

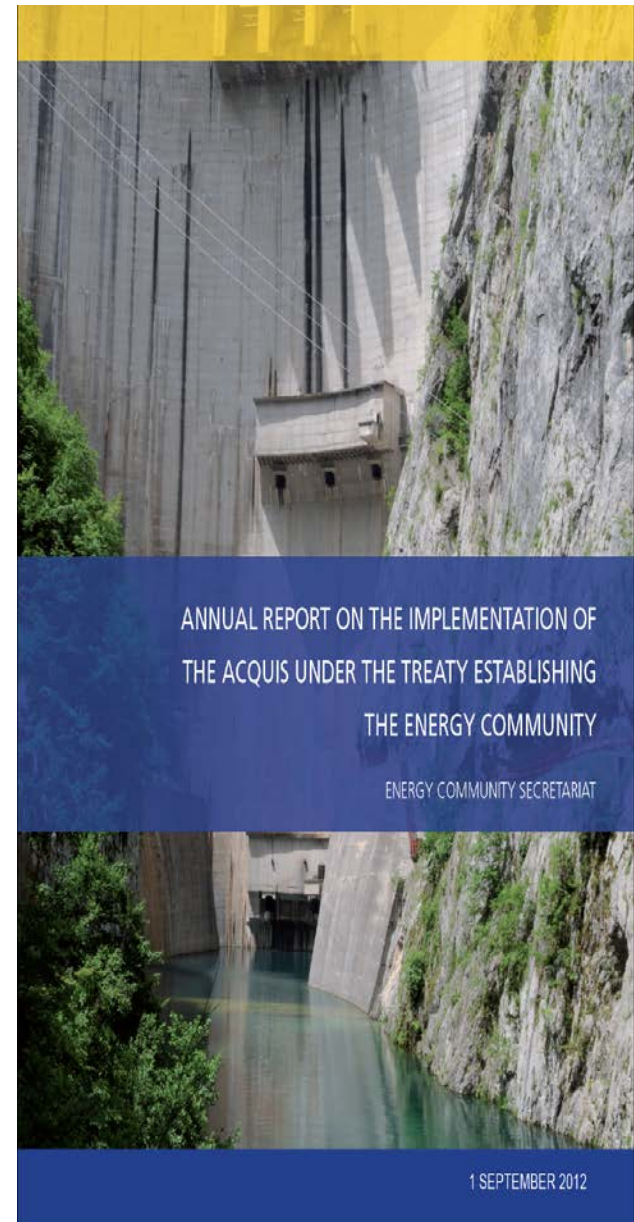
24th Permanent High Level Group Meeting

Budva, 17th October 2012

ANNUAL REPORT 2012

on the implementation of the acquis
under the Treaty

ENERGY COMMUNITY SECRETARIAT
www.energy-community.org



Introduction

Scope

1. ELECTRICITY
2. GAS
3. OIL
4. Horizontal policies COMPETITION
 ENVIRONMENT
 RENEWABLE ENERGY
 ENERGY EFFICIENCY
 SOCIAL DIMENSION
5. DISPUTE SETTLEMENT REPORT
6. INVESTMENT REPORT

Introduction

Structure

1. The market / legal / institutional framework in each Contracting Party, incl data and market schemes
2. The progress made in 2011/2012
3. The state of compliance with the *acquis communautaire*
4. Proposals for priorities

Acquis on ELECTRICITY

Implementation

❖ Transposition and legal compliance

- Some **new legal acts** are in final stages of adoption (Albania, BiH, Ukraine, Moldova),
- Missing implementation of the **SoS Directive** and the *acquis* on **cross-border capacity** management
- Compliance with the **III Package** is the next step to follow (Croatia)
- The activities are focused on development of **adequate secondary legislation** (FYR of Macedonia, Montenegro, Moldova, Serbia)
- Improvement and enforcement is needed mainly for the **market** and **supplier switching rules**, **balancing**, and **protection of vulnerable customers**

❖ New generation capacity

- Growing interest in **new RES generation** puts pressure for more efficient investment environment
- **Authorization** and **tendering** procedures are among the bottlenecks, with lack of compliance and transparency – improvements are initiated (BiH)

❖ State of unbundling

- **Legal unbundling of the TSO / ISO** is completed, problems with independent management exist (BiH)
- **Accounting unbundling** of integrated utilities is still not over (Albania, BiH, Montenegro, Kosovo*, Ukraine)
- **Unbundling of DSO** from supply is the next step to follow (all CPs)
- **Unbundling of transmission** according to the **III Package** is the next step to follow (all CPs)

Acquis on ELECTRICITY

Implementation

❖ Organization of the electricity markets

- The **Single Buyer model** is legally enforced (Albania, Moldova, Ukraine) – significant dominance of the large incumbent companies is present in all CPs as well, **bilateral contracts** are applied in limited format
- **Market operators** are established as independent in few CPs (Croatia, Moldova, Montenegro, Ukraine) bundled with transmission (BiH, FYR of Macedonia, Serbia) or with generation (Albania, Kosovo*)
- **Balancing** is accomplished as a regulated service in all CPs, provided by the incumbent generators or market operators – **competitive balancing** is a next step to be taken, **losses** are covered on the market by few CPs only (Albania, FYR of Macedonia)
- Spot-market (**Day-Ahead market**) is not yet applied but contemplated in some legal acts (Croatia, FYR of Macedonia, Serbia) or market rules (BiH) – establishment of such market is a next step to follow
- New **Market Rules** are adopted (FYR Macedonia, Montenegro) or in development (Serbia, Kosovo*), **General Conditions for Supply** are broadly applied in the regulated context and **Supplier Switching Rules** and mechanisms are just beginning to appear (BiH, Croatia) – this are next steps to follow
- **Eligibility** is generally brought to legal compliance (save in Ukraine), **competitive supply** is legally enforced and regulatory supported in most CPs, practically applied in few (Croatia, FYR Macedonia, Ukraine) – still no effective competition in end-user supply can be reported

❖ Regulation of tariffs and prices

- **Regulated network tariffs** are generally well applied – with large variations and limited transparency
- **Regulated supply prices** are still largely available to legally eligible classes of customers (save in Croatia) and **regulated generation prices** dominate the public supply portfolios on exclusive bases

Acquis on ELECTRICITY

Implementation

❖ Access and management of transmission capacity

- TPA (transmission, distribution) is relatively well transposed and applied, [Grid Codes for Transmission](#) are adopted but application is still insufficient in few CPs (Albania, BiH, Kosovo*), access to Distribution grids is well regulated, [Distribution Grid Codes](#) are missing (save in Croatia) – this is the next step to follow
- [Restrictions of the access](#) are applied in some cases due to technical or administrative reasons – refusal is poorly treated, treatment of [exemptions from TPA](#) are missing in most jurisdictions
- [Transparency](#) in the transmission network operation is moderately applied – needs further enforcement and monitoring, in some CPs needs significant and urgent attention (Albania, BiH, Kosovo*, Ukraine)
- Transposition of the acquis on [cross-border capacity management](#) is not completed and provisions are missing – mainly on transparency, congestion revenues, penalties, exemptions
- Applied cross-border [capacity allocation mechanisms](#) are mainly set on market-based principles but mostly split 50:50 and insufficiently coordinated, some CPs face inherent problems (Moldova, Kosovo*, Ukraine), some rules are in development (Albania, Ukraine)

❖ Regulatory powers

- [Regulatory authorities](#) are well addressed in the legislation, enforced, established and active – legal improvements are needed mainly in the scope of competences, treatment of appeals and independence
- [Monitoring competences](#) need further enforcement – mainly with respect to market concentration, access to networks and transparency
- [Independence and activity](#) of the Regulators at the moment varies between advanced (Moldova, Serbia), developing (Ukraine) and overburdened (Albania, Croatia, FYR Macedonia, Montenegro, Kosovo*)

Acquis on ELECTRICITY

Regional market integration

❖ Trading environment

- Cross-border trading is **inherently limited** by large number of borders, small and fragmented markets, insufficient interconnection capacity, lack of transparency and uncoordinated allocation mechanisms
- Cross-border **trading practices** include bilateral trade agreements of low liquidity – no common balancing mechanism, no spot-trading platform, no effective power exchanges and no reliable price references
- Recent initiatives are focused in two directions – establishment of a SEE CAO and bilateral efforts for market integration (Croatia – Slovenia, Croatia Hungary, Serbia – Hungary)

❖ Regional Action Plan for the wholesale market

- **The RAP** was supported by NRA and adopted by ECRB – set up the steps for establishment of a functioning wholesale market in SEE by 2014 based on the Target Model for the EU internal market
- The specific conditions of **Moldova and Ukraine** are addressed in recommendation to set locally coordinated cross-border trading mechanisms before their integration into ENTSO-e

❖ SEE Coordinated Auction Office (CAO)

- **The CAO Project Company** was established in June 2012 with a task to develop the required rules and put the CAO into operation in the course of one year

❖ Local Action Plans

- **The LAP Template** was proposed as a general platform for local market opening – specific roadmaps of required measures need to be set internally for each jurisdiction

Acquis on ELECTRICITY

Security of supply

❖ Legal implementation and obligations

- The [SoS Directive](#) is partially transposed and implemented – mainly in long-term planning (energy strategies) and short-term supply forecast (annual demand balances) which improve transparency but miss consistency and enforcement – main untapped potentials exist in the domain of generation adequacy, competitive supply and demand management
- [SoS Statements](#) are developed and submitted in 2009 and 2011 – with diverse structure and low level of applicability, a [Template](#) provided by ECS can provide improvements and eventual compliance with the reporting obligations
- The [Treaty provisions](#) related to application of [safeguard measures](#) in case of sudden crisis in the market and [mutual assistance](#) in case of disruption of the supply are not implemented and coordinated among – the SoS CG is established to cope with some of these aspects

❖ Supply conditions

- The “cold snap” of February 2012 can be seen as a wake-up call for both the fragility of the supply and its importance – the crisis was contained only after administrative restrictions were imposed and market prices, capacity allocations and settlement conditions were disrupted – there are no grounds to believe that the crises shall not reappear
- The [overall dependence on imports](#) by most of the countries can deepen the exposure to volatility of the supply conditions and related costs in the future, even at present [curtailment schemes](#) are regularly applied (Kosovo*) – this calls for long-term solutions and serious measures
- the regional [Energy Strategy of the Energy Community](#) is developed as a framework to coordinate the activities in this respect

Acquis on ELECTRICITY

Priorities in the domain of ELECTRICITY

- ❖ **Missing provisions for legal compliance** – transposition and enforcement in the regulatory acts, plans for implementation of the **III Package**
- ❖ **Opening of the local market** – LAP, Market rules, Switching rules, new trading platforms, customer protection, unbundling of generation
- ❖ **Regional WMO** – RAP, transparency in transmission and market operation, coordinated congestion management, administrative obstacles, **CAO**
- ❖ **Security of Supply** – authorization procedures, demand management, monitoring of supply and reporting (SoS Statements, SoS CG), planning instruments, **Regional Energy Strategy**

Implementation

❖ Transposition and legal compliance

- Primary legislation in principle compliant with the acquis, the level of its practical implementation is not satisfactory
- Regulators more proactive in producing secondary acts (Ser, Ua, fYR of Macedonia)
- Disputes between the stakeholders with the national regulators (case against Bosnia and Herzegovina opened)

❖ State of unbundling

- Lack of unbundling of TSOs (Cro – fully compliant)
- Action Plans (Ua, Md) yet to materialise; severe delays (Ser, BH)
- History of disputes over the ownership of the grid (fYR of Macedonia)
- Considerations on TSOs designation (Mne, Al)

Acquis on GAS

❖ Organization of the gas markets

- Dominance of the state owned companies in the local market; switching rate low

❖ Regulation of tariffs and prices

- Excessive in all CPs - regulated tariffs available to some categories of eligible customers - regulation of domestic production (Ua); procurement entities (Cro); price caps (Ua, Cro)
- Disputes between the stakeholders with the national regulators on transmission, distribution or supply tariffs (Md, Cro, fYR of Macedonia).
- The tariffs criticised for not being cost reflective or not including investment incentives.

❖ Access and management of transmission capacity

- Not satisfactory - transposed in several primary legislation, but not implemented (except in Croatia)

Acquis on GAS

❖ Regulatory powers

- Real terms of independence of regulatory decision making varied significantly
- Final decision on prices – a positive trend
- III package in practical terms (AI cooperation on TPA exemptions)

Security of Supply

- Implementation is satisfactory - shortcomings: definitions of supply standards and major supply disruption; reporting obligations elements; SoS statement pending from Md
- Preparatory work to implement some elements of Regulation (EU) 994/2010 started
- Cooperation with GCG (ECS a full member)

Regional Gas Market

- Key target: ample infrastructure – regional initiatives (gas to power, regional strategy, cooperation with ENTSOG)

Priorities in the domain of GAS

- ❖ Building institutional capacities and regulators' independency
- ❖ Making unbundling happen as soon as possible
- ❖ Abandoning excessive regulation of prices
- ❖ Settling the disputes
- ❖ Adopting Grid/Market codes
- ❖ Abolishing the distinction between transmission and cross border flows ("transit")
- ❖ Proactive cooperation with ENTSOG, GCG

Conclusions

1. As Energy Community is becoming more mature, implementation goes beneath the surface of transposition
2. The main progress in the Energy Community in 2011/2012 was achieved on the level of secondary legislation
3. Cooperation with the Secretariat is becoming more intense, eg through implementation partnerships and dispute settlement
4. Principle matters – changing market structures and enhancing regional integration – are still to be tackled
5. Upcoming challenges - catching up with EU and implementing Third Package