the Tariff Methodologies. The Energy Regulatory Commission ERC in January 2014 approved the Natural Gas Market Rules. Reviewed Grid Codes for distribution have been submitted by all three distribution system operators and are

pending ERC's approval.

The Regulation on Security of Supply complements the legislative framework for natural gas. In 2013, a Regulation on Gas Crisis, transposing Directive 2004/67/EC, was adopted by the Government.

The work on drafting a new Energy Law compliant with the Third Energy Package started in late 2013. So far, no draft has been presented to the Secretariat for review.

Former Yugoslav Republic of Macedonia's Gas Market Scheme



b. State of Compliance

The current Energy Law essentially transposes Directive 2003/55/EC.

1. Authorisation

The Energy Law requires a license by ERC to perform an energy-related activity and an authorisation by the Government and local authorities to construct a new transmission or distribution network. The procedures for both licensing and construction authorization are transparent, objective, public and in line with the *acquis*. The differentiation between licenses for transmission and transmission system operation continues to create problems between GAMA and MER, especially as the Law does not allow the same entity to hold both licenses. In that regard, actual licenses are not in line with existing legislation. MER has been authorized by the Government to develop a transmission network while an application for the license for transmission system operator is pending since 2012. Furthermore, allowing public private partnerships as the only model for constructing gas distribution grids might lead to discrimination of all other possible models.

2. Unbundling

The unbundling requirements for transmission and distribution are defined by the Law in line with Directive 2003/55/EC, including an exemption from unbundling for distribution companies with less than 100,000 customers. However, a compliance programme has never been set up.

The Third Package requires further unbundling. The transmission system operator GAMA is under shared control between the State and Makpetrol, the biggest gas importer and supplier. This vertically integrated company does not comply with the unbundling requirements of Directive 2009/73/EC.

3. Third Party Access

The Energy Law defines third party access and exemptions for new infrastructure in line with Directive 2003/55/EC. Reasons of refusal, however, as defined and limited by the Directive, have not been transposed properly. Obligations to provide third party access services are included in the Law. The Transmission Grid Code and the Gas Market Rules also transpose the requirements on capacity allocation and transparency in compli-

ance with Regulation (EC) 1775/2005. The regulatory authority approves both the methodology and the tariffs for access to the transmission system, as well as to the distribution system.

The Memorandum of Understanding on the *South Stream* project signed between the Macedonian and Russian Governments stipulates provisions on access which are not in line with the *acquis*. They exclude third party access *per se* and limit the competences of the regulatory authority as regards tariff setting as defined by Directive 2003/55/EC.

4. Eligibility

According to the Energy Law, all customers have been granted eligibility status conditioned by the adoption of secondary legislation. The Gas Market Rules of January 2014 provide these conditions. Furthermore, rules on supplier switching were developed as part of the Gas Market Rules.

5. Market Opening and Price Regulation

In practical terms, only three eligible customers are currently being supplied at unregulated prices.

6. Balancing

The Transmission Grid Code of 2009 introduces general principles for balancing on a monthly basis. The Gas Market Rules further developed the balancing rules, introducing balancing groups, balancing responsibility and imbalance charges, in line with Regulation (EC) 1775/2005.

7. Security of Supply

The provisions of Directive 2004/67/EC have been fully transposed by the Regulation for the Criteria and Conditions for Proclamation of State of Crisis in the Supply of Natural Gas adopted by the Government in 2013.

8. Customer Protection and Protection of Vulnerable Customers

General measures for customer protection are stipulated in the Energy Law of 2011 and elaborated further by the Natural Gas Supply Rules of 2012. Vulnerable customers have not yet been defined as required by the Third Package. However, a programme for subsidizing the consumption of energy where the Government allocates monthly funds covering part of the costs for energy (electricity, heating energy, natural gas and other) for social aid recipients is in place since 2010.

c. Conclusions and Priorities

Former Yugoslav Republic of Macedonia has a very good transposition record. There are shortcomings only in regard to details on data confidentiality, refusal of access, customer protection and safeguarding measures. This can be taken care of in the context of transposing the Third Package.

In this context, defining the unbundling model is crucial. It will determine the further development of infrastructure and the market in the country and offers an opportunity to resolve the longstanding dispute between *Makpetrol* and the State over the ownership of the existing network.





Former Yugoslav Republic of Macedonia

7.3 Regulatory Authority

a. Organisation and Competences

The Energy Regulatory Commission (ERC) is the single authority for regulating the energy sector of former Yugoslav Republic of Macedonia, as required by the Third Energy Package. ERC is headed by five Commissioners appointed by the Parliament based on a proposal of the Government. The Commissioners' terms in office are five years, renewable once. A rotation scheme as required under the Third Package is not applied.

ERC's competences need to be extended to the complete set of regulatory powers and objectives foreseen under the Third Energy Package, in particular related to the right to carry out investigations, impose measures to promote competition and proper market functioning and issue penalties to gas and electricity undertakings that do not comply with their obligations or to propose to a competent court to impose such penalties.

b. Assessment of Independence

Legal provisions grant ERC independence in operation and decision-making. Appointment requirements for Commissioners are prescribed in detail by law, including explicit reference to political independence. A 2014 amendment introducing requirements for applicants to pass a psychological and integrity test needs to be seen critically since the lack of further specifications and transparent assessment criteria offers potential for misuse. Further to this, dismissal reasons for Commissioners include the rather vague case of performing office duties in an "*unconscious and unprofessional manner*". The potential for undue misuse of this provision is, however, cushioned by the fact that fulfilment of this criterion has to be confirmed by ERC itself based on a positive vote of at least three Commissioners. Fulfilment of the legally defined cases for termination of office has to be reported by ERC to the Parliament for an official statement on office termination. On the other hand, the entitlement of Commissioners to receive severance payments for a period of one year in case of dismissal seems to be a disproportionate benefit. The recent link of staff salaries to those of state budget institutions raise concerns about the authority's ability to ensure independence by attracting qualified human resources. The Secretariat is of the opinion that staff salaries need to be compatible with salary levels of the regulated industry to avoid brain drain to industry and enable ERC to attract and keep sufficient qualified human resources to execute its responsibilities.

ERC is granted autonomous and directly binding decision-making powers that are subject to judicial review only. Financial

independence is provided by allowing ERC to define its annual budget to be financed by means of charges collected from licensees and autonomously decide on the use of its budget. The legally required approval of the regulator's budget by the Parliament *per se* does not necessarily have to be seen critically since it does not involve any intervention in the regulator's right to freely allocate its budget. Also, the legally required approval of ERC's annual report by the Parliament can be considered uncritical to the extent that a lack of approval is not listed as a reason for dismissal. Still, the need for approval may also entail potential for undue political pressure on regulatory decision-making.

In practical terms ERC, however, does not live up to its legally granted independence to the maximum possible extent and, in particular, still does not take the active role necessary for tackling competition barriers in the energy market. To this extent, its complete independence has not been proven yet.

ERC complies relatively well with transparency standards required in the context of independence by publishing decisions, as well as information on the authority's organisation and structure, on its website. Moreover, sessions of the Commission are public and legal provisions even list cases for which the involvement of stakeholders (*i.e.* public hearings) is compulsory. However, improvements should be made by publishing decision-making rules and information on the reflection of stakeholders' views in Board decisions.

The role of ERC related to monitoring of the energy market and customer protection should not be interpreted and used beyond the scope stipulated by law, particularly regarding excessive price regulation.

c. Conclusions and Priorities

The following adjustments in law and regulatory practice are key priorities for ERC:

1. A rotation scheme for the terms of Commissioners should be introduced.
2. ERC's competences need to be extended to the complete set of regulatory powers and objectives foreseen under the Third Energy Package.
3. The requirements for applicants for the post of Commissioner to pass a psychological and integrity test need to be abolished or amended by transparent assessment criteria.

4. The need for approval of the annual report by the Parliament should be replaced by simple presentation to the Parliament; the need for approval entails undue indirect pressure on the regulator's independent decision-making.
5. Staff salaries need to be compatible with salary levels of the regulated industry and should be solely decided by the regulator's management.
6. ERC needs to make more active use of its independence.
7. Transparency should be improved in relation to decision-making rules and information on the reflection of stakeholders' views in Board decisions.



Former Yugoslav Republic of Macedonia

7.4 Oil

a. Sector Overview

The import of crude oil into former Yugoslav Republic of Macedonia in 2013 was about 81%, over 51 kt, lower than in 2012. While the domestic refining capacity is 2.5 mt/year, only some 57.6 kt of petroleum products have been produced in 2013. This constitutes a decrease by 75.7% compared to 2012. The export of petroleum products also decreased by 39.7% to 147.2 kt whereas the import of petroleum products increased by 5% to a level of around 849 kt in 2013. The overall consumption of petroleum products in 2013 was 780.9 kt, a decrease of 3.15% compared to 2012.

The storage capacity for crude oil and oil products totals 557,200 cm of which 382,000 cm are owned by the refinery OKTA and 195,000 cm of crude oil storage capacities have been rented in the port of Thessaloniki. The company *Makpetrol* owns approximately 150,000 cm, *Lukoil* 5,200 cm and other wholesale trade companies approximately 20,000 cm.

A new draft Law on Compulsory Oil Reserves has been recently

prepared by a working group. Once adopted, an action plan should be drafted within six months, as well as by-laws necessary for full compliance with Directive 2009/119/EC. The draft Law requires an Intervention Plan to be adopted by the Government for the release procedure in the event of an extraordinary disturbance in market supply of oil and petroleum products. The first draft of this plan is prepared and circulated to the relevant stakeholders.

b. Conclusions and Priorities

Following consultations with the Secretariat focused on making the system more operational and effective in practice, the draft Law on Compulsory Oil Reserves was revised in order to comply with Directive 2009/119/EC. The current version of the draft Law is in compliance with Directive 2009/119/EC. The main priority should be the approval of this draft by Parliament and preparation of the secondary legislation related to the transposition of the Annexes to Directive 2009/119/EC and the Intervention Plan. The Secretariat will continue to provide assistance for the preparation of the secondary legislation in late 2014.



Former Yugoslav Republic of Macedonia

7.5 Renewable Energy

a. Sector Overview

1. State of Play, Legislation and Promotion of Renewable Energy

Under the Treaty, former Yugoslav Republic of Macedonia has committed to a binding target of 28% in overall energy consumption. Currently, the total installed capacity of hydropower plants represents 33% of the total generating capacity and consists of eight large HPPs and several small HPPs, with a combined capacity of 649 MW, out of which 46 MW is from small HPPs. Moreover, about 7 MW is installed in solar PV. The

capacity installed in PV is expected to rise to about 18 MW by end of 2014, filling the quota assigned in the Government Decree for incentivised renewable energy producers. Wind capacities of 36,8 MW are expected to become operational by August 2014.

Directive 2009/28/EC is only partly transposed by the Energy Law of 2011 which is currently being amended. The National Renewable Action Plan (NREAP) has not been adopted. This places the country in breach of Directive 2009/28/EC. According to the Energy Law, the regulatory authority issues licenses for

producing electricity from renewable energy sources and decides on the status of preferential renewable energy producers.

In terms of support schemes, the Government adopted feed-in tariffs for electricity sold by preferential producers (produced from wind, small hydro, biomass/biogas and photovoltaic installations).

Feed-in tariffs for electricity generated from geothermal energy are envisaged. The market operator established within the transmission system operator *MEPSO* is obliged to buy all the electricity produced from preferential producers. Power purchase agreements are offered for 20 years for hydro and wind, and 15 years for solar PV, biomass and biogas. The contracts are based on a framework agreement adopted by ERC. Preferential producers are not charged for their imbalance. A balancing group created by the market operator takes balance responsibility for all preferential producers. Preferential producers with capacities above 10 MW have to submit daily physical nominations to the market operator. Starting 2015, large preferential producers are obliged to take balance responsibility.

2. Renewable Energy in Transport

The draft NREAP envisages a target for biofuels of 10.3% by 2020. This would require consumption of ca. 58 ktoe of renewable energy in transport. However, the share achieved in 2009 was 0.7%, 0.41% in 2010, and 0% in 2012. It thus falls short of the target set under the old Directive 2003/30/EC of 5.75% by 2010.

The Government intends to achieve it through biofuels and bioliquids from imports and from domestic production. A small number of facilities for the production of biofuels exist in the country. The first refinery for biodiesel production was opened by the private company *Makpetrol* in 2007, with a capacity of 20,000 t/year. Three smaller factories produce biodiesel with a total capacity of 5,000 t/year. Most of the biofuels are exported. Only ca. 1,000 t were sold domestically in 2013.

The legislative framework for biofuels consists of the Energy Law of 2011 and the Rulebook on the Quality of Liquid Fuels. It provides a possibility for blending diesel and motor fuels with 5% and more biofuels. Currently, diesel mixed with 8% biodiesel is sold on the market. ERC is mandated to determine biofuel prices.

A working group was set up by the Ministry of Economy to prepare a draft Law on Biofuels by August 2014.

b. State of Compliance

The existing legal framework is still non-compliant. The Energy Law currently under revision must transpose the missing provisions of Directive 2009/28/EC.

1. National Renewable Energy Action Plan

The NREAP describing the policies and measures aiming to achieve the 28% renewables target in 2020 has not been adopted and notified to the Secretariat. In the draft NREAP, there is still some confusion about the target of 28%. The draft envisages three possible scenarios for reaching 21.1%, 24.32% and 28% in 2020. Moreover, a 2011 Government Decision which stipulates a 21% renewables target is still in force. This must be clarified and corrected in a binding manner in the NREAP. In February 2014, the Secretariat started infringement actions. In its reply, the Minister of Economy announced that the NREAP will not be finalized until the Statistical Office will conduct biomass consumption surveys and will integrate the data into the official statistics. This approach is not only perpetuating the country's non-compliance with the *acquis* but also creates uncertainties for potential investors.

2. Cooperation Mechanisms

The provisions related to cooperation mechanisms among Contracting Parties or with EU Member States have not been transposed.

3. Administrative Procedures

In the last years, steps have been taken to remove some of the barriers related to administrative procedures like authorization, permitting or licensing. The authorities started a dialog on how to simplify, clarify and streamline the procedures. However, compliance with the provisions of Article 13 has not yet been achieved. The creation of a one-stop-shop for all permit applications is envisaged in the future.

4. Grid Access

Principles for access to the networks and operation of the grids for renewable energy producers still have to be transposed in primary legislation. The distribution grid code has been amended to introduce a chapter for the connection of renewable energy installations to the distribution network. To comply fully with Article 16 of Directive 2009/28/EC, *MEPSO* and *EVN* as network operators have to become more transparent towards the producers of renewable energy with regard to information on the estimated costs and timeframe for connections. The regulatory authority ERC has to ensure that rules for connection and access to the networks are implemented in a non-discriminatory and objective way, as there are cases of doubt.

5. Guarantees of Origin

A certification system based on guarantees of origin has been established. The Energy Agency is in charge of the implementation of the certification system and the issuing body for these types of certificates. The implementation of the system of issue, transfer and cancelation of guarantees of origin is in process. The country is currently non-compliant.

6. Renewable Energy in Transport

Article 17 of Directive 2009/28/EC related to sustainability of biofuels has not been transposed. Currently, there is no certification scheme defined or relevant body established.

c. Conclusions and Priorities

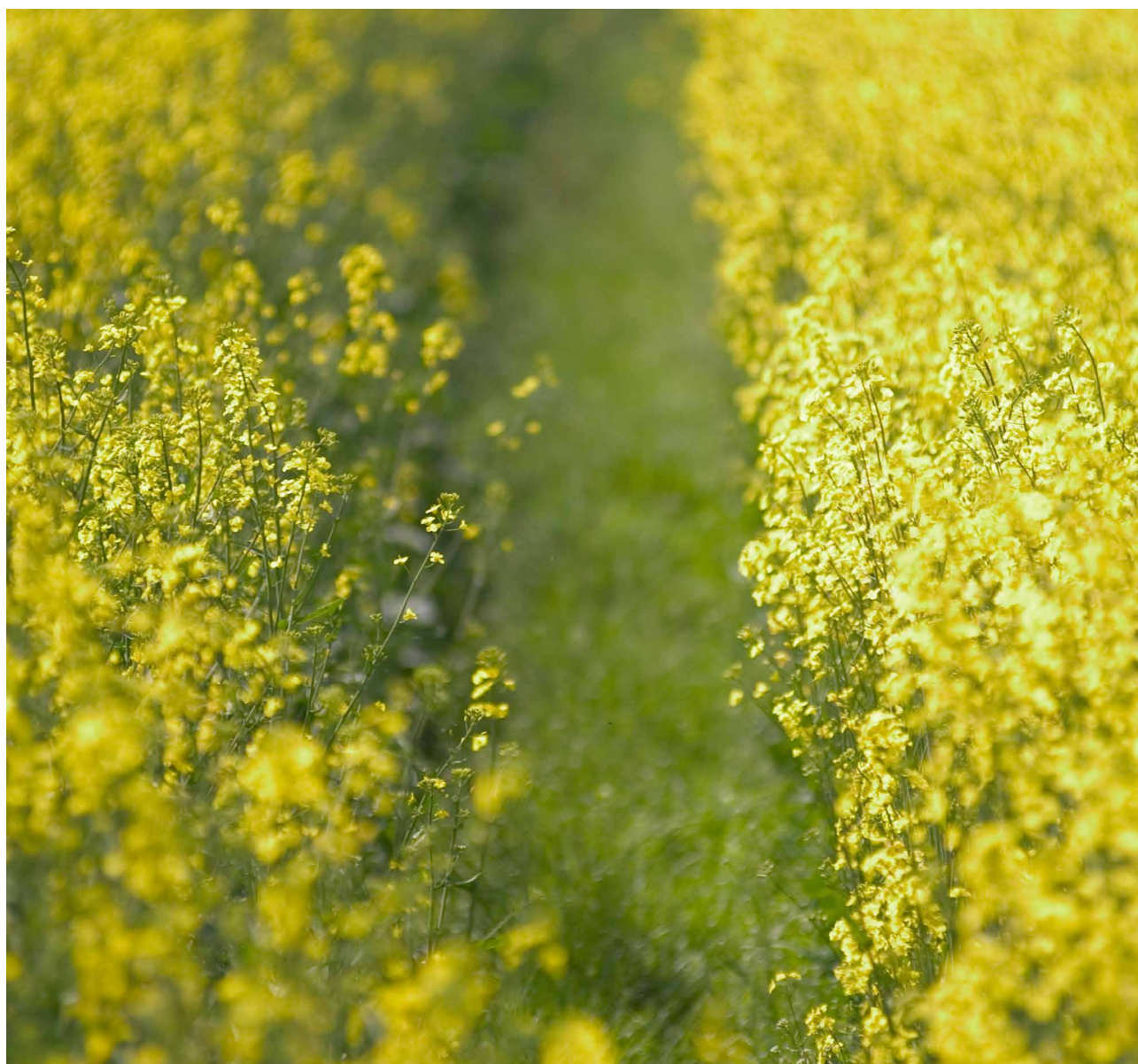
Former Yugoslav Republic of Macedonia failed to transpose Directive 2009/28/EC on time, including the 28% target. The adoption of the NREAP in line with the commitments taken to reach the 28% target remains the first and foremost priority for the country. A key precondition in this respect is to review the energy statistics on biomass consumption and to start compiling

energy data based on consumption surveys in accordance with the EUROSTAT methodology.

The revision of the Energy Law to transpose the provisions of Directive 2009/28/EC must be completed by the end of 2014.

Simplifying and streamlining the processes for authorisation, permitting, licensing and connection to the grids is critical for the further development of energy from renewable sources.

For biofuels, it is to be recalled that uncertified production cannot be counted towards the fulfilment of the national target nor exported to the EU, which in turn depends on sustainability criteria and an adequate certification system in place.





Former Yugoslav Republic of Macedonia

7.6 Energy Efficiency

Energy Efficiency Action Plan (EEAP)*						
Period covered by EEAP		2010 – 2018				
Overall energy savings target - Directive 2006/32/EC (ktoe / % / year)		147 / 9 / 2018				
EEAP status		Draft 2 nd EEAP submitted on 4 November 2013 – adoption pending				
Achieved energy savings 2010 – 2012		41.9 ktoe (2.6%)				
Key institution(s) in charge		Ministry of Economy; Energy Agency				
Main data and energy efficiency indicators**		2009	2010	2011	2012***	
Total primary energy supply (TPES)		ktoe	2,811	2,883	3,122	2,974
Energy intensity (TPES/GDP)		toe / 1,000 USD	0.41	0.41	0.43	0.41
TPES/Population		toe/capita	1.37	1.40	1.51	1.41
Total final energy consumption (TFEC)		ktoe	1,690	1,820	1,967	1,888
Share of TFEC by sector	Residential	%	32%	29%	28%	28%
	Services	%	15%	13%	11%	12%
	Industry	%	25%	30%	33%	31%
	Transport	%	26%	25%	24%	25%
	Others	%	1%	2%	1%	1%
	Non-energy use	%	2%	2%	3%	3%

* Source: 2nd NEEAP of the Former Yugoslav Republic of Macedonia

** Source: International Energy Agency

*** Indicators calculated by the Energy Community Secretariat based on preliminary energy balances for 2012

Refer to page 206 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

The Energy Law of 2011 (with amendments adopted in May and November 2013) includes an extensive chapter on energy efficiency and establishes a good legal basis for the development of secondary legislation and implementation of Directives 2006/32/EC, 2010/30/EU and 2010/31/EU. The Energy Law strongly emphasises the exemplary role of the public sector and requires mandatory energy measures for buildings, building units, equipment and plants owned or occupied by public entities. It also encourages the model of public private partnership through energy performance contracting. It further requires adoption of plans and programmes on energy efficiency, development of a monitoring system, obligatory energy audits for buildings and building units and certification of buildings, as well as labelling of energy-related products. Moreover, the Law includes provisions for distribution system operators and suppliers to encourage promotion of energy efficiency by means of informative billing and publishing information on energy efficiency services. The latest proposal for amendments to the Energy Law, prepared in December 2013 but not adopted yet, is expected to strengthen further the implementation of the energy efficiency policy during the construction of new and major renovation of existing buildings, by implementing systematic energy audits, stricter inspection supervision, complaints procedures and penalties.

In order to implement the energy audit scheme required by Directive 2006/32/EC, a Rulebook on Energy Audits was adopted in June 2013, which further elaborates on energy audit procedures, the assessment method for the baseline energy consumption, the content and template for energy audit reports, training programmes and certification of energy auditors, as well as setting up a central registry of certified energy auditors. In November 2013, the Energy Agency adopted a programme for training and examination of energy auditors, followed by training sessions during March - June 2014. Amendments to the Energy Law adopted in November 2013 allow also for electronic examination of energy auditors. A Rulebook on Information System for Monitoring and Management of Energy Consumption of Public Sector Entities was drafted in 2013, but has not been adopted yet. Its objective is to promote web-based solutions for continued gathering of relevant data for public buildings and street lighting.

The draft second Energy Efficiency Action Plan (EEAP) was submitted to the Secretariat in November 2013. The draft sets a less ambitious indicative overall energy savings target of 147.2 ktoe (9%) in 2018, compared to the first EEAP (12.2%). The draft second EEAP also sets an intermediary target of 80.1 ktoe (4.9%) to be reached in 2015. In general, the draft represents a good strategic document which follows the structure of the template and the requirements of the *acquis*, especially for the evaluation and reporting of the achieved energy savings against

the target set in the first EEAP. It includes a comprehensive package of energy efficiency measures in all end-use sectors, as well as measures for supply, transmission and distribution of energy. The exemplary role of the public sector is well developed. The draft also incorporates the recommendations provided by the Secretariat. However, its adoption by the Government is still pending.

According to the draft second EEAP, the energy savings achieved in 2012 amounted to 41.9 ktoe, which translates into 2.6% savings of final inland energy consumption, out of 9% planned for 2018.

The Ministry of Economy drafted a comprehensive National Programme for Energy Efficiency in Public Buildings by 2020. The Programme provides for detailed planning of energy efficiency improvement measures in 2,235 public buildings, with planned investments of about EUR 95 million, indicating a commitment of public authorities to lead by example in achieving the national energy savings target.

The Rulebook on Labelling of Energy-Related Products was amended in November 2012. It requires energy efficiency labels to be attached to a range of products corresponding to those addressed by the Directive 2010/30/EU and the Delegated Regulations.

In June 2013, the Ministry of Economy adopted a Rulebook on Energy Performance of Buildings which is relevant for determining the minimum energy performance requirements, certification of buildings, supervision scheme, inspection of heating and air conditioning systems, obligations for installation of solar hot water collectors, etc. Moreover, a number of necessary European Committee for Standardization (CEN) standards became mandatory through adoption of the Rulebook on Energy Performance of Buildings. The development of the calculation software and the verification of cost-optimal level of minimum requirements for energy performance of new buildings and building components, as well as for buildings which are subject to major renovation, are ongoing and supported by the Secretariat and the Regional Energy Efficiency Programme.

Key institutions responsible for the promotion of energy efficiency are the Ministry of Economy and the Energy Agency. The Energy Law also provides a legal basis for the establishment of financial support mechanisms, including an Energy Efficiency Fund. The establishment of a sustainable financing framework for refurbishment of public buildings is currently under discussion.

b. State of Compliance

1. Directive 2006/32/EC

Directive 2006/32/EC relating to energy end-use efficiency, energy services requirements and the exemplary role of the

public sector has either been transposed with the adoption of the Energy Law in 2011, and its amendments in 2013, or by secondary legislation (on energy audits, monitoring and management etc.). In accordance with the Energy Law, the public sector is obliged to implement measures aimed at energy efficiency improvements in their premises. The draft second EEAP and the draft National Programme for Energy Efficiency in Public Buildings put an adequate focus on the public sector.

However, the draft second EEAP has still not been adopted. The deadline for doing so was 30 June 2013. Therefore former Yugoslav Republic of Macedonia fails to comply with this requirement of Directive 2006/32/EC.

2. Directive 2010/30/EU

Directive 2010/30/EU and the Delegated Acts were fully transposed with the adoption of the Rulebook on Labelling of Energy-Related Products, and its amendments of November 2012.

3. Directive 2010/31/EU

Key provisions of Directive 2010/31/EU were incorporated in the Energy Law of 2011 (including the amendments of May 2013), as well as in the Rulebook on Energy Performance of Buildings. Transposition of the Directive is now complete.

c. Conclusions and Priorities

Former Yugoslav Republic of Macedonia made significant progress in the implementation of the energy efficiency *acquis* in 2013 and 2014, including in the update of primary and secondary legislation.

The priority for former Yugoslav Republic of Macedonia in the following period remains to adopt the second EEAP and to implement its measures. Otherwise the Secretariat is compelled to launch infringement action. Another important issue is the development of an efficient information system for monitoring and verification of energy savings.

The further implementation of Directive 2010/31/EU should also be a priority, in particular the development of the calculation software and checking of the cost-optimal level of minimum requirements of energy performance of buildings and building components.

Finally, strengthening of the institutional capacities (in the Ministry, Agency, etc.) is important, as the existing structures and human resources proved to be insufficient during the realization of the first EEAP. The draft second EEAP proposed also the establishment of two important new bodies, the Energy Efficiency Fund and a Supervisory Committee. The Energy Efficiency Fund, when established, is expected to strongly support the implementation of energy efficiency measures.



Former Yugoslav Republic of Macedonia

5.7 Environment

a. Sector Overview

1. Environmental Impact Assessment Directive

Environmental impact assessment is covered by the Environmental Law of 2005. The Law has been amended several times (2007, 2010, 2011, 2012, 2013). Furthermore, several pieces of secondary legislation are in place transposing the Directive's requirements on screening and scoping. In August 2013, a Protocol for Strategic Environmental Assessment to the Convention on Strategic Environmental Assessment in a Transboundary Context (Espoo Convention) was adopted. Four energy-related environmental impact assessments were initiated during the last reporting period (a wind park in the municipality of Bogdanci, a wind park in the municipality of Dojran, water regulation and a renewable energy project in Lukovo Pole and the Konjsko Dam with the related hydroelectric plant), while in another case (potential coal mine in Mariovo), a public hearing was held.

2. Sulphur in Fuels Directive

As regards the Sulphur in Fuels Directive, former Yugoslav Republic of Macedonia adopted a Law on Ambient Air Quality as well as Rulebooks on the Quality of Liquid Fuels, on Maximum Permissible Concentration and Quantities of other Harmful Matters that May Be Released into the Air by Individual Pollution Sources, and on Ambient Air Quality. In the course of 2013, the Government drafted a Decree on the Quality of Liquid Fuels which addresses the issues raised by the Secretariat's ongoing infringement action.

3. Large Combustion Plants Directive

The provisions of the Large Combustion Plants Directive are transposed by a Rulebook on the Limit Values for the Permissible Levels of Emissions and Types of Pollutants in the Exhaust Gases and Vapours Emitted into the Air from Stationary Sources. The emission limit values for new and existing plants are aligned with those of the Directive. The Rulebook also includes the common stack approach. Following the adoption of Ministerial Council Decision 2013/05/MC-EnC, amendments to the Rulebook are being prepared. A Decree for Determining the Combustion Facilities that Have to Take Measures to Protect Ambient Air Pollution requires the operators of large combustion plants to prepare and implement a five-year plan (to be reviewed annually) stipulating measures with the aim to reduce the plants' emissions.

Former Yugoslav Republic of Macedonia envisages drafting and implementing a national emission reduction plan under

Article 4(6) of the Large Combustion Plants Directive. The work is expected to start by the end of 2014 and should use the individual emission reduction plans drafted in accordance with the Decree as a reference. Regarding the Industrial Emissions Directive, a project aimed at transposition as well as strengthening the capacities of local governments and the Ministry of Environment and Physical Planning will start in 2015.

b. State of Compliance

1. Environmental Impact Assessment Directive

The Environmental Impact Assessment Directive has been transposed into national law by the Environmental Law as amended in 2010 and 2011, as well as a number of by-laws which follow closely the structure and content of the Directive. The authorities of former Yugoslav Republic of Macedonia should ensure that it is fully implemented in practice.

2. Sulphur in Fuels Directive

In 2013, the Secretariat initiated infringement action for violation of the Directive's requirements with respect to the rules on sampling and analysis. The adoption of the draft Decree on the Quality of Liquid Fuels would complete the transposition of the Sulphur in Fuels Directive and rectify the shortcomings referred to in the Opening Letter. However, the draft Decree has still not been adopted.

3. Large Combustion Plants Directive

Former Yugoslav Republic of Macedonia has already taken certain legislative and practical steps with a view to prepare for the implementation of the relevant provisions of the Large Combustion Plants and Industrial Emissions Directives, in secondary legislation as well as through the adoption of the Decision on the Preparation of a National Emission Reduction Plan. These efforts must be continued to ensure that the Directives' provisions are complied with by the deadline stipulated in the Treaty.

c. Conclusions and Priorities

In former Yugoslav Republic of Macedonia, efforts should be focused on the practical implementation of the already transposed provisions of the Environmental Impact Assessment Directive as well as on capacity building for the authorities responsible for their implementation.

Former Yugoslav Republic of Macedonia should adopt immediately the draft Decree on the Quality of Liquid Fuels and must

make sure that the provisions of the Sulphur in Fuels Directive are complied with.

The country should also proceed with the adoption of the

amendments to the Rulebook and intensify its efforts in preparing for the implementation of the Large Combustion Plants Directive, in particular by preparing and adopting a national emission reduction plan.



Former Yugoslav Republic of Macedonia

7.8 Competition

a. Sector Overview

The Law on Protection of Competition was adopted in 2010. The prohibition of cartels and abuses of dominant positions follows closely the wording of Articles 101 and 102 of the TFEU respectively. The Law applies to public undertakings owned by the State or municipalities as well as undertakings entrusted with performing services of general economic interest. The Commission for Protection of Competition (CPC) is entrusted with enforcing competition law.

Amendments to the Law on Protection of Competition were adopted in February 2014. The changes relate to the qualification requirements of the members of the CPC elected by the Parliament. Amendments stipulating qualification requirements for managing officials were not limited to the CPC but were introduced in laws governing the work of all other commissions/agencies (including the Energy Regulatory Commission ERC).

In terms of enforcement, the CPC informed that the high-profile case concerning a price fixing cartel in the electricity sector between four wholesale electricity traders, about which it informed last year, is still pending before the CPC. There are no other cases or decisions taken by the CPC in the energy sector during the reporting period.

The Law on State Aid was also adopted in 2010. The Law contains a State aid prohibition and rules on the notion of compatible aid in accordance with Articles 107(2) and (3) of the TFEU. CPC is competent for assessment and monitoring of State aid. It is entrusted with reviewing notifications and ordering recovery of State aid granted unlawfully.

In the reporting period, a regulation on the manner and procedures for providing horizontal aid was adopted by the Gov-

ernment in December 2013. No case of State aid granted in the energy sector has been assessed by the CPC.

b. State of Compliance

Articles 18 and 19 of the Energy Community Treaty have been properly transposed into the domestic legal order.

1. Competition Law

The Law on Protection of Competition together with the secondary legislation transpose the competition *acquis*. In practice, there is a lack of application of competition law to the energy sector. It is unfortunate that three years in a row, the competition authority reports on prolonging the cartel investigation in the electricity sector.

2. State Aid Law

The Law on State Aid Control transposes the State aid Rules. Aid granted to undertakings providing services of general economic interest is included in the notion of horizontal aid. The newly adopted Regulation on Horizontal Aid sets criteria for assessment of such aid implementing the *Altmark* criteria and the EU rules applicable to aid granted for services of general economic interest. In the previous years, CPC started to apply State Aid Law to the energy sector but it should continue such practice more rigorously.

c. Conclusions and Priorities

CPC should become more proactive in the application of competition law, which could include a sector inquiry in the electricity market. The same stands true *mutatis mutandis* for the application of State Aid Law to the energy sector.



Former Yugoslav Republic of Macedonia

7.9 Statistics

a. Sector Overview

The State Statistical Office (SSO) is an independent organisation operating in accordance with the Law on State Statistics from 1997, as amended in 2007 and 2011. SSO is responsible for the compilation of official statistics and coordination of all statistical activities in the country.

The Energy Law allows the Ministry in charge of energy and the national regulatory authority to collect certain energy data, particularly data for planning and establishment of energy balances. The Minister adopted a Rulebook for Energy Balance and Energy Statistics in October 2011.

The Government adopted a Programme for Statistical Surveys 2013 - 2017 and annual work plans, entrusting the SSO to collect, compile and disseminate half-yearly price data, in accordance with Directive 2008/92/EC and the definitions and methodology set by EUROSTAT for both electricity and gas prices charged to industrial and residential customers and price structure.

b. State of Compliance

1. Annual Energy Statistics

Annual data are compiled and disseminated in questionnaires for coal, oil, natural gas, electricity, heat, and renewable energy. The breakdown of final consumption is presented in accordance with the national classification of activities.

SSO has already established a quality system which is capable of producing quality reporting as required under the Treaty.

Data are collected through monthly and annual surveys from reporting units with full coverage of businesses dealing with production, transmission and distribution of energy, and samples taken from industrial energy consumers. For households, data on heat and electricity are received from the energy distribution companies. Other energy commodities are estimated. Other sources of data are quarterly and annual surveys on forestry, annual surveys on agriculture, and external trade statistics. Railways and air transport are fully covered. The commercial and public sectors are not covered, and energy consumption in other sectors is estimated.

On the basis of all collected data, the SSO develops energy balances for all energy commodities used in the country. Annual questionnaires are communicated to IEA and EUROSTAT timely and in compliance with Regulations (EC) 1099/2008 and 147/2013.

2. Monthly Energy Statistics

From 2013, the SSO started to release monthly energy statistics on electricity and natural gas. From 2014 on, it collects and submits to EUROSTAT monthly energy statistics on oil and petroleum products and solid fuels within three months following the reporting month. This is in accordance with Annex C of the Regulation (EC) No 1099/2008 on Energy Statistics.

3. Price Statistics

Prices of electricity charged to industrial end-users and households and prices of natural gas charged to industrial end-users are compiled as required by Directive 2008/92/EC and submitted to EUROSTAT.

In February 2014, SSO published the average electricity and gas prices for industry and households for the second semester of 2013 per consumption band on its webpage. The ERC publishes current prices and average prices for electricity and natural gas in its annual reports on the energy market. This data, however, is not structured by consumption bands.

So far SSO has not produced nor submitted to EUROSTAT the report on price systems. To comply with this requirement, the capacity of SSO will have to be increased.

c. Conclusions and Priorities

SSO is aware of the shortcomings in its annual data and focuses on the improvement of quality of data, primarily by conducting household surveys. With the support of the Secretariat, a survey of consumption in households based on representative samples is planned for 2014 - 2015. Insight into the consumption of households will improve data quality not only in terms of consumption structure but also completeness and consistency of data on renewable energy.

The manner of data collection should be considered primarily with the view to the need for data and staff availability. Financial resources and allocation of sufficient staff with adequate remuneration are key prerequisites for SSO to fulfil its tasks, including tasks in energy statistics. Better coordination with the Ministry may be the most cost-effective solution.

In order to comply with the remaining non-compliances in the area of price reporting, namely to report on the applicable price systems, cooperation with ERC should be improved.



Former Yugoslav Republic of Macedonia

7.10 Open Infringement Cases

a. Non-participation of MEPSO in Regionally Coordinated Capacity Allocation

On 20 January 2011, the Secretariat sent an Opening Letter to, *inter alia*, former Yugoslav Republic of Macedonia in Case ECS-4/11. The Secretariat is concerned that MEPSO has not yet adopted a common coordinated congestion management method and procedure for the allocation of capacity to the market, according to their obligation pursuant to the Decision by the Ministerial Council of 2008. At the Athens Forum of June 2014, *"the Forum express[ed] its concerns about lack of participation by the network operators of ... FYR of Macedonia..., as a fragmented solution undermines the effectiveness of the SEE CAO project, contradicts Energy Community Treaty obligations and disregards the upcoming EU harmonisation of forward trading rules. The Forum invites the TSOs of FYR of Macedonia ... to present to the Secretariat by end July 2014 a roadmap with concrete actions and timelines for participation in any regional body performing long-term capacity allocation. Otherwise, the Forum invites the Secretariat to consider measures, including re-opening infringement procedures against ... FYR of Macedonia to achieve a forward trading mechanism encompassing SEE CAO by 1 December 2014 the latest."*

The Secretariat is currently preparing a Reasoned Opinion on the case.

b. Non-compliance with the Sulphur in Fuels Directive

On 11 February 2013, the Secretariat sent an Opening Letter to, *inter alia*, former Yugoslav Republic of Macedonia in Case ECS-3/13. The Secretariat comes to the preliminary conclusion that the country has not yet transposed and implemented the requirements of Directive 1999/32/EC as required by Article 16 and Annex II of the Treaty. Directive 1999/32/EC aims to reduce emissions of SO₂ resulting from combustion of heavy fuel oils and gas oils. The Secretariat is currently preparing a Reasoned Opinion against former Yugoslav Republic of Macedonia in this case.

c. Lack of adoption of a National Renewable Energy Action Plan

On 11 February 2014, the Secretariat sent an Opening Letter to, *inter alia*, former Yugoslav Republic of Macedonia, for failure to comply with Energy Community law related to renewable energy. In the Opening Letter in Case ECS-5/14, the Secretariat addresses the failure by the country to adopt and submit to the Secretariat a National Renewable Energy Action Plan, the deadline for which expired on 30 June 2013.





Moldova



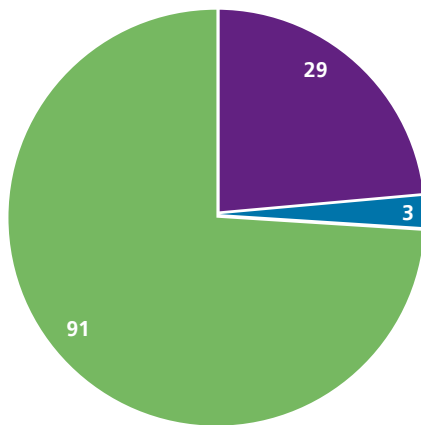
MOLDOVA 8

This year will be crucial for Moldova to show how determined it is to reform its energy sectors in line with the *acquis*. The removal of the Director of the National Energy Regulatory Authority at the beginning of 2014 has seriously shaken confidence in this determination.

However, during the last months the country showed the will to catch up with other Contracting Parties in transposing the Third Package and to cooperate with the Secretariat in that respect.

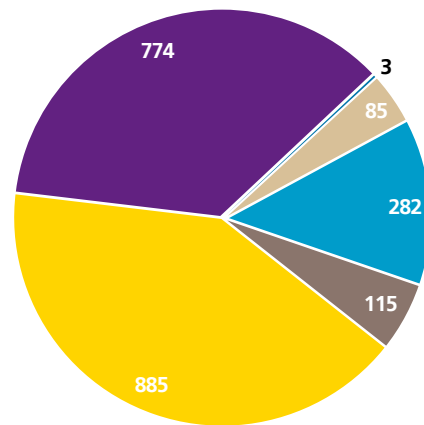
As important as this task is, it must not consume the complete attention of the Ministry and the regulatory authority – the electricity companies and customers suffer from uncertainty caused by the lack of tariffs and confusion about eligibility whereas in the gas sector the strife for diversification in real terms must be the highest priority. Energy efficiency and promoting renewable energy have also been neglected.

Energy mix in primary production in 2012
in ktoe (total 123 ktoe)



Oil Hydro RES

Gross inland consumption in 2012
in ktoe (total 2 144 ktoe)



Solid fuels Natural gas Oil and oil products
Waste, biofuel Hydro Electricity

Source: Released data (without Transnistria region) by National Bureau of Statistics, compiled by the Energy Community Secretariat





Moldova

8.1 Electricity

Description of data [unit]	2012	2013	
Electricity production [GWh]	776	748	
Net imports [GWh]	3,278	3,331	
Net exports [GWh]	612.4	86.5	
Total electricity supplied [GWh]	4,055	4,079	
Gross electricity consumption [GWh]	4,055	4,079	
Losses in transmission [GWh]	115	117	
Losses in transmission [%]	2.8%	2.9%	
Losses in distribution [GWh]	460	411	
Losses in distribution [%]	11.9%	10.7%	
Consumption of energy sector [GWh]	n/a	n/a	
Final consumption of electricity [GWh]	3,480	3,551	
Consumption structure [GWh]	Industrial, transport, services and other non-residential sectors	1,905	1,946
	Households (residential customers)	1,575	1,605
Net maximum electrical capacity of power plants [MW]	396	398	
Net maximum electrical capacity of power plants [MW]	Coal-fired	0	0
	out of which: multi-fired	0	0
	Gas-fired	380	380
	out of which: multi-fired	380	380
	Oil-fired	0	0
	Nuclear	0	0
	Hydro	16	16
	out of which: small hydro	0	0
	pumped storage	0	0
	Other renewables	0.1	1.6
out of which: wind	0	1.1	
Horizontal transmission network [km]	380 kV or more [km]	203	203
	220 kV [km]	377.34	377.34
	110 kV [km]	3334.6	3334.6
	HVDC [km]	0	0
	Substation capacity [MVA]	4740.3	4765.3
Electricity customers	Total	1,309,394	1,319,706
	out of which: non-households	64,929	69,557
	Eligible customers under national legislation	4	4
	Active eligible customers	1	1
Internal market	Electricity supplied to active eligible customers [MWh]	81,801	108,960
	Share of final consumption [%]	2.35%	3.07%

Source: National Energy Regulatory Authority

Refer to page 203 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

Electricity production in Moldova relies on a dominant electricity producer, the gas/oil-fired thermal power plant *Kuchurgan - Moldavskaya GRES* (2,520 MW installed capacity) owned by the Russian company *INTER RAO UES* and located in the Moldovan region of Transnistria. Taken together, the electricity purchased from this power plant (which is dispatched by the Moldovan

transmission system operator *Moldelectrica*), as well as imports from Ukraine meet up to 80% of the overall demand. The remaining 20% is covered by gas-fired combined heat and power (CHP) generation and one hydropower plant (HPP). As the company exporting electricity from Ukraine (*DTEK Power Trade*) insists on having a central trading partner in Moldova, the state-owned company *Energocom* has been assigned as the factual import monopoly. The three distribution system

operators and public suppliers in Moldova are the state-owned *RED Nord* and *RED Nord-Vest* as well as *RED Union Fenosa*, owned by a Spanish utility *Gas Natural Fenosa*. The operator is the state-owned *Moldelectrica*. The transmission system is not synchronized with the ENTSO-E network and operates as a part of the United Power System (UPS) electricity system along with neighbouring Ukraine.

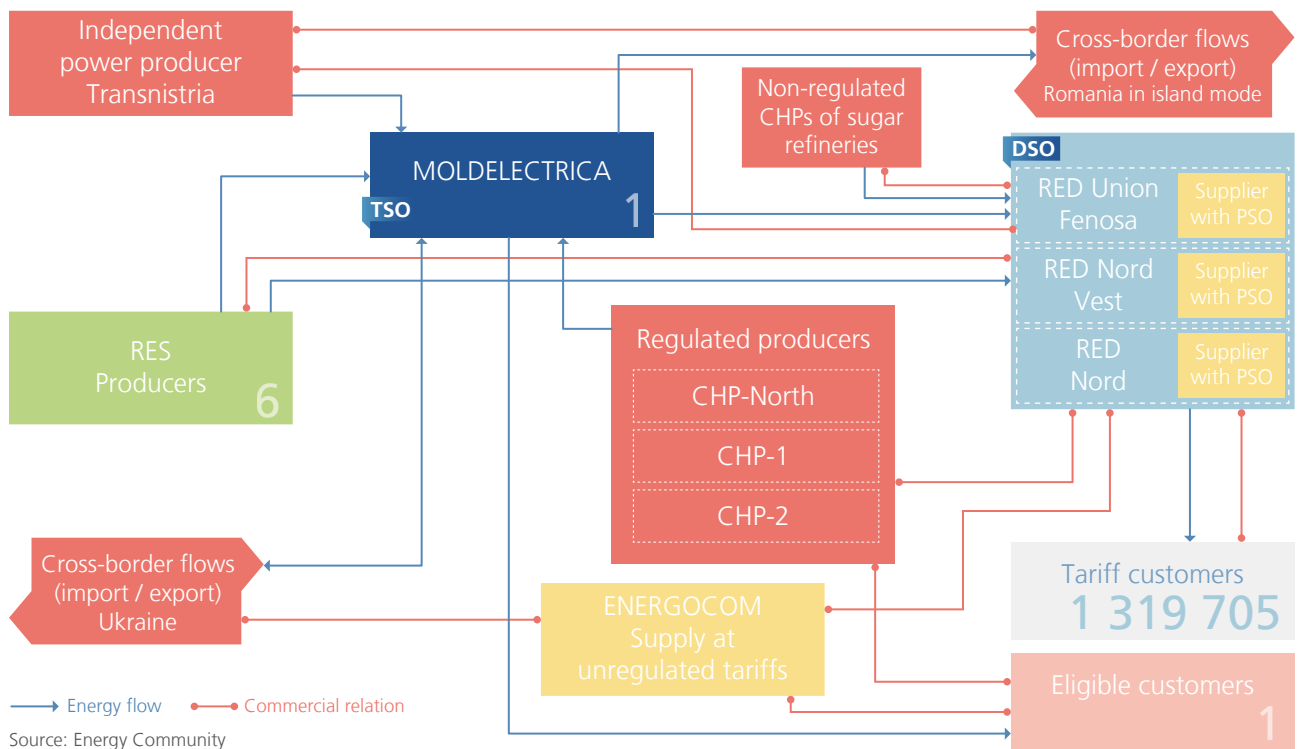
The electricity sector in Moldova is governed by the Electricity Law of 2009 and the Energy Law of 1998. Other relevant legislation includes the Law on Conducting Licensed Activities, the Law on Public Service, the Law on Basic Principles for Regulating Entrepreneurial Activity, the Law on Customer Protection, and the Concession Law.

In March 2014, the Electricity Law was amended. The amend-

ments introduce provisions related to the security of electricity supply, unbundling requirements for distribution from supply activities and conditions for access to the networks for cross-border exchange. It also tasks the transmission system operator to buy electricity to cover the losses in the transmission network and to buy balancing energy for system balancing. While these amendments may have advanced the transposition of the Second Energy Package, one may not overlook that the process of transposing the Third Package has started after the Secretariat drafted and submitted a Third Package-compliant Electricity Law.

During the reporting period, the regulatory authority ANRE also adopted a procedure for supplier switching of non-household customers. Due to the lack of tariffs for access to the distribution network it is currently not effective.

Moldova's Electricity Market Scheme



b. State of Compliance

Moldova was late with the transposition of the Second Package. Despite the improvements made by the recent amendments to the Electricity Law, the country still falls short of compliance in real terms.

1. Authorisation

The Government issues authorisations for new power plants with a capacity higher than 20 MW. Detailed procedures in accordance with the Second Package do not exist yet. Authorisations for power plants with a capacity below 20 MW are

granted by local authorities on the basis of connection notices issued by the local distribution company. Tendering for new generation capacities by the Government are possible to ensure security of energy supply but have never been launched so far. Moldova fails to fully comply with this requirement.

2. Unbundling

The transmission system operator is legally unbundled, even though the Electricity Law fails to properly transpose Article 10 of Directive 2003/54/EC. Under the Third Package, unbundling needs to be handled stricter, preferably through ownership unbundling.

The distribution companies are still not unbundled from supply in functional and accounting terms as required by Directive 2003/54/EC as adapted by the Accession Protocol, as well as the Electricity Law's deadline of 1 June 2014. Moldova thus fails to comply with the *acquis*. The Electricity Law requires legal unbundling between distribution and supply starting from 1 January 2015.

3. Third Party Access

The right to third party access has been transposed by law. However, its proper implementation is lacking. The reason for this is that ANRE's methodologies for setting network tariffs are either not appropriate or missing. The transmission tariff methodology was revised in May 2013 in order to include the network losses in the cost structure of the company. However, this has not resulted in a revision of the transmission tariff reflecting this significant change.

Distribution tariffs independent of the supply price have not been set at all. This constitutes a serious violation of Article 20 of Directive 2003/54/EC and impedes market opening for non-household customers connected to the distribution network.

Rules for access to interconnection capacities have been drafted but are not yet adopted. Currently, only one Ukrainian company (*DTEK Power Trade*) has full access to the interconnection capacities and does not allow Moldova to provide competitive access to other Ukrainian producers or suppliers. The allocation of capacities is subject to infringement actions against Ukraine. The connection capacities between the Moldovan and the Romanian (non-synchronously connected) systems are allocated jointly based on market procedures and performed by the Romanian system operator.

4. Eligibility

The eligibility requirements have been properly transposed. All non-household customers became eligible as of 1 January 2013 and households will be eligible customers as of 1 January 2015. However, an ANRE Decision of 2002 still in force limits the eligibility to customers connected to 110 kV and 35 kV. In practice, eligibility is thus limited to the four large industrial customers connected to the high-voltage grids. This Decision is seriously violating the *acquis*. Moreover, the Electricity Law contains a provision establishing a "sub-customer" category which is *per se* excluded from eligibility. This is another breach of Article 21 of Directive 2003/54/EC and must be rectified.

5. Market Opening and Price Regulation

The electricity market in Moldova is entirely captive. Only one eligible customer, a cement factory, is currently supplied at unregulated prices by the state-owned *Energocom*. For all other customers supplied by their incumbent companies, ANRE regulates the end-user price. Eligible customers have the option

to return to the regulated tariffs of the incumbent distribution and supply companies. This further impedes market opening and breaches Article 3 of Directive 2003/54/EC. In the past years, three companies have signed electricity contracts with alternative suppliers but returned to regulated electricity tariffs. The fact that distribution tariffs have not been adopted prevents also customers connected to distribution networks – who would be eligible under the Law – from switching supplier.

Moreover, the Electricity Law prevents the incumbent suppliers at regulated tariffs to provide competitive supply in the territory of their distribution network, unless they obtain a new license as independent suppliers. Such a license would give them access to the entire electricity market in Moldova. This is another impediment to both eligibility and further market opening and must be abolished in the revision of the Electricity Law.

6. Balancing

Moldova is balancing its system mostly through imports from Ukraine. Balancing rules and the designation of balancing responsible parties were introduced by the amendments to the Electricity Law. The TSO is performing balancing of the entire system and is now required to procure the electricity for balancing. Supply companies are required to contract energy with a view to satisfying the demand of their customers and to pay for the imbalances. The methodology for the allocation of costs associated with imbalances has to be established by the transmission system operator and published. Currently, Moldova fails to comply with the *acquis* on balancing.

7. Customer Protection and Protection of Vulnerable Customers

The Directive's provisions on customer protection are transposed by referring to final end-users only. The notion of vulnerable customers is defined in a governmental Decree which does not specifically address vulnerability in relation to electricity consumption. The category needs to be clearly defined in the Electricity Law. Proper social policies need to be adopted to protect vulnerable customers outside electricity tariffs.

c. Conclusions and Priorities

The reforms made in the electricity sector by the amendments to the Electricity Law of 2009 were without significant impact. They did not even achieve the consistent and proper implementation of Directives 2003/54/EC and 2005/89/EC and Regulation (EC) 1228/2003/EC, let alone the Third Package. Moldova must speed up the transposition of the Third Package and use the opportunity to rectify the breaches and shortcomings identified here.

Most urgently, however, a cost-reflective transmission tariff and the first distribution tariffs need to be adopted immediately. In case this is not addressed by ANRE, the Secretariat announced infringement action after summer 2014. Rules for capacity allocation of cross-border capacities and transparency require-

ments have to be implemented urgently by *Moldelectrica* and *Ukrenergo* in accordance with Regulation (EC) 1228/2003.

The Ministry of Economy as the sole shareholder of *Moldelectrica* needs to strengthen the institutional capacity needed for the TSO to live up to its role in a liberalised electricity market. This could be contemplated in the context of the structural reforms

of the transmission system as required by the Third Package.

ANRE has to establish a close cooperation with the Ukrainian regulatory authority in order to remove the trade barriers for electricity exports and allow Moldovan suppliers to have access to competitive electricity supplies and non-discriminatory access to interconnections.

		2012		2013	
Natural gas production [Bcm]		0.000107		0.000110	
Imports flows [Bcm]		1.096		1.031	
Exports flows [Bcm]		0		0	
Stock changes [Bcm]		0		0	
Total supply [Bcm]		1.096		1.031	
Consumption in energy sector [Bcm]		0.537		0.482	
Available for final consumption of natural gas [Bcm]		0.558		0.549	
Interconnectors' capacity [Bcm]		Total		44.6	
Storage working capacity [Bcm]		0		0	
Length of transmission network [km]		1,560		1,560	
Length of distribution network [km]		22,126		22,410	
		Total		661,171	
		Non-households		12,016	
Natural gas customers		out of which:		Eligible customers under national legislation	
		Active eligible customers		0	
		Households		649,155	
		Gas supplied to active eligible customers [Bcm]		0	
Internal market		Share of total consumption [%]		0%	
Final consumption of natural gas per sector [Bcm]		Energy transformation		0.989	
		Industry and commercial customers		0.428	
Consumption structure [Bcm]		Households		0.262	
				0.299	
				0.285	

* Import and export flows for non-domestic use have not been communicated

Source: National Energy Regulatory Agency, compiled by the Energy Community Secretariat

Refer to page 205 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

Moldova does not have domestic gas production, underground storage or LNG facilities. Yet its gas market is important from several perspectives, in particular for transit of Russian gas to Turkey (more than 500 km in total of several parallel pipelines and 35 bcm/year of capacity, of which only half is used) and domestic consumption of natural gas (3 bcm/year) accounting for ca. 60% of primary energy consumption and around 96% of production of electricity and heat. Two thirds of the national gas consumption is used for electricity generation on the left

bank of the Dniester and 1/5 takes place in the capital Chisinau. Moldova is fully dependent on imports from Russia.

In this context, the ongoing construction of the interconnector with Romania (*Iasi-Ungheii*) is of particular importance. The extension of this interconnection pipeline to Chisinau (130 km) as envisaged by the Ministry of Economy is still subject to loan negotiation with IFIs. Without this extension, the pipeline would have only very limited effect on diversification and market opening.

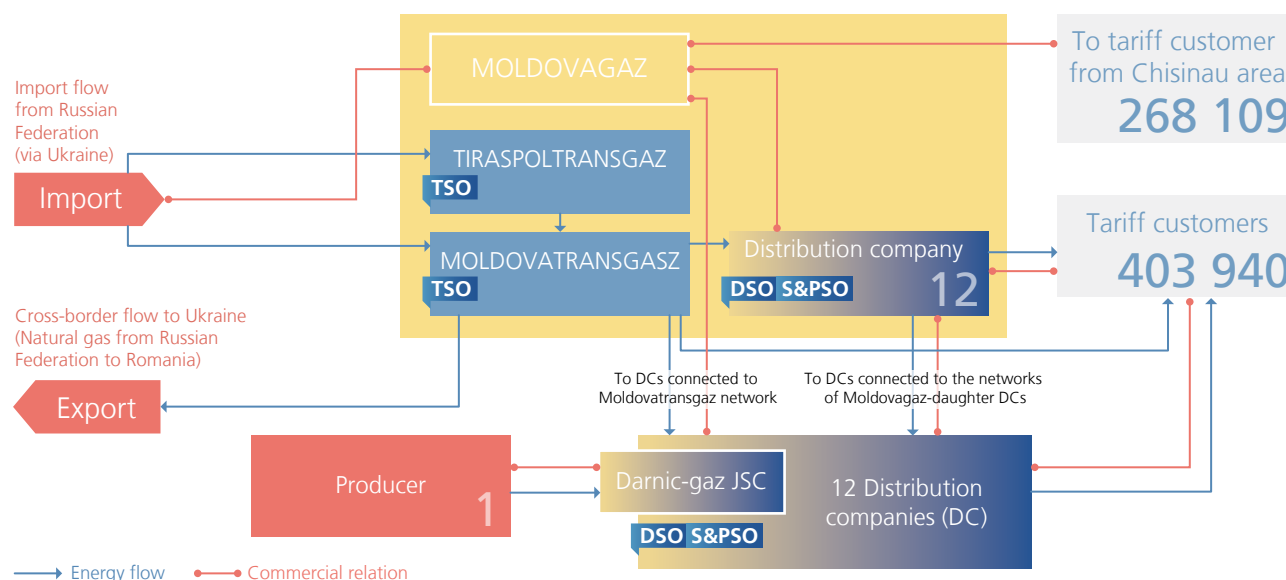
Moldova’s gas market is entirely monopolized. All activities, import, supply, cross-border and national transmission, distribution and retail supply, are performed by one vertically integrated company, *Moldovagaz*. *Moldovagaz*’s shares are divided between the State (36.6%), authorities in Transnistria (13.4%) and *Gazprom* (50%).

Moldovagaz acts as an importer and as a wholesale and (in Chisinau) a retail supplier, while two daughter companies, *Moldovatransgaz* and *Tiraspoltransgaz* operate the transmission system. In addition, 11 subsidiaries of *Moldovagaz* operate the distribution network and are engaged in retail supply, while another daughter company operates the distribution network in Chisinau. Another 11 distribution/supply companies inde-

pendent of *Moldovagaz* have a market share of only of 2%.

The legislative framework for the gas market is defined by the Natural Gas Law, adopted in December 2009. The Law transposed the provisions of Directive 2003/55/EC. Several acts of secondary legislation, mainly of technical nature complement the Law. They include technical standards for natural gas transmission and distribution networks, regulations on quality of natural gas transmission and distribution services and a regulation on the provision and use of natural gas. Amendments to the Natural Gas Law allegedly transposing Directive 2004/67/EC were adopted by Parliament in July 2014 and now are under process of promulgation. The Law was not submitted to the Secretariat.

Moldova’s Gas Market Scheme



Source: Energy Community
Refer to the market schemes legends on page 207 for a more detailed description.

b. State of Compliance

The Law on Natural Gas of 2009 transposed the majority of the provisions of Directive 2003/55/EC. The amendments to the Natural Gas Law adopted by Parliament in July 2014 seem to transpose most provisions of Directive 2004/67/EC. Regulation (EC) 1775/2005 still has not been transposed. This depends on action by ANRE upon the promulgation of the recent amendments to the Natural Gas Law.

1. Authorisation

The Law requires a license to perform an energy activity issued by the regulatory authority and an authorization for new infrastructure issued by the Government and local authorities. The authorization procedures for new infrastructure investments are ambiguous and not in line with the *acquis*. The Law only stipulates an authorization procedure by the Government for

projects financed from the State budget, while it is not clear to what extent private investments are covered by these procedures.

2. Unbundling

The Law on Natural Gas transposed the unbundling provisions of Directive 2003/55/EC. However, although *Moldovatransgaz* and *Tiraspoltransgaz* were established as subsidiaries of the vertically integrated company *Moldovagaz*, functional unbundling of transmission system operation is not applied in practice. *Moldovatransgaz* is not independent from the mother company in decision-making, whereas *Tiraspoltransgaz* is a vertically integrated undertaking itself, as it is involved in both transmission and trade activities in the region of Transnistria. Compliance programmes are not in place. The Secretariat is particularly concerned about the amendments to the Natural Gas Law adopted in July 2014. They envisage postponing any

unbundling of the transmission system operators until 1 January 2020, whereas the derogation granted by the Ministerial Council in December 2012 to Moldova concerns only Article 9(1) of Directive 2009/73/EC.

With regard to distribution system operation, an exemption for operators serving less than 100,000 customers applies. *Moldovagaz's* daughter companies thus operate distribution systems and provide retail supply for more than 653,000 customers in total.

3. Third Party Access

Third party access is defined in line with Directive 2003/55/EC. ANRE, approves transmission and distribution network tariffs. The transmission tariff methodology does not distinguish between cross-border and internal transmission, as required by Directive 2003/55/EC. However, there are several instances of non-compliance in relation to third party access. Firstly, the grid component is not explicitly shown on the bill for final consumers. Secondly, legislation transposing Regulation (EC) 1775/2005 is still missing, although drafts exist since 2012. Thirdly, rules on exemptions from third party access are missing in the Law on Natural Gas, which is a clear violation of Directive 2003/55/EC. Finally, capacity allocation and congestion management procedures are not in place.

In 2014, the incumbent *Moldovagaz* withdrew a complaint against the regulatory authority ANRE which had caused a lengthy dispute about gas network tariffs, in particular with regard to the treatment of losses in the distribution system and the level of transmission tariffs exceeding the transit contract with *Gazprom*. The Secretariat facilitated the negotiations.

4. Eligibility

A clear definition of eligibility is missing in the Natural Gas Law. Moldova thus fails to comply with the *acquis*.

5. Market Opening and Price Regulation

All customers are supplied under regulated prices, and supplier switching is practically impossible. Even more, the Law's deadlines for market opening are not in line with Moldova's Accession Protocol adapting Article 23 of Directive 2003/55/EC.

6. Balancing

Balancing rules in compliance with Regulation (EC) 1775/2005 have not been put in place. A draft regulation which would rectify this violation has been pending since 2012.

7. Security of Supply

General responsibilities for security of supply policy as well as monitoring and reporting on security of supply are vested in the Ministry of Economy.

The main principles on security of supply from the Directive 2004/67/EC seem to be included in the amendments to the Natural Gas Law recently adopted by Parliament. However, the following elements of Directive 2004/67/EC have not been transposed or implemented: minimum security of supply standards, definition of protected customers, national emergency measures and a list of instruments for security of gas supply. The amendments to the Law should correct these failures.

8. Customer Protection and Protection of Vulnerable Customers

Customer protection is defined in general terms by the Natural Gas Law, which gives tasks and responsibilities to ANRE related to customer protection and examination of customers' complaints. Some protection schemes are established by general legislation on social protection. Still, not all measures as defined by Annex A of Directive 2003/55/EC are in place. Vulnerable customers are only mentioned by the Law which does not establish further criteria. Concrete protection schemes are absent. Moldova is evidently far away from fulfilling the standards of the Third Package in this respect.

c. Conclusions and Priorities

During the reporting period, last year's priorities such as the adoption of the regulation on access to the transmission network and the restructuring of *Moldovagaz* in line with the existing Natural Gas Law and the Second Energy Package have not been realized.

The implementation of the Third Package should be used to correct these serious deficiencies before the end of the year. Moldova needs to be reminded that provisions related to unbundling need to be implemented by 1 January 2015, with the exception only of Article 9(1) of Directive 2009/73/EC. Adopting secondary legislation on access to the network, grid codes and market rules as soon as possible is another priority. Regulation (EC) 1775/2005 has not been implemented yet. The best approach to overcome this alarming gap would be to implement Regulation (EC) 715/2009 without delay.



Moldova

8.3 Regulatory Authority

a. Organisation and Competences

The National Agency for Energy Regulation (ANRE) is the single authority for regulating the energy sector of Moldova, as required by the Third Energy Package. ANRE is headed by a Board of five Directors appointed by the Parliament upon the proposal of a Parliamentary Commission for a term of six years. The Parliament designates one of the five Directors as Director General upon the proposal of the Chairman of the Parliament following the positive opinion of the Parliamentary Commission. A rotation scheme for Board members' terms in office is in place.

ANRE's competences need to be extended to the complete set of regulatory powers and objectives foreseen under the Third Energy Package, in particular related to the right to carry out investigations, impose measures to promote competition and proper market functioning and issue penalties to gas and electricity undertakings that do not comply with their obligations or to propose to a competent court to impose such penalties.

b. Assessment of Independence

Legislation grants ANRE independence by explicitly referring to its status as not subordinated to any other public or private authority. The Board has autonomy in the hiring of staff as well as the setting of staff salaries within the budget limits approved by Parliament. The Director General is free in designing the regulator's internal organisation. Independence of Board members from political parties and the regulated industry is explicitly provided in legislation. Annual and financial reporting requirements are not of concern since approval by another public body is not foreseen.

Reasons for dismissal as stipulated by law include the vague case of "*incompatibility*" which opens a possibility for misuse and political intervention. An outstanding example of political intervention in regulatory independence was the suspension of the Director General in March 2013 based on questionable accusations and an opaque decision by a Court of Appeal. The Secretariat is preparing an infringement procedure regarding the case. Due to the unprecedented circumstances and without

having any legal procedure for unlocking the decision-making process, ANRE's activity was paralyzed for more than six months. The situation had significant repercussions on the adoption of the secondary legislation to complete the regulatory framework for market opening and operation.

Financial independence is, in principle, granted by entitling ANRE to design and use its annual budget autonomously and at a level sufficient to cover its operating costs. A certain limit to financial independence is, however, foreseen by putting an overall budget limit at the level of up to 0.15% of the annual cost of electricity, natural gas supplied to consumers, main petroleum products and liquefied gas imports.

ANRE complies well with transparency standards required in the context of independence by publishing decisions, as well as information on the authority's organisation and structure, on its website. However, improvements should be made by publishing decision-making rules, information on the reflection of stakeholders' views in Board decisions and the basis of rulings.

More generally, ANRE's staffing level needs to be extended in

order to address the additional duties under the Third Energy Package.

c. Conclusions and Priorities

The following adjustments in law and regulatory practice are key priorities for ANRE:

1. ANRE's competences need to be extended to the complete set of regulatory powers and objectives foreseen under the Third Energy Package.
2. The vague reason for dismissal of "incompatibility" has to be removed.
3. Transparency should be improved in relation to decision-making rules and information on the reflection of stakeholders' views in Board decisions.
4. ANRE's staffing level needs to be extended in order to address the additional duties under the Third Energy Package.



Moldova

8.4 Oil

a. Sector Overview

Moldova imported and consumed petroleum products in the amount of around 640 kt in 2013, an increase of some 10% compared to 2012. In terms of storage of petroleum products, the total capacity is over 150,000 cm, encompassing State and industry storage but excluding the army. In addition the Giurgiulesti terminal disposes of eight tanks for petroleum products with capacities of 63,600 cm.

The Commodity Reserves Law deals with oil stocks by requiring the publicly-owned State Material Reserves to keep oil stocked in the amount of 30 days of consumption in the previous year. Details of these stocks are treated as a state secret, and therefore the current level and composition is undisclosed. However, it is unlikely that the full 30 days are currently being covered due to funding difficulties. The State Material Reserves' oil stocks may be used not only in situations of natural disasters and wars but also in cases of market disruptions. The Commodity

Reserves Law includes procedures to release and report on such stocks which are, however, not in compliance with Directive 2009/119/EC.

b. Conclusions and Priorities

Until now, Moldova has given very low priority to the issue of emergency oil stockholding and there seems to be a general perception that the obligation to implement Directive 2009/119/EC is far away. The current Commodity Reserves Law is not compliant with Directive 2009/119/EC.

No progress can be reported concerning the legislative framework. The Secretariat is not aware of any drafting activities regarding the primary legislation on emergency oil stockholding. The Ministry of Economy is still reflecting on how to design Moldova's emergency oil stockholding system. It appears unlikely that Moldova is willing to accept the idea of creating a new stockholding system.



Moldova

8.5 Renewable Energy

a. Sector Overview

1. State of Play, Legislation and Promotion of Renewable Energy

Moldova's renewable energy consumption currently consists mostly of firewood for heating. Two hydropower plants with a total installed capacity of 64 MW produced only 7 ktoe, or 2% of total electricity generation in 2009.

With the adoption of Directive 2009/28/EC, Moldova committed to a binding 17% target of energy from renewable sources in gross final energy consumption in 2020 compared with 11.9% in 2009. The 2030 Energy Strategy of Moldova sets a more ambitious (indicative) objective of reaching a 20% share in 2020.

The National Renewable Action Plan (NREAP) was adopted by the Government in December 2013 and submitted to the Secretariat. According to the document, the 20% target is broken down into an indicative share of 10% in electricity consumption, 27% in heating and cooling and a binding share of 10% in the transport sector. According to the NREAP, additional electricity generation from renewable energy sources will mainly come from wind power from 2016, biogas from 2015, as well as PV. The NREAP also projected a surplus of 3% or 64.8 ktoe that could be transferred to other Contracting Parties or EU Member States, if achieved.

A draft Law on the Promotion of Energy from Renewable Sources has passed the first reading in Parliament in July 2014. It will replace the existing Law on Renewable Energy of 2007. The Law transposes the binding 17% target and the 10% target of renewable energy in transport to be reached in 2020 as well as the other requirements of Directive 2009/28/EC. In particular, the Law envisages the simplification and streamlining of administrative, permitting and licensing procedures.

The Law also introduces comprehensive support schemes for energy from renewable sources. They are based on tendering, a market based mechanism which is supposed to provide the development of renewable energy at lower cost for customers.

Electricity suppliers will be required to purchase the electricity produced from renewable sources from a single supplier that will purchase the production of all new renewable generators and cogeneration plants. Guaranteed access to the grid and priority dispatch is also provided for in the new Law. Moreover, the Law envisages an energy efficiency fund to support, *inter alia*, renewable energy projects. Support schemes for renewable energy used for heating are included in a separate

Heat Law which was adopted in May 2014. Subsidies for switching from gas to efficient biomass boilers have been increased from EUR 1,000 to EUR 1,300 per unit of equipment starting in 2014.

1. Renewable Energy in Transport

The Renewable Energy Law of 2007 provides for relatively high mandatory targets for biofuels, namely 6% of ethanol in the total gasoline consumption, 5% of biodiesel in the diesel mix by 2013, and 20% of biofuels in the total fuel mix by 2020. The draft Renewable Energy Law and the NREAP revise and reduce these targets in line with Directive 2009/28/EC. The share of renewable energy in the transport sector is currently zero, and Moldova will have to rely mostly on imports. The first consumption of biofuels is expected only in 2015, at a level of 1.12%.

The only form of support for biofuels, as defined by the Renewable Energy Law in place, consists of tariffs to be approved by ANRE for different types of biofuels to cover investments, construction, extension, transport and distribution costs for a period of 15 years, provided that the rate of return is no higher than twice the rate of return for conventional fuels. Furthermore, the complete volume of biofuels produced locally must be acquired by local fuel suppliers. This constitutes discrimination.

According to the NREAP, a regulation on sustainability criteria will be developed by the Ministry of Transport and Road Infrastructure and approved by the Government. The Energy Efficiency Agency will act as a certification body once the relevant framework is in place, including voluntary certification schemes.

b. State of Compliance

The existing legal framework is full of gaps in terms of compliance. Consequently, the interest of investors has been low.

1. National Renewable Energy Action Plan

Moldova adopted and submitted to the Secretariat the NREAP required under Directive 2009/28/EC.

2. Cooperation Mechanisms

Cooperation mechanisms are not transposed yet. Moldova fails to comply with these provisions.

3. Administrative Procedures

Procedures for permitting, construction and authorization are lengthy and uncoordinated between the authorities involved. Potential investors in renewable energy are faced with significant barriers in this respect. Moldova must urgently implement a more simplified, transparent and non-discriminatory framework taking into account particularities of individual renewable energy technologies. Moldova fails to comply with Article 13 of Directive 2009/28/EC.

4. Grid Access

The transposition of Article 16 of Directive 2009/28/EC will depend on the adoption of the Renewable Energy Law. Transmission and distribution system operators will have to implement the requirements further on. Compliance is not achieved yet.

5. Guarantees of origin

The draft Renewable Energy Law empowers all network (one transmission and three distribution) operators to be issuing bodies for guarantees of origin. The set-up and maintenance of separate accurate, reliable and fraud-resistant registries for the issue, transfer and cancellation of guarantees of origin creates a significant burden for all four operators. A single entity managing one system at country level should be envisaged. Moldova is not complying with Article 15 of Directive 2009/28/EC.

6. Renewable Energy in Transport

Article 17 of Directive 2009/28/EC has not been transposed at all and there is no certification scheme defined or relevant body established.

c. Conclusions and Priorities

The legal and regulatory framework for renewable energy has to undergo a major overhaul to reach compliance with the *acquis*. The adoption of the Law on Renewable Energy should be the absolute priority. With its adoption, Moldova will move much closer to implementing Directive 2009/28/EC and will improve the framework needed to attract investment in renewable energy projects and to ensure that the 2020 objectives are met.

The methodology for support schemes for renewable energy projects based on tendering needs to be developed and the administrative procedures including access and connection to the networks need to be simplified immediately after the new Renewable Energy Law is adopted. Later on, monitoring of the effectiveness of the measures by the Ministry of Economy will be crucial.

For renewable energy in transport, the priorities remain the same as in last year's report. The new Law should also introduce the concept of sustainability criteria and certification of biofuels. After the adoption of the new Renewable Energy Law, the regulatory framework will have to be completed and updated. More generally, the significant agricultural potential of the country should be tapped to develop domestic biofuels production rather than relying on biofuel imports.





Moldova

8.6 Energy Efficiency

Energy Efficiency Action Plan (EEAP)*					
Period covered by EEAP		2013 – 2015			
Overall energy savings target - Directive 2006/32/EC (ktoe / % / year)		428 / - / 2015 867 / 9 / 2016			
EEAP status		1 st EEAP adopted on 7 February 2013			
Achieved energy savings		Not elaborated (as this is 1 st EEAP)			
Key institution(s) in charge		Ministry of Economy; Energy Efficiency Agency; Ministry of Regional Development and Constructions			
Main data and energy efficiency indicators**		2009	2010	2011	2012***
Total primary energy supply (TPES) ktoe		3,171	3,426	3,331	2,144
Energy intensity (TPES/GDP) toe / 1,000 USD		0.97	0.98	0.89	0.58
TPES/Population toe/capita		0.89	0.96	0.94	0.60
Total final energy consumption (TFEC) ktoe		2,074	2,323	2,329	1,966
Share of TFEC by sector	Residential	45%	42%	41%	45%
	Services	6%	5%	10%	15%
	Industry	26%	29%	27%	13%
	Transport	14%	15%	16%	19%
	Others	8%	8%	6%	3%
	Non-energy use	1%	1%	1%	5%

* Source: 1st EEAP of Moldova, available at: http://www.energy-community.org/portal/page/portal/ENC_HOME/AREAS_OF_WORK/ENERGY_EFFICIENCY/NEEAPs

** Source: International Energy Agency

*** Indicators calculated by the Energy Community Secretariat based on preliminary energy balances for 2012

Refer to page 206 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

The Ministry of Economy, the Energy Efficiency Agency, as well as the Ministry of Construction and Regional Development, are the key institutions dealing with transposition and implementation of energy efficiency *acquis* in Moldova. An Energy Efficiency Fund, set up in June 2012, finances projects in the area of energy efficiency and renewable energy in accordance with strategies and programmes adopted by the Government.

The Energy Efficiency Law of 2010 provides for the development of national and local energy efficiency programmes and action plans, as well as promoting energy audits, energy management schemes, etc. The Law also establishes the Energy Efficiency Agency, as the main implementing body, as well as the Energy Efficiency Fund.

The (first) Energy Efficiency Action Plan for 2013 - 2015 (EEAP) was developed by the Agency in collaboration with the central government and local authorities and adopted in February 2013. The EEAP sets measures to complete the legal framework and achieve energy savings of 428 ktoe (*i.e.* approximately 1.8% annually) until 2015. Furthermore, the National Energy Efficiency Programme for the period 2011 - 2020 (adopted in November 2011) sets up a long-term energy savings target of up to 20% by 2020, as well as an intermediate target of 9%

by 2016. However, the targets seem too ambitious and are not calculated fully in line with Annex I of Directive 2006/32/EC.

Further progress in the transposition of Directive 2006/32/EC was achieved by the adoption of an Energy Audit Regulation and, most recently, an ESCO Regulation in December 2013. In April 2014, the Moldovan Energy Efficiency Agency submitted the Report on the Implementation of the first EEAP to the Government.

Furthermore, a Law on the Energy Performance of Buildings was adopted in July 2014.

In the area of labelling of energy-related products, the Law on the Labelling of Energy-Related Products was adopted by the Parliament in March 2014 and will come into force in October 2014. The Law partially transposes framework Directive 2010/30/EU. For complete transposition, additional legislative acts (on public procurement) and the implementing regulations must be developed and adopted.

b. State of Compliance

1. Directive 2006/32/EC

The main provisions of Directive 2006/32/EC were transposed

by the Energy Efficiency Law, and the secondary legislation listed above. The EEAP for 2013 - 2015 was adopted in 2013. Yet, the Directive has not been fully transposed. In order that this is achieved, a set of secondary legislation still needs to be adopted (on public procurement *etc.*).

Energy saving targets in the EEAP were not calculated fully in line with Annex I of Directive 2006/32/EC, as they were calculated based on the base year 2009, and not based on the annual average amount of consumption for the most recent five-year period for which official data are available.

2. Directive 2010/30/EU

The deadline for transposing Directive 2010/30/EU expired in December 2011. The Law on the Labelling of Energy-Related Products was adopted by the Parliament but does not cover all the Directive's provisions. Thus the Directive has not been fully transposed by Moldova.

3. Directive 2010/31/EU

The deadline for the implementation of Directive 2010/31/EU expired in September 2012. As long as the required secondary legislation is not adopted, Moldova fails to comply with Directive 2010/31/EU.

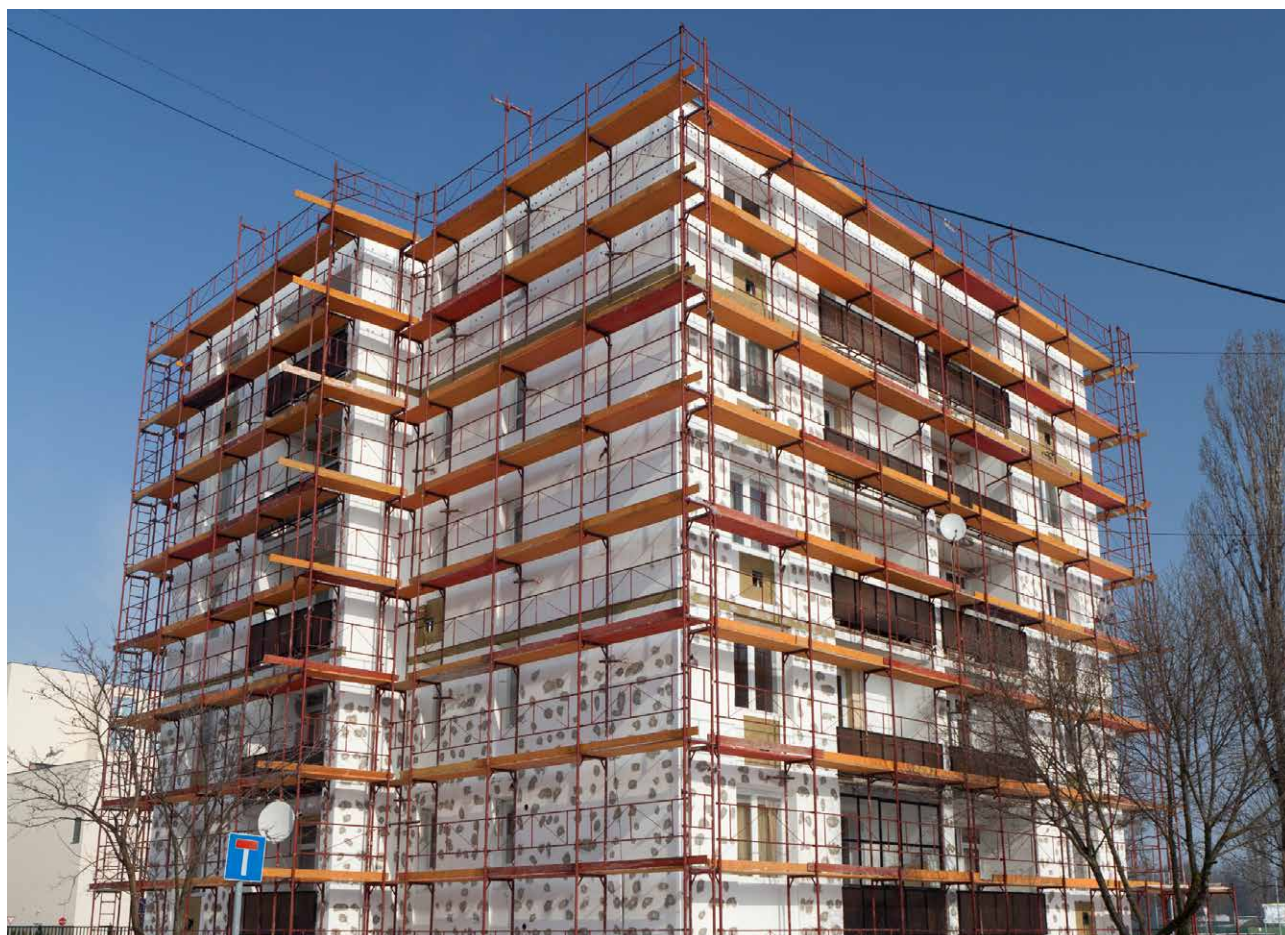
c. Conclusions and Priorities

To a large extent, Moldova fails to transpose the Energy Community *acquis* on energy efficiency. That said, the institutional framework for energy efficiency has been developed well with the establishment of the Energy Efficiency Agency and the Energy Efficiency Fund. The first EEAP was adopted as the main strategic implementation document.

Moldova adopted the Law on Energy Performance of Buildings, but the regulations required for public procurement and energy labelling should be adopted quickly now.

The second priority should be the implementation of the existing EEAP. In particular, measures need to be taken on reduction of losses in power and heat generation, transmission and distribution, introduction of financial instruments, development of the energy management system and energy services, development and promotion of ESCO market, regulatory framework for energy labelling and eco-design, promotion of energy audits *etc.*

Unlike in the past, the responsible institutions should submit timely all future draft regulation to the Secretariat for a compliance check before it is sent to the domestic authorities for approval.





Moldova

8.7 Environment

a. Sector Overview

1. Environmental Impact Assessment Directive

The main legislative acts related to environmental impact assessment are the Law on Environmental Protection of 1993 and the Law on Environmental Expertise and Environmental Impact Assessment of 1996. A Regulation on Environmental Impact Assessment is annexed to the latter Law. A new Law on Environmental Impact Assessment was adopted in May 2014.

During the reporting period, Moldova participated in two transboundary environmental impact assessment procedures as an affected party in two energy projects in neighbouring Ukraine: one concerning the construction of two nuclear power plants and the other the construction of a nuclear fuel production plant. No domestic environmental impact assessments related to projects in the energy sector were carried out in Moldova.

2. Sulphur in Fuels Directive

The deadline for the implementation of the Sulphur in Fuels Directive by Moldova is 31 December 2014. Therefore Moldova is not yet under a legal obligation to implement its provisions.

In the course of 2013, the Institute of Ecology and Geography of the Ministry of Environment was mandated to draft a legislative framework regulating the sulphur content of certain liquid fuels. No drafts have come out of this exercise yet.

3. Large Combustion Plants Directive

Moldova has two plants falling under the scope of the Large Combustion Plants Directive with a total of eight units and a total installed capacity of 306 MW. All units are run on natural gas.

Currently, there is no applicable legislative framework on the regulation of emissions from large combustion plants.

b. State of compliance

1. Environmental Impact Assessment Directive

The recently adopted Law on Environmental Impact Assessment fully transposes the Directive's provisions into national law which constitutes a major step forward in Moldova's compliance with the Energy Community environmental *acquis*.

2. Sulphur in Fuels Directive

As the deadline for implementing the Sulphur in Fuels Directive does not expire until the end of 2014, the state of compliance is currently not assessed. However, it has to be mentioned that the pace of drafting legislation is not likely to allow for keeping the deadline stipulated by the Treaty.

3. Large Combustion Plants Directive

Moldova has not yet transposed the relevant requirements of the two relevant Directives regulating the emissions of large combustion plants into national law. The transposition of the Industrial Emissions Directive into national law is included as a target in the environmental strategy approved by the Government in April 2014. One open question is whether Moldova intends to adopt and implement a national emission reduction plan under Article 4(6) of the Large Combustion Plants Directive.

c. Conclusions and Priorities

Moldova should focus its efforts on the implementation of the recently adopted Law on Environmental Impact Assessment and should provide the necessary administrative capacities necessary for the tasks.

Furthermore, Moldova should establish the legal framework for the implementation of the Sulphur in Fuels Directive by the end of 2014.

Moldova should also intensify its efforts in transposing the relevant provisions of the Large Combustion Plants and Industrial Emissions Directives into national law and should decide on whether or not to adopt a national emission reduction plan with a view to the submission deadline of end 2015.



Moldova

8.8 Competition

a. Sector Overview

The Competition Law in Moldova is in force since 2012. It contains prohibitions of anti-competitive agreements and concerted practices, as well as abuses of a dominant position. It is also applicable to public undertakings and entities providing services of general economic interest. The Competition Council (CC) enforces competition law. At the end of August 2013, new secondary legislation was adopted by the CC for implementation of the Competition Act. These by-laws cover the assessment of vertical and horizontal agreements, the assessment of mergers as well as rules on establishing a dominant position and the assessment of abuse.

In January 2014, the Supreme Court upheld the CC's decision on the abuse of dominant position by *RED Union Fenosa* (a subsidiary of *Gas Natural Fenosa*), a system operator and supplier which also sells electricity meters. For the connection of new customers, *Gas Natural Fenosa* accepts only those electricity meters that it sells, thereby preventing other sellers of metering equipment from approaching their customers. During the reporting period the CC initiated a market study on petroleum products and liquefied gas (LPG) markets in Moldova, with a view to identifying possible anticompetitive behaviour. The study was launched in November 2013 and is still ongoing.

The State Aid Law adopted in June 2012 entered into force in August 2013. The Law foresees a prohibition of State aid along the lines of Article 107(1) of the TFEU, including for aid to providers of services of general economic interest. It also stipulates the procedure for examination of notified aid, its monitoring and recovery. The CC is entrusted with enforcing State aid rules in Moldova.

In March 2014, some amendments to the State Aid Law were adopted, making it compatible with the terminology used in the new Competition Law. On 30 August 2013, the CC adopted secondary legislation for the implementation of this Law. These acts cover the rules on the form of notification, examination procedures and decision-making on State aid, *de minimis* aid, the register of State aid, aid for regional development, research, development and innovation, environmental protection, small and medium enterprises, aid intended to remedy a serious

disturbance in the economy as well as beneficiaries offering services of general economic interest. The latter regulation transposes the Commission's Decision and Communications regarding compensation granted to undertakings providing services of general economic interest, as well as the European Court of Justice landmark judgment in *Altmark*. No case of State aid granted to the energy sector has been reviewed by the CC yet.

b. State of Compliance

Articles 18 and 19 of the Energy Community Treaty have been properly transposed into Moldovan law.

1. Competition Law

The Competition Law follows EU competition rules and thus transposes the Energy Community *acquis*. In the drafting phase of the new Competition Act, the Secretariat *inter alia* questioned the provisions in the Law giving the Government the possibility to block excessive price increases in economic sectors where competition is restricted or does not exist. It requested that such price regulation shall be limited and regulated by sector specific legislation in more details. Those comments have not been taken into account.

2. State Aid Law

The adoption and entry into force of the State Aid Law largely remedied the incompliance with the *acquis*. It is to be welcomed that the CC is tasked to enforce State aid law as well. Moreover, transposing the Court's case law as well as the non-binding EU rules on assessment of aid granted to undertakings providing services of general economic interest (in practical terms large parts of the energy sectors) is a positive development.

c. Conclusions and Priorities

The Moldovan Competition Council is one of the more active enforcers of competition law in the energy sectors and that practice should continue and even intensify in the coming period. The Secretariat hopes that also the enforcement of State aid in the energy sector will start.



Moldova

8.9 Statistics

a. Sector Overview

The Law on Official Statistics of 2004 designates the National Bureau of Statistics (NBS) as the central statistical body. It is the main producer of official statistics and is responsible for the coordination of the Moldovan statistical system. The Law gives the statistical bodies the right to obtain and collect data and to check its authenticity including by on-site inspections. Sources include respondents to surveys, administrative data held by central and local public authorities and other entities.

A governmental Decree on energy statistics was adopted in February 2014. Energy statistics are also covered by the Law on Energy which defines general rules for statistical reports and transparency.

b. State of Compliance

1. Annual Energy Statistics

Since 1990, NBS has been preparing an annual energy balance for types of fuel and energy in line with the unified format of IEA/EUROSTAT. Annual questionnaires are communicated timely to the IEA and annual data is published on NBS's webpage.

Annual data are obtained using unified questionnaires for all registered legal entities in Moldova with detailed instructions to respondents, including specially designed questionnaires for energy undertakings.

Energy consumption in households is estimated using reports of electricity, natural gas and heat distributors. A pilot survey of energy consumption in households is planned to begin this year. Firewood consumption is obtained from statistical data on agriculture. NBS established a registry of undertakings which produce and use renewable energy. Statistics on solid biofuel, waste, solar, wind or geothermal energy are not available. A new technical assistance project in the field of energy statistics funded by EU was launched in Moldova in May 2014.

Despite the shortcomings in the completeness and quality of some data, NBS is producing annual data in compliance with the *acquis*.

2. Monthly Energy Statistics

A monthly reporting scheme for primary supply of electricity, gas, oil and coal has not been established in Moldova. Moldova thus does not comply with its obligations under Regulation (EC) 1099/2008. Under the technical assistance project organized by

the Secretariat, NBS conducted a pilot survey related to monthly statistics and collected data for the compilation of monthly statistics for solid fuels, electricity, gas, oil and petroleum products compliant with EUROSTAT reporting requirements. Questionnaires and methodologies are being developed. However, full implementation depends on available resources.

3. Price Statistics

The national regulatory authority ANRE is responsible for regulating prices and monitoring the electricity and gas market. Its report on electricity and gas prices is not in accordance with the consumption bands as defined by the EUROSTAT methodology. NBS did not collect electricity and gas prices until it conducted a pilot survey in the second half of 2013 supported by the technical assistance project of the Secretariat. After the training, NBS sent methodologies and questionnaires to reporting units. However, the response was not sufficient to compile a price report compliant with the requirements of Directive 2008/92/EC.



c. Conclusions and Priorities

The main obstacle to statistics in Moldova remains the lack of human, technical and financial resources to establish a sustainable system of energy statistics. Capacity building and qualified staff in central and regional reporting units are of key importance. NBS must be equipped with the technical means and sufficient financial resources to perform its tasks.

NBS should keep up with the action plan for implementation of the rules on energy statistics developed and agreed with the Energy Community Secretariat. Monthly statistics should be introduced gradually.

Improvement of the current reporting system for electricity and natural gas prices per consumption band is required to comply with the requirements of Directive 2008/92/EC, preferably in cooperation with ANRE to reduce the burden for respondents and minimize costs.



Moldova

8.10 Open Infringement Cases

There are currently no open dispute settlement cases against Moldova.





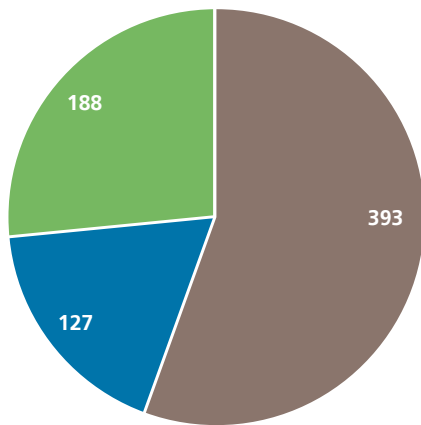
After a rough year mostly related to the decline of the biggest electricity consumer in the country, the aluminium company *KAP*, Montenegro can now focus again on opening further the electricity markets.

The legislative framework in place is among the best in the Contracting Parties and the authorities are dedicated to imple-

ment it. The draft legislation for the transposition of the Third Package is of high quality.

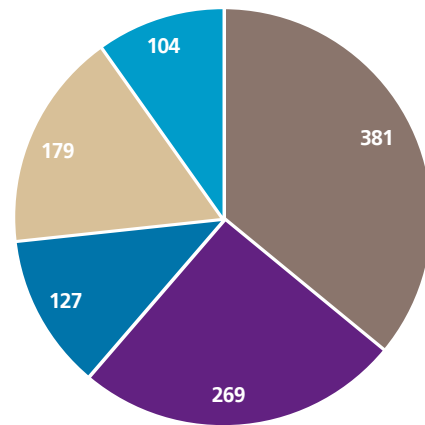
Attracting – and keeping – investments remains probably the biggest challenge now, for which the administration may have to make additional efforts in accommodating concerns raised by the investment community.

Energy mix in primary production in 2012
in ktoe (total 708 ktoe)



■ Solid fuels ■ Hydro ■ RES

Gross inland consumption in 2012
in ktoe (total 1 060 ktoe)



■ Solid fuels ■ Natural gas ■ Oil and oil products
■ Waste, biofuel ■ Hydro ■ Electricity (imported)

Source: Released data by MONSTAT, compiled by the Energy Community Secretariat





Montenegro

9.1 Electricity

Description of data [unit]		2012	2013
Electricity production [GWh]		2,715	3,809
Net imports [GWh]		1,569	195
Net exports [GWh]		353	681
Total electricity supplied [GWh]		3,932	3,323
Gross electricity consumption [GWh]		3,937	3,323
Losses in transmission [GWh]		154	142
Losses in transmission [%]		3.90%	4.28%
Losses in distribution [GWh]		541	480
Losses in distribution [%]		20.84%	18.96%
Consumption of energy sector [GWh]		9	9
Final consumption of electricity [GWh]		3,233	3,323
Consumption structure [GWh]	Industrial, transport, services and other non-residential sectors	2,008	2,107
	Households (residential customers)	1,225	1,216
Net maximum electrical capacity of power plants [MW]		875	876
Net maximum electrical capacity of power plants [MW]	Coal-fired	0	0
	out of which: multi-fired	0	0
	Gas-fired	0	0
	out of which: multi-fired	0	0
	Oil-fired	0	0
	Nuclear	0	0
	Hydro	657	658
	out of which: small hydro	8	9
	pumped storage	0	0
	Other renewables	0	0
out of which: wind	0	0	
Horizontal transmission network [km]	380 kV or more [km]	284	284
	220 kV [km]	367	367
	110 kV [km]	613	617
	HVDC [km]	0	0
	Substation capacity [MVA]	3,351	3,359
Electricity customers	Total	369,956	378,073
	out of which: non-households	32,457	33,484
	Eligible customers under national legislation	3	3
	Active eligible customers	0	3
Internal market	Electricity supplied to active eligible customers [MWh]	0.00	784,235
	Share of final consumption [%]	0%	23.59%

Source: Energy Regulatory Authority

Refer to page 203 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

The electricity sector in Montenegro is dominated by the utility *Elektroprivreda Crne Gore (EPCG)*, which performs generation, distribution and supply activities. The company is controlled by the State (55% of the shares) and the Italian A2A (43.7% of the shares). The transmission system operator *Crnogorski elektroprenosni sistem (CGES)* belongs to the State (55% of

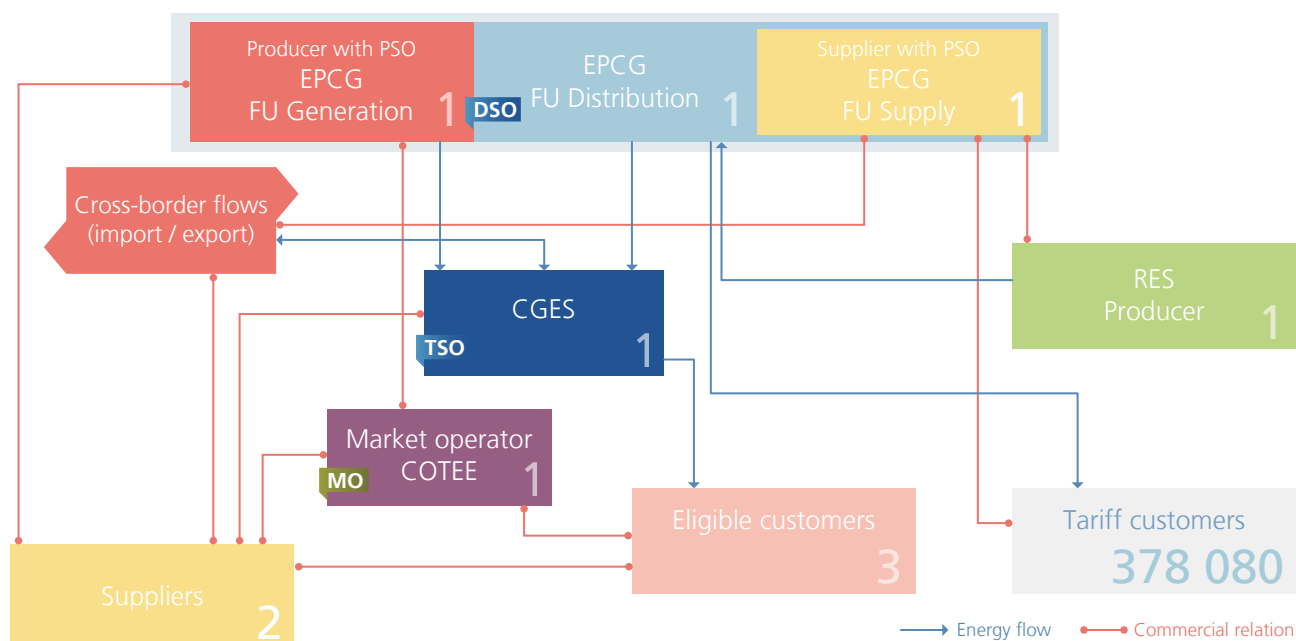
the shares), the Italian *TERNA* (some 22% of the shares) as well as several investment funds. The electricity market operator *COTEE* is fully owned by the State.

Currently there are 25 market participants registered, among which are 22 traders, two producers, two suppliers of end-customers and *CGES*. As an exception in the region, Montenegro does not require domestic licenses for trade.

The legislative framework consists of the Energy Law from 2010 and secondary legislation based on this Law. Activities to transpose the Third Energy Package started in 2013, when

amendments to the Energy Law were drafted. The Secretariat was not presented an updated draft during this reporting period.

Montenegro's Electricity Market Scheme



Source: Energy Community
Refer to the market schemes legends on page 207 for a more detailed description.

b. State of Compliance

1. Authorisation

Construction and reconstruction of energy facilities require an energy permit or a concession issued by the Ministry. Power plants with a capacity lower than 1 MW are granted construction permits following a simplified procedure. The Ministry is also responsible for invitations to tender for new infrastructure if applications for energy permits and concessions are not sufficient to meet the expected demand or ensure security of supply, in accordance with the Energy Strategy and the action plan implementing it. The procedures are in line with the *acquis*.

2. Unbundling

The Law transposes the unbundling requirements in line with the *acquis*. In reality, transmission system operation is legally unbundled from other activities. Given that the State holds the majority of shares in all key undertakings in the electricity market, the implementation of the Third Package will require further significant unbundling measures. Distribution, generation and supply are still bundled within EPCG. Functional unbundling has been implemented by establishing three functional units. However, a compliance programme was not submitted to the Energy Regulatory Authority (RAE). Accounting unbundling of the three functional units is allegedly performed, although financial statements for the regulated activities are not prepared

and published separately. In terms of unbundling distribution system operation, Montenegro fails to comply with the *acquis*.

3. Third Party Access

The Law requires network operators to ensure non-discriminatory access to all system users, unless this endangers the provision of public services. When access is denied, the affected party is entitled to complain to RAE. This is in line with Directive 2003/54/EC.

Terms, conditions and fees for access and use of transmission and distribution networks are defined in the respective rules adopted by RAE. The tariff methodology for use of the transmission network was changed in December 2013, allowing for the introduction of a generation component in transmission charges.

CGES applies rules for allocation of interconnection capacity through annual, monthly and daily auctions of interconnection capacities split 50:50 with the neighbouring systems. Congestion income is used for the reduction of tariffs.

The network operators have not yet adopted programmes and measures for ensuring non-discriminatory access to the transmission and/or distribution networks, as required by the Law and the *acquis*.

4. Eligibility

All non-household customers are eligible, under defined conditions and procedure for supplier switching. The Law also envisages that all households will become eligible in 2015. In this respect, Montenegro complies with the *acquis*.

5. Market Opening and Price Regulation

Montenegro's electricity market was entirely captive until 1 January 2013. Since then, the electricity prices for customers connected to the transmission network are no longer regulated. This concerns four customers (including the coal mine as part of *EPCG*), which subsequently switched supplier. However, there are only two licensed suppliers of end-customers in Montenegro.

Customers connected to the distribution network, *i.e.* all other customers in Montenegro, are still supplied at regulated end-user prices determined by RAE. The price of domestic generation is regulated separately based on the price in the previous period and corrected by a factor reflecting the reference market price (the European Energy Exchange (EEX) Phelix baseload settlement price for the current tariff period). A plan for the phasing-out of wholesale price regulation envisages gradual closing of the gap with the EEX price by the end of the regulatory period, *i.e.* by the end of 2015.

The Law establishes three categories for supply as a public service, *i.e.* at regulated prices. The public supplier provides supply services for customers not eligible yet, a function limited to households until full market opening, or for eligible customers which choose not to switch supplier. Secondly the supplier of last resort supplies all final customers if left without a supplier for a period of three months, and finally the supplier of vulnerable customers. By Government Decision, *EPCG* is designated to perform the role of public supplier.

The present degree of wholesale and retail market opening in Montenegro is not satisfactory. The structure of public supply and over-regulation of prices make supplier switching unattractive and in turn do not attract new market entrants.

6. Balancing

Montenegro advances in terms of compliance with the balancing requirements. The provision of balancing services and

the prices of imbalances are regulated. *EPCG* is the mandatory provider of ancillary services until the end of 2014. The market rules also establish a balancing market at market based imbalance prices for customers connected to the transmission network and operated by *CGES*. *COTEE* started the calculation of imbalances in October 2013 while financial settlements take place as of May 2014.

The distribution system operator is responsible for developing load profiles for customers without hourly meter readings. Until these documents are developed and adopted, implementation of the market rules and further opening of the market for customers connected to the distribution network is not feasible. In this context, it is noteworthy that *EPCG* has installed 170,000 smart meters and will install 80,000 additional smart meters in 2014.

7. Customer Protection and Protection of Vulnerable Customers

Public service for the supply of all customers who opt not to switch is permitted in the Law. RAE is responsible for monitoring and enforcing measures related to service quality and protection of end-users. It also decides on complaints against disconnection.

The Law defines vulnerable customers and an obligation of the Government to provide financial support for protection of these customers. RAE adopted tariffs for vulnerable customers for the tariff period until July 2015. Beyond that, the system of public service available to all customers connected to the distribution network and supply of last resort to all customers provides full protection of customers against all market risks, but goes beyond the concept of universal service under the *acquis*.

c. Conclusions and Priorities

Unbundling of distribution should be urgently tackled. *EPCG* already submitted a programme for unbundling to RAE for consideration. The ball is now in RAE's court.

The major challenge for Montenegro will be to create conditions for market opening, which primarily concerns provisions of balancing energy and allocation of balance responsibility to market participants in a market-based mechanism. Furthermore, secondary legislation on supplier switching must be developed and enforced to ensure that eligible customers can effectively make use of their rights.



Montenegro

9.2 Gas

a. Sector Overview

Montenegro has no gas market. The most likely option to bring gas to the country is the *Ionian Adriatic Pipeline (IAP)* project crossing Montenegro. The final feasibility study for this project was adopted this year. Another opportunity for Montenegro is the exploration of offshore gas resources in the Adriatic Sea.

The Energy Law of 2010 (amended in 2011 and 2013) provides the legal and regulatory framework for the gas sector. The Law aims at setting a consistent regulatory background for the organisation and development of the energy sector in Montenegro. Montenegro was the first Contracting Party to start drafting new legislation to transpose the Third Energy Package, but this process slowed down in 2014.

The company *Montenegro Bonus*, a company licensed for electricity supply as well as oil and LPG activities, was designated by the Government in September 2013 as a gas transmission system operator under Article 193 of the Law. No activities took place to upgrade the regulatory authority RAE's capacity to draft secondary legislation, which was identified as a priority in the 2013 Implementation Report.

b. State of Compliance

Despite having an excellent basis in place for future gas penetration, Montenegro has not yet properly transposed all elements of the *acquis*.

1. Authorisation

Performing any activity in the natural gas sector, except trade, requires a license issued by RAE. The conditions and procedure for licensing in the natural gas sector are defined in compliance with Directive 2003/55/EC. Besides the license, a construction permit for gas infrastructure by the Ministry in charge of energy is required.

2. Unbundling

The Energy Law provides for unbundling of the transmission and distribution system operators in line with the provisions of Directive 2003/55/EC, including requirements for the unbundling of accounts. The system operators are also obliged to adopt a compliance programme and submit it to the regulator. When transposing the Third Package, Montenegro will have to transpose and implement ownership unbundling as the only

applicable option. The designation of *Montenegro Bonus* as transmission system operator will have to be reconsidered, given that this company is licensed for electricity supply.

3. Third Party Access

Third party access to transmission, distribution, storage and LNG facilities has been transposed generally in line with the *acquis* including conditions for refusal of access and exemptions (even if the requirement to reason and publish exemption decisions is missing). The tariff system and the rules for capacity allocation have been transposed in compliance with Directive 2003/55/EC and Regulation (EC) 1775/2005. The most serious shortcoming of the Law, however, is the different treatment of national and cross-border (transit) gas transmission, which runs counter to Directive 2003/55/EC.

4. Eligibility

The Law grants eligibility to all customers with the exception of households which will be eligible as of 1 January 2015. This is compliant with the *acquis*.

5. Market Opening and Price Regulation

Considering the absence of a gas market in Montenegro, the provisions related to eligibility and supplier switching have no practical relevance at the moment. However, they do allow for non-discriminatory and unlimited market access in line with Directive 2003/55/EC once the gas infrastructure is developed.

6. Balancing

The Law requires the transmission system operator to adopt balancing rules for the natural gas transmission system and RAE to adopt the methodology for balancing services. While the existing legislation complies with Directive 2003/55/EC, Regulation (EC) 1775/2005 still needs to be transposed with regard to the balancing rules and imbalance charges.

7. Security of Supply

Although Montenegro does not have any gas infrastructure, the Energy Law defines supply standards and measures to ensure security of gas supply. The role of key institutions and market players and the development of emergency plans by the gas system operator in case of an emergency are stipulated by the Law. All requirements of Directive 2004/67/EC are transposed.

8. Customer Protection and Protection of Vulnerable Customers

The Law envisages customer protection measures as well as measures to protect vulnerable customers. The social welfare authorities will have to specify the procedure in more details. Transposition of the Third Package will require an update.

c. Conclusions and Priorities

Montenegro set up an appropriate legislative framework to allow the building of gas infrastructure and the evolution of market structures. Additional focus should be put on capacity building in the regulatory authority and the transmission system operator. The latter must also be properly unbundled.



Montenegro

10.3 Regulatory Authority

a. Organisation and Competences

The Energy Regulatory Authority of Montenegro (RAE) is the single authority for regulating the energy sector of Montenegro, as required by the Third Energy Package. RAE is headed by a Board consisting of three members nominated by the Parliament and a Director and Deputy Director nominated by the Board after obtaining a positive opinion of the Government. The Board members' terms are defined for five years, while the terms of the Director and Deputy Director are limited to four years, all renewable once. A rotation scheme as required by the Third Energy Package is already applicable in practice.

RAE's competences need to be extended to the complete set of regulatory powers and objectives foreseen under the Third Energy Package, in particular related to the right to carry out investigations, impose measures to promote competition and proper market functioning and issue penalties to gas and electricity undertakings that do not comply with their obligations or to propose to a competent court to impose such penalties.

b. Assessment of Independence

Legal provisions grant RAE the status of an institution independent from state authorities and energy undertakings. It has to be positively noted that the selection process for Board members, the Director and Deputy Director is based on a public advertisement and requires applicants' written evidence of their compliance with the extensive legal independence requirements from politics and the regulated energy sector as a precondition for appointment. The provisions regarding the dismissal of Board members, the Director and Deputy Director, however, offer room for undue political intervention listing vague reasons such as "*misrepresentation of qualifications*", "*incapability of performing duties*" or lack of acceptance of the agency's annual report by the Parliament without further specification. A relevant threat to the regulator's governing ability has to be seen in the current lack of appointment of one of the three legally foreseen Board members.

RAE complies with transparency standards required in the context of independence by publishing decisions, as well as information on the authority's organisation and structure, on its website. However, improvements should be made by publishing decision-making rules, information on how stakeholders' views were reflected in Board decisions and the basis of rulings.

Financial independence is foreseen in legislation by granting RAE the right to autonomously set regulatory fees for licensees, which form the regulator's budget. The requirement for the regulator's annual budget to be adopted by the Parliament should not be necessarily considered an undue intervention in RAE's independence since this, by law, does not involve parliamentary intervention on the detailed budget allocation. However, the need for the Parliament to approve RAE's annual report has become a tool for political intervention in the regulators' budget. Recent discussions of aligning RAE's staff member salaries to those of public servants raise concerns on the authority's ability to ensure independence by attracting qualified human resources. Cuts in salaries, including those of management, as experienced in the past, also have to be seen critically in this respect. The Secretariat is of the opinion that staff salaries need to be compatible with salary levels of the regulated industry and should be entirely decided by the regulator's management. More generally, RAE's staffing level needs to be enlarged in order to address the additional duties under the Third Energy Package.

RAE participates actively in the regulatory discussions in the Energy Community Regulatory Board (ECRB), including Presidency of the ECRB.

c. Conclusions and Priorities

The following adjustments in law and regulatory practice are key priorities for RAE:

1. RAE's competences need to be extended to the complete set of regulatory powers and objectives foreseen under the Third Energy Package.

2. Vague grounds for dismissal of Board members, the Director and Deputy Director such as “*misrepresentation of qualifications*”, “*incapability of performing duties*” or lack of acceptance of the agency’s annual report by the Parliament without further specification need to be removed.
3. Board members should be nominated as foreseen by the legislation; the current lack of appointment of one of the legally foreseen three Board members has to be overcome without delay.
4. The need for approval of the annual report concerning the situation in the energy sector by the Parliament should be replaced by simple presentation to the Parliament; the need for approval entails undue indirect pressure on the regulator’s independent decision-making.
5. RAE’s staffing level needs to be enlarged in order to address the additional duties under the Third Energy Package.
6. Staff salaries need to be compatible with salary levels of the regulated industry and should be entirely decided by the regulators’ management.
7. Transparency should be improved in relation to decision-making rules and information on the reflection of stakeholder’s views in Board decisions.



Montenegro

9.4 Oil

a. Sector Overview

Montenegro is exploring for oil in the Adriatic Sea. Three international oil and gas consortia replied to a tender for 13 blocks of 3,000 km² published in August 2013. The Ministry of Economy plans to award a concession for 30 years in autumn, subject to parliamentary approval.

The consumption of petroleum products (entirely imported) in Montenegro decreased by 6.99% to a level of around 237 kt in 2013. Storage capacity in Montenegro is currently around 200,000 cm.

The Energy Law of 2010 requires that strategic reserves of oil and petroleum products are equal to 90 days of average domestic consumption in the previous year and places the responsibility of emergency stockholding fully on industry. At the same time, it foresees the creation of a stockholding agency. In practice, no emergency oil stocks currently exist as there is a lack of clear guidelines from the Government to the industry.

There is also currently no coordinating body responsible for developing an emergency oil stockholding system and there is a serious lack of the necessary short-term data on oil imports, consumption and stocks.

The Law is currently under revision. Once adopted during 2014, a regulation more specifically describing the emergency stockholding system would have to be drafted.

b. Conclusions and Priorities

Establishing emergency oil stocks has become a priority and their crucial role for the country is being recognized also in bilateral relations with the European Union. The Ministry of Economy is highly concerned about the impact the creation of an emergency stockholding agency may have on the budget and consumer prices. There is thus a view that the responsibility for emergency stocks should be placed on the industry. Montenegro will also need to establish a monthly oil data reporting system, which is entirely lacking at the moment.



Montenegro

9.5 Renewable Energy

a. Sector Overview

1. State of Play, Legislation and Promotion of Renewable Energy

In Montenegro, electricity is mainly generated from hydropower. 635 MW (76% of the installed generating capacity) are installed in HPPs, out of which 9 MW in small HPPs. The contribution of domestic electricity from renewable sources to total final electricity consumption is around 30 - 35%, depending also on the hydrology.

With the adoption of Directive 2009/28/EC, Montenegro committed to a binding 33% target of energy from renewable sources in gross final energy consumption in 2020 compared with 26.3% in 2009. At the end of 2013, Jezerstica HPP on river Bistrica with installed power of 1 MW and an estimated annual production of 3 GWh was the only producer of renewable energy connected to the grid during the last four years. More than 30 small hydropower plants that have been awarded concession agreements remain to be built. The two wind farm projects located in Krnovo (72 MW) and Mozura (46 MW) are not yet connected to the grid.

Provisions related to electricity generated and to heating from renewable sources are included in the existing Energy Law from 2010. They are further implemented through a set of governmental Decrees of 2011, namely for privileged producers, feed-in tariffs, and guarantees of origin. Amendments to the Energy Law are currently being drafted. The proposed changes include, *inter alia*, provisions related to access to and operation of the grids for electricity from renewable sources, administrative procedures, regulations and codes, the framework for the cooperation mechanisms, monitoring and reporting obligations.

The National Renewable Energy Action Plan is currently drafted but has not yet been adopted. In July 2014, a new Energy Development Strategy to 2030 was adopted. The strategy envisages reaching the 33% target in 2020, and even estimates that Montenegro could have a renewable energy share of about 46% in gross final energy consumption in 2020. In terms of promotion of renewable energy, the Law tasks the Ministry of Economy to set the methodology for feed-in-tariffs in Montenegro. Governmental Decrees on feed-in tariffs for small HPPs, wind and biomass as well as for cogeneration and power plants that use solid waste, biogas and waste gases are in place for so-called privileged producers since 2011. The tariffs are revised annually based on the inflation index. In January 2014, a Government Decree defining the method for allocating the cost for promoting the use of energy from renewable sources to end-customers based on an incentive fee depending on the

level of electricity consumption was adopted. The regulation tasks the Ministry to set the incentive fee. The Decree further introduces the concept of a qualified buyer of electricity from renewable sources and obliges the buyer to take balance responsibility on behalf of the privileged producers of renewable energy. This role is assigned to the market operator. A bankable and *acquis*-compliant model power purchase agreement has not been adopted yet. For the purpose of providing evidence to the final customers about the share or quantity of energy from renewable sources, RAE was appointed to issue guarantees of origin for electricity generated from renewable energy sources and to maintain a register of issued guarantees.

2. Renewable Energy in Transport

Montenegro is the only Contracting Party which did not transpose a single provision with regard to renewable energy used in transport, not even the basic elements of Directive 2003/30/EC. It also does not provide any incentives for the production or use of biofuels.

b. State of Compliance

1. National Renewable Energy Action Plan

Montenegro failed to adopt and submit the NREAP required by Directive 2009/28/EC. The Secretariat launched an infringement action. The draft NREAP has been finalized and submitted to the Government for adoption.

2. Cooperation Mechanisms

The provisions related to cooperation mechanisms have not been transposed.

3. Administrative Procedures

The administrative procedures for permitting, construction and licensing remain lengthy and burdensome despite several tendering rounds for concession of water streams for small HPPs in the last years. Currently, Montenegro fails to comply with the requirements of Article 13 of Directive 2009/28/EC.

4. Grid Access

The requirements related to access to and operation of the grids as well as rules for connection to the grids for renewable energy producers provided for in Article 16 of Directive 2009/28/EC are still not entirely implemented. Due to the lack of transmission and distribution capacities, applications for con-

nections to the grids are on hold which is deterring investors. Moreover, the system operators still have not come up with plans to develop their network to integrate more renewable energy into the grids.

5. Guarantees of Origin

The 2011 Government Decree on Guarantees of Origin constitutes the framework for the issue, transfer and cancellation of guarantees of origin. However, a registry is still in the process of being established, with the national energy regulator RAE as the issuing body. Montenegro currently fails to comply with Article 15 of Directive 2009/28/EC.

6. Renewable Energy in Transport

As regards the implementation of the *acquis* related to renewable energy in the transport sector, the situation is characterized by a complete lack of compliance. The targets in transport have not been set. Article 17 of Directive 2009/28/EC related to sustainability criteria for biofuels and bioliquids has not been transposed. The lack of experience dealing with implementation of Directive 2003/30/EC related to promotion, incentives and monitoring of biofuels will delay the implementation of the new requirements. Directive 2009/28/EC defines even more complex requirements for the definition of a certification scheme and establishment of the relevant body for certification.

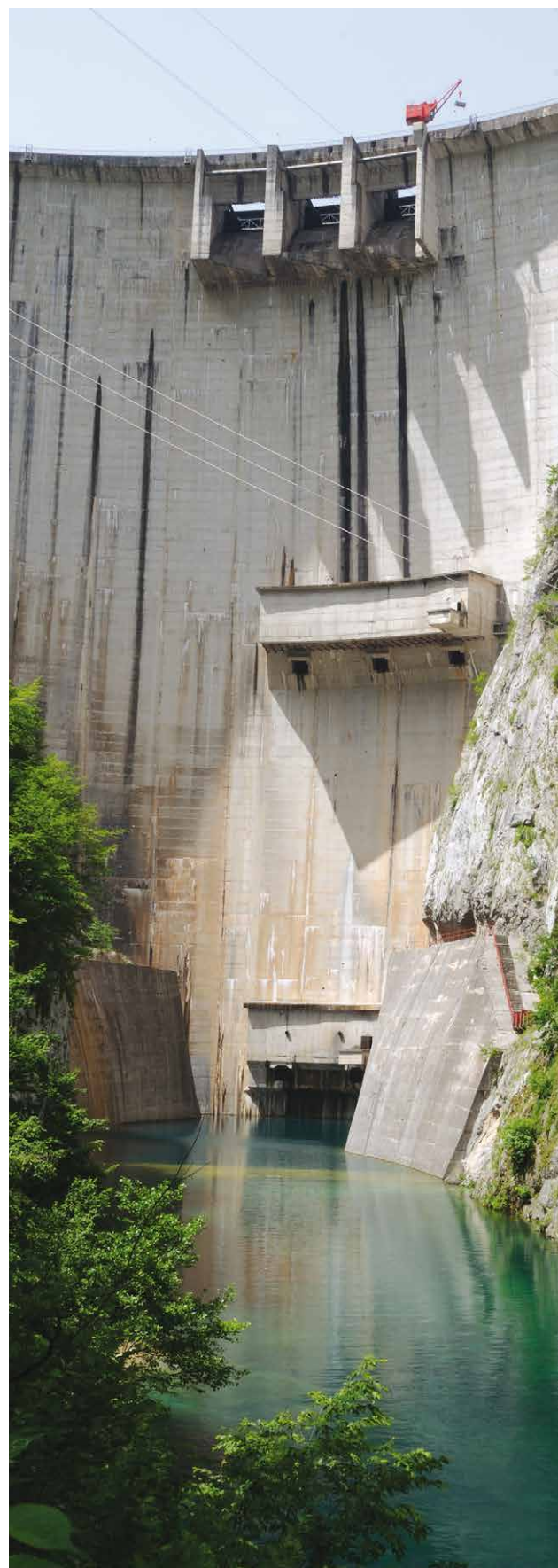
c. Conclusions and Priorities

Montenegro fails widely to comply with the *acquis* on renewable energy. Very little progress was made in the last years and significant institutional capacity is needed to ensure that the promotion of renewable energy can play an adequate role within the general energy policy objectives.

The swift finalisation of the NREAP and the adoption of the binding renewable energy target of 33% by 2020 must be the first priority, hand in hand with the adoption of amendments to the Energy Law to transpose Directive 2009/28/EC.

In the permitting and grid connection procedures, simplification (a one-stop-shop) and more transparency are urgently required in the context of a revised market model. The poor record of installing electricity generation capacities from renewable sources testifies to this.

Finally, the entire legal framework for renewable energy in the transport sector has to be set up from scratch, including targets, potentials, sustainability criteria, a certification scheme and a certification body, incentives, promotion, monitoring, etc. Efficient cooperation among many institutions will have to be urgently initiated to put Montenegro on track to fulfil the 10% target in transport by 2020.





Montenegro

9.6 Energy Efficiency

Energy Efficiency Action Plan (EEAP)*					
Period covered by EEAP		2010 – 2018			
Overall energy savings target - Directive 2006/32/EC (ktoe / % / year)		58.9 / 9 / 2018			
EEAP status		2 nd EEAP adopted on 21 November 2013			
Achieved energy savings 2010 – 2012		25 ktoe (4%)			
Key institution(s) in charge		Ministry of Economy (Directorate for Energy Efficiency); Ministry of Sustainable Development and Tourism			
Main data and energy efficiency indicators**		2009	2010	2011	2012***
Total primary energy supply (TPES) ktoe		994	1,174	1,179	1,060
Energy intensity (TPES/GDP) toe / 1,000 USD		0.36	0.42	0.41	0.37
TPES/Population toe/capita		1.58	1.86	1.87	1.71
Total final energy consumption (TFEC) ktoe		792	806	816	733
Share of TFEC by sector	Residential	42%	42%	41%	38%
	Services	0%	0%	0%	2%
	Industry	26%	24%	27%	27%
	Transport	26%	28%	26%	28%
	Others	1%	1%	0%	1%
	Non-energy use	5%	5%	5%	4%

* Source: 2nd NEEAP of Montenegro, available at: http://energetska-efikasnost.me/uploads/file/Dokumenta/Energy%20Efficiency%20Action%20Plan%20for%20the%20period%202013-2015_final.pdf

** Source: International Energy Agency

*** Indicators calculated by the Energy Community Secretariat based on preliminary energy balances for 2012

Refer to page 206 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

The primary legislative framework on energy efficiency in Montenegro was established with the adoption of the Energy Efficiency Law in 2010, as a framework law for transposition of Directives 2006/32/EC, 2002/91/EC (the old Buildings Directive) and 92/75/EEC (the old Labelling Directive). The Law is complemented by a package of by-laws establishing the methodology for setting the indicative energy savings target, the adoption of the energy efficiency action plans (on national, local and sector level), the information system for energy consumption in large energy consumers, energy inspections of heating and air conditioning systems, and energy efficiency in buildings. The Ministry of Economy recently drafted a new Law on Efficient Use of Energy, which was approved by the Government in April 2014 and submitted to Parliament. However, it has still not been adopted. The draft Law will effectively improve the transposition of Directives 2012/27/EU, 2010/31/EU and 2010/30/EU.

Montenegro adopted the second EEAP as required by Directive 2006/32/EC in November 2013. It represents a comprehensive strategic document for implementation of the energy efficiency policy in the end-use sectors for the period 2013 - 2015, with projections for 2018. The second EEAP also includes a detailed review of implemented measures envisaged by the first EEAP. However, Montenegro is lacking end-use statistical data, as

well as a system for calculation of energy efficiency indicators. Therefore the reporting on achieved energy savings, as well as monitoring of EEAP implementation, is not as accurate as needed.

The Government of Montenegro in December 2013 adopted the Energy Efficiency Operational Plan of Public Administration Institutions for 2014, which promotes the exemplary role of the public sector in line with the requirements of Directive 2006/32/EC, and further elaborates EEAP measures in the public sector. Energy efficient procurement requirements were introduced by the Law on Public Procurement of 2013, where energy efficiency is one possible criterion for awarding contracts. Guidelines and a rulebook on the methodology for determining the level of energy efficiency in public procurement procedures for goods and services have been drafted.

A Fund for Energy Efficiency was established in 2006, as an independent budget item within the State budget allocations to the Ministry of Economy. The Fund manages projects supported by the State budget, donations, loans and/or other financing mechanisms.

The Directive 2010/31/EU is being implemented jointly by the Ministry of Economy and the Ministry of Sustainable Development and Tourism, which is responsible for buildings. In addition to the Law on Efficient Use of Energy, the Law on Spatial

Planning and Construction is also relevant for the transposition and implementation of Directive 2010/31/EU. It was amended in 2013 and introduces provisions dealing with energy efficiency requirements to be fulfilled during the development of spatial/urban plans. It also imposes an obligation to calculate energy performance of buildings when preparing the specific technical documentation for new buildings, in line with the requirements of the Directive.

The key State body for implementation of the energy efficiency policy in Montenegro is the Ministry of Economy. Within the Ministry of Economy, the former Sector for Energy Efficiency was renamed as the Directorate for Energy Efficiency. The renaming did not substantially improve its status. The Directorate remains inadequate as a leading body for the implementation of national energy efficiency policy. No specialized agency for energy efficiency exists in Montenegro.

Montenegro is currently preparing for the establishment of an ESCO-friendly legal framework and the improvement of public procurement codes, with support of EBRD. Moreover, the Ministry intends to develop a building stock inventory and define reference buildings, develop national software for energy performance calculation and certification of buildings, and provide further education and capacity building in this area.

Activities for the finalisation of the Rulebook on Labelling of Energy-Related Products, which will transpose the Energy Labelling Delegated Acts, are ongoing.

b. State of Compliance

1. Directive 2006/32/EC

The Law on Energy Efficiency and the Public Procurement Law transposed Directive 2006/32/EC. The exemplary role of the public sector is promoted well by the Law and the second EEAP. The adoption of the new Law on Efficient Use of Energy will further improve implementation of Directive 2006/32/EC (clearer procedures for measurement and verification of energy savings, new register of large energy consumers, improvement of energy performance certification, definition of energy-related products and obligations for market players, establishment of an inspectorate for energy efficiency) as well as include some provisions from the Energy Efficiency Directive 2012/27/EU, namely on energy services, energy management, as well as inventory, plans and dynamics of renovation of central government buildings.

2. Directive 2010/30/EU

With regard to labelling, the Law on Energy Efficiency of 2010 transposes the general requirements of the old Directive 92/75/EEC, but not the recast Directive 2010/30/EU and the Delegated Acts. Once adopted, the draft Law on Efficient Use of Energy and the draft Rulebook on Labelling of Energy-Related Products will rectify this non-compliance.

3. Directive 2010/31/EU

The requirements of Directive 2010/31/EU have been transposed in general through the Law on Energy Efficiency, and are further implemented through the set of rulebooks adopted in May 2013. Despite compliance with the Directive, the implementation of certain requirements (*i.e.* certification of buildings and inspection of heating and air conditioning systems) will be delayed, as entry into force was postponed to January 2016.

c. Conclusions and Priorities

Despite significant progress made in the reporting period, the finalization of certain legislation requires more efforts by Montenegro.

The priority must be the adoption of the Law on Efficient Use of Energy and the missing secondary legislation, especially the Rulebook on Labelling of Energy-Related Products. In the framework of the Implementation Partnership signed with the Secretariat in June 2012, technical assistance is possible in this area.

Montenegro should improve statistical data collection and its system for calculation of energy efficiency indicators and savings, as well as monitoring of EEAP implementation. Adequate resources (human and financial) should be dedicated to improve the situation in this area. In order to achieve the indicative energy savings target, significant financial resources should be mobilized, in addition to public budget financing. It is necessary to further develop models for public private partnership in the field of energy efficiency (including ESCOs).

Finally, the institutional set-up must be improved, either by strengthening the capacities within the Ministry of Economy and local authorities or by establishing a specialised energy efficiency agency.



Montenegro

9.7 Environment

a. Sector Overview

1. Environmental Impact Assessment Directive

Environmental impact assessment in Montenegro is governed by the Law on Environmental Impact Assessment of 2005, as amended in 2010 and 2011. This Law was subject to further amendments in the course of 2013 in order to achieve full compliance with the provisions of the Environmental Impact Assessment Directive.

Further to those amendments, the Government of Montenegro adopted a Decree on Projects Subject to Environmental Impact Assessment. This Decree defines projects for which a mandatory environmental impact assessment is required (List 1) and those that have to undergo a screening procedure (List 2). Both lists are aligned with Annex I and Annex II of the Environmental Impact Assessment Directive.

2. Sulphur in Fuels Directive

The Sulphur in Fuels Directive has been transposed in Montenegro by the Law on Air Quality and the Regulation on the Limit Values of Polluting Substances in Liquid Fuels of Petrol Origin which stipulates the thresholds of 1% of sulphur content by mass for heavy fuel oil and 0.1% for gas oil. Montenegro does not have installations for the refining of oil products.

3. Large Combustion Plants Directive

Montenegro has one coal-fired plant falling under the scope of the Large Combustion Plants Directive with an installed capacity of 219 MW.

The Large Combustion Plants Directive has been partially transposed by the Law on Air Quality and the Regulation on Emission Limit Values from Stationary Sources.

Montenegro's Energy Strategy for 2030 adopted in July 2014 takes the Decisions of the Ministerial Council of 2013 into account, although it only makes a general reference to the Energy Community environmental *acquis* and does not include the Decisions of the Ministerial Council of 2013, despite the comments made by the Secretariat on the draft.

b. State of Compliance

1. Environmental Impact Assessment Directive

Montenegro has transposed the requirements of the Environmental Impact Assessment Directive into national law and is consequently in a position to effectively implement them. Therefore, efforts should be focused on the practical implementation of the legislative measures in environmental impact assessment procedures.

2. Sulphur in Fuels Directive

Montenegro has transposed the requirements of the Sulphur in Fuels Directive into its national law and is therefore in a position to fully implement its provisions in practice.

3. Large Combustion Plants Directive

The emission limit values for new plants are almost fully harmonized with those of the Directive by the Regulation on Emission Limit Values from Stationary Sources. However, there are no emission limit values set for existing plants, and the Regulation does not make a distinction between new and existing plants. Furthermore, the definition of combustion plants is not compliant with the one of the Directive.

As Montenegro only has one plant falling under the scope of the Directives, the option to adopt a national emission reduction plan is not applicable. No decision has been taken yet whether or not the only large combustion plants in Montenegro will make use of the opt-out provision provided by Decision 2013/05/MC-EnC.

c. Conclusions and Priorities

Montenegro should intensify its efforts in transposing the requirements of the Large Combustion Plants and Industrial Emissions Directives into national law. Furthermore, a decision on applying the opt-out provisions will also be necessary with a view to the submission deadline of end 2015.



Montenegro

9.8 Competition

a. Sector Overview

Competition Law in Montenegro was adopted in July 2012 and entered into force in October 2012. The Law generally follows the Energy Community competition rules. The Agency for Competition Protection (ACP) established in 2013 is entrusted with enforcing competition law. In the reporting period, Montenegro continued adopting new secondary acts. Four block exemptions were adopted by the Government of Montenegro in February 2014. No case applying competition law to the energy sector has been assessed.

State aid is governed by the Law on State Aid Control adopted in May 2009 and amended in November 2011. The Law contains a definition and a general prohibition of State aid. The Law furthermore explicitly lists cases not considered as State aid and instances where State aid is considered compliant. Granting aid for carrying out activities of public interest in performing economic activities may be considered compatible if proportionate. The Law establishes a State Aid Control Commission (SACC) consisting of four members from various State institutions and the employers association, chaired by the Ministry of Finance. The Ministry of Finance is tasked with preparing the Commission's work both procedurally and on substance. The Commission monitors and controls State aid *ex ante* and *ex post*. SACC does not have the authority to order recovery of unlawfully granted aid but can only propose measures of recovery to the Government or the competent local authority.

In the reporting period, Montenegro adopted amendments to the Decree on more detailed criteria, conditions and manner of granting State aid, providing a legal basis for introducing all interpretative instruments of the EU in the field of State aid as national rules. Those interpretative instruments cover also the EU rules on application of State aid to the energy and environmental sector. No case of State aid in the energy sector has been assessed or decided during the reporting period.

b. State of Compliance

Articles 18 and 19 of the Energy Community Treaty have been transposed into the law of Montenegro.

1. Competition Law

The Competition Law follows EU competition rules and thus complies with the Energy Community *acquis*. It transposes Articles 101 and 102 of the TFEU and also applies to "*undertakings providing services of general economic interest in principle*".

2. State Aid Law

Despite the amendments in 2011, the Law on State Aid Control still suffers from several shortcomings. The definition of State aid is not compliant as it covers only expenditures and reduced revenues of the State but not aid granted by the State or through State resources in any form whatsoever, as stipulated in Article 107(1) of the TFEU. Compatible aid includes investment in infrastructure of public interest, if the construction of such infrastructure is not in the exclusive interest of the beneficiary, which basically excludes all aid granted to undertakings providing services of interest for the public, and is thus not compliant with Article 107 of the TFEU. Moreover, the scope of applicability of the Law is limited to aid affecting trade between Montenegro and the European Union or CEFTA members thus not including all Contracting Parties (notably Ukraine).

The independence of SACC remains questionable due to its close links with the Ministry of Finance in terms of offices, professional and administrative support and nomination of the chairman and members of the Commission.

c. Conclusions and Priorities

The progress achieved in the transposition of the EU *acquis* by adopting new competition and State aid acts is not followed by progress in their implementation. Application of those rules to the energy sectors is missing in Montenegro. It should become a priority in the coming period.



Montenegro

9.9 Statistics

a. Sector Overview

The legal basis for the production and dissemination of official statistics and the organizational framework are to be found in the Law on Official Statistics and the Official Statistical System from 2012. It appoints the Statistical Office of Montenegro (MONSTAT) as the central body responsible for development of the statistical system and the programme of statistical surveys. The Law allows MONSTAT access to all relevant administrative data. The Energy Law from 2011 defines additional transparency and reporting requirements for stakeholders in the energy sector.

The Strategy for the development of statistics identified key areas which require improvement, including energy statistics. Key energy indicators are published in the Annual Statistical Yearbook.

b. State of Compliance

1. Annual Energy Statistics

MONSTAT collects and publishes energy balances containing annual data on production, import, export, transformation, consumption and distribution of electricity, coal, oil products and firewood in Montenegro. The methodology and formats are harmonized with IEA/EUROSTAT standards.

Data are obtained from regular statistical surveys in industry, transport, foreign trade, agriculture and forestry and households. Reporting units from the energy sector are companies active in production and distribution of electricity, production of heat and production of coal. Statistics on consumption of energy in services should be improved with a survey planned with the technical assistance project of the Secretariat.

In 2012 MONSTAT revised its renewable energy statistics on the basis of the first annual survey on firewood consumption, conducted within the framework of the project Forestry Development in Montenegro. Data on municipal waste is collected through the annual survey of agriculture statistics and used

for compilation of energy data. Systematic statistics on solar, wind or geothermal energy are not available. A pilot survey targeting traders of solar collectors was conducted to establish an assessment of solar energy in 2013.

Annual questionnaires are communicated timely to IEA and EUROSTAT, in compliance with Regulations (EC) 1099/2008 and 147/2013.

2. Monthly Energy Statistics

Data for monthly statistics are collected from traders of oil products and producers of electricity and coal. MONSTAT collects monthly data from a web application in the Ministry of Economy. Monthly reports on electricity and solid fuels are submitted to EUROSTAT. MONSTAT is working on developing short-term monthly statistics, including monthly oil statistics.

3. Price Statistics

Price statistics are established for electricity supplied to industrial end-users and households. Prices are reported per consumption bands and communicated to EUROSTAT. In this regard, the Directive 2008/92 is implemented. Price system reporting is not developed yet.

c. Conclusions and Priorities

From a situation where energy statistics barely existed, Montenegro over the last three years established a functional statistical system capable of implementing the requirements of the *acquis*.

Montenegro needs to increase its efforts to establish a continuous data collection system in all sectors for final consumption. A methodology and procedures to collect and compile annual renewable energy data and improving data on energy consumption will contribute to improving the quality of data.

Regarding implementation of Directive 2008/92/EC, the remaining task is to establish price system reporting.



Montenegro

9.10 Open Infringement Cases

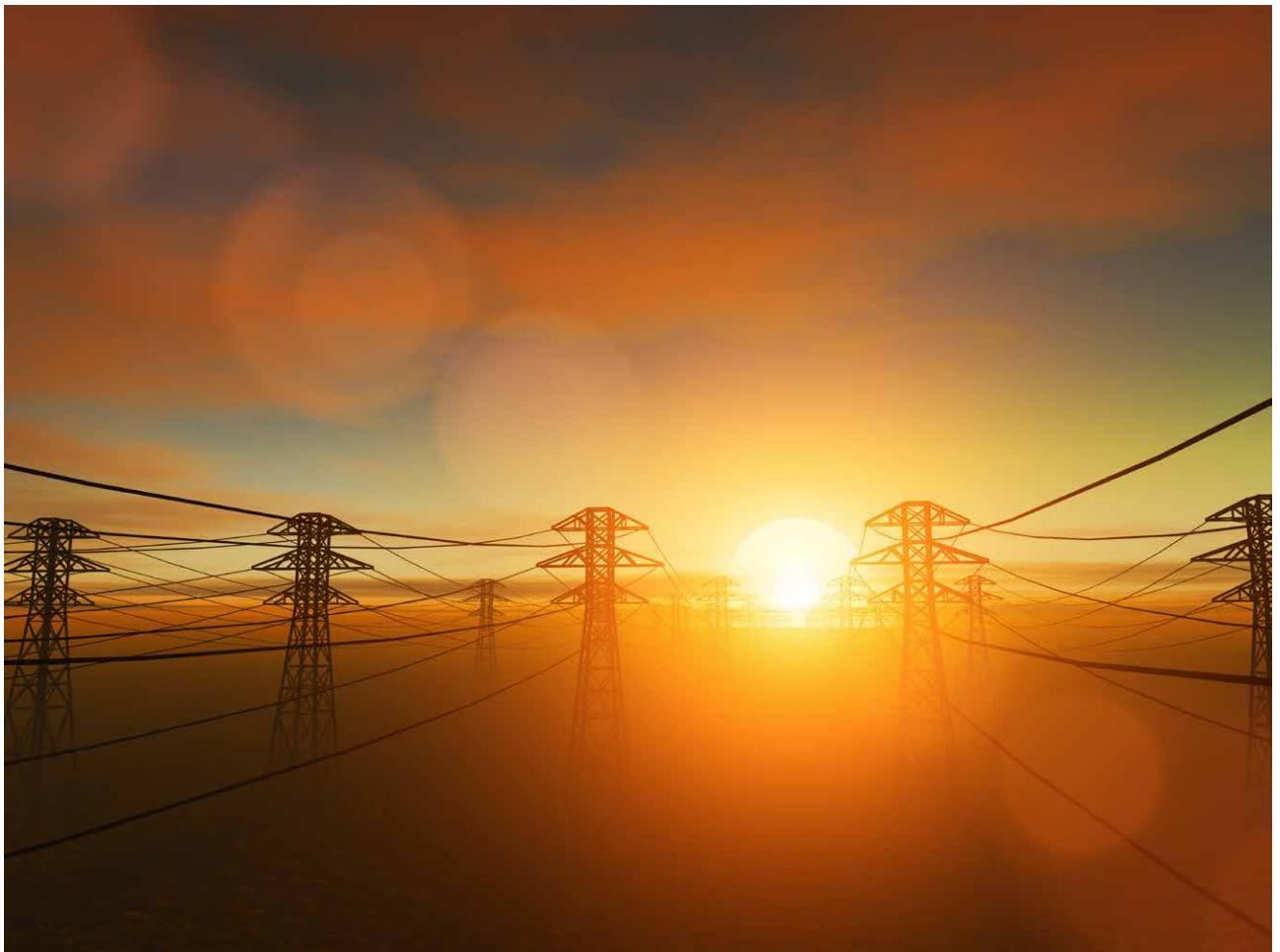
a. Non-participation of the Transmission System Operator in Regionally Coordinated Capacity Allocation

On 20 January 2011, the Secretariat sent an Opening Letter to, *inter alia*, Montenegro in Case ECS-5/11. The case concerns the lack of the transmission system operators' participation in a common coordinated congestion management method and procedure for the allocation of capacity to the market, according to their obligation pursuant to the Decision by the Ministerial Council of 2008. In March 2014, the transmission system operators of Albania, Bosnia and Herzegovina, Croatia, Greece, Montenegro, Kosovo* and Turkey established a Coordinated

Auction Office which committed to start with annual allocations in November 2014. Until then, the case remains open.

b. Lack of Adoption of a National Renewable Energy Action Plan

On 11 February 2014, the Secretariat sent an Opening Letter to, *inter alia*, Montenegro, for failure to comply with Energy Community law related to renewable energy. In the Opening Letter in Case ECS-6/14, the Secretariat addresses the failure by the country to adopt and submit to the Secretariat a National Renewable Energy Action Plan, the deadline for which expired on 30 June 2013.





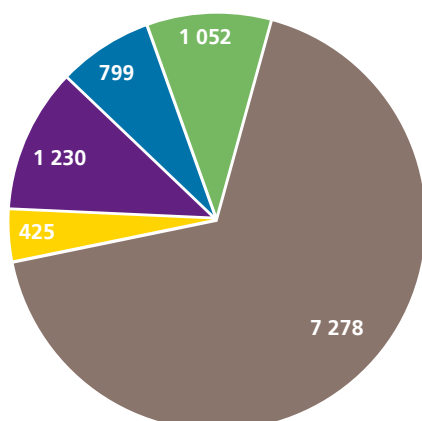
Over the last years, Serbia has proved its commitment and reliability in reforming the energy sector, in particular in electricity. The market was opened in real terms and in line with the calendar agreed with the Secretariat.

Creating and reaping the benefit of real competition, however, will require further steps including further deregulation of prices and the establishment of a power exchange. Given its importance for the region, the Serbian transmission system operator *EMS* can no longer stay outside regional initiatives for coordinated capacity allocation such as the SEE CAO.

The negotiations with the Kosovo* transmission system operator *KOSTT* were carried out in good faith by *EMS* but its signature of the inter-TSO agreement is still pending.

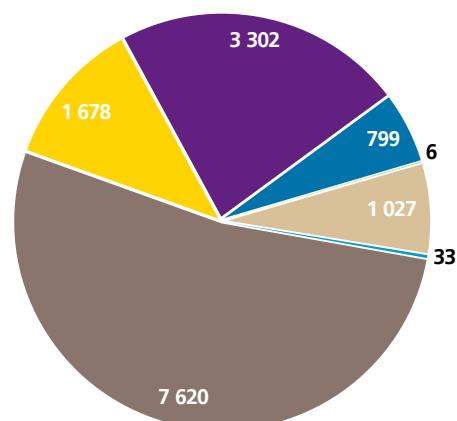
Serbia's good implementation record is tarnished by the failure to make progress in reforming the gas sector, in particular the lack of unbundling of the incumbent *Srbijagas*. The Secretariat expects real reforms in this area after the upcoming Ministerial Council.

Energy mix in primary production in 2012
in ktoe (total 10 784 ktoe)



■ Solid fuels ■ Natural gas ■ Crude oil
■ Hydro ■ RES

Gross inland consumption in 2012
in ktoe (total 14 465 ktoe)



■ Solid fuels ■ Natural gas ■ Oil and oil products
■ Hydro ■ Geothermal, solar, wind
■ Waste, biofuel ■ Electricity (imported)

Source: Released data by the State Statistical Office, RES data by the Ministry of Mining and Energy, compiled by the Energy Community Secretariat



Serbia

10.1 Electricity

Description of data [unit]		2012	2013
Electricity production [GWh]		34,546	37,537
Net imports [GWh]		2,032	2,152
Net exports [GWh]		1592	4475
Total electricity supplied [GWh]		34,986	35,214
Gross electricity consumption [GWh]		34,934	35,007
Losses in transmission [GWh]		1,022	1,013
Losses in transmission [%]		2.6%	2.4%
Losses in distribution [GWh]		4,580	4,486
Losses in distribution [%]		15.1%	14.9%
Consumption of energy sector [GWh]		1,348	1,510
Final consumption of electricity [GWh]		27,984	27,998
Consumption structure [GWh]	Industrial, transport, services and other non-residential sectors	13,940	13,851
	Households (residential customers)	14,517	14,147
Net maximum electrical capacity of power plants [MW]		7,157	7,139
Net maximum electrical capacity of power plants [MW]	Coal-fired	3936	3905
	out of which: multi-fired	0	0
	Gas-fired	356	356
	out of which: multi-fired	356	356
	Oil-fired	0	0
	Nuclear	0	0
	Hydro	2861	2871
	out of which: small hydro	39	49
	pumped storage	614	614
	Other renewables	4.3	7.3
out of which: wind	n/a	0.5	
Horizontal transmission network [km]	380 kV or more [km]	1614	1614
	220 kV [km]	1884	1884
	110 kV [km]	5804	5814
	HVDC [km]	0	0
	Substation capacity [MVA]	26713	27040
Electricity customers	Total	3,592,251	3,580,579
	out of which: non-households	384,866	396,057
	Eligible customers under national legislation	384,866	396,057
	Active eligible customers	0	26
Internal market	Electricity supplied to active eligible customers [MWh]	0	2,238,000
	Share of final consumption [%]	0%	7.99%

Source: Energy Agency

Refer to page 203 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

The Serbian electricity sector is characterised by the existence of one dominant incumbent, the vertically integrated undertaking public enterprise *Elektroprivreda Srbije (EPS)*. *EPS* performs the functions of generation, distribution and supply. Only transmission is performed by a legally separate public enterprise

Elektromreza Srbije (EMS), which is also licensed as electricity market operator. Both *EPS* and *EMS* are fully state-owned companies under the control of the Ministry of Economy.

In 2013, 32 licensed suppliers were active in the electricity market, mainly in resale and cross-border trade, while six suppliers are currently supplying final customers.

The legal framework for the electricity sector governance is the Energy Law of 2011. It provides for a staged approach to market opening. According to the deadlines set by the Law, all final customers, except households and small customers (defined as having less than 50 employees, EUR 10 million annual turnover, and being connected to the network at a voltage level below 1 kV) are being supplied at unregulated prices as from 1 January 2014.

EMS does not participate in any regional platform for coordinated long-term capacity allocation. Instead, allocation of cross-border transmission capacities on the borders between Serbia and the neighbouring EU Member States is conducted through yearly, monthly, daily and intraday joint auctions, except for the Bulgarian border where intraday auctions have not been introduced yet. On the borders with Albania, Bosnia and Herzegovina, former Yugoslav Republic of Macedonia and Montenegro, split auctions on a yearly, monthly, weekly and intra-day basis are still in place.

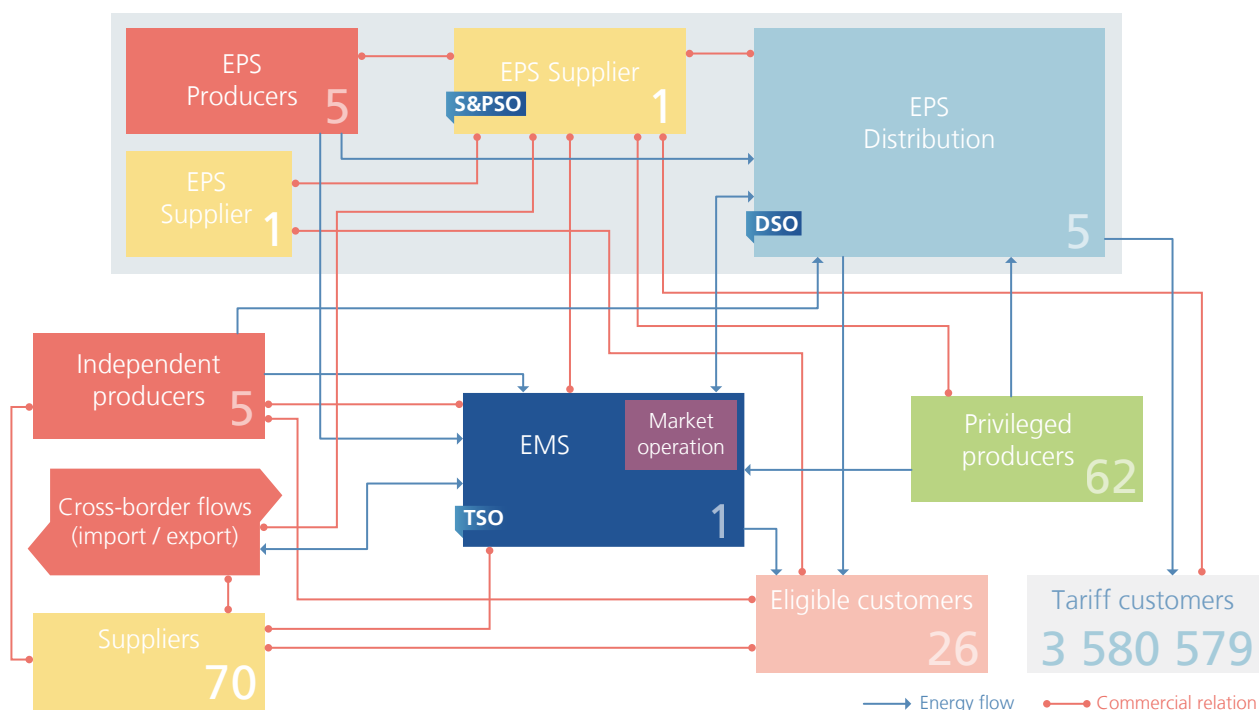
A competitive balancing market is about to be developed, for the time being with only one balancing service provider, EPS. Imbalance settlement is applied to all balance responsible parties for each imbalance settlement period (*i.e.* one hour), based

on the imbalance settlement price derived from the Serbian balancing market and taking into account activated bids from the balancing service provider and balancing energy provided from neighbouring operators based on inter-TSO agreements. In line with the market rules, bids for balancing energy are activated following the common merit order list for upward and downward regulation by EPS. Activated balancing energy is priced according to the pay-as-bid method. In 2013, activated balancing energy was 778.3 GWh, with the average price of activated balancing energy at 51.986 EUR/MWh for upward regulation and 13.852 EUR/MWh for downward regulation.

The methodology for pricing of ancillary services from EPS has been improved by AERS in 2014 by replacing the previously applied lump sum pricing by separate pricing of each ancillary service.

An agreement on principles of cooperation on the establishment and operation of *Power Market Exchange in Serbia (SEEPEX)* has been signed between EMS and EPEXSPOT in May 2014, as a first concrete step in a long-standing announcement on establishment of a Serbian organized day-ahead market. The agreement envisages establishment of a joint company SEEPEX with 75% of the shares owned by EMS and 25% by EPEXSPOT.

Serbia's Electricity Market Scheme



Source: Energy Community
Refer to the market schemes legends on page 207 for a more detailed description.

b. State of Compliance

The Energy Law is largely in line with Directive 2003/54/EC. It transposes also provisions from Directive 2005/89/EC and Regulation (EC) 1228/2003. Secondary legislation transposes further elements of those pieces of *acquis*.

1. Authorisation

The authorisation and tendering procedures are defined in the Energy Law in line with the *acquis*. The authorisation procedure, resulting in an energy permit for construction of generation capacities and network infrastructure, is defined in more details in the Rules on Conditions and a Procedure for the Application and Issuing of Energy Permits. The Ministry of Mining and Energy is responsible for conducting authorisation and tendering procedures. Authorisation procedures need to be implemented in a more transparent way and all relevant information must be made publicly available.

2. Unbundling

Legal and functional unbundling of the system operators is transposed in the Energy Law in line with the *acquis* and implemented by the transmission system operator *EMS*. Having in mind that both *EMS* and *EPS* are fully state-owned companies, controlled by the same Ministry, further measures have to be undertaken in order to ensure separation of control in line with the unbundling requirements of the Third Energy Package.

Legal unbundling of distribution system operators from supply activities was completed in July 2013, when a new legal entity for supply activities was established within *EPS*, *EPS Supply*. However, fully functional unbundling of distribution system operators is still to take place, including the adoption of compliance programmes. Serbia is violating Article 15 of Directive 2003/54/EC in that respect.

3. Third Party Access

The Energy Law's provisions on third party access to transmission and distribution systems are compliant with the *acquis*. Tariffs for access and connection to the transmission and distribution network are based on AERS's pricing methodologies. Technical aspects of connection and access to the network are defined in the transmission and distribution network codes adopted and published by the respective system operators following the approval by AERS.

Allocation of interconnection capacities is generally performed in line with the *acquis*. The allocation rules together with the results of conducted bilateral auctions, congestions, prices and other relevant data are published on the *EMS* website. The allocation of transmission capacities by *EMS* on the borders between Kosovo* and Albania, former Yugoslav Republic of Macedonia and Montenegro is subject to an open infringement case. The Secretariat has been facilitating negotiations between

EMS and the Kosovo* transmission system operator *KOSTT*. In February 2014, both companies signed a framework agreement governing operational and commercial relations between *EMS* and *KOSTT*. Based on its provisions, negotiations on an inter-TSO operational agreement have been finalized and are expected to be signed soon.

As *EMS* does not participate in any regionally coordinated capacity allocation mechanism, Serbia is currently violating Article 3 of the Annex of Regulation (EC) 1228/2003. The Athens Forum in June 2014 called upon *EMS* to present to the Secretariat by end July 2014 a roadmap with concrete actions and timelines for participation in any regional body performing long-term capacity allocation.

4. Eligibility

Eligibility is defined by the Energy Law in line with the *acquis*. All customers, except households, are eligible. Households and small customers are entitled to be supplied by the public electricity supplier *EPS Supply* at regulated tariffs approved by AERS. Households will become eligible as from 1 January 2015. Supplier switching rules in line with the requirements of the *acquis* have been adopted by AERS and are being applied since 1 January 2013.

5. Market Opening and Price Regulation

As of 1 January 2014, all final customers, except households and small customers, are not entitled anymore to be supplied by the public supplier at regulated prices. This concerns some 4,000 customers, 26 of which are connected to the transmission network. By June 2014, two customers connected to the transmission system and some 300 customers connected to the distribution network had changed supplier. Customers under an obligation to buy electricity following a public procurement procedure, on the other hand, failed to choose their supplier by the deadline. They had to exercise their right to be supplied by the back-up supplier. Following a tender, the function of back-up supply was awarded to *EPS Supply* in 2014. This possibility exists for customers not entitled to public supply during a transitional period until 1 January 2015 in cases when their new supplier goes bankrupt, its license expires or is revoked, or if a customer fails to contract a new supplier. The electricity price of the back-up supplier is 59.90 EUR/MWh for 2014. In view of the problems, the Ministry extended the maximum duration for back-up supply to 31 December 2014. Households and small customers continue to be supplied by the public electricity supplier (*EPS Supply*) at regulated tariffs approved by AERS.

6. Balancing

The balancing rules are in line with Article 11 of Directive 2003/54/EC. However, there is no competition in the balancing market which would require regional balancing cooperation. Ancillary services are procured from *EPS* based on the regulated prices determined by AERS.

7. Customer Protection and Protection of Vulnerable Customers

Customer protection provisions from Directive 2003/54/EC and to a large extent from Directive 2009/72/EC have been transposed. However, they are still not implemented fully, in particular as concerns the efficient treatment of complaints and dispute settlements. The Decree on Energy Vulnerable Customers of 2013 defines an energy vulnerable customer as a household in one housing unit with one metering point for consumed electricity, gas, or heat and is based on the total monthly income per household, the number of household members and all available assets. With regard to electricity, energy vulnerable customers are entitled to the reduction of their bill for electricity supply of 120 to 250 kWh/month, depending on the number of members in a household. This implements Article 3 of Directive 2009/72/EC. Funds for 2014 are provided from the State budget.

c. Conclusions and Priorities

Significant progress on the national level has been achieved in practical implementation of the primary and secondary legislation. Retail market opening, in line with the phase-out approach and the deadlines set by the Energy Law, represents a major step forward towards full market opening. The concept of

public supplier for households and small customers needs to be phased-out. A supplier of last resort should be introduced to ensure universal service in line with the *acquis*.

The efforts made to implement the wholesale electricity market target model were not complemented by parallel steps towards regional market integration, in particular related to long-term capacity allocation. *EMS* must quickly follow-up on the conclusions by the Athens Forum with regard to regionally coordinated capacity allocation. Additionally, the establishment and putting into operation of the announced Serbian day-ahead market *SEEPEX* (with the participation of *EMS*) has made some progress since the last Report, but more efforts are needed to realize this project and couple it with the neighbouring markets.

EMS also needs to urgently sign the inter-TSO agreement negotiated with *KOSTT*, as its implementation is of utmost importance for all next steps towards regional cooperation and market integration.

As a legislative priority, the new Energy Law transposing the Third Package must be adopted by the end of the year. In parallel, the unbundling of distribution system operators must be enforced by *AERS* in line with the Law.





Serbia

10.2 Gas

	2012	2013
Natural gas production [Bcm]	0.484	0.468
Imports flows [Bcm]	1.862	1.824
Exports flows [Bcm]	0	0
Stock changes [Bcm]	-0.298	-0.078
Total supply [Bcm]	2.048	2.214
Consumption in energy sector [Bcm]	0.703	0.592
Available for final consumption of natural gas [Bcm]	1.345	1.622
Interconnectors' capacity [Bcm]	Total	5.238
	out of which bidirectional	0
Storage working capacity [Bcm]	0.450	0.450
Length of transmission network [km]	2,391	2,398
Length of distribution network [km]	15,348	15,839
Natural gas customers	Total	258,971
	Non-households	11,584
	Eligible customers under national legislation	11,584
	Active eligible customers	7
Internal market	Households	247,387
	Gas supplied to active eligible customers [Bcm]	0.324
	Share of total consumption [%]	16.00%
Final consumption of natural gas per sector [Bcm]	2.027	2.192
Consumption structure [Bcm]	Energy transformation	0.112
	Industry and commercial customers	0.570
	Households	1.097
		0.248

Source: Energy Agency

Refer to page 205 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

The main player in wholesale and retail gas supply in Serbia is the state-owned company *Srbijagas*. It supplies all retail suppliers active in the country with gas at a uniform wholesale price. *Srbijagas* procures natural gas under long-term contracts from the Russian company *Gazprom*, the exclusive supplier to the Serbian market, through the vertically integrated company *Yugorosgaz*. *Yugorosgaz* is in the ownership of *Gazprom* (50%), *Srbijagas* (25%) and *Central ME Energy and Gas Vienna* (25%).

Srbijagas holds licenses for natural gas transmission, distribution and supply and is also designated as gas supplier of last resort. In its capacity as transmission system operator, *Srbijagas* adopted a Transmission Network Code, the main document regulating the access to the transmission network. The company also operates 95% of the gas transmission network in Serbia. *Srbijagas* also holds 49% of the shares in the underground gas storage operation *Banatski Dvor*.

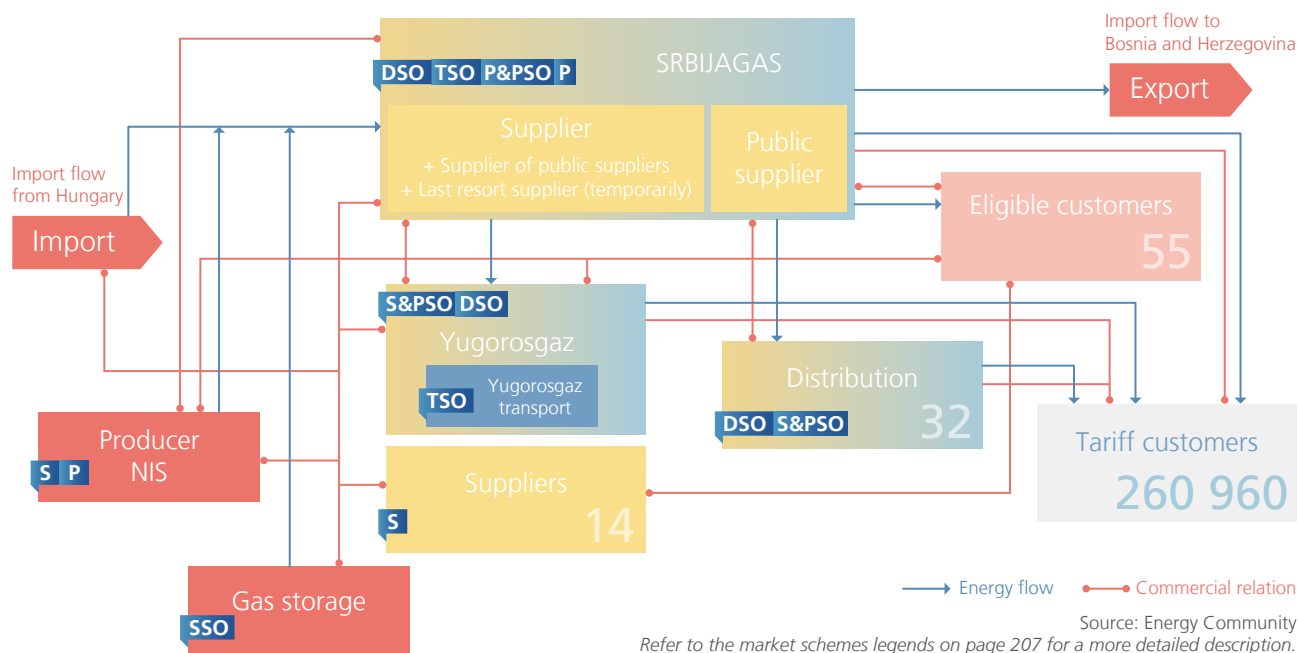
The gas pipeline system in Serbia has one entry point at the Hungarian border and is further interconnected with Bosnia and Herzegovina. The only natural gas producer in Serbia is *Naftna Industrija Srbije (NIS)*, which also has a licence for supply. In total, 33 public suppliers are licensed; of which 24 also hold licenses for unregulated supply.

The Energy Law of 2011 also governs the natural gas sector. In terms of secondary law, the Government adopted a Decree on Conditions of Natural Gas Delivery and a Decree on the Protection of Vulnerable Customers. The Ministry of Mining and Energy adopted the rulebooks on energy licenses and energy permits. The national regulatory authority of Serbia, AERS, has adopted further important by-laws governing the gas sector. Those include methodologies to determine connection costs to transportation and distribution systems, pricing methodologies for access to transmission and distribution systems and for public supply as well as a rulebook on supplier switching. AERS approves final tariffs calculated by the natural gas undertakings on the grounds of its methodologies.

When it comes to developments during the reporting period, Serbia failed to rectify the main non-compliances identified in the previous report. It did not unbundle the two transmission system operators, *Srbijagas* and *Yugorosgaz*. The Secretariat initiated an infringement procedure against Serbia, and submitted a Reasoned Request to the Ministerial Council for decision in September 2014. *Yugorosgaz Transport* drafted a grid code, which is currently being publicly consulted, while the storage

and distributed codes were not adopted and the intergovernmental agreement with Russia on *South Stream* remained unchanged. On the positive side, Serbia was actively engaged in drafting an Energy Law to transpose the Third Package. Its initial plan to have this Law adopted in June 2014 was abandoned. Adoption is now envisaged by the end of 2014. In terms of secondary legislation, AERS adopted rules on monitoring of gas supply quality on 31 December 2013.

Serbia's Gas Market Scheme



b. State of Compliance

The Energy Law is largely in line with Directive 2003/55/EC. It transposes some elements of Directive 2004/67/EC as well as of Regulation (EC) 1775/2005. Secondary legislation transposes further elements of those pieces of *acquis*. However, the implementation and enforcement of those acts fall short of what is required under the Treaty.

1. Authorisation

The Energy Law requires both a license for performing an energy activity (issued by the regulatory authority AERS) and an energy permit for construction (issued by the Ministry of Mining and Energy). The rules laying down authorisation procedures for construction and operation of gas facilities and for performing supply of natural gas are objective, non-discriminatory and made public. No refusals to grant an energy permit or an energy licence to a natural gas undertaking have been notified to the Secretariat.

2. Unbundling

The Law transposes the *acquis'* requirement for legal and func-

tional unbundling between transmission system operation and supply or production, including requirements for the unbundling of accounts. By establishing *Yugorosgaz Transport Ltd.* as a subsidiary company of *Yugorosgaz* licensed for transmission and transmission system operation on 28 August 2013, Serbia fulfilled the requirement of legal unbundling with regard to this company.

The Law requires unbundling for storage and distribution operators, if they are part of a vertically integrated undertaking, from activities not related to storage and distribution. As all retail undertakings in the Serbian gas sector serve less than 100,000 final customers, unbundling of distribution system operators factually does not take place. This is in line with Article 13 of Directive 2003/55/EC.

As required by Article 13 of Directive 2003/55/EC, the Energy Law requests from system operators the adoption of a compliance programme which sets out measures to be taken to ensure that discriminatory behaviour is excluded. The programme needs to be approved by AERS.

Despite the high level of transposition, unbundling is not implemented in practice. *Srbijagas* holds licenses for and performs

the activities of transmission system operation and supply of natural gas in Serbia, without being legally unbundled within the meaning of the gas *acquis*. *Yugorosgaz Transport* was established as a subsidiary company of *Yugorosgaz*. Both *Srbijagas* and *Yugorosgaz Transport* are not functionally unbundled within the meaning of Article 9 of Directive 2003/55/EC. Neither *Srbijagas* nor *Yugorosgaz Transport* have adopted nor apply compliance programmes as required by the Law and the Gas Directive. This is subject to case ECS-9/13 currently pending before the Ministerial Council.

The unbundling provisions of the Third Package will require further steps after its transposition in Serbian legislation.

3. Third Party Access

The Energy Law requires non-discriminatory network access to transmission, distribution system and storage facilities, as well as to upstream pipelines, as a principle rule. Detailed rules on access to the transmission network have been included in the network code of *Srbijagas*. The procedures for the exemption of new gas infrastructure from third party access are defined in line with Directive 2003/55/EC.

The Energy Law further stipulates provisions on third party access services offered by transmission system operators and on capacity allocation as general obligations of transmission system operators. This is elaborated in more details in the network code of *Srbijagas* of 2013 which follows Regulation (EC) 1775/2005. This includes capacity allocation. Secondary trading and interruptible capacity are offered as means of congestion management.

The regulatory authority approves network tariffs based on its methodologies defined and published in advance. The Methodology for Determination of the Price for Access to Natural Gas Transportation System introduces an entry-exit tariff system which transposes the corresponding requirements of the Third Energy Package.

However, in practice, there are several cases of non-compliance with the gas *acquis*.

Certain provisions in the intergovernmental agreement (IGA) between Serbia and Russia on the *South Stream* project exclude third party access *per se*. This IGA also breaches the rules related to the competences of regulatory authorities as regards tariff setting as defined by Directive 2003/55/EC. *Yugorosgaz Transport*, the second transmission system operator in the country, has not adopted a network code. Similarly, *Banatski Dvor*, the storage operator, has not adopted a storage code, as required by the Law. This calls into question the non-discriminatory access to the storage.

The Network Code of *Srbijagas* breaches Article 8 of Regulation (EC) 1775/2005 as it empowers the company to agree or disagree on any transfer of capacity rights. The code does not

envisage transfer of such capacity on a monthly and daily basis.

Moreover, not a single distribution system operator has adopted a grid code, thus jeopardizing non-discriminatory access to distribution grids.

4. Eligibility

The right to freely choose a supplier in the market can be exercised by all customers, except households, which will be eligible as of 1 January 2015. This corresponds to the Treaty.

After this date, only households and small customers (legal entities with less than 50 employees, a yearly income of less than EUR 10 million and connection to the distribution system) will have the right to be supplied by a public supplier under regulated prices.

Supplier Switching Rules were adopted in 2012 in line with the Law and with the *acquis*. Supplier switching is free of charge and must be completed within 21 days.

5. Market Opening and Price Regulation

In 2013, 55 eligible customers accounted for 34% of the gas quantities sold to end-customers. They purchased gas from the only three active suppliers on the open market - *Srbijagas*, the *Russian-Serbian Trading Corporation (RST)* and *Elgas Energy Trading*.

AERS approves the gas prices for energy supplies provided by public suppliers based on methodologies defined and published in advance. The regulated gas price varies in accordance with changes in the purchase price, the ratio between imported and domestic gas and changes in the US Dollar exchange rate.

Nevertheless, the gas market in Serbia is currently not an open market. *Srbijagas* acts as a so-called supplier of public suppliers. Despite this function should expire by 31 December 2014, it will be kept "until a competitive natural gas market is established in the Republic of Serbia" under Article 140(7) of the Energy Law. This hampers further market opening and prevents competition. While public suppliers can opt for purchasing gas from all suppliers on the market in principle, the share of *Srbijagas* on the wholesale market is somewhere close to 90%. In retail gas supply, *Srbijagas* is also the dominant market player, accounting for some 64% of total natural gas sales in 2013. The second largest supplier, the private company *RST*, accounted for a market share of 14%, followed by a public supplier *DP Novi Sad* (3.5%). *Elgas Energy Trading* comprised 3.1% of the market. The other suppliers made up less than 2% of the retail market.

The lack of distribution grid codes further prevents the creation of an open retail market. *Srbijagas* also has been appointed as a supplier of last resort (for a maximum of 60 days) for customers not supplied by the public supplier.

6. Balancing

The balancing regime, including a tolerance level and an indexed imbalance fee, is theoretically in compliance with Article 7 of Regulation (EC) 1775/2005. A virtual point for trade is envisaged in Serbia. The Network Code defines the necessary information to be published by *Srbijagas*. *Yugorosgaz Transport* has not implemented any balancing rules.

In practical terms, the balancing rules are still not being applied.

7. Security of Supply

The provisions on monitoring and reporting required by Directive 2003/55/EC have been included in the Energy Law. Other provisions have been transposed by the Decree on Conditions for Natural Gas Delivery which lays down the roles and responsibilities of market players in the event of disruption and shortages of natural gas supplies.

However, the Law still needs to define minimum supply standards. The reporting obligations must include the competitive impact of the measures on all market players. Moreover, preventive and emergency plans (as required by the Law) have not been adopted.

8. Customer Protection and Protection of Vulnerable Customers

The Energy Law sets a high standard for customer protection, in line with the Second Energy Package and including already many elements from the Third Energy Package. Besides, the Government adopted a Decree on the Protection of Vulnerable Customers. The Decree identifies criteria and manner of protecting vulnerable customers. In essence, they receive price discounts on gas supply for which the companies are compensated from the State budget since 1 January 2014.

The protection of vulnerable customers in Serbia is perhaps the most advanced in the whole region. In fact, the provisions of the Third Package in relation to vulnerable customers are already implemented in Serbia. What is still missing in terms of

customer protection is the designation of single contact points to provide customers with the necessary information concerning their rights, as well as the implementation of intelligent metering systems.

c. Conclusions and Priorities

In spite of an advanced legislative and regulatory framework in the natural gas sector of Serbia, the lack of its enforcement represents a serious barrier to market opening and competition.

The dominance of one state-owned market player, supplied under a long-term contract by only one external supplier which is likely to violate the competition *acquis*, compromises Serbia's generally advanced implementation record in the energy sector. In other words, the gas chapter is the Achilles heel of Serbia's energy sector. The unjustifiable refusal to unbundle *Srbijagas* is an illustration of how urgently that sector needs to be fundamentally reformed. *Srbijagas* is also facing unbearably high indebtedness. Tied with high import prices of gas and a low collection rate, this situation has reached a critical point. Against this backdrop, the Government's gas policy lacks sustainability and will fail to deliver what lies at the core of competitive gas markets - security of abundant and affordable supplies.

Serbia will have to address these problems urgently and still this year. Only transmission system operators which are unbundled from other market activities and profitable will be capable of delivering the infrastructure needed for the overall security of supply by diversification of sources, routes and counterparts. The implementation of the Third Package provisions and rectifying the non-compliance with the unbundling requirements, as identified in the Reasoned Request, will help resolving the unsustainable situation in the Serbian gas sector.

Finally, AERS and the Ministry are engaging in regional cooperation, but the transmission system operators are staying aside. They should follow the example set and cooperate more intensively with the ENTSO-G.





Serbia

10.3 Regulatory Authority

a. Organisation and Competences

The Energy Agency (AERS) is the single authority for regulating the energy sector of Serbia, as required by the Third Energy Package. AERS is headed by a Council consisting of a President and four members with five-year terms, renewable once. Council members are elected by the National Assembly once a selection process based on a public announcement conducted by a selection committee consisting of two governmental representatives and three experts in the energy sector has taken place. A rotation scheme for Council members as required by the Third Energy Package is foreseen by law.

The competences of AERS need to be extended to the complete set of regulatory powers and objectives foreseen under the Third Energy Package, in particular related to the right to carry out investigations, impose measures to promote competition and proper market functioning and issue penalties to gas and electricity undertakings that do not comply with their obligations or to propose to a competent court to impose such penalties. Currently AERS may propose imposing penalties to a court (the Trade and Administrative Court).

b. Assessment of Independence

Legal provisions grant AERS the status of an institution independent from any governmental body as well as from organizations and persons engaged in energy activities. It has to be positively noted that the election process for Council members entails an outstanding level of neutrality, including a public announcement, a selection committee and a legally stated requirement for applicants to comply with extensive legal independence requirements from politics and the regulated energy sector.

AERS complies well with transparency standards required in the context of independence by publishing decisions, as well as information on the authority's organisation and structure, on its website.

Financial independence is, in principle, foreseen in legislation by granting AERS the right to autonomously set regulatory fees for licensees forming the regulator's budget. The requirement for the regulator's annual budget to be adopted by the National Assembly should *per se* not be necessarily considered an undue intervention in independence. However, practical experience shows that the annual 2013 and 2014 budgets of AERS were

not approved outright. Instead, they were forwarded by the National Assembly to the Government and Ministry of Finance for opinion. The latter's intervention in particular related to reduction of staff salary has to be considered an undue intervention in the financial independence of the regulator. The lack of an outright approval of the annual budget limits the regulator's autonomy in using its budget due to an unpredictable financial status for the following year and thereby also obstructs its independence. Further to this, the fact that staff salaries are subject to the Law on Maximal Level of Salaries in the Public Sector and the Law on Decreasing Net Income of Employees in the Public Sector (as of 2014) negatively influences the authority's ability to ensure independence by attracting qualified human resources. The Secretariat is of the opinion that staff salaries need to be compatible with the salary levels of the regulated industry and should be entirely decided by the regulator's management.

Moreover, the staffing level of AERS needs to be enlarged in order to address the additional duties under the Third Energy Package.

AERS participates actively in the regulatory discussions in the Energy Community Regulatory Board (ECRB), including chairmanship of the ECRB Electricity Working Group.

c. Conclusions and Priorities

The following adjustments in law and regulatory practice are key priorities for AERS:

1. The competences of AERS need to be extended to the complete set of regulatory powers and objectives foreseen under the Third Energy Package.
2. The staffing level of AERS needs to be expanded in order to address the additional duties under the Third Energy Package.
3. The annual budget of AERS needs to be promptly approved by the National Assembly in order to guarantee financial independence and predictability to the regulator.
4. Staff salaries need to be competitive with salary levels of the regulated industry and should be entirely decided by the regulator's management.



Serbia

10.4 Oil

a. Sector Overview

In Serbia oil production was around 1.23 mt in 2013, 6.5% higher than in 2012. Production growth has significantly benefitted from new technologies applied in the production process. Import of crude oil has been around 1.6 mt/year, 50.8% higher than in 2012. As regards the domestic production of petroleum products, the volume of 3.085 mt of petroleum products processed in 2013 constitutes an increase by 36.1% compared to 2012. The estimated export of petroleum products increased by 87% compared to 348 kt in 2012. The estimated import of petroleum products decreased by 27% compared to a level of around 1 mt in 2013. The overall consumption of petroleum products in 2013 was 3.592 mt (an increase of 11% compared to 2012).

The modernization of the refineries is ongoing. Around EUR 350 million was invested by *Naftna Industrija Srbije* (NIS) during 2013, part of it into the modernisation of the *Pančevo* refinery. In comparison to 2012, the depth of refining (a sum of the products, less fuel oil, less refinery fuel, and less losses, expressed as a function of crude capacity) rose by 9% to 83.79% in 2013. The production of white products (light fuel oil, automobile and aviation fuels) rose by 11.6% totalling 75.05% in 2013. The *Pančevo* refinery introduced the production of 98 octane motor fuel and biodiesel. Further envisaged investment by NIS of at least EUR 300 million can turn the *Pančevo* refinery into the most technologically advanced in the region.

Oil reserves in Serbia are regulated by the Commodity Reserves Law adopted in December 2013. The draft was elaborated in close cooperation with the Secretariat. With this Law (and in particular its Articles 15 to 31), Serbia has transposed the most relevant provisions of the Directive 2009/119/EC on emergency oil stocks, including the definition of emergency oil stocks, calculation of obligations and stock levels, stocks availability, reporting, management of oil stocks by a Central Stockholding Entity, financing, emergency preparedness, emergency procedures and penalties.

b. Conclusions and Priorities

The new Commodity Reserves Law represents a solid ground for the establishment of Serbian emergency oil stocks and a huge step forward towards the full transposition of Directive 2009/119/EC. However, in order to complete this transposition, several regulations and by-laws should be adopted by the Serbian Government and the Ministry. A working group tasked to draft these by-laws was established and started to work. Adoption of all secondary legislation by the end of 2014, including action plans or roadmaps for the establishment of emergency oil stocks, will allow Serbia to proceed with the establishment of these oil stocks within 2015.

Upgrading of the existing refinery and storage capacities is another priority for Serbia.



Serbia

10.5 Renewable Energy

a. Sector Overview

1. State of Play, Legislation and Promotion of Renewable Energy

Besides the 2,822 MW in existing large hydro power plants (HPPs) including 614 MW in pump storage, Serbia has currently additional 49 MW in small HPPs, 4.8 MW in biogas power plants, 3.8 MW in solar PV and 0.5 MW installed in wind. Four plants with a total annual capacity of 81,000 t are currently in operation for biodiesel production, of which the largest plant alone has a capacity of 75,000 t per year. Eleven bioethanol producers dispose of capacities around 45,000 hl/year. One Serbian biodiesel producer is active on the market.

Under Directive 2009/28/EC, Serbia committed to a binding 27% target of energy from renewable sources in gross final energy consumption in 2020 compared with 21.2% in 2009.

The Government adopted a National Renewable Energy Action Plan (NREAP) describing the policies and measures to achieve a 27.3% share in 2020 in June 2013. It envisages increases of renewable energy shares in electricity to 36.6% from 28.7%, for heating and cooling to 30% from 28.7% and for the transport sector to 10% from 0% in 2009. The renewable energy needed to meet the 27% target is estimated at 2,563.6 ktoe and should come from an additional 1,092 MW of renewable energy capacities in electricity, 149 ktoe of energy consump-

tion from renewable sources used for heating and 246 ktoe of renewable energy in transport. Currently, investment in renewable energy remains minimal.

The legal framework for renewable energy is split among several laws and by-laws. The Energy Law of 2011 sets the main framework for renewable energy, including the transport sector. The Law is currently under revision with the objective of, *inter alia*, transposing Directive 2009/28/EC. The Government in 2013 and 2014 adopted relevant by-laws related to (1) the conditions for issuing energy permits, (2) acquiring the status of a privileged producer, (3) incentive measures for privileged power producers, (4) the method for calculation and allocation of funds collected for the purpose of incentive remunerations for privileged power producers, (5) the amount of feed-in tariffs for different technologies, (6) power purchase agreements, (7) guarantees of origin, and (8) requirements for biofuels (from 2006).

As regards the promotion of energy from renewable sources, Serbia applies a feed-in tariff model since 2009, and updated it in 2011 and 2013. Generators of energy from renewable sources are considered privileged producers. This applies to HPP below 30 MW and wind and solar PV up to certain capacity limits. According to the NREAP, Serbia plans to develop only 500 MW in wind until 2020 and introduces an intermediate cap of 300 MW until the end of 2015. For solar PV, there is an overall cap of 10 MW until 2020. Privileged producers are entitled to a feed-in tariff, established according to a pre-defined methodology based on capacity for energy from wind, hydro (up to 30 MW), solar PV, biomass, biogas geothermal, waste and landfill and sewage gas for a period of 12 years. It is paid by the state-owned electricity incumbent *EPS Supply* which is under an obligation to purchase all renewable energy generated by privileged producers under power purchase agreements. The purchase commitment may also be secured by a first-demand bank guarantee. The guaranteed purchase price in the form of a feed-in tariff is being passed on to customers through a surcharge applied to all electricity end-users. For 2014, the renewable energy surcharge levied on end-users has been determined at 0.081 denars/MWh (ca. 0.001 €EUR/MWh). The feed-in tariff is adopted in EUR/MWh and indexed with the inflation rate in the Eurozone. Privileged producers are also exempted from balancing responsibilities and costs during the entire 12 years. The transmission system operator *EMS* has been appointed as the issuing body for guarantees of origin.

So far, Serbia is the only Contracting Party that plans to transfer excessive renewable energy to an EU Member State within the framework of the Directive's cooperation mechanisms under Article 9 (joint projects between EU Member States and third countries). An agreement between Italy and Serbia for the joint development of 10 small HPPs was ratified by the Serbian Parliament, but has not yet been finalized by the Italian Government. It envisages the physical transfer of the electricity produced (estimated at 84 ktoe in the years 2016 – 2020) for consumption in Italy and counting towards Italy's target.

2. Renewable Energy in Transport

Serbia's NREAP includes the 10% target in transport. Expressed in terms of gross final energy consumption, renewable energy in the transport sector will have to reach 246 or 267 ktoe, depending on the foreseen scenarios, *i.e.* with or without energy efficiency measures. The Energy Law of 2011 envisages the adoption of sustainability criteria for biofuels. A working group is expected to finalize the respective draft regulation by September 2014.

Furthermore, a Law on Incentives in Agriculture and Rural Development, adopted in 2013, already covers energy crops sustainable for biofuels production, which are eligible for financial incentives to farmers. The total budget available for such incentives as well as the types of supported crops will be defined by the Government on a yearly basis. However, compliance with the sustainability criteria defined by Directive 2009/28/EC has not been made a precondition for eligibility for incentives.

b. State of Compliance

The Energy Law of 2011 already reflects to a great extent the main principles of Directive 2009/28/EC. The upcoming revision provides the chance to fully transpose this Directive.

1. National Renewable Energy Action Plan

The NREAP adopted by the Government has been notified to the Secretariat by the deadline of 30 June 2013. Serbia thus complied with the first binding obligation under the Ministerial Council's Decision of 2012. With the adoption of the NREAP by the Government, Serbia also complies with the obligation of adoption of a binding 27% share of renewable energy in 2020.

2. Cooperation Mechanisms

Cooperation mechanisms as described in the Directive 2009/28/EC and as adapted by Ministerial Council Decision 2012/04MC-EnC still need to be transposed. Currently Serbia does not comply with the *acquis* in this respect.

According to the adapted Directive 2009/28/EC, Serbia needs to notify the Secretariat of the ratified agreement between the Serbian Ministry of Energy and two Italian Ministries for the cooperation on joint renewable energy projects.

3. Administrative Procedures

The procedures for authorization, licensing and network connections need to be further simplified and coordinated by the various institutions involved. Regardless of Investors' Guides for various renewable energy technologies published on the Ministry of Energy's website, the procedures remain lengthy and not streamlined. However, a one-stop-shop approach is envisaged in the NREAP for authorization of renewable energy

projects in the future. Out of more than 100 permits issued for renewable energy projects in the last five years, very few have led to actual construction. A framework power purchase agreement (PPA) contract compliant with the *acquis* should be adopted to make projects bankable. Serbia is currently not compliant with Article 13 of Directive 2009/28/EC.

4. Grid Access

Currently, the Law does not include guaranteed or priority access nor priority dispatch for electricity or gas produced from renewable sources. This is not compliant with the *acquis*. The Transmission and Distribution Grid Codes have been reviewed to implement requirements for producers of renewable energy related to connection and operation of the grids. However, the transmission system operator has yet to clarify the approach related to assets and cost of connection to the network in a non-discriminatory way. The recent annulment (and subsequent reissuing) of a construction permit for a wind farm project raises doubt as to whether Serbia fully complies with Articles 13 and 16 of the Directive.

5. Guarantees of Origin

In January 2014, the Government adopted Rules on Issuing, Transfer and Cancellation of Guarantees of Origin. The Rules fail to provide to final customers information on the share or the quantity of energy from renewables in the supplier's mix, in accordance with Article 3(6) of Directive 2003/54/EC and Article 15 of Directive 2009/28/EC. EMS as the issuing body for guarantees of origin has to start the implementation of an accurate, reliable and fraud-resistant system in accordance with EU practice.

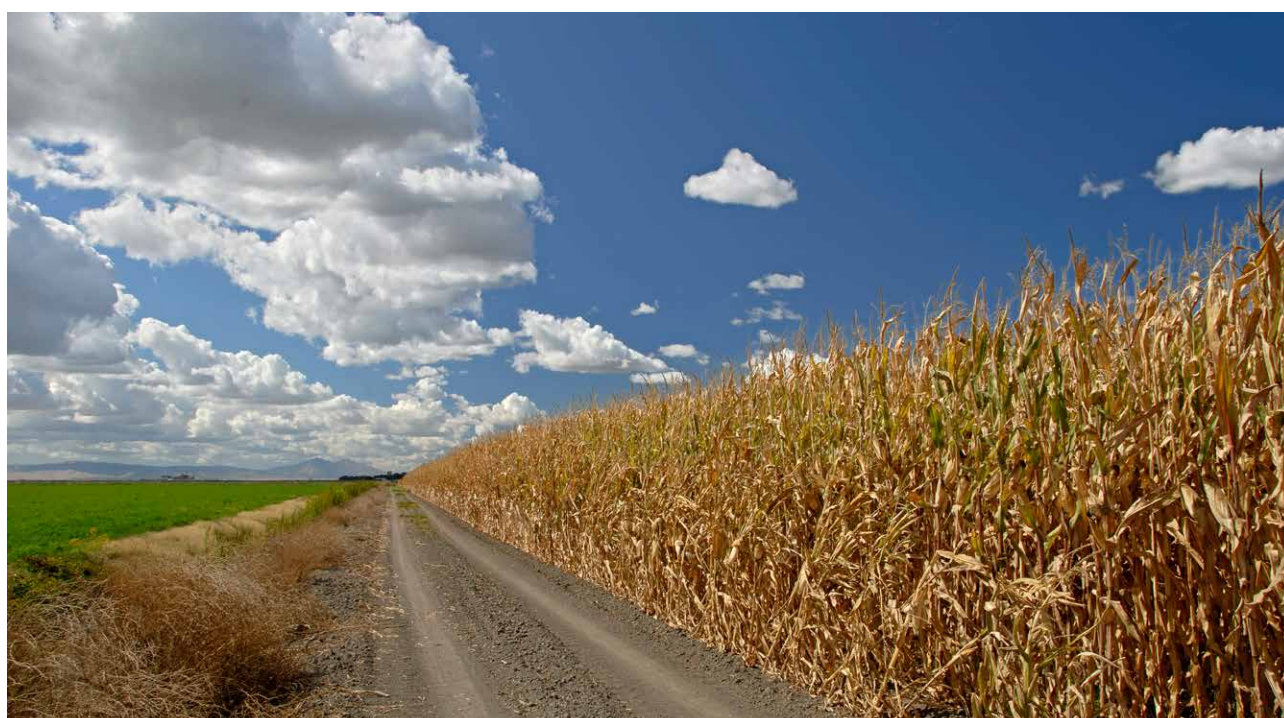
6. Renewable Energy in Transport

The actual share of energy from renewables in transport is close to 0%. Serbia has not even achieved the biofuels targets set previously by the Energy Development Strategy Action Plan 2007 – 2012 (namely 2.28% in 2012). This is directly related to the wide gaps in the legal framework. Even measures already required by the old Directive 2003/30/EC such as monitoring, promotion and reporting requirements have not been established in Serbia. Furthermore, there is no certification scheme defined or relevant body established. In this situation, Serbia does not only violate Energy Community law. Producers using Serbian stock may be prevented from entering the EU biofuels market.

c. Conclusions and Priorities

In the reporting period, Serbia has made some progress in upgrading its renewable energy legislation, mostly on the level of secondary legislation. However, Serbia is not on track to meet its 2020 targets. The Secretariat might call for a revised NREAP if there is no progress in production of renewable energy. It is to be noted that the impact of the legislative conditions on the actual deployment of renewable energy in the last years was minimal. Unclear, uncoordinated and cumbersome permitting, authorization and connection procedures deter potential investment.

The timely revision of the Energy Law to ensure full compliance with Directive 2009/28/EC should be the focus in the upcoming months. This includes the introduction of sustainability criteria and a certification system for liquid biofuels, where Serbia failed to make any progress despite the Secretariat's repeated reminders.





Serbia

10.6 Energy Efficiency

Energy Efficiency Action Plan (EEAP)*						
Period covered by EEAP		2010 – 2018				
Overall energy savings target - Directive 2006/32/EC (ktoe / % / year)		752 / 9 / 2018				
EEAP status		2 nd EEAP adopted and published on 21 October 2013				
Achieved energy savings 2010 – 2012		102 ktoe (1.22%)				
Key institution(s) in charge		Ministry of Mining and Energy; Ministry of Construction, Transport and Infrastructure; other state and local authorities				
Main data and energy efficiency indicators**		2009	2010	2011	2012***	
Total primary energy supply (TPES)		ktoe	15,177	15,536	16,185	14,463
Energy intensity (TPES/GDP)		toe / 1,000 USD	0.55	0.56	0.57	0.52
TPES/Population		toe/capita	2.07	2.13	2.23	2.00
Total final energy consumption (TFEC)		ktoe	8,786	9,479	9,778	8,622
Share of TFEC by sector	Residential	%	35%	33%	32%	36%
	Services		8%	7%	8%	10%
	Industry		23%	25%	28%	28%
	Transport		25%	23%	20%	20%
	Others		3%	4%	4%	2%
	Non-energy use		7%	8%	8%	4%

* Source: 2nd EEAP of Serbia

** Source: International Energy Agency

*** Indicators calculated by the Energy Community Secretariat based on preliminary energy balances for 2012

Refer to page 206 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

In March 2013, the Law on Efficient Use of Energy was adopted in Serbia. It transposes key provisions of Directives 2006/32/EC, 2010/30/EU and 2010/31/EU and includes rules on energy management, labelling of energy-related products, energy performance in buildings, energy efficiency requirements in energy production, transmission and distribution, financial mechanisms for energy efficiency, including the establishment of an Energy Efficiency Fund, and the promotion of the energy services market. In October 2013 the Government introduced a new financing instrument through the Decree on the Establishment of a Budgetary Fund for Energy Efficiency, and Regulation on Conditions for the Distribution and Use of the Fund in January 2014, and a Programme for Financing of Energy Efficiency Measures for 2014. The Government allocated to the Fund around EUR 2.6 million from the State budget for the current year.

Nevertheless, the decision to abolish the Energy Efficiency Agency in 2012, despite the recommendations made by the Secretariat, raises concerns regarding the implementation of the energy efficiency policy that is at present assigned to a department in the Ministry of Mining and Energy.

The Law on Public Procurement of 2012 introduced provisions on energy efficiency as a selection criterion in public procurement, as well as on procurement of energy services, while

the Law on Efficient Use of Energy introduced the concept of energy services and ESCOs, and outlined a model contract. However, energy efficiency procurement and the market for energy services are still underdeveloped in Serbia.

In October 2013, the second Energy Efficiency Action Plan (EEAP) was adopted by the Government. It represents a comprehensive strategic document for the implementation of the energy efficiency policy in the end-use sectors for the next three-year period (2013 - 2015), with projections for 2018. The EEAP sets an intermediate indicative energy savings target of 398 ktoe (4.7%) in 2015. It provides an analysis of the implementation of the first EEAP and reported on the achieved energy savings in the period 2010 - 2012, amounting to 102 ktoe (1.22%).

In October 2013, the Ministry of Mining and Energy adopted the Decree on Labelling of Energy-Related Products. In January and February 2014, it also adopted a set of rulebooks to transpose Directive 2010/30/EU and the delegated regulations.

The Law on Construction and Planning of 2009 (as amended in 2013) follows the structure and the content of Directive 2010/31/EU and constitutes the legal basis for further introduction of norms and standards on energy efficiency in buildings. Rulebooks on Energy Efficiency of Buildings (2011) and on Conditions, Content and Manner of Issuance of Certificates of

Energy Performance of Buildings (2012) were already adopted. The Institute for Standardization is gradually adopting a set of CEN standards dealing with energy performance of buildings. Other provisions such as inspection of heating and air conditioning systems, training and accreditation of experts, and energy audits will be implemented with the adoption of by-laws on the basis of the Law on Efficient Use of Energy.

b. State of Compliance

1. Directive 2006/32/EC

The Law on Efficient Use of Energy transposes the main provisions of the Directive 2006/32/EC (definitions, EEAP requirements, energy audits, minimum energy efficiency requirements in generation, transmission and distribution of electricity, new financing mechanisms and obligations of the public sector). The second EEAP was adopted by the Government in October 2013. The calculation of the national indicative energy savings target is not fully in compliance with Article 4 of the Directive, as it is not on the basis of average annual amount of consumption for the most recent five-year period, but on the basis of data on the final inland energy consumption in 2008, due to statistical data constraints. The Ministry of Mining and Energy is currently drafting a comprehensive package of secondary legislation to further the full implementation of Directive 2006/32/EC.

2. Directive 2010/30/EU

Directive 2010/30/EU and Delegated Acts were fully transposed with the adoption of the Decree and Rulebooks on the Labelling of Energy-Related Products in 2014.

3. Directive 2010/31/EU

The Law on Construction and Planning, the Law on Efficient Use of Energy, the Rulebook on Energy Efficiency of Buildings and the Rulebook on Conditions, Content and Manner of Issuance of Certificates of Energy Performance of Buildings transpose relevant provisions of Directive 2010/31/EU. How-

ever, transposition and implementation of certain provisions (on inspection of heating and air conditioning systems, training and accreditation of experts, etc.) will be achieved only after adoption of the secondary legislation on the basis of the Law on Efficient Use of Energy.

c. Conclusions and Priorities

With the adoption of the Law on Efficient Use of Energy, the second EEAP and Labelling Regulation, Serbia achieved a significant step forward towards the transposition of the energy efficiency *acquis*. However, more needs to be done in the near future for full implementation.

The first priority for Serbia is the finalisation and adoption of the comprehensive set of secondary legislation based on the Law on Efficient Use of Energy. The timely adoption of the secondary legislation will also support the implementation of the second EEAP and the achievement of the energy savings target.

The second priority is the establishment of a stable and sustainable financing mechanism or mechanisms for effective implementation of the second EEAP. The establishment of the Budgetary Fund for Energy Efficiency is a significant step forward, but the Secretariat is concerned about the sustainability and the limitations posed by the earmarked public budget funds, as well as the possibility to attract other funds and blend these with the public ones in the current legal set up of the Fund. In order to achieve the indicative energy savings target, significant financial resources should be mobilized, in addition to public budget financing. It is necessary to further develop models for public private partnerships in the field of energy efficiency (including ESCOs). The activities planned under the EBRD's "*Regional Energy Efficiency Programme*" may significantly support these activities.

The capacities in Serbia should be strengthened in the area of policy-making in the Ministry of Mining and Energy and at the implementation (local) level and in other institutions involved in the second EEAP.



Serbia

10.7 Environment

a. Sector Overview

1. Environmental Impact Assessment Directive

Environmental impact assessment in Serbia is governed by the Law on Environmental Impact Assessment of 2004, as amended in 2009. The list of activities requiring an environmental impact assessment is transposed by a Decree adopted in 2011. Following the entry into force of the new Environmental Impact Assessment Directive (2011/92/EU) in the European Union, Serbia started revising the Decree on the Lists of Projects according to Annex I of the new Directive (projects for which an environmental impact assessment is mandatory). This exercise, however, has been postponed to 2015 due to comments made by the European Commission in the bilateral screening process. During the reporting period, twelve environmental impact assessments were carried out in the energy sector, one of which concerns a Project of Energy Community Interest (construction of the new unit of TPP Kostolac B3).

2. Sulphur in Fuels Directive

The Sulphur in Fuels Directive is transposed through the Rulebook on Technical and Other Requirements for Petroleum-Derived Liquid Fuels. By amendments to the Rulebook in the course of 2013, heavy fuel oil HFO-T has been banned in Serbia.

3. Large Combustion Plants Directive

Serbia has nine plants operated by *Elektroprivreda Srbije (EPS)* falling under the scope of the Large Combustion Plants Directive with a total of twenty-one units and a total installed capacity of 4,679 MW. Eighteen units are coal-fired while three are run on natural gas.

Currently, emissions of large combustion plants are regulated by the Decree on the Emission Limit Values of Polluting Substances to Air in Serbia. This Decree contains detailed technical requirements for large combustion plants including emission limit values and monitoring standards. The implications of implementing the Large Combustion Plants and Industrial Emissions Directives were reflected in the scenarios of the draft Energy Development Strategy of Serbia by 2025 with projections until 2030. Both scenarios (business as usual vs. energy efficient) reflect the total capacities to be constructed, the total capacities to be modernized and the total capacities to be shut down between 2018 and 2024 as a consequence of implementing the two Directives. Furthermore, the Ministry is currently preparing amendments to the Decree on the Emission Limit Values of Air Pollutants with the objective to

complete the transposition of the relevant provisions of the Large Combustion Plants Directive (as adapted by the Decision of the Ministerial Council in 2013) into national law. Finally, Serbia announced the adoption and implementation of a national emission reduction plan under Article 4(6) of the Large Combustion Plants Directive, as adapted by the Decision of the Ministerial Council, after the adoption of the amendments to this Decree.

b. State of Compliance

1. Environmental Impact Assessment Directive

Overall, Serbia has reached a high level of transposition as regards the Environmental Impact Assessment Directive and environmental impact assessments are carried out in accordance with the provisions of the Directive. More efforts need to be devoted to the effective implementation of the Directive, with special regard to the provisions on public participation. There are some (local) competent authorities in the case of certain projects which do not have the sufficient capacity to carry out the environmental impact assessment procedure in an appropriate manner.

2. Sulphur in Fuels Directive

With regard to the implementation of the Sulphur in Fuels Directive, the Secretariat in 2013 launched infringement procedures against Serbia. While the Rulebook on Technical and Other Requirements for Petroleum-Derived Liquid Fuels contains a description of different types of heavy fuel oil, it is not in line with the definition set out by the Directive. Furthermore, the maximum sulphur content of certain fuel categories (HFO-S and HFO-T) are above 1% by mass which constitutes a breach of the Directive. As regards sampling and analysis, the Secretariat concluded that the standards referred to by the Serbian legislation cannot be considered as equivalent to the ones required by the Directive.

In the meantime, Serbia has addressed one of the shortcomings related to the transposition and implementation of the Sulphur in Fuels Directive, namely by banning HFO-T. Other breaches, *i.e.* those related to the definition of fuels, HFO-S as well as sampling and analysis still persist.

3. Large Combustion Plants Directive

Serbia has already taken important steps with a view to prepare for the implementation of the relevant provisions of the Large Combustion Plants and Industrial Emissions Directives.

The emissions limit values of the Decree on the Emission Limit Values of Air Pollutants are aligned with those of the Large Combustion Plants Directive. The work already started on the adoption of a national emission reduction plan is crucial to the implementation of the Large Combustion Plants Directive. These efforts form a reasonable basis to ensure that the Directives' provisions (as adapted by the Decision of the Ministerial Council) are implemented by the deadline set by the Treaty, i.e. 31 December 2017.

c. Conclusions and Priorities

In general, Serbia has made significant efforts on its way to reach compliance with the Energy Community environmental *acquis*, an ambition that should be maintained in the future.

In terms of priorities, the provisions of the Environmental Impact Assessment Directive, regarding public participation need to

be applied in practice, regardless of the competent authority responsible for the procedure.

Serbia must achieve complete transposition into national legislation and effective implementation of the Sulphur in Fuels Directive. This concerns in particular the provisions in the Rulebook on Technical and Other Requirements for Petroleum-Derived Liquid Fuels related to HFO-S and the monitoring rules. The Secretariat will continue its infringement action until the breaches are rectified.

Serbia must continue its efforts for the preparation of implementing the Large Combustion Plants and Industrial Emissions Directives. In this regard, the adoption of the amendments to the Decree on the Emission Limit Values of Polluting Substances to Air and the national emission reduction plan are of primary importance.



Serbia

10.8 Competition

a. Sector Overview

The Law on Protection of Competition was adopted in 2009 and amended in November 2013. It contains rules on cartel prohibition and prohibition of abuse of a dominant position following Articles 101 and 102 of the TFEU. The Law applies to public undertakings, or other undertakings entrusted with the operation of activities of public interest " ...except if through the application of this law, they are prevented to perform activities of public interest or tasks assigned to them". The authority entrusted with enforcement of competition law is the Commission for Protection of Competition.

In November 2013, amendments to the Law on Protection of Competition came into force. The amendments improve the procedural frame for application of competition rules in Serbia. The criteria for a dominant position based on market power of undertakings have also been redefined. The Law now prescribes that the market share, particularly when more than 40%, is to be considered as one of the indicators for establishing dominant position, without however being a presumption. Among other things, a commitment procedure has also been introduced.

During this reporting period, the Commission for Protection of Competition did not undertake any investigation in the gas and/or electricity markets. It continued with its activities of conducting a sector inquiry in the oil and oil derivatives market in Serbia, which was launched in 2010. Three reports have been

published, in October 2011, February 2013 and December 2013. However, the Commission for Protection of Competition did not (yet) identify any infringement to competition law. It decided to continue monitoring the behaviour of the undertakings active on the petrol market. It also recommended that the Government and the relevant institutions and ministries initiate monthly and annual reporting on the wholesale and retail petrol market.

The Law on State Aid Control is in force since 1 January 2010. It contains provisions defining State aid and provides for its general prohibition. A Commission for State Aid Control was set up by the Government and is chaired by a representative of the Ministry of Finance. The Division for State Aid Control within the Ministry of Finance performs the operational work.

No information was provided about the application of the Law of State Aid Control to the energy sector in Serbia. The Secretariat has not been informed on legislative amendments or cases where State aid rules have been applied to aid granted to undertakings in the energy sector.

b. State of Compliance

Articles 18 and 19 of the Energy Community Treaty have been transposed into Serbian law. Their implementation, however, requires more active enforcement authorities.

1. Competition Law

The Law on Competition is largely in line with the *acquis* on competition. Implementation and application of competition law in the energy sectors, however, remains at an unsatisfactory level. Since the establishment of the Commission for Protection of Competition, there were no cases of applying competition law to the energy sector.

2. State Aid Law

The Law on State Aid Control of 2010 transposes generally the rules on State aid. However, compensation for providing services of general economic interest not exceeding EUR 30 million of compatible aid, if the revenue of the undertaking does not exceed EUR 100 million in the last two years, constitutes a new *de minimis* rule and is not compliant. The State Aid Regulation further stipulates that *de minimis* aid could be granted in cases when the grantor cannot give a subsidy that falls under any other type of aid, and granting *de minimis* aid depends on a Decision of the Commission for State Aid Control. The EU *de*

minimis rules, however, apply irrespective of the possibility to grant such aid under another title and do not require a decision by the authority.

The Commission for State Aid Control as well as the Division for State Aid Control are closely related to the Ministry of Finance and thus their independence could hardly be proven. The inactivity of this Commission and the fact that there were no cases at all pursued in the energy sectors since the Commission's establishment are indicators confirming this concern.

c. Conclusions and Priorities

The Commission for Protection of Competition needs to become more active in the enforcement of energy competition law besides the mere monitoring activities in the oil sector. In relation to State aid, it is important that the independence of the decision-making body is ensured, advisably by transferring the respective competences to the Commission for Protection of Competition. In any event, the enforcement authority in charge needs to start reviewing aid granted to energy undertakings.



Serbia

10.9 Statistics

a. Sector Overview

The Official Statistics Law establishes the legal framework for the organization, production and dissemination of official statistics. Its implementation is supported by secondary legislation including the Strategy for Development of Official Statistics, which aims for harmonisation with international standards. The central body is the Statistical Office of the Republic of Serbia (SORS), with some competencies kept by the Ministry in charge of energy.

The Energy Law supports the collection of official statistics by obliging undertakings in the energy sector to provide the necessary data at the request of the Ministry of Mining and Energy. The Ministry has yet to develop a rulebook on the energy balance which is required to further harmonize data definitions and methodologies used for compiling planned energy balances with reporting requirement for energy statistics following from the *acquis*.

b. State of Compliance

1. Annual Energy Statistics

SORS collects, compiles and disseminates annual energy statistics comprising supply, transformation and consumption of

solid fuels, gas, oil, oil derivatives, electricity and heat, as well as renewable energy. Data in the form of five questionnaires are communicated to IEA and EUROSTAT and published on the website of SORS in compliance with Regulations (EC) 1099/2008 and 147/2013.

Data is collected from energy undertakings, industry, trade and other businesses and administrative sources. So far, renewable energy sources included in the energy balance comprise hydro energy, geothermal energy and firewood. The Programme of Official Statistics for 2011 - 2015 envisages completion of the collection by including liquid biofuels, industrial waste, communal waste, solar energy, wind energy and biogas, as well as structural data on the production of electricity and heat, technical characteristics of facilities and capacities for gas storage. For monitoring energy efficiency indicators the Ministry intends to provide more complete and accurate data by further breaking down the consumption structure for energy commodities.

2. Monthly Energy Statistics

The Ministry is responsible for monthly data collection. In cooperation with SORS, the Ministry developed a web application (IMIS database). The system has been operational since January 2014. SORS has access to the database in order to produce monthly reports for electricity, coal, gas and oil. With

this system in place, the Annexes C and D of Regulation (EC) 1099/2008 will be implemented. So far the compiled monthly data from IMIS were not submitted to EUROSTAT.

3. Price statistics

SORS is responsible for price statistics. The first survey was conducted at the beginning of 2014 for the second semester of 2013. Questionnaires for collection of gas and electricity prices charged to industry and households were developed in accordance with EUROSTAT methodology. The reporting units are major suppliers and distributors of gas and electricity, whose response to the first survey was very good, also due to the involvement and support of the regulatory authority. It is planned to cover the remaining (smaller) distributors by the end of the year. Price system reporting is not established yet in accordance with the *acquis*.

c. Conclusions and Priorities

The system of continuous data collection should be completed and permanently improved, particularly information for renewable energies and all sectors of final consumption and information obtained from sample surveys.

In view of the pending market opening in Serbia, methodologies and procedures for price statistics will need continuous checking for adequacy. They will have to be adapted in order to obtain information from an increasing number of players in the open market.

SORS will also have to pay due attention to establishing a system to report to EUROSTAT applicable price systems.



Serbia

10.10 Open Infringement Cases

a. Relations between EMS and KOSTT

Case ECS-3/08 was opened already in September 2010. Subsequently, the Secretariat issued a Reasoned Opinion on 7 October 2011. The case was initiated by a complaint from the operator of the electricity transmission system located in Kosovo*, *KOSTT*. In the Secretariat's assessment, the lack of compensation to *KOSTT* for costs incurred as a result of electricity transit on the network operated by it violates Article 3 of Regulation (EC) 1228/2003 in cases where the electricity flow originates or ends on the system operated by the Serbian *EMS*. Moreover, revenues resulting from the allocation of interconnection on the interconnectors with countries adjacent to Kosovo* seem not to be used for one of the reasons stipulated by Article 6 of Regulation (EC) 1228/2003.

Since the end of 2013, the subject matter of this case has been subject to intense negotiations between *KOSTT* and *EMS* mediated by the Secretariat. On 12 February 2014, a legally binding framework agreement governing the operational and commercial relations between both transmission system operators was signed. An operational Inter-TSO Agreement, a Service Provision Agreement as well as ITC and Interim Congestion Management Agreements were negotiated by both parties. The negotiations for the former two agreements are finalized but *EMS* has not yet signed them. Once the agreements have entered into force, Case ECS-3/08 can be closed.

b. Non-participation of EMS in Regionally Coordinated Capacity Allocation

On 20 January 2011, the Secretariat sent an Opening Letter to, *inter alia*, Serbia in Case ECS-6/11. The Secretariat is concerned that *EMS* of Serbia has not yet adopted a common coordinated congestion management method and procedure for the allocation of capacity to the market, according to their obligation pursuant to the Decision by the Ministerial Council of 2008. At the Athens Forum of June 2014, "*the Forum express[ed] its concerns about lack of participation by the network operators of ... Serbia (hindering the participation of Romania), as a fragmented solution undermines the effectiveness of the SEE CAO project, contradicts Energy Community Treaty obligations and disregards the upcoming EU harmonisation of forward trading rules. The Forum invites the TSOs of ... Serbia to present to the Secretariat by end July 2014 a roadmap with concrete actions and timelines for participation in any regional body performing long-term capacity allocation. Otherwise, the Forum invites the Secretariat to consider measures, including re-opening infringement procedures against Serbia ... to achieve a forward trading mechanism encompassing SEE CAO by 1 December 2014 the latest.*" In July 2014, *EMS* presented a roadmap which lacks, however, concreteness.

c. Non-compliance with the Sulphur in Fuels Directive

On 11 February 2013, the Secretariat sent an Opening Letter to, *inter alia*, Serbia in Case ECS-4/13. The Secretariat comes to the preliminary conclusion that Serbia has not yet transposed and implemented the requirements of Directive 1999/32/EC as required by Article 16 and Annex II of the Treaty. Directive 1999/32/EC aims to reduce emissions of SO₂ resulting from combustion of heavy fuel oils and gas oils. The Secretariat is currently preparing a Reasoned Opinion against Serbia in this case.

d. Lack of Unbundling in the Gas Sector

On 24 October 2013, the Secretariat sent an Opening Letter in Case ECS-9/13 to Serbia in which it took the view that Serbia failed to comply with its obligations under the Energy

Community Treaty related to the unbundling of two vertically integrated gas undertakings. The Secretariat believes that the two transmission system operators licensed in the country, *Srbijagas* and *Yugorosgaz*, do not comply with this requirement. Having taken into account the reply of the Government to the Opening Letter, the Secretariat sent a Reasoned Opinion to Serbia on 24 February 2014 reiterating its view expressed in the Opening Letter. Due to the continued failure to rectify the identified issues of non-compliance within a time limit of two months, on 23 April 2014, the Secretariat submitted a Reasoned Request to the Ministerial Council seeking its Decision on Serbia's failure to comply with gas unbundling rules of the Second Energy Package. The Advisory Committee in July 2014 fully supported the Secretariat's Reasoned Request and proposed for the Ministerial Council to decide on Serbia's breach of its obligations under the Energy Community Treaty.





To evaluate the performance of Ukraine’s energy sector in 2014 in isolation without the political context and the country’s importance for Europe’s security of energy supply is difficult. A neutral look at compliance with the *acquis* brings to light the positive and negative.

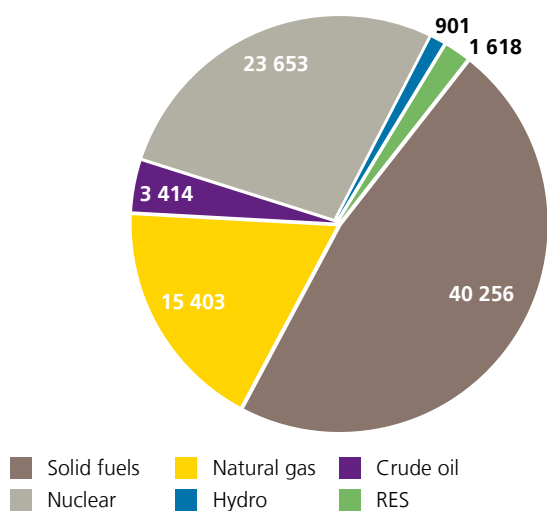
In electricity, Ukraine accomplished a radical reform of the existing foreclosed market model which will, however, not enter into force before mid-2017 and still requires substantial implementing work. In the gas sector, unbundling – prospectively in line with the Third Package – still needs to be performed,

including full application of the *acquis* also to transit pipelines.

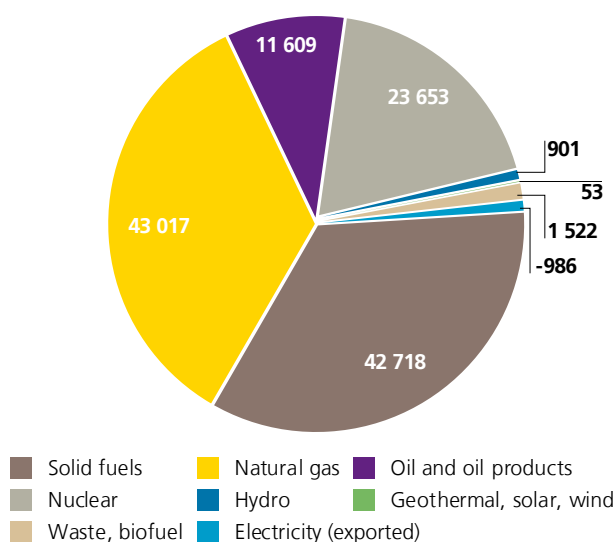
Steps towards real market opening need to be taken and the role of the regulatory authority must be increased.

Reforming the energy sectors, bringing them under the rule of law and increasing transparency will also put Ukraine in a position where it can reap the benefits of integration in the internal market such as reverse flows of gas on all interconnectors or more efficient electricity exports.

Energy mix in primary production in 2012 in ktoe (total 85 245 ktoe)



Gross inland consumption in 2012 in ktoe (total 122 487 ktoe)



Source: State Statistical Service





Ukraine

11.1 Electricity

Description of data [unit]		2012	2013
Electricity production [GWh]		180,513	176,293
Net imports [GWh] *		91	65
Net exports [GWh] **		9,751	9,874
Total electricity supplied [GWh]		170,852	166,484
Gross electricity consumption [GWh]		170,853	166,484
Losses in transmission [GWh]		4,460	4,274
Losses in transmission [%]		2.47%	2.42%
Losses in distribution [GWh]		17,524	16,440
Losses in distribution [%]		10.54%	10.17%
Consumption of energy sector [GWh]		577	997
Final consumption of electricity [GWh]		148,292	144,773
Consumption structure [GWh]	Industrial, transport, services and other non-residential sectors	107,311	102,646
	Households (residential customers)	40,981	42,127
Net maximum electrical capacity of power plants [MW]		54,659	55,411
Net maximum electrical capacity of power plants [MW]	Coal-fired	28,768	28,966
	out of which: multi-fired	n/a	n/a
	Gas-fired	5,668	5,415
	out of which: multi-fired	n/a	n/a
	Oil-fired	0	0
	Nuclear	13,835	13,835
	Hydro	5,462	5,465
	out of which: small hydro	74	76
	pumped storage	861.5	861.5
	Other renewables	575	1,182
	out of which: wind	194	383
solar	372	770	
Horizontal transmission network [km]	380 kV or more [km]	18,181	18,181
	220 kV [km]	3,976	3,976
	110 kV [km]	41,202	41,196
	HVDC [km]	99	99
	Substation capacity [MVA]	78,192	78,632
Electricity customers	Total	19,799,997	19,864,071
	out of which: non-households	561,904	570,874
	Eligible customers under national legislation	561,904	570,874
	Active eligible customers	n/a	n/a
Internal market	Electricity supplied to active eligible customers [MWh]	n/a	n/a
	Share of final consumption [%]	n/a	n/a

Source: National Commission for State Regulation in Energy

Refer to page 203 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

The electricity market in Ukraine is currently dominated by *Energoynok*, a state-owned enterprise, which buys essentially all electricity from generators or traders and sells it for supply and export. The transmission system of Ukraine is operated by the state-owned company *Ukrenergo* which also performs central

dispatching, balancing and allocation of the interconnection capacities at the borders. The transmission system operates in a synchronous mode with the United Power System (UPS) of the Russian Federation except for the so-called "Burstin Island", which is interconnected and synchronised with the ENTSO-E network. These interconnections are located on the borders with Slovakia, Hungary and Romania and used mainly for ex-

ports from Ukraine. Distribution of electricity and supply of all non-industrial final customers at regulated prices is performed by the public utilities *Oblenergos*.

The legal framework covering electricity is rather fragmented. There are two main legal acts governing the electricity sector - the Law on Electricity Industry of 1997 as amended (Electricity Law), and the Law on Operating Principles of the Electricity Market in Ukraine (Electricity Market Law) of 2013. The Electricity Law provides a basic legal framework for State control and regulatory oversight of the electricity sector (by the National Commission for State Regulation in Energy, (NERC), management and development of the infrastructure, licensing, and imposition of obligations on the companies operating in electricity production, transmission, distribution and supply of customers under regulated prices. In October 2013 this Law was adjusted to the new Law on the Electricity Market, and amended in the areas of security of system operation, allocation of cross-border transmission capacity and development of the network, supply of electricity and protection of captive customers.

The Law on (Operating Principles of) the Electricity Market was adopted in October 2013. The main purpose of this Law is to liberalize the wholesale electricity market in Ukraine. The Law aims at a gradual abandoning of the single buyer model and introduces liquid bilateral trading, market-based balancing and a day-ahead market in a foreseeable future (namely by mid 2017). It also introduces increased transparency, effective settlement procedures, third party access and use of cross-border

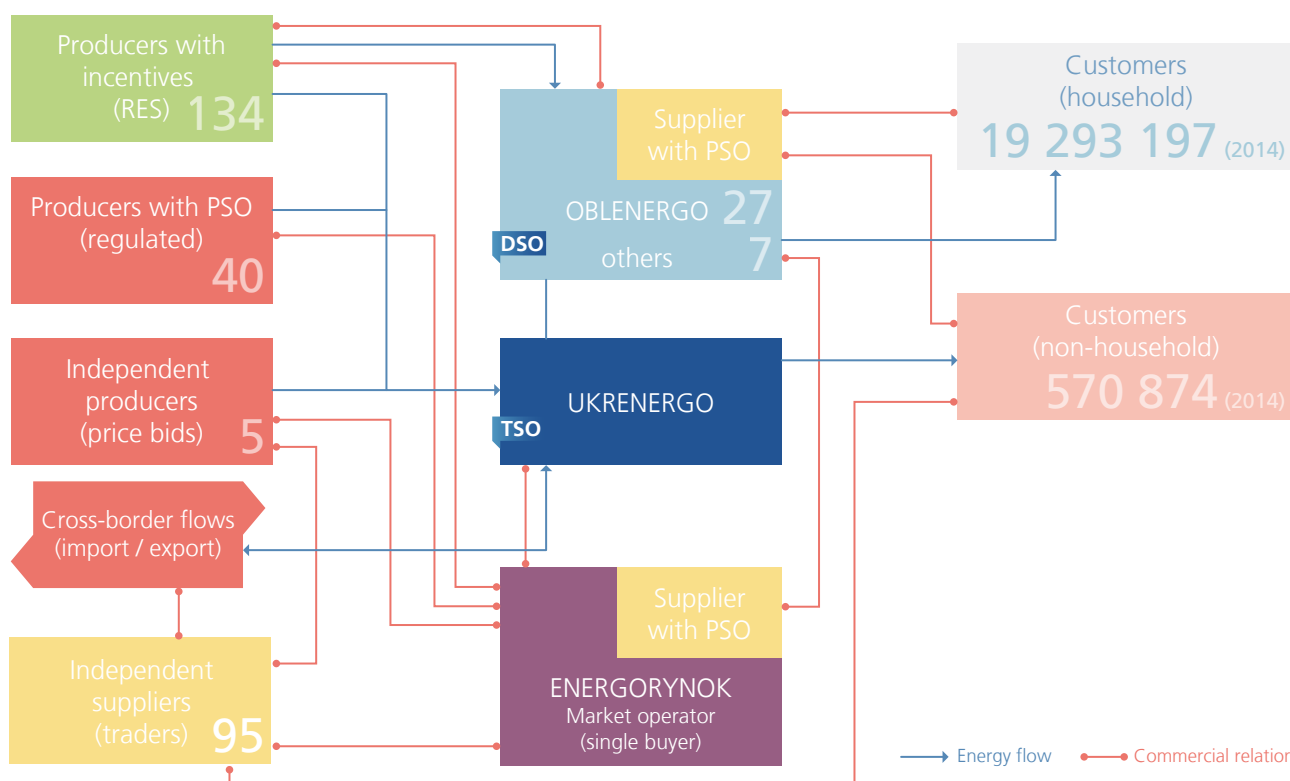
transmission capacities, eligibility, organization of the retail market, etc. Furthermore, the Law establishes the so-called Imbalance Allocation Fund, essentially a system of cross-subsidies between different types of generation used to subsidize household prices, renewable production and CHP plants. The Fund will be in place until 2030.

As regards the transposition of the Third Package, the Secretariat will submit a draft law compatible with the provisions of Directive 2009/72/EC and Regulation (EC) 714/2009 to the Ministry of Energy and Coal Industry.

The secondary legislation required under the new Electricity Market Law and the amended Electricity Law are expected to be drafted by the competent institutions in Ukraine in cooperation with the Secretariat under a Memorandum of Understanding on establishing an Implementation Partnership. So far, however, this Partnership has not been very productive.

The powers of NERC in the electricity sector relate to licensing, setting of transmission and distribution network tariffs, approval of the regulated costs of generation (except thermal power plants) and setting of regulated prices of electricity in the retail supply. NERC has approved rules for cross-border capacity allocation, monitoring the quality of supply, connection conditions for access and activities in the market, financial settlement and monitoring of possible distortions of the market. NERC is also responsible for the protection of customer rights.

Ukraine's Electricity Market Scheme



Source: Energy Community
Refer to the market schemes legends on page 207 for a more detailed description.

In 2013 NERC adopted recommendations for legal and functional unbundling of the distribution network operation from supply for utilities with more than 100,000 consumers. It also made providing information on the origin of electricity in the supply portfolio mandatory. In the context of an open infringement action procedure against Ukraine, *Ukrenergo* and NERC started a process of amending the capacity allocation rules.

b. State of Compliance

Despite numerous amendments including those adopted in 2013, the Electricity Law still does not suffice to transpose the *acquis*. The Electricity Market Law, on the other hand, is aimed at restructuring the market and addressing most of the open issues, with some areas of concern and an unacceptable delay in its implementation. In practice the electricity sector remains over-regulated and over-subsidized, with little or delayed support for competition and sustainable development.

1. Authorisation

According to the amended Electricity Law, the Ministry of Energy and Coal Industry is in charge of authorizing and tendering for new generation capacity. The Law is short of compliance with Articles 6 and 7 of Directive 2003/54/EC. Apart from a general reference to the Construction Law, the Electricity Law does not include an obligation for non-discriminatory and objective procedures, publishing the conditions, treatment of refusals or appointment of independent authorities.

2. Unbundling

The unbundling requirements have been transposed and partly implemented. The transmission system operator *Ukrenergo* is legally and functionally unbundled. As the assets of *Ukrenergo* as well as the nuclear and a majority of the hydropower generation are in State ownership, the Third Package will require further unbundling of transmission system operation.

Under the new Electricity Market Law, distribution and supply are subject to legal and functional unbundling. In practice, however, they are still bundled within the *Oblenergos*. NERC has issued unbundling recommendations but does not enforce them. There is also no obligation for publishing unbundled annual audit reports on the accounts.

3. Third Party Access

The Electricity Law does not transpose the right of access of customers to the transmission network except for suppliers, which is not in line with Article 20 of Directive 2003/54/EC. The Electricity Market Law includes an obligation on regulated third party access to the network. The conditions for exemption, refusal and appeal still need to be defined.

With regard to cross-border capacity allocation, Ukraine still fails to comply with the requirements of the *acquis* on a number

of accounts as identified by the Secretariat in the course of the infringement procedure. They include making a contract with *Energorynok* a precondition for participation in the auctions and priority reservation of capacity. Once entered into force, the Electricity Market Law will provide significant progress by establishing an electronic auctioning platform, coordinated auctions and multiple time horizons. The Law, however, omits the eligible customers' participation in the capacity auctions which is in breach with Article 20 of the Directive.

4. Eligibility

The Electricity Law does not recognize eligibility, which violates Article 21 of Directive 2004/54/EC and Ukraine's Accession Protocol. The right for switching of the supplier is not transposed and no regulatory rules have been developed. Customers can switch from the regulated supply to an independent supplier only if they obtain a license from NERC for unregulated supply. The mandatory sale of production to *Energorynok* effectively frustrates eligibility.

According to the Electricity Market Law all non-household customers are eligible since 1 January 2014 and residential customers will become eligible from 1 January 2015. The provisions for eligibility will be in compliance only once the Electricity Market Law is fully applied in practice.

5. Market Opening and Price Regulation

Under the single buyer and seller system currently applied in Ukraine, only local gas-fired CHP and distributed generators can be sold to public suppliers or directly to the final consumers, albeit at regulated prices. Taken together with the local monopolies of the *Oblenergos* in supply, this model essentially forecloses the wholesale and the retail markets. The Electricity Market Law will replace the single buyer model by several wholesale market platforms as from July 2017 which will significantly boost market opening in Ukraine, possibly even ahead of other Contracting Parties. The most critical structural obstacle to effective opening of the electricity market will be the Cost Imbalance Allocation Fund which will effectively curtail the size and liquidity of the market, distort the market price signals and prevent cost-reflectivity of end-user prices. Being of a transitional character, it should be abandoned as soon as possible, but well before 2030.

The majority of generation is regulated by NERC, as well as the end-user prices of electricity supply for each public distribution utility. As in most Contracting Parties, end-user price regulation is essentially of a social character and does not allow for the full transfer of costs. In the wholesale segment, the prices of electricity from the nuclear and large hydro generators sold to *Energorynok* are regulated. Only the coal-fired thermal power plants sell their production through bidding on a daily basis to *Energorynok*. *Energorynok* further sells the electricity at negotiated wholesale prices to the distribution and supply utilities (*Oblenergos*) and to the companies licensed for supply of cus-

tomers (independent suppliers). The prices of the independent suppliers are not regulated.

The Electricity Market Law does not foresee immediate liberalization of prices. In the domain of generation, the Law allows for a gradual phase-out of price regulation, which is only partial, not efficient and too long. Large industrial customers may still exceptionally purchase electricity at regulated prices through a special agreement. The regulated supply services provided by the guaranteed supplier will be available to household customers only.

6. Balancing

Under the present conditions, balancing is fully regulated. The imbalance of the suppliers and generation units are netted-out, imbalance costs are calculated by *Energorynok* and transferred to the aggregated cost of supply. Balance responsible parties are the suppliers (utilities) for imbalances above 5% of their nominations in the course of a month. The scheduling of generation is done by *Energorynok* on a daily basis, upon schedules submitted by the regulated generation units and the bids of the unregulated generators. Imbalances are compensated according to the merit order of listed generation units made in advance by *Ukrenergo*, according to economic and technical criteria. The pattern is not in compliance with Article 11 of Directive 2003/54/EC in the treatment of imbalance costs and provision of energy for losses. It also does not provide price signals for the balancing energy, allocation of balance responsibility, or sufficient information and incentives for accurate nominations.

The Electricity Market Law envisages a competitive balancing market implemented by *Ukrenergo*. Applying it will make Ukraine compliant with the *acquis*.

7. Customer Protection and Protection of Vulnerable Customers

The Electricity Law does not provide a framework for customer protection compliant with the *acquis* due to the lack of requirements for provision of information, contractual arrangements and quality of service. The amended Electricity Law and the

Electricity Market Law will essentially transpose Article 3 and Annex 1 of Directive 2003/54/EC related to customer protection. However, the information to be provided to customers needs to be better described and more detailed, possibly by way of secondary legislation.

The protection of vulnerable customers is currently being taken care of by across the board price regulation which relies on both cross-subsidies between different generation types and direct subsidies given by the State to energy supply companies. In line with Article 3(7) of Directive 2009/72/EC, this system needs to be replaced by targeting only vulnerable customers. There is currently no definition of vulnerability and no adequate support mechanism. The Law on Social Welfare includes a general right to subsidies from the State budget covering a certain percentage of the electricity bills of certain categories of customers.

c. Conclusions and Priorities

In the interim period until the new Electricity Market Law enters into force in July 2017, Ukraine is still largely in a state of non-compliance with the *acquis*. The new Law and model will change this situation considerably. Switching to the new model will require a transitional period but 2017 is too long. In any event, the efforts being made by the Ministry of Energy and Coal Industry, NERC and *Ukrenergo* in terms of putting the necessary secondary legislation in place need to be intensified in order to be ready for operation by 2017. Coordination of these efforts is also lacking.

The transposition of the Third Energy Package should commence in parallel, in close cooperation with the Secretariat and followed by a process of gradual implementation and market liberalization. In this context the remaining shortcomings in the Electricity Market Law should also be corrected. The unbundling of distribution network operation and deregulation of the generation are absolute priorities. The Cost Imbalance Allocation Fund also needs to be revisited. Finally, NERC and *Ukrenergo* must make more efforts to rectify the existing instances of non-compliance in cross-border capacity allocation by adopting rules and practices in line with the *acquis*.





Ukraine

11.2 Gas

		2012	2013
Natural gas production [Bcm]		20.546	21.449
Imports flows [Bcm]		32.937	27.972
Exports flows [Bcm]		0	0
Stock changes [Bcm]		1.268	1.031
Total supply [Bcm]		54.751	50.452
Consumption in energy sector [Bcm]		3.920	4.360
Available for final consumption of natural gas [Bcm]		50.831	46.092
Interconnectors' capacity [Bcm]	Total	468*	468*
	out of which bidirectional	n/a	n/a
Storage working capacity [Bcm]		31	31
Length of transmission network [km]		39,800	39,800
Length of distribution network [km]		287,955	296,884
Natural gas customers	Total	~13,756,000	~13,435,000
	Non-households	~75,000	~75,000
	Eligible customers under national legislation	n/a	n/a
	Active eligible customers	n/a	n/a
	Households	13,681,000	13,360,000
Internal market	Gas supplied to active eligible customers [Bcm]	n/a	n/a
	Share of total consumption [%]	n/a	n/a
Final consumption of natural gas per sector [Bcm]		50.828	46.087
Consumption structure [Bcm]	Energy transformation	8.437	8.299
	Industry and commercial customers	25.057	20.944
	Households	17.334	16.844

* Ukrainian Security of Supply Statement, January 2012

Source: National Commission for State Regulation in Energy

Refer to page 205 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

Naftogaz is the state-owned joint stock company of Ukraine subordinated to the Ministry of Fuel and Energy of Ukraine. *Naftogaz* of Ukraine is a vertically integrated oil and gas company engaged in a full cycle of operations in gas and oil field exploration and development, production and exploratory drilling, gas and oil transport and storage, supply of natural gas and LPG to consumers.

Ukraine's gas demand is supplied by imports and domestic production. The national gas production in 2013 rose by 4.4% in comparison with the previous year, while the imported gas quantities contracted by 15.1% for the same period. Ukraine's gross gas consumption in 2013 was thus reduced by 7.9%.

Ukrgezvydobuvannya is the country's largest gas production company and is wholly owned by *Naftogaz*. *Naftogaz* is also the majority shareholder of *Ukrnafta*, another large gas production company. Independent producers account for 10% of Ukraine's total annual gas output.

Currently, *Naftogaz* is the sole owner of the natural gas transmission system operator, public joint stock company *Ukrtransgaz*.

The state-owned *Naftogaz* procures natural gas under a long-term contract from the Russian company *Gazprom*. The supply contract of 2009 is currently subject to arbitration between the two companies. It also breaches Energy Community competition law in several instances. *Naftogaz* continues to diversify its portfolios by purchasing gas from other sources, namely from European undertakings such as *RWE*, via Hungary and Poland. The third and most potent route for reverse flows is from Slovakia.

After more than a year and a half of negotiations, the two transmission system operators *Ukrtransgaz* and Slovakia's *Eustream* signed an interconnection agreement in April 2014 as a precondition to realise physical flows from Slovakia to Ukraine later this year.

Domestically, *Naftogaz* supplies the majority of wholesale and retail suppliers active in the country. The domestic transmis-

sion system – including the transit pipelines passing through Ukraine for supply of Russian gas to Europe - are operated by *Ukrtransgaz*.

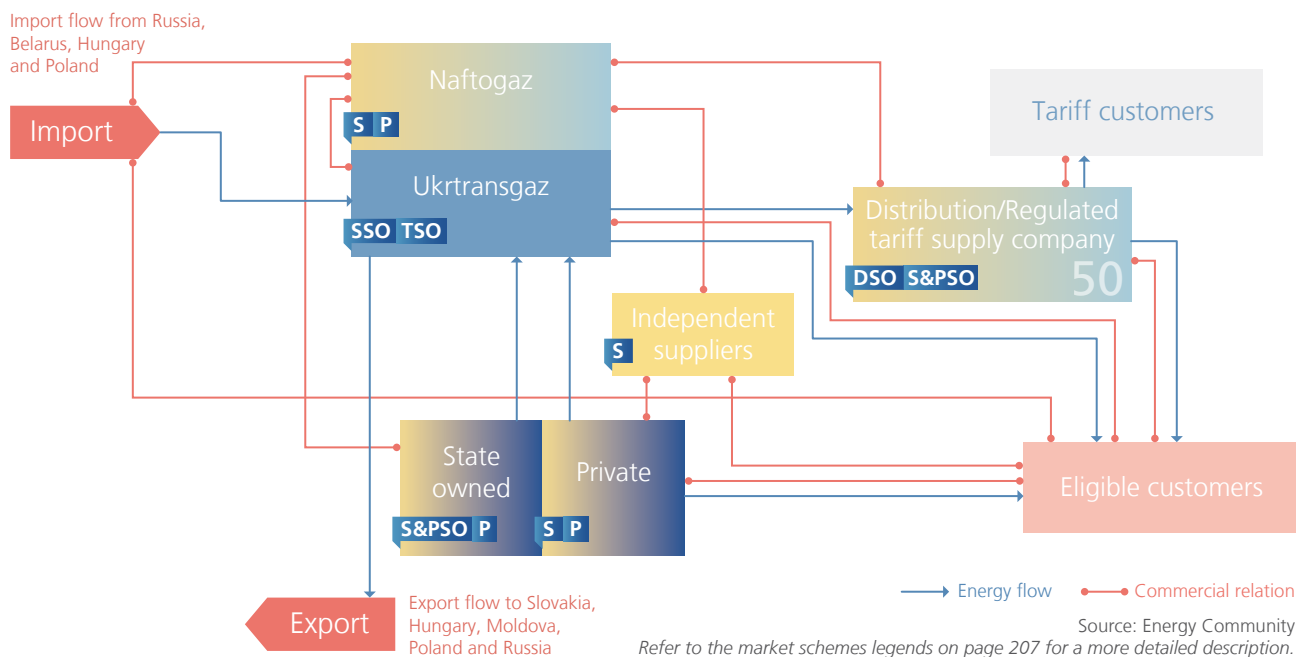
Ukrtransgaz also operates the country's storage system.

In terms of legislation, the Law on the Principles of Functioning of the Natural Gas Market of 2010 reflects the main provisions of the *acquis*. However, it apparently does not supersede previous legislative acts and is contradicted by preceding laws. Other laws governing the gas sector are the Law on Oil and Gas, the Law on Pipeline Transport, the Gas Metering Law, the Law on State Regulation in Energy, the Law on Natural Monopolies, and the Law on Licensing Economic Activities, as well as secondary legislation of relevance, e.g. for the competences of the regulatory authority NERC (in the format of Presidential Decrees). These laws typically repeat themselves and impede effective regulation rather than adding value for the independence or competences of the regulator.

The Law on Pipeline Transport deals mainly with technical rules and standards, but also stipulates the corporate model for companies active in the gas sector. Ukraine amended this Law to allow for unbundling of *Naftogaz*, even though the legal basis in the Gas Law would have been sufficient. Similarly, the Law on Oil and Gas, although focused on gas production, contains provisions on storage (including access) and other activities not strictly related to production and exploration. Other by-laws of relevance are the Government's Resolution on Approval of the Procedure for Identification of the Guaranteed Suppliers of Natural Gas, NERC's Procedure for Accessing the Unified Gas Transit System of Ukraine, methodologies to determine connection costs to transportation and distribution systems and tariff systems for access to transmission and distribution grids.

For transposition of the Third Package, the Secretariat submitted a draft Gas Law to the Ministry of Energy and Coal in April 2014 as the basis for an upgrade of the existing legal framework. It is currently being discussed in Ukraine.

Ukraine's Gas Market Scheme



b. State of Compliance

The currently applicable Law on the Principles of Functioning of the Natural Gas Market (the Gas Law) is still not fully in line with the Second Energy Package.

1. Authorisation

NERC licenses gas undertakings on the basis of the Law on Licensing of Specific Types of Business Operations, as well as Laws on Licensing of Specific Types of Business Operations, Natural Monopolies, Protection of Economic Competition, and

Pipeline Transportation. This fragmented framework represents a barrier to efficient authorization in the first place. The Gas Law does not specify the right to obtain a license on an objective and non-discriminatory basis. A procedure enabling an applicant to appeal against refusals is not stipulated in the relevant laws. The authorisation procedure is not compliant with the gas *acquis*.

2. Unbundling

The unbundling requirements of Directive 2003/55/EC have been transposed by the Gas Law. Transposition of the Third Package will require further amendments.

Ukrtransgaz is a subsidiary legally unbundled from *Naftogaz* and is not engaged in production or supply. Functional unbundling between *Ukrtransgaz* and *Naftogaz* has not yet been implemented.

No measures have been taken to ensure that the persons responsible for management of the transmission system operator do not participate in *Naftogaz* administration responsible for the day-to-day operation of supply of natural gas, or that the persons responsible for the management of the transmission system operator are capable of acting independently, or that the transmission system operator has effective and independent decision-making rights with regard to the network assets. Moreover, a compliance program is not in place. The Gas Law does also not oblige the keeping of separate accounts for supply activities for eligible customers and supply activities for non-eligible customers.

The licensing conditions require that the licensee keeps unbundled accounts and draft financial statements on a licensed activity separately from accounts and statements on other activities.

The Government's Resolution on Approval of the Procedure for Identification of the Guaranteed Suppliers of Natural Gas introduced the requirement of unbundling distribution activities from supply at a regulated tariff by 1 January 2015 at the latest. It also abolished ownership of the distribution network as a precondition for a supply license.

For the 27 distribution system operators which serve more than 100,000 connected customers, this date breaches the 1 January 2012 deadline set within the Protocol of Ukraine's Accession to the Energy Community.

3. Third Party Access

The Gas Law grants the right to connection and third party access under regulated conditions to all system users. The network operators are obliged to publish access tariffs set by NERC. Access to the storage system is also regulated.

However, the Gas Law fails to define possible exemptions from third party access in line with Directive 2003/55/EC and does not contain rules on exemption. Other areas where the Gas Law as well as NERC's Procedure for Accessing the Unified Gas Transit System of Ukraine fail to transpose the *acquis* in a compliant manner include the lack of references to firm or interruptible third party access services. At present, *Ukrtransgaz* offers firm capacity only on an annual basis. Another area of concern is the rules on capacity allocation. Capacity allocation is currently not performed through market procedures or in a transparent manner. The rules in place also grant discriminatory priority access to suppliers under public service obligations and companies with long-term capacity contracts. Finally, the Law implicitly maintains the distinction between transmission and cross-border flow (transit) thus denying NERC the competence to regulate

transit as contracted between *Naftogaz* and *Gazprom*.

4. Eligibility

As of today, all non-household customers are eligible to freely choose their gas supplier according to NERC's Resolution on the Opening of the Gas Market. Residential consumers will become eligible from 1 January 2015, which is in line with the gas *acquis*.

5. Market Opening and Price Regulation

The gas market in Ukraine is currently not an open market. The Government's Resolution on Approval of the Procedure for Identification of the Guaranteed Suppliers of Natural Gas designates the biggest supplier in an administrative region. However, it fails to specify the role of guaranteed suppliers after 1 January 2015. The Resolution specifies that the guaranteed supplier shall purchase gas at regulated prices, from an entity to be appointed by the Government ("supplier of all public suppliers") which *de facto* will lead to the foreclosure of the gas market. The model as such presents a barrier for new entrants. The Government proclaimed *Naftogaz* as a guaranteed supplier for big consumers.

Household consumers are also exclusively supplied with domestic gas at a tariff set by NERC. Regulated gas prices of domestically produced gas are below cost-recovery. Such practice deteriorates Ukraine's security of supply as it makes the gas production business unsustainable and unattractive for investors. The lack of metering devices for households further impedes practical market opening.

6. Balancing

The Gas Law does not contain balancing rules and does not envisage imbalance charges or penalties. The balancing regime is indirectly established by NERC's Procedure for Accessing the Unified Gas Transit System of Ukraine. As there is no methodology for the calculation of imbalance charges or final tariffs on balancing, the balancing costs are socialised across all network users. This is not compliant with Article 8 of Directive 2003/55/EC and Article 7 of Regulation (EC) 1775/2005.

7. Security of Supply

The Gas Law defines the key institutions and market players and minimum security of supply standards only in general. The Law on Supplying Customers with Natural Gas imposes the holding of security gas reserves as a share of contracted supply volumes on natural gas suppliers. The Government adopted further Decrees in this context.

What is missing in the existing Law is the definition of minimum security of supply standards and protected customers, up-to-date national emergency measures, a list of instruments for security of gas supply as well as transparent provisions for reporting and monitoring security of supply.

8. Customer Protection and Protection of Vulnerable Customers

As regards customer protection, a standard gas supply contract, including the obligation on the supplier to provide information, was approved by NERC. Still, the Gas Law does not fully meet the consumer protection standards set out in Annex A to Directive 2003/55/EC. It does not envisage a minimum content for service providers' contracts with consumers and it does not specify that the information shall be provided to consumers in advance and prior to the conclusion of an agreement. It also does not specify the consumer's right to receive adequate notice of any intention to modify contractual conditions and to be informed about their right of withdrawal when the notice is given. Moreover, it does not give consumers the right to a wide choice of payment methods.

The notion of vulnerable customer has been defined in Ukraine's general social protection schemes, rather than specifically for the energy sector. Special laws define a category of individuals who receive State support, particularly for energy. The legislation also defines a category of citizens eligible for additional state support, whose payments (once benefits are accounted for) for consumed fuels (within consumption standards) are more than 15% of their monthly average total income.

c. Conclusions and Priorities

The level of commitment by Ukrainian institutions as well as the communication with the Secretariat has significantly improved during the reporting period. It is, however, still the case that Ukraine's gas market structure and regulatory framework has brought this country to the critical point which puts at stake its own short and long-term security of supply. Ukraine is paying a price for postponing its gas market reforms beyond the deadlines of the Treaty.

Ukraine should adopt a gas law compliant with the Third Package as soon as possible in cooperation with the Secretariat and start reforming its institutions in the gas sector. The agenda remains the same as last year: fully implementing the *acquis* with regard to unbundling, third party access, tariff principles, competences of NERC and price regulation. The success of Ukraine's reform is crucial for the security of gas supplies in the region and wider Europe and will have a strong impact on European energy policy.





Ukraine

11.3 Regulatory Authority

a. Organisation and Competences

The National Commission for State Regulation in Energy (NERC) is the single authority for regulating the gas and electricity sector. NERC is headed by six Commissioners and a Chairman, which are appointed by the President upon a proposal of the Prime Minister and can be also dismissed by the President. The Commissioners' terms in office last six years, renewable once. A rotation scheme is not applicable.

NERC's competences need to be extended to the complete set of regulatory powers and objectives foreseen under the Third Energy Package, in particular related to the right to carry out investigations, impose measures to promote competition and proper market functioning and issue penalties to gas and electricity undertakings that do not comply with their obligations.

b. Assessment of Independence

Legislation grants NERC independence in its activities. Also internal NERC rules explicitly grant the regulator the power to take independent decisions without the need for review by other public institutions. However, this generally positive statement could in practice be weakened by the fact that the rules limit independent decision-making rights and other independence criteria frequently to cases not otherwise defined by law. In the light of the numerous and strongly meshed legislative acts, orders and regulations existing in Ukraine, undue interventions in NERC's effective independence cannot be excluded.

NERC is financed from the State budget and fees for licensed activities with an overall limit defined by the Cabinet of Ministers. Use of financial resources has to be reported annually and published. Approval of the report on the budget as well as the regulator's annual report by other public institutions is formally not required. However, the use of NERC's budget is subject to decisions of the Ministry of Finance and the Budget Code. Financial independence is thereby effectively limited.

The Chairman of the Commission is formally granted the right to organize the regulator's internal work organisation and structure. He also submits proposals for appointment and dismissal of Commissioners to the President. NERC's internal rules also

explicitly foresee that the regulator acts on orders of the President. While this, in principle, can be understood as a general compliance requirement with legal provisions applicable in the country, the reference to Presidential orders entails a higher potential for undue intervention in NERC's independence than provided by the legislation in general.

NERC's independence in terms of the regulator's ability to attract and keep sufficient qualified human resources to execute its responsibilities is limited due to the fact that staff salaries are linked to those of civil servants. The Secretariat is of the opinion that staff salaries need to be compatible with salary levels of the regulated industry. In general, NERC's staffing level needs to reflect the additional duties under the Third Energy Package.

NERC complies well in terms transparency standards required in the context of independence when it comes to information published in Ukrainian language. Decisions, decision-making rules and newsletters are published. The regulator also dedicates a special section of its website to public consultations as well as measures to avoid corruption. However, publication in English language is, except for basic information, not available.

c. Conclusions and Priorities

The following adjustments in law and regulatory practice are key priorities for NERC:

1. A rotation scheme for the Commissioners' terms in office has to be implemented.
2. NERC's competences need to be extended to the complete set of regulatory powers and objectives foreseen under the Third Energy Package.
3. Staff salaries need to be compatible with salary levels of the regulated industry upon exclusive decision of NERC's management.
4. Information on NERC's website in English on the regulator, its activities, decisions and rule making requires fundamental improvement.



Ukraine

10.4 Oil

a. Sector Overview

Ukraine is increasingly dependent on import of petroleum products. Crude oil production was around 3.06 mt in 2013, 7.82% lower than in 2012. Crude oil is not exported. Imports decreased by 52% to 729.1 kt in 2013. As regards the domestic production of petroleum products, the volume of 3.068 mt of petroleum products processed in 2013 constitutes a decrease by 18.5% compared to 2012. The export of petroleum products decreased by 37% to 932 kt. On the other hand the import of petroleum products increased by 72% to a level of around 6.47 mt. The overall consumption of the main petroleum products in 2013 was 10.13 mt, a decrease of 3.8% compared to 2012.

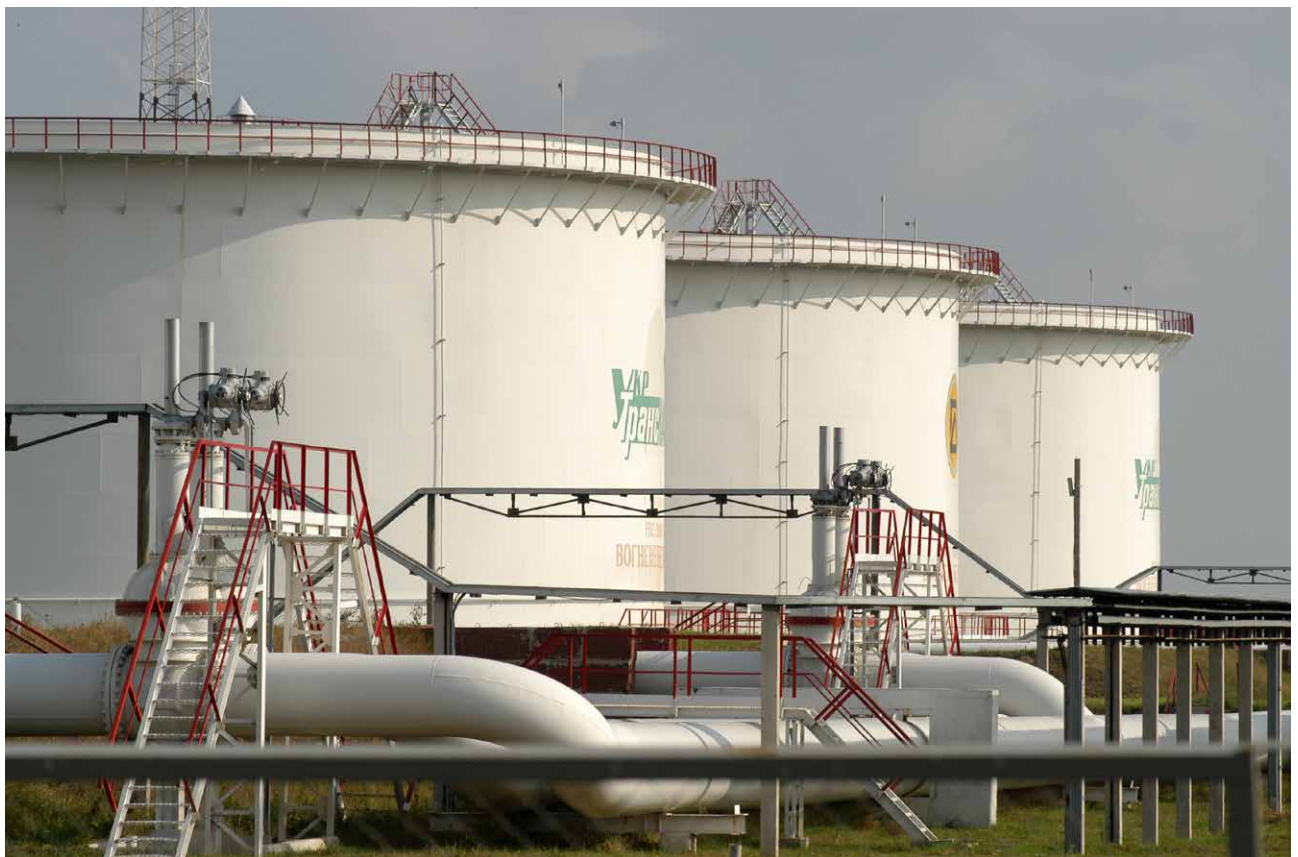
The Law on Oil and Gas is the main legislative act regulating the oil sector of Ukraine. Currently, Ukraine has no legal framework in place for the establishment of emergency oil stocks. In December 2009, the Government approved a concept for the establishment of minimum crude oil and oil products stocks in Ukraine for the period up to 2020. However, the Law on Minimum Oil and Oil Products Stocks drafted and discussed in 2010 was eventually rejected by the Government at the time.

In July 2013, the Government's Energy Strategy of Ukraine until 2030 again refers to the establishment of emergency oil stocks as a strategic goal. Transposition of Directive 2009/119/EC is envisaged by the end of 2016.

b. Conclusions and Priorities

Until recently the general view in Ukraine was that the deadline for emergency stockholding in 2022 is sufficiently far away and does not cause a pressing need for immediate action. Given the magnitude of the investments required, this is wrong.

Critical decisions to be taken in Ukraine are mainly related to the model to be followed for Ukraine's stockholding system, including the composition of the emergency stocks. Furthermore, calculating the 90-day obligation, determining available storage capacities and identifying a funding scheme need to be addressed. Synergies between the efforts of the Secretariat and the EU Delegation in Ukraine to assist the country in complying with Directive 2009/119/EC should be sought on a continuous basis.





Ukraine

11.5 Renewable Energy

a. Sector Overview

1. State of Play, Legislation and Promotion of Renewable Energy

With the adoption of Directive 2009/28/EC, Ukraine committed to a binding 11% target of energy from renewable sources in gross final energy consumption in 2020 compared with a share of 5.5% in 2009. The Energy Strategy 2030 has been revised in 2013. However, the development is not structured so as to meet the objective of 11% renewable energy share in 2020. Instead, it envisages that by 2030 the capacity of renewable power reaches 14,000 MW, out of which 6,000 MW will be generated by large hydropower plants (HPP) and the rest by small hydro, wind, biomass, biogas, and solar energy plants. The contribution of new renewable energy capacities is expected to be around 14 TWh (28 TWh including large hydro) in 2030.

At the end of 2013, the operational renewable energy capacities without large hydro units were 1182 MW, almost double than at the end of 2012, mostly in wind and solar. Total installed capacities reached 334 MW in wind, 748 MW in solar PV, 75 MW in small hydro, 17 MW in biomass CHP plants and 11.5 MW in biogas. Energy from biomass remains underutilised in view of Ukraine's significant potential.

Several legislative and regulatory acts set the framework for the promotion of renewable energy. The main pieces of legislation are the Electricity Law, Law on Alternative Energy Sources and the Law on Alternative Fuels. In 2013, the Law on (Operating Principles of) the Electricity Market was adopted eliminating the single buyer model and introducing bilateral electricity trading and creation of day-ahead and balancing markets. The Law also creates the Imbalance Settlement Fund to subsidise household electricity tariffs and finance new renewable energy production and CHP plants. The main institution responsible for the implementation of renewable energy policy is the State Agency for Energy Efficiency and Energy Conservation (SAEE) under the auspices of the Ministry of Economic Development and Trade of Ukraine. A National Renewable Energy Action Plan (NREAP) has been drafted. Its adoption has been announced for 2014.

The promotion of renewable energy in Ukraine is based on two categories of measures: feed-in tariffs for various technologies and tax benefits. The basis for the feed-in tariffs is the Electricity Law of 2009, as amended several times. It tasks the National Commission for the State Regulation of Energy (NERC) to approve a feed-in tariff for each generator of electricity from alternative energy sources per type of alternative energy source and per power plant until 1 January 2030. The tariffs

are based on "green coefficients", ranging currently from 1.2 for wind and small hydropower to 4.8 for solar PV depending on capacity. These coefficients will gradually decrease over the next 15 years to adjust to the trend of cost reduction of different technologies, in particular for solar PV.

The amendments to the Electricity Law of 2013 and in early 2014 introduced a "green" tariff for electricity produced from biomass of animal origin, components of industrial or household waste, biogas and small hydropower. It also reduced the "green coefficients" for solar PV installation commissioned since April 2013. A grandfathering clause guarantees that the support scheme relates to the time of commissioning of the plant. The State guarantees that for the duration of the green tariff application all electricity produced will be purchased at the established green tariff by the wholesale market operator *Energorynok*.

Currently, draft amendments to the Electricity Law reviewing the feed-in tariff and its individual coefficients are pending in Parliament. The draft envisages a reduction of the coefficient for large solar power plants above 10 MW.

Starting from 2014, private households are also allowed to sell the electricity produced from solar PV installations below 10 kW directly to energy suppliers at feed-in tariffs according to the amendments to the Electricity Law.

Other support schemes for renewable energy are tax incentives, namely exemptions from corporate tax, VAT exemptions on certain imports and a 75% reduction of property tax on the purchase of land for renewable energy projects. The Electricity Law Introducing Local Content Requirements was adopted in 2011 and amended in 2014. It imposes the usage of a percentage of locally produced raw materials, fixed assets and services in the development of renewable energy facilities (30% for wind, solar and biomass commissioned before July 2014 and 50% after July 2014) as a precondition for receiving the feed-in tariff for the renewable electricity generated.

The creation of a certification system based on guarantees of origin for electricity produced from renewable sources was also established by a Government Decree issued in July 2013, appointing SAEE as the issuing body for guarantees of origin.

In 2013, the new rules related to grid connection fees were enacted in the Electricity Law. According to these amendments, the costs of connections are split 50:50 between the network operator and the applicant for connection, including producers of renewable energy. The producer will have its 50% contri-

bution to the network operator reimbursed over the course of 10 years. In 2013, the rules applied by the transmission system operator *Ukrenegro* to grid users were amended. Wind and solar power producers are now obliged to notify their schedule on a day-ahead basis to the network operator.

2. Renewable Energy in Transport

The framework for renewable energy in the transport sector consists of the Law on Energy Savings, the Law on Alternative Energy Sources, the Law on Alternative Fuels, and the Order Arranging Production and Use of Biogas. Ukraine is a significant exporter of raw materials for biofuel production to the EU. The exports of rapeseed, for example, increased 60 times over a five-year period.

With the commitment to reach the 10% renewables share in transport in 2020, Ukraine must increase domestic consumption of biodiesel and bioethanol. The renewables share in transport was 0.62% in 2013 which increased to 1.28% in the first quarter of 2014. The biofuels target for 2013 is still a voluntary 5% share of the total fuel volume in 2013, but becomes a mandatory 5% in 2014 and 2015, and a mandatory 7% starting from 2016.

Currently, renewable targets for the transport sector are defined only for one type of fuel, bioethanol. The draft NREAP envisages biodiesel production in the long term, as well as usage of renewable electricity and biogas. The main incentive instrument for biofuels is tax exemption. Pursuant to the Tax Code, there are several tax incentives applicable to biofuels sector. Most important, there is a zero profit tax for biofuels producers. Excise tax exemptions apply to bioethanol used for blending with petrol or for production of biofuels. Furthermore, 80% of the profit is not taxed if it comes from sales within Ukraine of its own bioethanol production, as a measure to increase domestic biofuels production and national consumption. This may be considered protectionist.

b. State of Compliance

Despite significant progress in terms of newly installed solar and wind capacities, Ukraine still has to complete the legislative and regulatory framework in accordance with Directive 2009/28/EC.

1. National Renewable Energy Action Plan

Like most other Contracting Parties, Ukraine failed to comply with the obligation to adopt a NREAP by 30 June 2013. The Secretariat initiated infringement procedures. The binding targets following from Directive 2009/28/EC have not yet been transposed in the legal framework.

2. Cooperation Mechanisms

The Directive's provisions on cooperation mechanisms have not been transposed.

3. Administrative Procedures

Procedures for permitting, authorization and licensing suffer from Ukraine's administrative complexity. A one-stop-shop institution to reduce the burden for renewable energy developers is not even being discussed. Administrative procedures have been streamlined by the amendments to the Electricity Law in 2014 which reduced the number of permits for investors in renewable energy. However, transparency still needs to be improved and non-discrimination ensured as a precondition for full compliance.

The legislation on the mandatory use of local content in constructing renewable energy facilities is considered a violation of the *acquis* by the Secretariat. The Secretariat is currently preparing enforcement action against Ukraine on this account.

4. Grid Access

Guaranteed access to the networks and priority dispatch of electricity produced from renewable energy sources applies since 2009. With regard to the cost of connections to be split 50:50 between the network operator and a producer of renewable energy, the Secretariat is concerned that there is no indication of how the connection assets will be treated by the regulator in the regulatory asset base of the network operator during the 10 years payback period. The question on how to include power producers which connect later to the grid and thus benefit from the investment made by the previous renewable energy producer in the cost-sharing arrangement must also be addressed. Network operators must develop network investment plans to be approved by the regulator in order to accommodate any further increase of renewable energy. Compliance with Article 16 of Directive 2009/28/EC still remains to be achieved.

5. Guarantees of Origin

The institution in charge of the issue, transfer and cancellation of guarantees of origin has not yet been finally decided. Despite the appointment of State Energy Agency as the issuing body for guarantees of origin and rules on issuing, transfer and cancellation of guarantees of origin adopted by the Government in July 2013, a draft of the Electricity Law currently in Parliament envisages the appointment of the market operator to implement a system of guarantees of origin for energy produced from renewable sources. An accurate, reliable and anti-fraud system for the issuing, transfer and cancellation of guarantees of origin remains to be established by the institution in charge. Ukraine currently fails to comply with the requirements of Article 15 of Directive 2009/28/EC.

6. Renewable Energy in Transport

Article 17 of Directive 2009/28/EC has not been transposed yet. There is no certification scheme defined or relevant body established in line with the requirements of Directive 2009/28/

EC. The State Agency on Energy Efficiency and Energy Savings issues certificates for labelling of alternative fuels, including information on the type of biofuel and blending. Those certificates are not in conformity with the sustainability criteria, as defined by Article 17 of Directive 2009/28/EC. Moreover, requirements for monitoring, reporting obligations and information need to be addressed more consistently in the legislation and enforced.

c. Conclusions and Priorities

Ukraine has a comprehensive framework for the promotion of energy from renewable sources. However, more consistency is

needed to comply with the requirements of Renewable Energy Directive 2009/28/EC in primary and secondary legislation.

The finalisation and the adoption of the draft NREAP must be the main priorities for Ukraine. The local content requirement remains another issue of concern.

For the promotion of renewable energy in transport, the utmost priority in the nearest future must be establishing a certification system in line with Directive 2009/28/EC. Without meeting the sustainability criteria and having an adequate certification system in place, biofuel production cannot count towards the target and cannot be exported to EU markets.

		2009	2010	2011	2012***
Energy Efficiency Action Plan (EEAP)*					
Period covered by EEAP		2012 – 2020			
Overall energy savings target - Directive 2006/32/EC (ktoe / % / year)		6,233 / 9 / 2020			
EEAP status		Final draft 1 st EEAP - submitted in February 2013			
Achieved energy savings		Not elaborated (as this is 1 st EEAP)			
Key institution(s) in charge		State Agency on Energy Efficiency and Energy Saving of Ukraine (SAEE); Ministry of Economic Development and Trade			
Main data and energy efficiency indicators**		2009	2010	2011	2012***
Total primary energy supply (TPES)	ktoe	114,420	132,308	126,438	122,487
Energy intensity (TPES/GDP)	toe / 1,000 USD	1.32	1.46	1.33	1.28
TPES/Population	toe/capita	2.49	2.88	2.77	2.69
Total final energy consumption (TFEC)	ktoe	67,555	74,004	75,852	72,427
Share of TFEC by sector	Residential	33%	32%	31%	32%
	Services	6%	6%	6%	7%
	Industry	33%	34%	35%	34%
	Transport	18%	17%	17%	16%
	Others	3%	3%	3%	3%
	Non-energy use	6%	7%	8%	8%

* Source: Source: draft 1st EEAP of Ukraine

** Source: International Energy Agency

*** Indicators calculated by the Energy Community Secretariat based on preliminary energy balances for 2012

Refer to page 206 for more detailed description on the definitions of these facts and figure table.

a. Sector Overview

As Ukraine joined the Energy Community in 2011, and the *acquis* on energy efficiency was not part of its accession protocol, the deadline of end 2012 for implementation of the energy efficiency *acquis* was agreed bilaterally.

An outdated Law on Energy Conservation of 1994 still applies in Ukraine. It stipulates only very general principles on energy efficiency. A new Law on Efficient Use of Fuel and Energy Resources was drafted to transpose the key provisions of Directive 2006/32/EC on end-use efficiency and energy services,

energy management, energy audits, labelling etc. The draft Law also aims at strengthening the role of the State Agency for Energy Efficiency and Energy Saving (SAEE) in monitoring of energy efficiency programmes and measures, introducing other innovative financing mechanisms as well as penalties for non-compliance. It was sent to Parliament for adoption, but due to political changes it has to be re-approved by different Ministries. Consequently the draft Law has not yet been adopted. Two draft Laws on Energy Audit dating back to 2013 are currently also under revision.

Ukraine drafted its first Energy Efficiency Action Plan (EEAP) for

2012 - 2020 during the reporting period. It has not yet been adopted. Due to political changes, the draft EEAP has to be re-approved by different Ministries before it can be adopted by the Government. The draft was assessed positively by the Secretariat.

Ukraine intends to transpose and implement the Energy Labelling Directive 2010/30/EU exclusively through technical regulations. Technical Regulations on Energy Labelling of Energy-Related Products (implementing Directive 2010/30/EU), on Energy Labelling of Household Washing Machines (implementing Delegated Regulation (EU) 1061/2010) and on Energy Labelling of Household Refrigerating Appliances (implementing Delegated Regulation (EU) 1060/2010) were adopted by a Government Resolution of August 2013. They entered into force on 9 April 2014. Furthermore, SAEE is in the process of updating the existing Technical Regulation on Energy Labelling of Household Electrical Appliances to put it in full compliance with the EU *acquis*.

A draft Governmental Order, amending the Technical Regulations for Energy Labelling of Household Refrigerators, Fridges and their Combinations, and Washing Machines was prepared and is expected to be adopted in 2014. Finally, several Technical Regulations on Energy Labelling of Televisions (transposing Delegated Regulation (EU) 1062/2010), Lamps and Luminaires (transposing Delegated Regulation (EU) 874/2012) and Air Conditioners (transposing Delegated Regulation (EU) 626/2011) have been drafted, but not adopted yet.

A draft Law on Energy Efficiency in Public and Residential Buildings was prepared by the Ministry for Regional Development, Building and Housing and submitted to Parliament in 2012. The draft did not pass the second reading in October 2013. Currently a new draft is being prepared. In parallel, Ukraine is in the process of implementing technical standards in this area. In this context, drafts for a national method for calculation of energy consumption for heating, cooling, ventilation, lighting and hot water supply, and an instruction for application of the methodology for energy audit and energy certification have been drafted but not adopted.

SAEE is the main institution responsible for the promotion of end-use energy efficiency and renewable energy in Ukraine. SAEE is coordinated by the Ministry of Economic Development and Trade. The Ministry for Regional Development, Building and Housing is tasked with the implementation of Directive 2010/31/EU. This institutional set-up that also includes the Ministry of Energy and Coal requires efficient coordination, which is currently not taking place in a satisfactory manner.

b. State of Compliance

The existing Law on Energy Conservation of 1994 is evidently fully non-compliant with the *acquis*. As long as many important acts and documents of high quality exist as drafts only and are not adopted, Ukraine's state of compliance remains poor.

1. Directive 2006/32/EC

The draft Law on the Efficient Use of Fuel and Energy Resources and planned by-laws will transpose Directive 2006/32/EC. The draft EEAP 2012 - 2020 is in line with requirements of Directive 2006/32/EC, but its adoption is also pending. Under these circumstances, Ukraine currently does not comply with Directive 2006/32/EC.

2. Directive 2010/30/EU

Noticeable progress was achieved in the development of technical regulations to include the requirements of the recast Directive 2010/30/EU and its delegated acts, though some amendments still need to be adopted. Currently, Ukraine is partly in compliance.

3. Directive 2010/31/EU

The draft Law on Energy Efficiency in Public and Residential Buildings that will transpose Directive 2010/31/EU has not been adopted. As the deadline for the implementation of the Directive expired in September 2012, Ukraine is not compliant.

c. Conclusions and Priorities

Ukraine, due to the general political situation, recently slowed down the process of adopting key legal and strategic documents and thus falls short of compliance. A significant backlog of acts of primary and secondary legislation remains to be adopted.

The main priority for Ukraine should be to adopt rapidly the first EEAP, the Law on Efficient Use of Fuel and Energy Resources, the Law on Energy Service Companies (ESCOs), the Law on Energy Efficiency in Public and Residential Buildings, and the Technical Regulation for Energy Labelling. The second priority should be the development of Regulations for full implementation of the Energy Performance Directive.

Furthermore, strengthening of existing institutional structures and improvement of internal coordination between authorities, as well as with the donors' community in Ukraine, are essential for further progress in 2014 and beyond. Especially the status of SAEE as the leading national body must be improved to enable effective control and coordination.



Ukraine

11.7 Environment

a. Sector Overview

1. Environmental Impact Assessment Directive

Despite several pieces of legislation (Law on Environmental Protection and Law on Ecological Expertise) in place, there is no coherent legislative framework in Ukraine governing environmental impact assessment. The Law on Environmental Protection sets out general rules on the monitoring of emissions and other impacts on the environment, while the Law on Ecological Expertise determines the rules by which a natural or a legal person is entitled to deliver an expert opinion on environmental matters.

In May 2014, a draft Law on Environmental Impact Assessment aimed at establishing a new legal framework and transposing Directive 85/337/EEC was submitted to Parliament. The Secretariat is still in the process of analyzing the draft.

In August 2013, the Government adopted a Resolution on the List of Activities and Objects which Pose Increased Environmental Danger, which covers the energy activities listed in Annex I and II of the Environmental Impact Assessment Directive.

2. Sulphur in Fuels Directive

Based on the roadmap adopted in August 2012 on the approximation of laws to the requirements of the Sulphur in Fuels Directive, the Government adopted a Regulation on the Requirements for Car Petrol, Diesel, Marine and Boiler Fuel in August 2013. The Regulation contains requirements on the sulphur content of liquid fuels falling under the scope of the Directive. However, its thresholds are significantly higher than those of the Directive. No legislation existed previously regulating the sulphur content of liquid fuels in Ukraine.

3. Large Combustion Plants Directive

Ukraine has 24 plants falling under the scope of the Large Combustion Plants Directive with a total of 113 units and a total installed capacity of 29,368 MW. 97 units are coal-fired while 16 are run on natural gas.

Emissions from large combustion plants are regulated by a 2008 Ministerial Order on the Adoption of New Technological Standards for Permissible Emissions of Pollutants. The Ministry of Energy and Coal Industry is also drafting an Order on the Approval of the Draft Concept of a Special-purpose State Programme for the Limitation of Emissions of Certain Pollutants into the Air from Large Combustion Plants of the Electricity Sector of Ukraine.

b. State of Compliance

1. Environmental Impact Assessment Directive

Despite the legislative steps taken to transpose the Environmental Impact Assessment Directive, Ukraine falls short of compliance with its provisions. In particular, it fails to cover the activities listed in Annexes I and II of the Directive and to define the requirements for the scope of information covered by an environmental impact assessment. Furthermore, no effective rules exist on public participation.

2. Sulphur in Fuels Directive

Despite the efforts carried out during the last reporting period, Ukraine did not fully transpose the requirements of the Sulphur in Fuels Directive. The thresholds for the sulphur content of heavy fuels oil and gas oil in national legislation do not comply with those of the Directive and the requirements on the sampling and analysis of liquid fuels do not make reference to the standards required by the Directive. The roadmap adopted in 2012 only requires the legislator to align the rules on sampling and analysis by 30 December 2017 which is not in line with the timeframe stipulated by the Treaty. The Secretariat has initiated enforcement action against Ukraine.

3. Large Combustion Plants Directive

Ukraine has already started aligning its national law with the requirements of the Large Combustion Plants Directive and intends to implement a national emission reduction plan under Article 4(6) of the Large Combustion Plants Directive. In 2013, the Ministry of Energy and Coal Industry initiated the development of a State programme on the consecutive reduction of the consolidated annual volume of emissions from large combustion plants. The first draft of the document was finalized in July 2014 and should serve as a solid basis for Ukraine's final national emission reduction plan (to be submitted to the Secretariat by end 2015). In this paper, Ukraine envisages the inclusion of 81 of its large combustion plant units in the framework of the national emission reduction plan with ambitious projections for the reduction of sulphur dioxide, nitrogen oxides and dust emissions with the aim of complying with the requirements of the Industrial Emissions Directive by the end of the NERP's implementation period. For the time being, the document does not contain plant-by-plant data on emissions. Specific measures by which its goals could be achieved are also missing. Nevertheless, its preparation is an important step in Ukraine's efforts to prepare for the implementation of the Large Combustion Plants Directive. The document should also

serve as a basis for further negotiations on Ukraine's request based on the conclusions of the 2013 Ministerial Council for a derogation from the requirements of the Large Combustion Plants and Industrial Emissions Directives as adapted by Decisions 2013/05/MC-EnC and 2013/06/MC-EnC.

c. Conclusions and Priorities

As regards environmental impact assessment, Ukraine should

proceed with the adoption of the Law which is currently pending, taking the above comments of the Secretariat on board.

Ukraine should also quickly adopt a legislative framework in compliance with the Sulphur in Fuels Directive.

Ukraine should finally continue its efforts in aligning its national law with the provisions of the Large Combustion Plants Directive and in adopting the national emission reduction plan.

1 Ukraine 11.8 Competition

a. Sector Overview

Competition law in Ukraine is governed by the Law on Protection of Economic Competition from 2001, as amended for the last time in July 2013. The Law includes a prohibition of anticompetitive agreements and concerted actions similar to Article 101 of the TFEU. Authorisation by the Antimonopoly Committee is required for exemptions. In addition, the Cabinet of Ministers may approve unauthorized cartels if the public interest outweighs the negative consequences on competition. There is also a prohibition of abuse of a monopoly (dominant) position defined in line with Article 102 of the TFEU and the corresponding case law. The Law also applies to public undertakings, public bodies, and the State in other than an economic function. Moreover, the Law on Natural Monopolies of 2000 confirms that monopolies, including undertakings in the energy sectors, are subject to competition law enforcement. The Antimonopoly Committee of Ukraine (AMCU) is the body in charge of the enforcement of competition law in Ukraine.

In 2013, AMCU opened 7,704 cases across all sectors, 3,228 related to abuse of a monopoly position and 684 to anticompetitive concerted actions, with the energy sectors accounting for 12.12% and 13.5% of such practices respectively. In total, 7.61% of all competition law violations were found in the energy sectors. Besides these enforcement activities, the Antimonopoly Committee also reported on unscheduled on-site inspections of gas distribution and transmission companies, as well as a sector inquiry on the markets of connection to electricity and gas networks which involved also the general public in providing information. As a result, 75% of electricity distribution companies and 80% of gas distribution companies were audited by AMCU in 2013. Overall, 62 cases related to electricity distribution and 57 cases in gas distribution were analysed and total fines of UAH 3 million and UAH 1 million were imposed in electricity and gas respectively. The following types of abuse of dominance were found: in electricity distribution - unfounded interruption of electricity supply, refusal to connect, imposition of burdensome connection conditions

(such as purchase of metering equipment from specific manufacturers); in gas distribution – delayed issuance of technical specifications and excessive price for their completion, unlawful limitations of the validity of technical specifications, unfounded interruption of gas supply and charging of excessive fees for renewed supply from consumers, imposition of conditions in violation of consumers' rights.

For example, *Lugansk Energy Association LLC* was found in abuse of its dominant position by forcing excessive (i.e. not specified either in the model agreement or the law) terms on suppliers in electricity distribution agreements leading to additional costs for the latter. Another abuse of dominance was committed by *Chernigivoblenergo*, an electricity supplier at a regulated tariff, and an electricity distribution company, which procrastinated with the conclusion of amendments to existing distribution agreements with suppliers at unregulated tariffs thus causing supply disruptions to consumers. In both cases, a fine of UAH 300.000 was imposed.

In addition, in 2013 several major fines were imposed for collusive bidding at petroleum product auctions.

On 1 July 2014, the Parliament adopted the Law on State Aid for Business Entities, which was subsequently signed by the Ukrainian President on 22 July 2014. The adoption of the Law followed the opening of a case of non-compliance by the Secretariat on 22 April 2014. The AMCU is the institution tasked with enforcing the State Aid Law.

b. State of Compliance

Articles 18 and 19 of the Energy Community Treaty have only been partly transposed into the law of Ukraine.

1. Competition Law

The competition legislation adequately transposes the *acquis*, and the procedures and institutional framework are appropri-

ate. The Antimonopoly Committee appears to be fairly independent and an active and strong enforcer. That is a positive exception in the Energy Community. From the case summaries displayed above, it can be concluded, however, that AMCU uses competition law to fine companies for harming consumers' interests directly, instead of investigating cases targeting the market structure and related to exclusionary practices harming the competitors.

In July 2014, the Secretariat reviewed the gas supply contract between *Naftogaz* and *Gazprom* of 2009 and found several instances of non-compliance with Article 18 of the Treaty.

2. State Aid

In the area of State aid, Ukraine made substantial progress by adopting the new State Aid Law on 1 July 2014. The new Law is generally following the EU State aid rules. However, it

will enter into force only three years following its publication. Moreover, a few provisions raise concerns. For instance, the Law does not apply to aid granted for commercial activities related to investments in infrastructure projects when State procurement procedures are applied, which might exempt aid granted to state-owned companies in the energy sector. The Law further establishes broad grounds under which State aid may be recognised as compatible. The criteria for assessment to be elaborated and adopted by the Government will need to be examined closely.

c. Conclusions and Priorities

The AMCU is a very active enforcer of competition law in the energy sectors. The Secretariat will monitor the implementation of the State Aid Law before closing the open infringement proceeding.



Ukraine

11.9 Statistics

a. Sector Overview

The Law on State Statistics specifies the rights and function of State statistical bodies, creates the organizational structure for official statistics and governs relations between the relevant institutions, including the Ministry of Energy and Coal Industry, the Ministry of Ecology and Natural Resources and the Ministry of Finance. The State Statistical Service of Ukraine (SSSU) is the central statistical institution responsible for production of energy statistics in accordance with Regulation (EC) 1099/2008. The Law imposes obligations on respondents to submit information in the format as defined in the statistical reporting documentation in a timely manner.

In 2013 the Government adopted the Regulation on Approval of the Development Strategy of the State Statistics through 2017, which tasks SSSU to improve the quality of the State statistics, to develop an integrated and effective national system of official statistics and to bring it in compliance with the EU standards. The concept of energy balance compilation was already approved by a Government Instruction from 2007. SSSU developed a methodological regulation on the design of the statistical surveying of uses of fuel and energy and a methodological regulation on compilation of the energy balance.

Data is collected from administrative sources such as the Ministry of Ecology and Natural Resources, the Ministry for Regional Development, Construction and Housing and Communal Economy, the Ministry of Health Security, the National Ecology In-

vestment Agency and the State Agency for Forestry Resources. Information from the energy sector are also collected and/or required by the Ministry of Energy and Coal Industry, the gas incumbent *Naftogaz*, the Association of LPG in Ukraine, the State Customs Service of Ukraine, NERC, and the State Agency on Energy Efficiency and Energy Saving of Ukraine (SAEE).

b. State of Compliance

1. Annual Energy Statistics

Annual statistics are compiled in accordance with Regulation (EC) 1099/2008 and 147/2013. SSSU collects data for the energy balance using statistical surveys among producers, traders and distributors of primary and transformed energy, importers and exporters, household surveys, and administrative information (NERC, State Customs Service of Ukraine, Customs Service), evidence-based data and expert evaluation. SSSU developed procedures to ensure the completeness and quality control of input data, conversion factors of natural units, checking and validation procedures. SSSU publishes balances per product in December at the latest for the previous year and submits joint questionnaires to IEA. Consolidated data are published in a Statistical Yearbook of Ukraine.

2. Monthly Energy Statistics

SSSU also compiles monthly energy statistics and submits a monthly JODI questionnaire on oil and gas to IEA. With sig-

nificant progress and greater availability of all monthly data, Ukraine only fails to fully comply with Annex D of Regulation (EC) 1099/2008 in terms of timeliness.

3. Price Statistics

Until 2013, the energy price statistics system was not established. After the adoption of the rules on statistics, namely Directive 2008/92/EC, SSSU together with NERC started to work on organizing data survey on natural gas and electricity prices for industrial and residential users, partly with the support from the technical assistance project of the Secretariat and INOGATE. Currently NERC collects information on prices from both industry and households, but these reports are not compatible with the requirements of the Directive 2008/92/EC. So far neither SSSU nor any other institution has been able to produce information on electricity and gas prices as required by Directive 2008/92/EC.

c. Conclusions and Priorities

Ukraine is still short of compliance with the *acquis* on statistics. However, the legal and administrative basis for implementation of Regulations (EC) 1099/2008 and 147/2013 as regards definition of energy products, their forms, sources, supply, transformation and consumption, and the respective annual and monthly quantities has been established. The existing quality procedure requires improvement, particularly with regard to renewable energy data and the consumption of energy in households and services.

Preparations for the implementation of Directive 2008/92/EC are also still in progress. The reporting and compilation system, preferably in cooperation with NERC, should be established without delay and prices should be reported for the first semester 2014.



Ukraine

11.10 Open Infringement Cases

a. Capacity Allocation on Electricity Interconnectors

On 26 February 2013, the Secretariat sent an Opening Letter in Case ECS-1/12 to Ukraine. The Secretariat takes the preliminary view that the Auction Rules adopted for the allocation of capacity on the country's electricity interconnectors with its Western neighbours and Moldova, as well as their application in practice by the system operator, fail to comply with Regulation (EC) 1228/2003 and the so-called Congestion Management Guidelines. The Electricity Law adopted in October 2013 and entered into force on 1 January 2014 provides a legal basis for adoption of new Allocation Rules in six months from the entry into force of the Law to be applied from 1 December 2014. NERC developed draft Allocation Rules commented upon by the Secretariat. If the concerns pointed out by the Secretariat are not addressed in the Allocation Rules when adopted and if the rules are not implemented within the time limit set by the Law, the Secretariat will proceed with the case.

b. Non-compliance with the Sulphur in Fuels Directive

On 11 February 2013, the Secretariat sent Opening Letters to *inter alia*, Ukraine in Case ECS-5/13. The Secretariat comes to the preliminary conclusion that Ukraine has not yet transposed and implemented the requirements of Directive 1999/32/EC as required by Article 16 and Annex II of the Treaty. Directive 1999/32/EC aims to reduce emissions of SO₂ resulting from

combustion of heavy fuel oils and gas oils. The Secretariat is currently considering next steps in this case.

c. Lack of Adoption of a National Renewable Energy Action Plan

On 11 February 2014, the Secretariat sent an Opening Letter to, *inter alia*, Ukraine, for failure to comply with Energy Community law related to renewable energy. In the Opening Letter in Case ECS-7/14, the Secretariat addresses the failure by the country to adopt and submit to the Secretariat a National Renewable Energy Action Plan, the deadline for which expired on 30 June 2013.

d. Lack of State Aid Legislation

On 22 April 2014, the Secretariat sent an Opening Letter to Ukraine initiating infringement proceedings in Case ECS-8/14. The Secretariat takes the view that Ukraine failed to fulfil its obligations under the Energy Community Treaty by not adopting legislation prohibiting State aid and enforcing that prohibition as required by Article 1(2) of the Accession Protocol of Ukraine to the Energy Community. On 1 July 2014, a Law on State Aid to Business Entities was adopted and subsequently signed by the President. In any event, the new Law will enter into force only three years following its publication. The Secretariat will monitor the implementation of the State Aid Law before closing the open infringement proceeding.



INVESTMENT REPORT **12**
SOCIAL REPORT **13**



12. Investment Report

a. The Investment Outlook

Attracting investment is the rationale behind many of the measures and actions taken by the Energy Community. Yet, private investment has remained far below the levels hoped for when establishing the Energy Community. Besides incorporating EU legislation, the Treaty does not offer any specific instruments which could help promote investments.

In October 2013, *“The Ministerial Council adopted the list of Projects of Energy Community Interest (PEICs) and called on the Contracting Parties to take necessary actions to facilitate their timely and effective implementation. The Ministerial Council also invited the Secretariat to carry out a review of the implementation process of the PEICs and the experience of cooperation among national regulators and present its finding report on the progress, at its next meeting in [] 2014. In light of the findings, the Ministerial Council shall decide whether the PEIC list should be updated at regular intervals”.*

Unlike in the European Union, however, there is limited specific funding available to support these projects at a cost of financial capital consistent with project feasibility. In the current financial environment, this constitutes a real disadvantage.

b. Investment Challenges

1. Macroeconomic Outlook

Macroeconomic fundamentals have a significant impact on infrastructure investments, as they give, *inter alia*, an indication of the current and expected GDP growth of a country. After a double dip recession in 2009 and 2012, the Western Balkan countries are showing some signs of recovery in 2013 and better prospects for 2014. Moldova had the most significant growth in 2013, while the economies of Albania and Ukraine shrank.

For 2014, the growth forecasts are more promising, with positive growth rates for all countries, except for Ukraine.



GDP Growth in the Energy Community

Contracting Party	Actual GDP Growth Rate in 2012	GDP Growth Rate in 2013	Forecasted GDP Growth Rate for 2014
Albania	1.3%	0.4%	2.1%
BiH	-1.1%	1.8%	2.0%
Kosovo*	2.7%	3.0%	3.5%
FYR of Macedonia	-0.4%	3.1%	3.0%
Moldova	-0.7%	8.9%	3.0%
Montenegro	-2.5%	3.5%	3.2%
Serbia	-1.5%	2.5%	1.0%
Ukraine	0.3%	0.0%	-5.0%

Source: World Bank, <http://www.worldbank.org/en/publication/global-economic-prospects/data?region=ECA>

2. The Fiscal Space

The Western Balkans regional debt increased by more than 100% since 2007, with debt in Bosnia and Herzegovina, Montenegro, Serbia and former Yugoslav Republic of Macedonia increasing by between 100% and 200%. Three countries (Albania, Serbia, and Montenegro) have a public debt of around or above 60% or 65% of GDP.

The shrinkage of the fiscal space puts significant pressure on publicly funded investments, including energy infrastructure projects. Given the capital intensity of energy infrastructure and the need to enlarge the limited fiscal space, mobilising additional private capital becomes crucial.

Even if at the macroeconomic level there are signs of recovery, both private and institutional investors still perceive most of the Contracting Parties to have a risk profile that discourages significant inflows of private international capital, especially after the recent government or regulator behaviour in some EU Member States (e.g. Romania and Bulgaria) with regards to renewable energy investments.

Moreover, private investors, meeting twice a year with the Secretariat in the Investors Advisory Panel, have expressed their concerns about the functioning of the national energy markets, mostly linked to perceived political interference, lack of predictability and effective regulators, low administrative energy prices and various questionable/allegedly corrupt practices.

With regards to the regional energy market, the same concerns were expressed: lack of an open, transparent and competitive market with transparent access to cross-border transmission capacity, lack of regional market operator/market couplings, and continuing preference for (allegedly corrupt) practices in electricity export/import deals dominated by a few preferred traders.

Having this in mind, the investment environment in the Energy Community must be considered in a broader framework of structural reforms.

c. Progress Registered by PECEs

The Secretariat as mandated by the Ministerial Council in October 2013 developed a Projects of Energy Community Interest (PECI) monitoring system based on inputs from the Western Balkans Investment Framework (WBIF) and the Neighbourhood Investment Facility (NIF), and from responses to the Secretariat's own questionnaire sent to all PECE project promoters, in April and May 2014.

A summary of these monitoring results are presented in tables 2, 3, 4 and 5.

PECE Electricity Generation Progress Monitoring												
No.	Contracting Party	Project	Estimated investment (mil. EUR)	Capacity (MW)	Commissioning year	Conceptual / Basic design	Pre-feasibility study	Feasibility study	E-I assessment	Main design	Investment decision	Construction
1	AL	Hydro Power Plant Skavica	550	350	2015	●	●	●	●	●	●	●
2	AL	Wind Park Dajc-Velipoje	283	186	2015–2020				●			
3	BiH	Combined Heat and Power Plant KTG Zenica	250	390	2016		n/a	●	●			
4	BiH	Hydro Power Plant Dabar	177.56	159.15	2018	●	n/a	●	●	●	●	●
5	BiH + HR	Hydro Power Plant Dubrovnik (Phase II)	175.03	304	Assumed 2019	●	n/a	●			●	
6	BiH + RS	Hydro Power Plants Upper Drina (HPP Buk Bijela, HPP Foča, HPP Paunci, HPP Sutjeska)	580.42	223.13	Assumed 2020-2022	●	●	●	●			
	BiH + RS	Hydro Power Plants Middle Drina (HPP Tegare, HPP Rogačica, HPP Dubravica)	870.13	321.45	Assumed 2020	●	●					
7	Kosovo*	Kosova e Re Power Plant (KRPP)	1260	600	2020				●		●	
8	ME	Hydro Power Plants Lim River	167	93	2017		●	n/r	n/r	n/r	n/r	n/r
9	RS	Combined Heat and Power Combined Cycle Gas Turbine Plant in Pancevo, Serbia	135	140	2016		n/a	●	●			
10	RS	Thermal Power Plant Kolubara B	1300	750	2020				●	●		
11	RS	Thermal Power Plant Nikola Tesla B3	1100	744	2020	●		●	●			
12	RS	Combined Heat and Power Plant Novi Sad	480	450	2016		●					
13	RS	Hydro Power Plants Ibarske (10 HPPs)	350	118	2016–2021	●	n/a	●	●			
14	RS	Hydro Power Plants Velika Morava (HPP Ljubicevo, HPP Trnovce, HPP Svilajnac, HPP Mijatovac, HPP Varvarin)	352	148	2016–2021		●					
TOTAL:			8,030.14	4,976.73								

● Completed ● Ongoing ● No progress n/a Not applicable n/r Not reported

Source: Compiled by the Energy Community Secretariat.

As a general observation, based on the project promoters' own reports, very few projects have reached the status of investment decision or, even better, their construction has started.

Those that have are:

- The Hydro Power Plant Dabar in Bosnia and Herzegovina: investment decision taken, no construction started yet.
- 400 kV OHL Tirana (AL) - Pristina (Kosovo*): investment decision taken and construction started on both sides of the border; expected commissioning year: 2016.
- 400 kV OHL SS Kragujevac - SS Kraljevo (SR): investment decision taken, no construction started yet.
- 400 kV OHL SS Bajina Basta - SS Kraljevo and 400 kV OHL SS Obrenovac - SS Bajina Basta: investment decision taken, no construction started yet.
- 400 kV OHL SS Resita (RO) - SS Pancevo (RS): investment decision taken, no construction started yet.
- *Trans Adriatic Pipeline (TAP)*: investment decision taken, no construction started yet.



PECI Electricity Infrastructure Progress Monitoring

No.	Contracting Party	Project	Estimated investment (mil. EUR)	Transmission capacity (MW)	Commissioning year	Conceptual / Basic design	Pre-feasibility study	Feasibility study	E-I assessment	Main design	Investment decision	Construction
1	AL - FYR of Macedonia	400 kV OHL SS Bitola (FYR of MK) – SS Elbasan (AL)	21.5 (AL) 37.3 (MK)	1330 Thermal Limit	2018		n/a	●	●		●	
2	HR - BiH and HR internal line reinforcement	400 kV OHL Banja Luka (BiH) – Lika (HR) 400 kV OHL Brinje – Lika – Velebit – Konjsko including 400 kv substation Brinje	187	1260 / 1320	2020			●	●			
3	IT - AL	400 kV HVDC SS Vlora - Bari West	150	1000	2014	●	●	●	●	●	●	●
4	Kosovo* - AL	400 kV OHL Tirana (AL) - Pristina (Kosovo*)	33.5 (KO) 51.4 (AL)	1330	2016		n/a	●	●		●	●
5	MD - RO	400 kV OHL Balti (MD) and Suceava (RO)	66.5	1000	2019		n/a	●	●	●		
6	ME - RS - BiH and ME internal line reinforcement	400 kV OHL SS Bajina Basta (RS) - SS Pljevlja (ME) - SS Visegrad (BiH) 400 kV OHL Pljevlja - Lastva	183.3	2000 / 1320	2020 2016		●					
7	RS	400 kV OHL SS Kragujevac - SS Kraljevo	25	1000	2016		●	●		●	●	
8	RS	400 kV OHL SS Bajina Basta - SS Kraljevo 400 kV OHL SS Obrenovac - SS Bajina Basta	90	1000 / 2000	>2020 2019		●	●			●	
9	RS - RO	400 kV OHL SS Resita (RO) - SS Pancevo (RS)	25 (RO) 25 (RS)	2000 / 1320	2015 RO 2018 RS		●	●	●	●	●	
TOTAL:			895.50									

● Completed ● Ongoing ● No progress n/a Not applicable 🇪🇺 Technical assistance from WBIF or NIF

Source: Compiled by the Energy Community Secretariat.

- Interconnection Pipeline Nis - Dimitrovgrad (RS) – Dupnitsa (BG): investment decision taken in BG (use of EU post-accession funds), but not in RS yet (although a grant from national IPA for a part of the investment costs was set aside).

On a positive note, for many projects, the feasibility and environmental impact assessment studies are finalised or are very advanced thanks to the technical assistance provided by WBIF or NIF. These are, in principle, made in compliance with the International Financial Institutions (IFIs) requirements for financing and respecting the Energy Community *acquis*.

d. Actions for Stimulating Energy Infrastructure Development

The High Level Reflection Group was mandated by the Ministerial Council to make an independent assessment of the adequacy of the institutional set-up and working methods of the Energy Community. It was also asked to make proposals for improvements to the Ministerial Council in 2014.

The Group recommended a number of actions aimed at increasing investment. Key recommendations of the High Level Reflection Group are listed below, notably the harmonization of permitting procedures and criteria; additional financial and technical support; creation of an Energy Community Risk Enhancement Facility; and enhancement of project preparedness. Some of these measures need significant preparation to be able to deliver results in addition to endorsement by the Ministerial

Council (e.g. the Energy Community Risk Enhancement Facility). Actions supported by the Secretariat linked to the High Level Reflection Group's proposals that have been already achieved or are currently taking place are also described in this chapter.

1. Enhancing Quality and Preparedness of Priority Projects, Namely PECIs

The (lack of) preparedness of quality infrastructure projects was always quoted as a crucial success factor for all infrastructure projects presented by incumbent companies to private investors and International Financial Institutions.

In order to enhance the quality of investment documentation, as well as their compliance with the requirements of investors and development banks, a technical assistance facility, the Western Balkans Investment Framework (<http://wbif.eu>), was set up in 2009 as an EU mechanism for blending IPA grant funds with loans from IFIs and the preparation of documentation (feasibility studies, environmental impact assessment studies, engineering design, etc.). The Western Balkan countries have benefited from this instrument to a very large extent: 51 grants were approved in energy (including for some of the PECIs), with a total grant value of EUR 0.2 billion and an estimated investment of EUR 4.1 billion.

Moldova and Ukraine have access to a similar blending mechanism (although less country demand driven), the Neighbour-

hood Investment Facility (NIF) (<http://www.easternpartnership.org/programmes/neighbourhood-investment-facility>), created under the Eastern Partnership. The grants approved by NIF for energy investments in Moldova amount to EUR 8 million and in Ukraine to EUR 11.9 million, for investments in the amount of EUR 236.6 million and EUR 3.8 billion respectively.

Note that these figures include all energy infrastructure projects supported by these mechanisms, including some PECIs. The PECIs benefiting from the technical assistance under either WBIF or NIF are marked with “🇪” in tables 2, 3, 4, and 5.

PECI Gas Infrastructure Progress Monitoring												
No.	Contracting Party	Project	Estimated investment (mil. EUR)	Capacity	Commissioning year	Conceptual / Basic design	Pre-feasibility study	Feasibility study	E-I assessment	Main design	Investment decision	Construction
1 🇪	AL-ME-HR-BiH	Ionian Adriatic Pipeline (IAP)	620	up to 5 bcm/a	2020	●	n/a	●	●			
2 🇪	GR-AL-IT	Trans Adriatic Pipeline (TAP)	1500 (subject to revisions due to route refinements)	Initial capacity 10 bcm/a; Expansion up to 20 bcm/a	2019	●	●	●	●		●	
3	AL	EAGLE LNG Terminal	700 (terminal + pipeline)	4-8 bcm/a (LNG floating vessel), 215,000 cm (LNG storage capacity) + 10 bcm/a (pipeline)	2017		●	●	●			
4 🇪	BiH - HR	Interconnection Pipeline BiH - HR (Slobodnica-Bosanski Brod-Zenica)	94	up to 5 bcm/a	2019	●	●	●	●	●	●	●
5	BiH - HR	Interconnection Pipeline BiH - HR (Zagvozd - Posušje - Novi Travnik with a main branch to Mostar) Interconnection Pipeline BiH - HR (Ploče - Mostar - Sarajevo/Zagvozd - Posušje/Travnik)	16 HR 82 BiH	1.5 - 2.5 bcm/a	2018 HR n/a BiH		●	●	●			
6	BiH - HR	Interconnection Pipeline BiH - HR (Lička Jesenica-Trzac-Bosanska Krupa)	49.2	1 - 1.5 bcm/a	2023					●		
7 🇪	HR	LNG Terminal in Croatia + Pipeline Zlobin-Bosiljevo-Sisak-Kozarac-Slobodnica	633.6 terminal 306 pipeline	6 bcm/a (storage capac.) + 10 bcm/a (pipeline)	2018 terminal 2019 pipeline		n/a	●	●			
8	HR - RS	Interconnection Pipeline HR - RS (Slobodnica-Sotin-Bačko Novo Selo)	87 RS 88 HR	6 - 7 bcm/a	2023				●			
9	RS	Interconnection Pipeline RS (Nis-Dimitrovgrad) to BG (in nSR)	67.5	1.8 bcm/a	n/a		n/a	●	●		●	
	BG	Interconnection Pipeline RS (Nis-Dimitrovgrad) to BG (in BG)	47.4	1.8 bcm/a	2016–2017		n/a	●	●		●	
10 🇪	UA	Modernization of Urengoy-Pomary-Uzhgorod Pipeline	256	29.2 bcm/a	2015		n/a	●			●	
TOTAL:			4,546.70									

● Completed
● Ongoing
● No progress
n/a Not applicable
🇪 Technical assistance from WBIF or NIF

Source: Compiled by the Energy Community Secretariat.

2. Regulatory and Permit Granting Measures for Energy Infrastructure

When analysing the PEI interconnector list for electricity and gas and its progress, there are a number of issues that immediately indicate potential discrepancy in regulatory treatment and permit granting. These may relate to two sections of the

same interconnector, when it connects an Energy Community Contracting Party (where it receives the PEI label) to an EU Member State (where it receives the label of a Project of Common Interest (PCI)). While the PCIs are subject to Regulation (EU) 347/2013 on Guidelines for Trans-European Energy Infrastructure, which simplifies and harmonises the permit granting process and sets a limit of 3.5 years for this, enables investments



PECI Oil Infrastructure Progress Monitoring

No.	Contracting Party	Project	Estimated investment (mil. EUR)	Capacity	Commissioning year	Conceptual / Basic design	Pre-feasibility study	Feasibility study	E-I assessment	Main design	Investment decision	Construction
1	HR	Project of inspection, evaluation, rehabilitation, upgrading and reconstruction of the existing JANAF Oil Pipeline	54	Existing storage: 1,300,000 cm planned new: 240,000 cm pipeline capacity: designed: 14-34 MTA installed 9-20 MTA	2015-2016				●	●		
2	UA-PL-AZ-GR-LT	Construction of the Brody – Adamowo oil pipeline	587.4 1 st stage 489.0	Existing storage: 815,000 cm planned new: 460,000 cm 1 st stage: 153,300 cm pipeline capacity: 30 MTA	2015		n/a	●	●			
TOTAL:			641.40									

● Completed ● Ongoing n/a Not applicable 🇪🇺 Technical assistance from WBIF or NIF

Source: Compiled by the Energy Community Secretariat.

with cross-border impacts and allows for regulatory incentives for projects with higher risks, etc., the PECIs are not.

Moreover, PCIs are eligible for funding by the Connecting Europe Facility or other significant sources of grant funds for infrastructure from the EU post-accession funds for which the PECIs are not. In accession countries, PECIs may have access to the IPA instrument that could be used for energy investments, however, on a much smaller scale. Therefore, it may be expected that the part of the interconnector in an EU Member States is built significantly faster than the other part, located in an Energy Community Contracting Party, thus jeopardizing the very reason for interconnectors.

In order to harmonise more the interconnection development in the Energy Community (Member States and Contracting Parties), the Secretariat proposed to both the European Commission and the Contracting Parties at the PHLG meeting in March 2014 to adapt Regulation (EU) 347/2013 for adoption in the Energy Community in 2014. An adaptation proposal was presented at this meeting.

3. Financing Investments in Energy Infrastructure, with an Emphasis on PECIs

While the preparation of technical documentation has received significant support from bilateral as well as multilateral donors, the international financial institutions (EBRD, EIB, CEB, KfW, the World Bank, etc.) and the European Union, additional funding in the form of capital grants and other financial instruments for investments (at least for the PECIs) will be needed. Funding should be conditional on compliance with Energy Community

obligations. Other instruments that may be used and have a significant impact on infrastructure development include:

3.1 Public Private Partnerships (PPPs)

The European Commission, acknowledging the need for additional infrastructure support, has commissioned a Task Force to look, *inter alia*, into more innovative financial instruments. As a first output of the Task Force, a paper on the “*Potential for Promoting PPPs under the WBIF*” was prepared by the IFI Coordination Office. The report indicates the considerations for which public private partnerships (PPPs), as one project delivery mechanism, could be an attractive way to leverage further public resources, including those from European funds, and to accelerate the implementation of priority infrastructure projects. The reasons for PPPs include, *inter alia*, the tighter fiscal space and thus the need for private partners to finance infrastructure projects; high upfront costs of infrastructure investment; and greater efficiency delivered by the private sector.

Although the term “public private partnership” is not defined in the EU legislation on public contracts, in order for PPPs to be successful an enabling legal and regulatory framework is needed.


The European PPP Expertise Center (EPEC) is currently working on a project funded by WBIF for the Western Balkans that aims at bringing to the region the PPP expertise available from EPEC. The EUR 1 million WBIF grant will be used for: improving access to and extending the current EPEC network and databases to all countries under WBIF; the assessment of current PPP projects and the improvement of related institutional structures in Croa-

tia and Montenegro; and the development of a methodological tool to assess PPP project readiness.

Under the leadership of the Task Force, key criteria considered by investors before committing to funding were identified and will be developed into comprehensive recommendations to enhance the potential use of PPPs. The principles identified included, *inter alia*, a committed pipeline of projects; long-

term government payment security; political will and long-term commitment; having a PPP procurement law in place; and appropriate risk allocation to the private sector.

The Secretariat has made its own research to assess the status of the current situation with the PPP enabling legal and institutional framework in the Energy Community Contracting Parties as presented in the table below.

 Public Private Partnerships (PPPs)			
	PPP (enabling) legislative framework	PPP (enabling) bodies	PPP/ Concession projects
Albania	<ol style="list-style-type: none"> 1. Law No. 125/2013 "Law on Concessions and Public Private Partnership" (2013) 2. Law No. 9643 dated 20.11.2006 On Public Procurement 3. Law No. 131/2012 on some amendments and additions to the law No. 9643, dated 20.11.2006 On Public Procurement 	<ol style="list-style-type: none"> 1. Public Procurement Agency 2. Public Procurement Commission 3. Concessions Treatment Agency Albania 	<ol style="list-style-type: none"> 1. Ashta Hydropower Plant 2. Bratile Hydropower Plant 3. Skavica Hydro Power Plant
Bosnia and Herzegovina	<ol style="list-style-type: none"> 1. Law on Concessions of Bosnia and Herzegovina (2002) 2. Law on Public Private Partnership in the Republika Srpska (2009 and amended in 2011) 3. Law on Public Procurement for Bosnia and Herzegovina (2004) 	<ol style="list-style-type: none"> 1. Commission for concessions of Bosnia and Herzegovina 2. Other regional commissions: Commission for Concession of Federation of Bosnia and Herzegovina - Cantonal Commissions for Concessions - Commission for Concession of Republika Srpska - Commission for Concession of Distrikt Brčko 	<ol style="list-style-type: none"> 1. Ulog Hydro Power Plant
FYR of Macedonia	<ol style="list-style-type: none"> 1. Law on Concessions and Public Private Partnership (2012) 2. Law on Public Procurement (2007) 	<ol style="list-style-type: none"> 1. A specialised PPP unit under the Ministry of Finance 2. The PPP Law provides for the establishment of a Council 3. Public Procurement Bureau 	<ol style="list-style-type: none"> 1. HPP Cebren 2. HPP Galiste 3. HPP Tikves 4. Skopje Airport
Kosovo*	<ol style="list-style-type: none"> 1. Law No. 04/L-045 on Public Private Partnership (2011) 2. Law on Public Procurement in Kosovo* (2011) 	<ol style="list-style-type: none"> 1. Public Private Partnerships Committee, the "PPPC" 2. Central Public Private Partnership Department 3. Public Procurement Regulatory Commission 	<ol style="list-style-type: none"> 1. Privatization of electricity distribution and supply
Moldova	<ol style="list-style-type: none"> 1. Law on Public Private Partnership (2008) 2. The Concessions Law (2012) 3. Public Procurement Law (contains only a general clause explains the link between the Public Procurement Law and the PPP Law, 2007) 	<ol style="list-style-type: none"> 1. National Counsel of PPP 2. Public Property Agency of the Republic of Moldova 3. Public Procurement Agency 	
Montenegro	<ol style="list-style-type: none"> 1. Law on Concessions (2009) 2. There is no special PPP Law incorporating all forms of PPPs 3. Concessions are not covered by the Public Procurement Law 	<ol style="list-style-type: none"> 1. Commission on Concessions 2. Public Procurement Administration of Montenegro 3. No institution specialised in PPP 	<ol style="list-style-type: none"> 1. Development of hydropower plants on Moraca river in Montenegro
Serbia	<ol style="list-style-type: none"> 1. Law on Public Private Partnership (2011) 2. Law on Public Property (supporting regulation for the law on PPP) (2011) 3. Public Procurement Law (2013) 	<ol style="list-style-type: none"> 1. Commission for PPP 2. The Public Procurement Office 	
Ukraine	<ol style="list-style-type: none"> 1. The Law "On State-Private Partnership" (2010) 2. Law of Ukraine On Concessions (Adopted 1999, amended many times last in 2005) 3. There are sector specific legislation providing for the peculiarities of concessions in a particular field of activity (e.g.): Law of Ukraine "On Peculiarities of Leasing Out or Giving in Concession of Communal Facilities of District Water and Heat Supply and Sanitation", the Law of Ukraine "On Concession and Lease of Infrastructure" and "On Concessions for Construction and Operation of Motor Roads" 4. The Public Procurement Law does not apply to PPP despite no explicit reference to that effect in the PPP Law or the Concession law 	<ol style="list-style-type: none"> 1. There is no single PPP unit in Ukraine. There are several governmental authorities responsible for the PPP in Ukraine, including the Ministry of Economic Development and Trade, National Projects Agency, Ukrainian PPP Center etc. Ukraine is working on the creation of a Central PPP Unit with the assistance of UNECE 2. The State Agency for Investment and National Projects of Ukraine (SAINPU) 3. No institution can be found on the web regarding Public Procurement 	<ol style="list-style-type: none"> 1. PPP projects are mostly in transport sector

Source: Energy Community Secretariat

3.2 Energy Community Risk Enhancement Facility

The High Level Reflection Group also proposed to set up an Energy Community Risk Enhancement Facility (ECREF) that would "address risks such as breach of contract by public bodies, retroactive measures, discriminatory taxation, payment default

by public entities, and similar risks which are a strong deterrent to both lenders and investors, and are difficult to mitigate effectively".

The "ad-hoc vehicle should be established to provide the relevant guarantee or insurance products and manage the facil-

ities. The role of ECREF will be to mobilize stand-by financial commitments or ad hoc guarantees provided by a group of guarantors, and to tailor the guarantees to the requirements of eligible projects. The ECREF vehicle will contract adequate expertise on a competitive basis, and the Secretariat could both fund and supervise this work. ECREF will only be available for priority projects of the Energy Community which enhance either market integration or security of supply".

The Secretariat has started preparing a preliminary review of key issues that need to be considered with respect to the creation of the ECREF. The review will explore the views of the IFIs with respect to the need for such an instrument and their potential participation as well as the views of the WBIF on the options for using IPA pre-accession funds to contribute to the ECREF.

3.3 Extended Use of IPA II Grant Funds

While WBIF/IPA I funds were mainly used for investment project preparation, at the WBIF Steering Committee in June 2014, the European Commission Directorate General for Enlargement presented its approach to the support of Western Balkans infrastructure investment projects in the period 2014 - 2020. One of the important new elements is the grant funding for implementation of "mature" investment projects with a regional dimension.

Although the methodology needs to be prepared and agreed with the Steering Committee, this approach may be the catalyst needed for some interconnections (electricity and gas) to move from the preparatory phase to implementation.

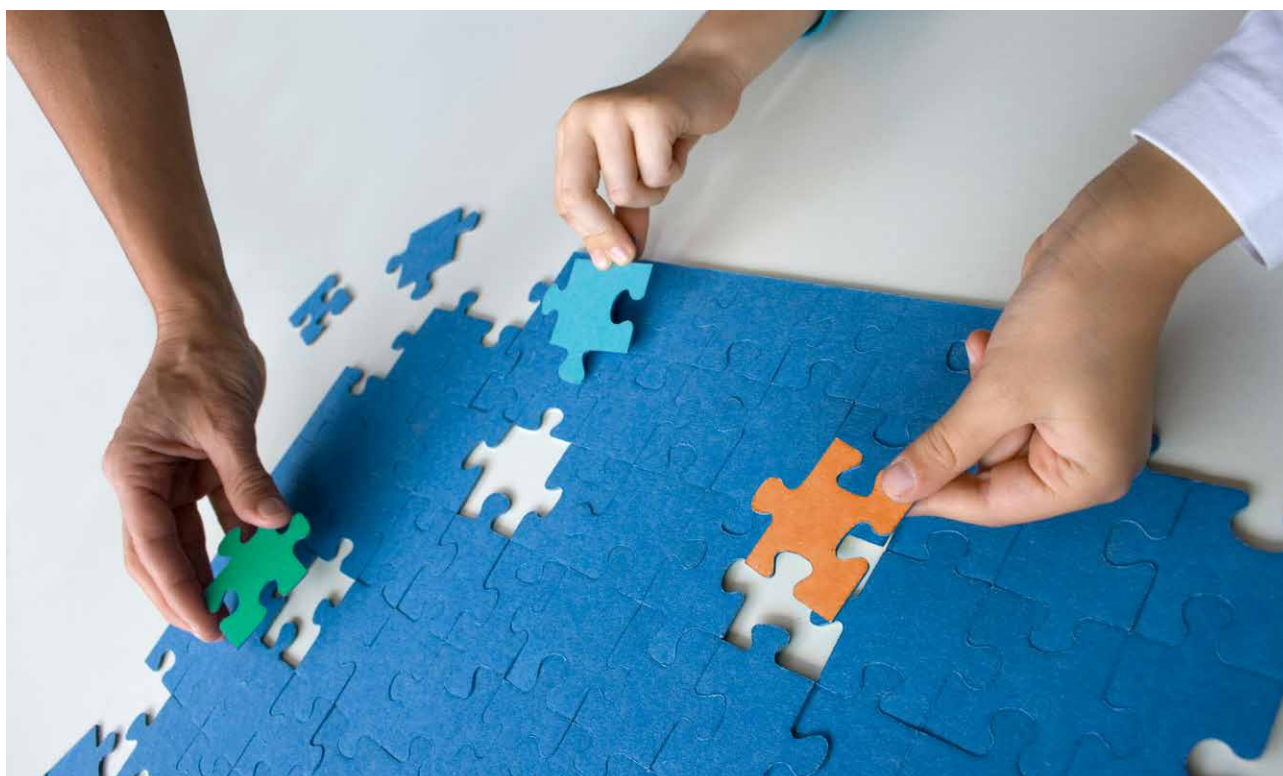
e. Final Remarks

Many of the Projects of Energy Community Interest appear to be on track with the preparation of investment documentation in the form of feasibility and environmental impact assessment studies, detailed design, etc., but very few have reached the status of investment decision.

When asked by the Secretariat what are the potential obstacles that may block project implementation, many project promoters listed the following: financing; social acceptance; land acquisition; the need for reorganisation of the company; availability of gas sources for new market and gas market demand; coordination between countries and companies involved in cross-border infrastructure; high investment costs (mainly for larger power plants), etc.

In order to facilitate PECE implementation, the Secretariat is determined and committed to help the Contracting Parties in removing the legal and regulatory barriers towards greater market integration and setting energy price levels that give investors the right signals. The Secretariat will also continue working with the European Commission to make available additional financial instruments through European and international funds that would support the PECEs.

Moreover, the Secretariat will continue to follow closely the progress of the PECEs, not only for reporting purposes, but also to assist them in all possible ways at its disposal. Having this in mind, the Secretariat already initiated work with WBIF experts to analyse the "readiness" of the PECE pipeline for funding through the PPP procurement mechanism.





13. Social Report

a. Social Aspects of Implementing the Acquis

The social dimension has always accompanied the process of implementing the Treaty establishing the Energy Community. Economic development and social progress need to go hand in hand. The access to stable and continuous energy supply is essential for our economies and societies. The Energy Community's vision of a social model is one where sustainable economic growth is combined with improving living and working conditions. It also implies involving stakeholders, in particular social partners, in the decisions that affect them.

The Memorandum of Understanding on Social Issues signed by the Contracting Parties in 2007 remains the key guiding document. It addresses four important aspects of the social dimension: the respect of fundamental social rights; the development of labour laws in relation to the promotion of improved working conditions and standards of living; the promotion of health and safety at work; and the recognition of equal treatment of men and women. It also gives attention to anticipating and managing the social consequences that arise from the implementation of the Treaty, in particular during the process of opening up of the electricity and gas markets. It also emphasizes the social protection of consumers and aims to protect the most vulnerable ones.

b. Relationship with the Third Energy Package

In that respect, the social dimension is inherent also in the Third Energy Package which the Contracting Parties are currently in the process of transposing. Articles 3 of Directives 2009/72/EC and 2009/73/EC make a clear reference to public service obligations and customer protection and stipulate that Contracting Parties must protect final customers and "*in particular ensure that there are adequate safeguards to protect vulnerable customers*".

Ensuring secure, safe and sustainable energy to all businesses and households at affordable prices is one of the major goals of European energy policy. However, this is not always easy to achieve. Subsidies or regulation aimed at lowering the overall energy prices tend to reduce the incentives for energy efficient behaviour, do not specifically target the most in need, and can distort competition. While assistance to vulnerable consumers by financial measures may be part of social policy, assistance with energy efficiency improvements represents a cost-effective form of assistance. Prices of electricity and gas should be cost reflective and consumption of vulnerable customers should be financed by social allowances.

The Ministerial Council meeting in October 2013 endorsed the "*Outline of a Social Strategy in the Energy Community*", which was prepared by the Secretariat in cooperation with the social partners, and thus adopted a regional definition of a socially vulnerable customer in the energy and gas sectors. The Outline of the Social Strategy also proposed that the Contracting Parties implement a national definition of a socially vulnerable customer.

The following regional definitions for electricity and gas were adopted:



A socially vulnerable customer in the electricity sector is:

- (1) Using energy for supplying her/his permanent housing;
- (2) 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;
- (3) 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;
- (4) Having her/his electricity consumption supplied through single-phase meter with a connection not exceeding maximum power. When defining power of a single-phase meter Contracting Parties shall consider power of up to 16 Ampere.

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



A socially vulnerable customer in the gas sector is:

- (1) Using gas for supplying her/his permanent housing;
- (2) Not exceeding maximum gas consumption per person: when defining gas consumption level per person, Contracting Parties shall consider total consumption of up to 70 cm/month for a family with up to 4 members and reflect seasonality;
- (3) 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.

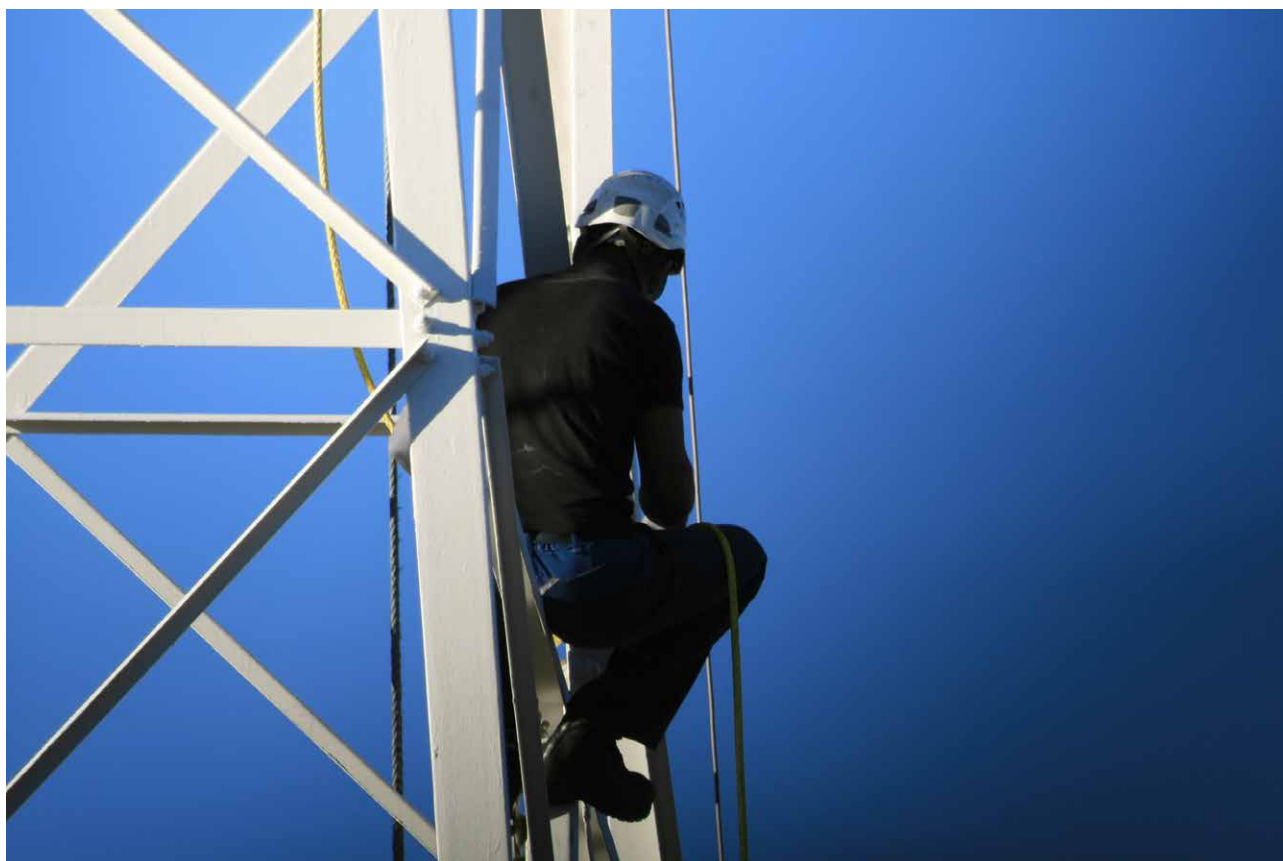
The definition shall not include more than a minority of consumers.

Each definition includes only citizens with the lowest income and is thus preferable over the across the board price regulation which is both unfair and detrimental to the well-functioning of the energy system as a whole.

c. Conclusions

Defining at national level the term and concept of vulnerable customers is one of the key requirements under the Third Energy Package. The Ministerial Council invited all Contracting

Parties to use the definition included in the Outline of the Social Strategy as a reference. As the gas and electricity sections in this Report demonstrate, the definition of vulnerable customers is still to be adopted in the majority of the Contracting Parties.



Glossary

The report makes a reference to the following institutions, treaties, support programmes and energy policy related concepts and measurement units.

1. Abbreviations

ACER	Agency for the Cooperation of Energy Regulators
CEB	Council of Europe Development Bank
CEER	Council of European Energy Regulators
CEFTA	Central European Free Trade Agreement
CEN	European Committee for Standardization
CHP	Combined Heat and Power Plant
CNG	Compressed Natural Gas (Trucks)
DSO	Distribution System Operator
EBRD	European Bank for Reconstruction and Development
ECRB	Energy Community Regulatory Board
ECREF	Energy Community Risk Enhancement Facility
EC	European Community
EEAPs	Energy Efficiency Action Plans (also referred to as NEEAPs)
EEX	European Energy Exchange
EnC	Energy Community
ENTSO-E	European Network of Transmission System Operators for Electricity
ENTSO-G	European Network of Transmission System Operators for Gas
EPEC	European PPP Expertise Center
ERRA	Energy Regulators Regional Association
ESCO	Energy Service Company
EU	European Union
EUROSTAT	Statistical Office of the European Union
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
HFO	Heavy Fuel Oil
HPP	Hydro Power Plant
HVDC	High Voltage Direct Current
IAP	Ionian Adriatic Pipeline
IEA	International Energy Agency
IFI	International Financial Institution
IFI CO	IFI Coordination Office
IGA	Inter-Governmental Agreement
INOGATE	An international energy co-operation programme between the European Union, the littoral states of the Black and Caspian seas and their neighbouring countries
IPA	EU's Instrument for Pre-Accession Assistance for countries engaged in the accession process
IPPC	Integrated Pollution Prevention and Control
KfW	Kreditanstalt für Wiederaufbau
LNG	Liquefied Natural Gas
n/a	Not Available
NGO	Non-Governmental Organization
NIF	Neighbourhood Investment Facility
NREAP	National Renewable Energy Action Plan
OTC	Over the Counter
OHL	Overhead Electric Line

PCI	Project of Common Interest
PEICs	Projects of Energy Community Interest
PHLG	Energy Community Permanent High Level Group
PPA	Power Purchase Agreement
PPP	Public Private Partnerships
PV	Photovoltaic
REEP	Regional Energy Efficiency Programme (managed by EBRD)
RES	Renewable Energy Sources
SCADA	Supervisory Control and Data Acquisition
SEE CAO	Coordination Auction Office in South East Europe
SEE-RAP	Regional Action Plan for Wholesale Market Opening in South East Europe
SEEPX	Power Market Exchange in Serbia
USAID	United States Agency for International Development
UNECE	United Nations Economic Commission for Europe
UNDP	United Nations Development Programme
UNIDO	United Nations Industrial Development Organisation
TAP	Trans Adriatic Pipeline
TFEU	Treaty on the Functioning of the European Union
TPP	Thermal Power Plant
TSO	Transmission System Operator
VAT	Value Added Tax
WB	World Bank
WBIF	Western Balkans Investment Framework

2. Definitions on the Electricity and Gas Fact and Figure Tables

Electricity Definitions

Electricity production	Annual domestic electricity production of all generation sets including pumped storage, measured at the outlet of the power plant to the transmission or distribution networks, excluding own consumption of electricity absorbed by the generating auxiliaries and the losses in the main generator transformers of the power plants
Net imports	Amount of electricity supplied from abroad to cover the needs of domestic consumption including energy used to cover network losses (transmission and generation) – as applicable; (If not available, reports the amount of electricity that has crossed the national borders, regardless if the customs clearance takes place or not)
Net exports	Amount of electricity produced in the country supplied to customers across the national border; (If not available, reports the amount of electricity that has crossed the national borders, regardless if the customs clearance takes place or not)
Total electricity supplied	Total amount of electricity supplied by all power stations to the network, reduced for export and increased for imports from abroad
Gross electricity consumption	Total amount of electricity consumed by all customers connected to transmission or distribution networks, including network losses and electricity consumed by power stations, if supplied from the network
Losses in transmission	The difference between the amount of electricity entering the transmission network and the aggregated amount of electricity taken from the transmission network, registered at all customers' meter points; Percentage of total losses in the transmission system (relative to the total electricity injected in the transmission network)
Losses in distribution	The difference between the amount of electricity entering the distribution system and the aggregated consumption registered at customers' meter points; Percentage of total losses in the distribution system (relative to the total electricity injected in the distribution system)

Consumption of energy sector	Amount of electricity taken from the power network and consumed by the energy industry to support the power plant operation	
Final consumption of electricity	Total consumption of end-users in industry, transport, commercial and public services, agriculture and residential sector	
Consumption structure	Industrial, transport, services and other non-residential sectors	Electricity consumed by industry, commercial customers (including small enterprises), governmental institutions and transport sector (public transportation services, transport utilities, private vehicles) including public lighting, excluding network losses
	Households (residential customers)	Electricity consumed by the residential customers (households)
Net maximum electrical capacity of power plants [MW]	Sum of net maximum capacities of all stations taken individually throughout a period of operation of 15 hours of continuous running, at the power plant outlet to the network, assuming the power to be solely active power	
Net maximum electrical capacity of power plants	Coal-fired	Sum of net maximum capacities of all stations powered on solid fossil fuels (coal, lignite, coke, peat)
	- out of which:	Sum of net maximum capacities of multi-fired stations using combined solid and liquid fuel or solid fuel and gas; (Multi-fired are units which can burn more than one type of fuel on a continuous basis)
	Gas-fired	Sum of net maximum capacities of all stations using natural gas as a fuel
	- out of which	Sum of net maximum capacities of multi-fired stations using natural gas and solids or liquids
	Oil-fired	Sum of net maximum capacities of all stations using oil or oil products as a fuel, excluding combined oil and gas
	Nuclear	Sum of net maximum capacities of all stations using nuclear energy
	Hydro	Sum of net maximum capacities of all stations using hydro power sources including storage, pumped storage and run-of-river plants of all types and sizes
	Small hydro	Sum of maximum capacities of all small hydro power plants (10 MW or less, connected to a distribution network)
	Pumped storage	Sum of net maximum capacities of all "pumped storage" hydro power plants
	Other renewables	All existing renewables generation capacity excluding hydro (wind, PV, solar, geothermal, biomass-fired, biogas-fired, other)
	Wind	Sum of all maximum capacities of all wind farms
Horizontal transmission network [km]	380 kV or more	Total length of existing high voltage lines on 380 kV or more
	220 kV	Total length of existing high voltage lines on 220 kV or more – but less than 380 kV (in the transmission or distribution grid)
	110 kV	Total length of existing high voltage lines on 110 kV or more – but less than 220 kV (in the transmission or distribution grid)
	HVDC	Total length of High Voltage Direct Current lines
	Substation capacity	Sum of the nominal capacities of all substations in the transmission network (working on 380kV, 220kV and 110kV) and HVDC converters
Electricity customers	Total	Total number of final customers of electricity
	Non-household	Number of all non-household customers <i>i.e.</i> customers eligible according to the <i>acquis</i>
	Eligible customers under national legislation	Number of customers eligible to choose a supplier, according to the legislation in force, regardless of how many have exercised eligibility
	Active eligible customers	Number of customers who have switched their supplier and are being supplied under market conditions

Internal market	Electricity supplied to active eligible customers	Quantity of electricity supplied to active eligible customers
	Share of final consumption [%]	Electricity supplied to active eligible customers as a part of final consumption

Gas Definitions

Natural gas production	Amount of indigenous annual production of natural gas (all dry marketable production within national boundaries, including offshore production, measured after purification and extraction of natural gas liquids and sulphur, excluding extraction losses and quantities re-injected, vented or flared)	
Imports flows	Amount of natural gas produced outside the national territory that has crossed the political boundaries of the territory for ultimate consumption, whether customs clearance has taken place or not	
Exports flows	Amount of natural gas produced within the political boundaries of the territory that crossed the boundaries for ultimate consumption outside the national territory, whether customs clearance has taken place or not.	
Stock changes	The difference between the opening stock level and closing stock level for stocks held on national territory; A stock build is shown as a negative number and a stock draw is shown as a positive number	
Total supply	Amount of natural gas available for consumption calculated as Indigenous production + Imports – Exports + Stock changes	
Gross consumption of natural gas	Calculated amount of consumed natural gas by all customers, including in energy sector, transformation inputs and conversions, as well as to cover for losses in the network	
Consumption in energy sector	Amounts of NG used for own consumption of gas sector for operation and for network losses, and for the transformation to derived energy products (heat and electricity)	
Available for final consumption of natural gas	The quantity of recorded consumption in surveys of end-use sectors (including energy and non-energy use and excluding transformation inputs and consumption of energy sector)	
Interconnectors' capacity	Total	Total annual capacity of all interconnectors
	Bidirectional capacity	Capacity of bidirectional flow, if possible, on interconnectors
Storage working capacity	Total working capacity of underground storages (without cushion gas)	
Length of transmission network	Total length of transport network(s)	
Length of distribution network	Total length of distribution networks	
Natural gas customers	Total	Total number of final customers connected to transmission and distribution networks
	Non-households	Number of all customers except households, <i>i.e.</i> customers eligible to choose supplier according to the <i>acquis</i>
	Eligible customers under national legislation	Number of customers eligible to choose supplier, according to the legislation in force, regardless of how many have exercised eligibility
	Active eligible customers	Number of customers who have switched their supplier and are being supplied under market conditions
Internal market	Households	Number of household customers
	Gas supplied to active eligible customers	Quantity of natural gas supplied to eligible customers from a competitive market under market conditions
Internal market	Share of total consumption	Natural gas supplied from a competitive market to eligible customers as a part of total consumption
	Final consumption of natural gas per sector	Total annual consumption of all final customers of natural gas

Consumption structure	Energy transformation	Amount of natural gas used for production of electricity Amount of natural gas used for production of heat
	Industry and commercial customers	Amount of natural gas consumed by industry, commercial customers (including small enterprises), governmental institutions and transport sector (public transportation services, transport utilities, private vehicles) excluding network losses
	Households	Natural gas consumed by the residential customers (households)

Energy Efficiency Definitions

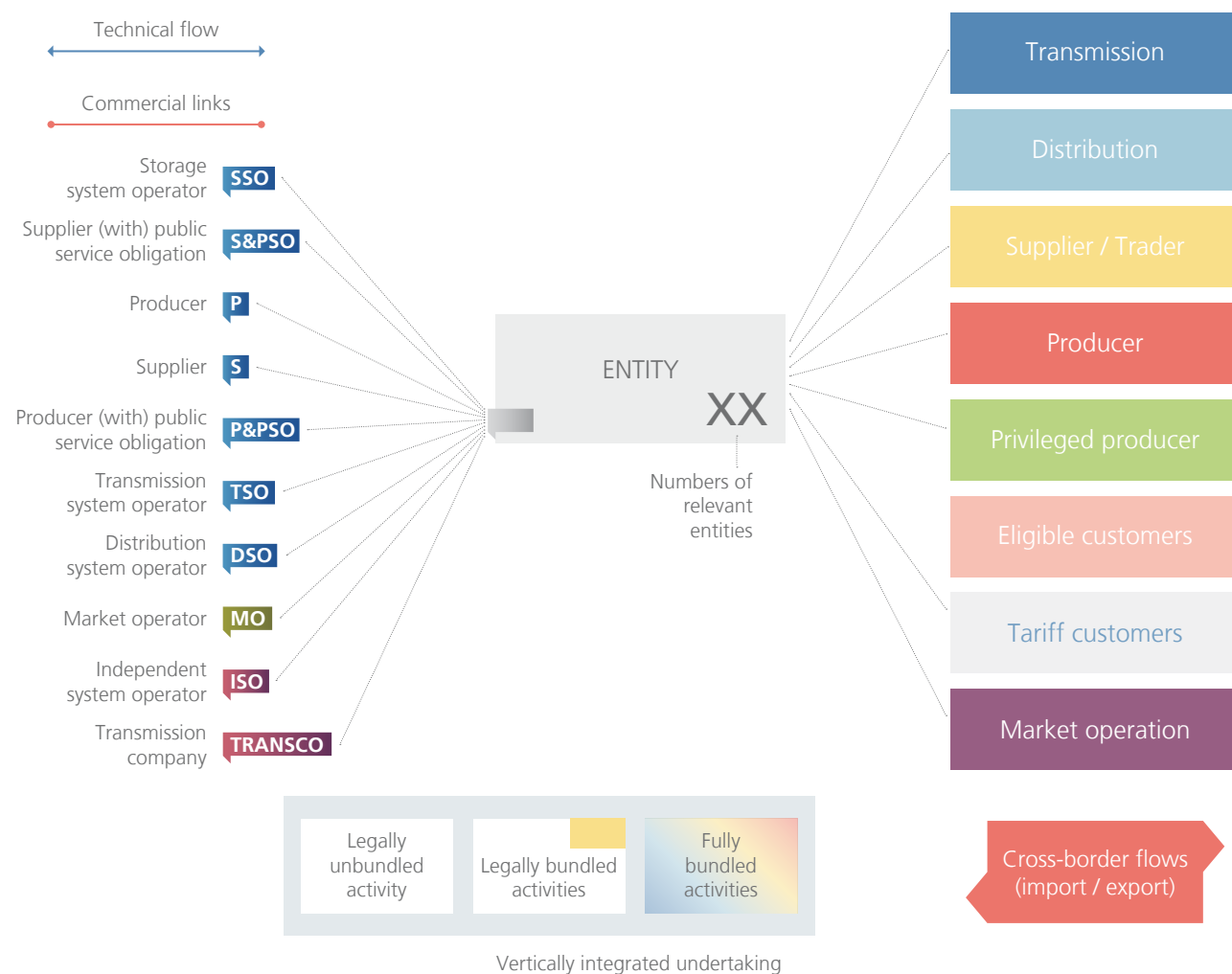
Period covered by EEAP	year - year	Period set for implementation of the Energy Efficiency Action Plan and achievement of the overall energy savings target, as defined by Directive 2006/32/EC on energy end-use efficiency and energy services
Overall energy savings target - Directive 2006/32/EC	ktoe / % / year	National energy savings target calculated in line with Annex I of Directive 2006/32/EC on energy end-use efficiency and energy services
EEAP status		Status of adoption of the Energy Efficiency Action Plan (in development/drafted/adopted)
Achieved energy savings	ktoe / % / year	Achieved intermediate national energy savings target for the first three-year implementation period
Total primary energy supply (TPES)	ktoe	Amount of total energy necessary to satisfy inland consumption, made up of indigenous production, plus imports, minus exports, minus international marine bunkers and stock changes
Energy intensity (TPES/GDP)	toe / 1,000 USD	Energy efficiency indicator representing ratio of the total primary energy supply divided by the gross domestic product of the country
TPES/Population	toe/capita	Energy efficiency indicator representing ratio of the primary energy supply per head of population
Total final energy consumption (TFEC)	ktoe	Sum of consumption in the end-use sectors: residential, services, industry (including manufacturing and mining), transport, non-energy consumption, and others (including agriculture)
Share of TFEC by sector	Residential	Residential sector share of total final energy consumption (in %)
	Services	Services sector share of total final energy consumption (in %)
	Industry	Industry sector share of total final energy consumption (in %)
	Transport	Transport sector share of total final energy consumption (in %)
	Non-energy use	Non-energy use sector share of total final energy consumption (in %)

3. Measurement Units

kilovolt	kV
kilovolt-ampere	kVA
kilowatt	kW
megawatt	MW
gigawatt	GW
terawatt	TW
kilowatt hour	kWh
megawatt hour	MWh
gigawatt hour	GWh
terawatt hour	TWh
joule	J
terajoule	TJ

tonne (metric ton)	t
million tonne	mt
kilotonne	kt
meter	m
kilometer	km
cubic meter	cm
million cubic meters	mcm
billion cubic meters	bcm
kilogram of oil equivalent	kgoe
tonne of oil equivalent	toe
thousand tonne of oil equivalent	ktoe
million tonne of oil equivalent	mtoe

4. Energy Market Scheme Legends



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