

BOSNIA AND HERZEGOVINA - COUNTRY REPORT 2006

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1. INSTITUTIONAL BUILDING

This chapter aims to review complex institutional framework envisaged in Bosnia and Herzegovina and the distribution of tasks between the existing institutions both at the state and entity levels. Only those institutions whose activities fall to the scope of the EnC Treaty are singled out and briefly described.

1.1 Ministries

- **Energy**

Energy policy issues are under jurisdiction of the Ministries at the state and entity levels. The coordination of general policy activities and international relations related to energy and environmental protection is carried out in the Ministry of Foreign Trade and Economic Relations at the state level (web: <http://www.mvteo.gov.ba>), while the actual responsibility for implementation and undertaking is found at the FBH and RS entity levels through their Ministries of Energy and Ministries of Environmental Protection (web: <http://www.fbihvlada.gov.ba> & <http://www.vladars.net>). The Ministry of Foreign Trade and Economic Relations has a sector which analyses various natural resources, including energy policy issues. That Ministry has been the most active one in all activities related to negotiation and signing of the Energy Community Treaty since the very beginning, including participation in the PHLG and MC meetings. The FBH and RS entities have developed their own legislation and institutions in the energy field. The Transmission Network Company and the Independent System Operator (web: www.nosbih.ba) are formed recently at the state level. There is no law on energy at the state level, and no energy strategy as well. It is expected that the additional harmonisation of the entities legislation will be carried out in parallel to the process of harmonisation with the EU legislation.

- **Environment**

The Ministry of Foreign Trade and Economic Relations (web: www.mvteo.gov.ba) has received the authority to deal with issues of natural resources, including environmental protection at the state level. It is a focal point for the GEF projects, and Ozone/POPS related implementation projects. It has ratified the Danube Convention and expects its implementation. The first draft of the Law for Environmental Protection has appeared recently, as well as the Law for Establishment of Agency for Environmental Protection. Environmental issues are primarily dealt with in the Ministries in charge at the entity levels through laws, regulations and standards. There is no legislation on environment at the state level. Existing legislation adopted key items from the key environmental directives. Furthermore, there is an absence of environmental policy and strategy.

- **Renewables and Energy Efficiency**

There is no specialised agency neither for energy efficiency nor for renewable sources.

1.2 Energy Regulators

- Competence over energy policy issues falls to the scope of the Ministry, while the tariffs and prices are solely under the three regulatory authorities (one at the state level and two at the entity levels). The entities (FBH and RS) have decided to have their own regulators. The state regulator (State Electricity Regulatory Commission, web: www.derk.ba) deals with electricity transmission issues, while the two entity

regulators (Regulatory Commission for Electricity in the FBH entity, web: www.ferk.ba and the Regulatory Commission for Electricity of the RS entity, web: www.reers.ba) deal with electricity generation and distribution issues. The State Electricity Regulatory Commission cooperates and harmonises its operation with the Regulatory Commission for Electricity in the FBH entity and the Regulatory Commission for Electricity of the RS entity. The SERC also cooperates with other regulatory bodies established on the state level (the Competition Council and the Communication Regulatory Agency). The consolidation of the energy regulators is now necessary, as well as a reform of the gas sector and establishment of a regulatory body for it.

1.3 Competition Authority

- Establishment of the Council of Competition of Bosnia and Herzegovina (web: www.bihkonk.gov.ba) in 2004 is based on the Law on Competition from 2001. The Council is independent legal body which is authorised for decision making on existence of forbidden activities related to competition in the market of Bosnia and Herzegovina. The Law from 2001 regulated competition policy issues for the first time in Bosnia and Herzegovina and represented one of the most important instruments and pillars for creating and strengthening of the market in Bosnia and Herzegovina. The Law from 2001 contained fundamental rules and regulations based on Arts. 81-82 of European Community Treaty, but it did not follow modern practice coming out from the Acquis. Therefore, the new Law on Competition has been drafted and enforced in 2005. It is compatible with EU rules and regulations, and introduces leniency policy, efficient mechanisms for control of internal market and cooperation with international institutions in this area. No authority in Bosnia and Herzegovina is currently responsible for overseeing state aid granted in the country.

2. ELECTRICITY SECTOR

Regarding current status of the ratification of the EnC Treaty, the proposal for its ratification has been transferred from the Ministry of Foreign Trade and Economic Relations to the Ministry of Foreign Affairs in December 2005. The proposal is currently between the Presidency and the Parliament awaiting for further procedure which is expected to finish by June 2006.

A group of experts has commenced its work on the energy sector reform and restructuring in 2000. The Act on Transmission of Electric Power, Regulator and System Operator, as well as the two entity laws on electricity were all adopted in 2002. All three laws are practically harmonised with, generally speaking, some overlapping between them. The Law Establishing the Company for Transmission of Electric Power and the Law Establishing an Independent System Operator were adopted during 2004. Legislation enforced in the field of electrical energy is mutually harmonised between the entities, with generally speaking a little overlapping between them. Harmonisation and alignment with the Acquis has started through the TAIEX program in order to identify those elements in the legislation that are in collision. The software is put in place and the training for its usage is currently awaited.

These laws identify the key implementation bodies: Ministry of Foreign Trade and Economic Relations of BIH, Entity Ministries in charge of energy, the State Electricity Regulatory Commission and the Entity Regulatory Commissions, and all of the power entities. Energy policy issues are under jurisdiction of the Ministries at the state and entity levels. The role of the Ministry of Foreign Trade and Economic Relations is more of a coordinating nature at the state level, while the actual implementation happens at the FBH and RS entity levels. As the

competence over energy policy issues falls to the scope of the Ministries, the tariffs and prices are solely under jurisdiction of the regulatory authorities.

The representatives of the Ministries at the entity levels express their concern regarding discrimination of energents in the EnC Treaty, as they believe that oil and coal need to have a place in it. Oil and oil derivatives market is fully liberalised in Bosnia and Herzegovina. The RS entity has a more advanced legislation in that field due to existing refinery. In the FBH entity, the 2/3 of electrical energy is generated in the coal fired power plants. However, coal as energent is not under jurisdiction of the regulatory commission, but of the Government of the FBH entity. As the regulatory commission sets up tariff methodologies and prices, the Government has a parallel impact by setting the price of coal. In the RS entity, these problems are avoided since the coal and the generating power plants belong to the same undertaking. Public reactions to increase of prices are frequent due to weak economy and low income. Social policy is assigned to different Ministries at the entity levels. The Action Plans for restructuring of the electricity sector envisage that the entity governments should take steps to protect vulnerable customers.

Institutional capacity in all Ministries (at the state and entity levels) is recognised as being very weak especially when it comes to practical implementation of internationally agreed commitments and domestic legislative provisions. Particular gap exists between the Ministry of Foreign Trade and Economic Relations from one side which signs and takes international commitments and the entity Ministries from the other which are obliged to implement these commitments. This causes long time delays in implementation and builds on in complexity when even rather small problems should be solved.

Such a complex situation has been recognised by the international community which finds it difficult to coordinate donors' activities in Bosnia and Herzegovina. The international community has directed significant efforts towards institutional capacity strengthening through appointment of several external consultants being assigned to the Ministry. Moreover, the EU project on the strengthening of the institutional capacity has been launched in February 2006 and carried out by the Greek consultancy firm Exergia. The aim of this two year long project is to get the energy strategy at the state level and develop a blueprint for the next 20 years. Three experts (electricity, oil, natural gas) have been assigned to this project to work directly with local experts on the subject matters in Bosnia and Herzegovina.

The entity governments have adopted the Action Plans for restructuring of the electricity sector. However, an action plan at the state level still needs to be drafted and adopted. Functional unbundling of electricity utilities has been listed as the first priority. It resulted with the establishment of the Independent System Operator in 2005 and the Transmission Company in 2006, which were extracted from the existing vertically integrated utilities. Functional unbundling of other undertakings has finished in the RS entity, and are expected to finish in the FBH entity by the end of 2006.

Three electricity regulatory commissions (one at the state and two at the entity level) have been active since 2004, since the entities (FBH and RS) have decided to have their own regulators. The commission at the state level (State Electricity Regulatory Commission) is in charge with transmission and international issues, while the commissions at the FBH and RS entity levels (Regulatory Commission for Electricity in the FBH entity and the Regulatory Commission for Electricity of the RS entity) are in charge of generation, distribution and supply. The commissions are independent and have authorised to set up both tariff methodologies and prices. The State Electricity Regulatory Commission cooperates and harmonises its operation with the Regulatory Commission for Electricity in the FBH entity and the Regulatory Commission for Electricity of the RS entity. The SERC also cooperates

with other regulatory bodies established on the state level (the Competition Council and the Communication Regulatory Agency). The consolidation of the energy regulators is now necessary, as well as a reform of the gas sector and establishment of a regulatory body for it.

In 2005, after entirely public, transparent and unbiased procedures, the State Electricity Regulatory Commission issued required rules and conducted proceedings, which enabled the issuance of decisions on tariffs and licensing of the activities of transmission, Independent System Operator and international trade in electricity. In accordance with clear regulatory principles it is necessary to further harmonise all tariffs in the power sector in Bosnia and Herzegovina, thus ensuring the existence of an overall tariff regulatory regime.

As one of the main tasks of the Energy Community is to create a single regulatory space for energy, a harmonisation of relevant legislation and implementation practices has arisen as a necessity both at the state and the SEE regional level. Otherwise, representation and participation in various regional (international) regulatory bodies and consequently overtaking of professional commitments and responsibilities may create severe difficulties when it comes to practical implementation and realisation of tasks agreed at regional level. An asymmetrical development of regulatory practice at the entity levels is another problem for eventual investors who generally choose to avoid complex and complicated situations, especially from a viewpoint of investments in electricity generation. Generation is more closely related to transmission issues and wholesale electricity market rather than to distribution issues and retail/supply electricity market, as it is currently situation at the entity levels in Bosnia and Herzegovina. Besides, generation and distribution/supply undertakings being combined are more in favour of utilities and not consumers who should be given right to choose supplier freely. Different regulatory solutions with respect to licensing regime at the entity levels could pose a barrier to a free customer switching of suppliers from different entities. Benchmarking of the regulatory practices as well as legislation in the field of energy also faces practical difficulties of rather formal nature due to existence of the state and the two entity levels. The closest known example has happened in Belgium, where three regulatory agencies of lower level than the state one are in charge only with the regulation of the electricity supply.

The Transmission Network Company was established by the Law on Establishing a Transmission Network Company in Bosnia and Herzegovina in 2004. The Independent System Operator was established by the Law on Establishing an Independent System Operator for the Transmission System in Bosnia and Herzegovina in 2004. They are formed by transferring the assets and liabilities necessary for its operation from the three electricity utilities in Bosnia and Herzegovina and also the assets and obligations which have belonged to the ZEK in 2005.

The establishment of TransCo, a single national electricity transmission company in Bosnia and Herzegovina presents a major milestone in the reform of the BiH's power sector. The TransCo Law from 2004 required the creation of a single state-level transmission company to take over the power transmission from the three existing power enterprises. The TransCo is based in Banja Luka with four operational centres in Banja Luka, Mostar, Sarajevo and Tuzla, which are not defined by the borders of the entities, but according to functionality issues. The establishment of the TransCo is an important step in ensuring compliance with the EU Electricity Directive (2003/54/EC), as the latter addresses the third party access to transmission and distribution networks and division of supply and transmission. The TransCo has obtained its legal form in January 2006. It has had its own management board, and currently works on internal legislation. Capital value of the company is estimated and booked, and will be finally corrected at the end of the ownership separation procedure (by the end of May 2006).

The ISO's scope of activity includes the managing of the transmission system for the purpose of providing the reliability, managing of the production equipment in the national control centre; managing the balance market and providing the system services; providing the ancillary services; developing and applying reliability standards; developing and applying the rules for using the transmission system; developing and implementing of the market rules related to the system and ancillary services on the transmission system, and also other activities from the Article 7 of the Law on Establishing an Independent System Operator for the Transmission System in Bosnia and Herzegovina.

Both, the ISO and the TransCo, have unbundled accounts which will be published for the first time this year since the beginning of 2006 represents a start of their functionality. In terms of assets, the ISO is significantly smaller company than the TransCo. Both companies wish mutually good relationships and a friendly way of dealing with existing confusions related to: 1) ownership terms (what assets belong to whom), 2) relationship between the operator and the maintainer, and 3) system and network planning issues (the ISO starts planning activities, and the TransCo's plans are subject to the ISO's approval).

2.1 Public service obligation and customers protection

- The public service obligation is, generally speaking, put in place (especially for generation) but without explicitly expressing it.
- The details of minimum and mandatory clauses detailing public service obligations and the framework for determining customer disconnection are given in the licensing conditions for each electricity utility. Quality of customer supply is defined by the law in the RS entity, whereas it is under jurisdiction of the regulatory commission in the FBH entity.
- There are no special provisions related to protection of vulnerable consumers. Only the General Conditions for Electricity Supply (by-law) and the rules for licensing of the regulatory commissions have parts that treat the issue of protection of vulnerable consumers. According to the Action Plans for restructuring the energy sector which have been agreed by the entities, the end of 2007 is set as a deadline for restructuring the sector. These Plans oblige the government to work out a plan for protection of low-income consumers due to consequences of restructuring.
- Public reactions to prices are frequent due to weak economy and low income. Social policy is assigned to different Ministries at the entity levels. The Action Plans for restructuring of the electricity sector envisage that the entity governments should take steps to protect vulnerable customers.

2.2 Monitoring of security of supply

- Monitoring of security of supply is carried out according to requirements stated in the licensing process. Energy balance issues are under the government's supervision, while 10-year planning issues and operational security are in hands of the Independent System Operator.
- The ISO plans the transmission network development on the basis of the 10-year indicative generation plan and the 10-year indicative consumption plan (Art. 7.10 of the Law on Establishing an Independent System Operator from 2004).
- Regarding operational aspects of monitoring of security of supply, the ISO is obliged to inform about current status of the security of supply.

- The Energy Strategy has not been completed yet and that poses a risk for security of supply due to a lack of future plans till 2010. There is currently a shortage of electricity generation in FBH entity, whereas in the RS entity there is a surplus.

2.3 Technical rules

- Technical rules related to the operation of the system and the grid are just about to be put in place. The Grid Code and the Market Rules have been submitted for approval by the State Electricity Regulatory Commission.
- The Grid Code has been submitted to the State Electricity Regulatory Commission for approval which is expected by the end of May 2006. The Market Rules are expected to come out by the end of June 2006.
- The regulatory commission of the RS entity has started public consultations on the General Conditions for Supply of Electricity. Such document is still under preparation in the FBH entity.

2.4 Generation

- With respect to construction of generation, special committees have been appointed to award concessions at the state and entity levels (10 cantonal committees in FBH give concessions for the generation plants <5MW; in the RS entity the committee is in charge for the plants of all sizes), while the regulatory authorities provide for authorisations according to the set of criteria stated in the Rules for Licensing.

2.5 Unbundling provisions and access to accounts

- Transmission unbundling has been actively promoted within the scope of EU Directives and interpretative notes. Transmission activity is separated. A new company for transmission has been established and has started its operation from the beginning of 2006. It comprises the transmission assets of all three utilities. The assets are evaluated and transferred to the TransCo and the Independent System Operator which has been established earlier in 2005.
- Both companies have been licensed. Licensing conditions for licensed companies provide for a full access to audited accounts. The existing legislation envisages the unbundling of accounts of transmission and distribution from competitive activities.
- Both companies will have their own balance sheets published for year 2006. The State Electricity Regulatory Commission has an access to their accounts, as well as the Audit Office of the Institutions of Bosnia and Herzegovina.
- The unbundling of DSOs has not started yet in the FBH entity, while it has happened in the RS entity in its legal form. As the bottom line, the electricity utilities are still vertically integrated, having only transmission undertaking unbundled. In the FBH entity, the financial unbundling of the DSOs is envisaged in the beginning of that process, followed by the functional one. In the RS entity, there are already 5 DSOs with issued licences (form of the legal unbundling).
- Combined TSO-DSO is not an option.

2.6 Third party access

- The TPA to transmission and distribution grids is put in place according to stipulations from the existing legislation and on the basis of licences issued by the

regulatory commissions. Only three local electricity utilities in Bosnia and Herzegovina are currently licensed and therefore the ISO cooperates only with them. Regulated third party access has been put in place.

2.7 Market opening

- The State Electricity Regulatory Commission currently analyses the most appropriate way for further market opening. In cooperation with the two other regulatory authorities in November 2005 it has drafted a proposal for the electricity market opening in Bosnia and Herzegovina as follows: >10 GWh/year from January 2007, >1 GWh/year from January 2008, all non-household consumers from January 2009 and all consumers from January 2015. In comparison to the timetable from the EnC Treaty, there is a small difference related to the second step of the market opening. The EnC Treaty envisages that the market will be open for all non-household consumers from January 2008, while the proposal from the SERC suggests 1 GWh/year threshold for 2008.
- The SERC is ready to redraft its proposal and align it if asked for, but still expresses its doubts related to implementation of the timetable from the EnC Treaty in practical terms. Just for illustrational purposes, the 10 GWh/year threshold represents 42% of the market opening in the FBH entity. In the FBH entity, 5-6 customers fulfill the threshold in the first phase of opening, whereas in the RS entity there are 1-2 of them.
- There is a small discrepancy regarding the electricity market opening timetable in comparison to the one requested by the EnC Treaty. However, the representatives of the Ministries at the entity levels also express their concern with respect to realisation of such ambitious plan.

2.8 Cross border trade mechanism

Cooperation between the regulatory authority and the Independent System Operator is good. Both of them participate in discussions on transmission capacity allocation and congestion management mechanisms at the SEE regional level.

The ISO has participated in establishment of the SETSO ITC mechanism from the beginning. The ISO has signed the SETSO ITC agreement for 2006, and represents a responsible body for its implementation. However, the TransCo is compensated for transited electricity. By the decision of the State Electricity Regulatory Commission, total revenue belongs to the TransCo, while the ISO manages and operatively leads the fund. The tariff covers a fee for the ISO's management of the fund. So far, their cooperation has been very good. Export and import tariffs at the interconnectors for electrical energy delivered to domestic consumers are based on the transmission tariffs which were approved by the SERC in April 2006 (1.95 €/MWh revenue on the basis of the ITC for import from perimeter countries).

The ISO publishes information and procedures regarding safety, operational and planning standards. Since January 2006 it publishes estimated ATC values at the interconnectors for a month in advance. The pro rata capacity allocation mechanism is put in place at each inter-connector. Long term contracts for the use of the existing interconnectors do not exist for usage of the transmission capacity. However, they exist for electrical energy generated in Bosnia and Herzegovina and delivered to Croatia (due to the fact that the TransCo has been created by unbundling from the electricity utilities responsible for the generation).

The ISO participates in a voluntary dry-run project for a coordinated explicit flow based auction for cross border capacity allocation. Currently, there is no mechanism which is put in place to manage congestions, but it is expected to be the curtailment if congestions appear. Penalties for breaching the Regulation 1228/2003 are based on the UCTE MLA. There are no rules on defining purposes to which the revenues derived from managing congestions should be used.

3. GAS SECTOR

The natural gas sector is still not regulated, but a work on drafting of the legislation (Draft Gas Law) has recently commenced. Natural gas is imported from Russia and there is currently only one supplier (one pipeline) in Bosnia and Herzegovina. Such situation motivates further work on establishment of institutional and legislative framework in the gas sector. This area is going to face another problem related to formulation and interpretation of duties of a regulatory body which remains to be designated in the gas sector. Unification and merging of various functions into one regulatory space is not an easy task in Bosnia and Herzegovina. The question of who is going to be the regulator is difficult to answer due to highly sensitive and complex political system in the country. Existing regulatory commissions are satisfied with their own work and reluctant to change their current status.

3.1 Public service obligation and customer protection

- No gas regulatory framework has been put in place yet

3.2 Monitoring security of supply

- No gas regulatory framework has been put in place yet

3.3 Technical rules

- No gas regulatory framework has been put in place yet

3.4 Unbundling provisions and access to accounts

- No gas regulatory framework has been put in place yet

3.5 Third party access

- No gas regulatory framework has been put in place yet

3.6 New infrastructure and exemptions

- No gas regulatory framework has been put in place yet

3.7 Balancing regime

- No gas regulatory framework has been put in place yet

3.8 Grid tariffs

- No gas regulatory framework has been put in place yet

3.9 Market opening

- No gas regulatory framework has been put in place yet

3.10 Cross border trade mechanism

- No gas regulatory framework has been put in place yet

3.11 Next steps/probable sticking points

As stated above, to fulfil the requirements stated in the Treaty establishing the Energy Community a Law on Gas Market has to be elaborated and implemented in compliance with the Directive 2003/55/EC. This process has started. In order to provide solutions at reasonable costs, lessons learned from the EU-market, either positive or negative experience gathered in the Member States of the European Union, should be considered by elaborating the primary and secondary law in accordance with the Directive.

The probable sticking points are:

- ❖ **Balancing regime:**
 - Balancing energy should be provided by charging efficiently incurred costs on a non-discriminatory basis.
- ❖ **Third party Access:**
 - The supplier switching process should be as easy as possible for the customer. The implementation of a one stop shop principle should be analysed.
- ❖ **Capacity management:**
 - Existing infrastructure capacity should be used at the best level. In order to avoid hoarding of capacity, efficient allocation rules for available existing capacity should be put in place (primary market), Use it or Lose it (UIOLI) provisions should be elaborated by taking the regional specificities into account. A secondary market should be installed, if possible.
 - The owner of capacity (capacity goes with the customer, etc.) when switching the supplier should be defined.
 - The utilisation of the transmission grid and subsequently the available capacity should be calculated.
 - Cross border unbundling should be taken into account to avoid capacity hoarding.
- ❖ **Technical Rules:**
 - Operational balancing agreements should be defined.
 - Interconnection agreements should be defined.
 - EASEE gas rules should be taken into account.
- ❖ **Grid tariffs:**
 - Tariffs have to be cost reflective; based on efficiently occurred costs.
 - Cross subsidies have to be avoided.
 - Incentives for investment should be given.
- ❖ **Unbundling provisions:**

- Legal, organisational and decision making form unbundling should be implemented.
- Cross border unbundling should be taken into account.
- ❖ New infrastructure and exemptions:
 - The Guidelines for New Gas Infrastructure Investment Regulation should be taken into account.

Since the human resources of all relevant institutions, which are involved in the process, are restricted, it seems to be necessary to outsource tasks, if possible.

In order to provide solutions on regional level, studies which are prepared for a particular country could be probably used also for other countries by taking the specificities of each country into account. By doing so harmonised provisions, as long as they make sense from an economical point of view, could be implemented.

4. COMPETITION

Establishment of the Council of Competition of Bosnia and Herzegovina (web: www.bihkonk.gov.ba) in 2004 is based on the Law on Competition from 2001. The Council is independent legal body which is authorised for decision making on existence of forbidden activities related to competition in the market of Bosnia and Herzegovina. The Law from 2001 regulated competition policy issues for the first time in Bosnia and Herzegovina and represented one of the most important instruments and pillars for creating and strengthening of the market in Bosnia and Herzegovina. The Law from 2001 contained fundamental rules and regulations based on Arts. 81-82 of European Community Treaty, but it did not follow modern practice coming out from the Acquis. Therefore, the new Law on Competition has been drafted and enforced in 2005. It is compatible with EU rules and regulations, and introduces leniency policy, efficient mechanisms for control of internal market and cooperation with international institutions in this area.

The new Law is related to all forms of prevention, restriction or distortion of competition on the territory of Bosnia and Herzegovina or out of it if it has an impact on the territory of Bosnia and Herzegovina. Special attention is paid to agreements between undertakings, abuse of dominant position in the market and rules and procedures related to competition between undertakings.

Since the new Law has regulated some of the issues in a rather general way, a series of by-laws has been drafted in 2006 which enabled further harmonisation with the Acquis.

So far, the Council has got 16 cases to process (2 related to the market dominance agreements and the rest for giving opinion on competition issues). No cases have been reported to the Council from the energy sector. The Council and the regulatory commissions expect intensification of mutual cooperation, since decisions brought by the commissions should be submitted to the Council for giving a reason opinion if related to the competition area. So far, the State Electricity Regulatory Commission has recognised a significance and authority of the Council and submitted one of its decisions to the Council for issuance of opinion.

The Law on Public Aid is still not enforced (in procedure). No authority in Bosnia and Herzegovina is currently responsible for overseeing state aid granted in the country.

5. ENVIRONMENT

The establishment of a nationwide and harmonised legal framework for environmental protection is very important. Environmental issues are primarily dealt with at the entity level through laws, regulations and standards. There is no legislation on environment at the state level. Existing legislation adopted key items from the key environmental directives. Furthermore, there is an absence of environmental policy and strategy. Although the National Environment Action Plan exists, there is no capacity amongst the authorities for deciding on priorities, policy or measures to implement it. Integrated system for management of environmental protection is needed.

Nevertheless, the Ministry of Foreign Trade and Economic Relations has received the authority to deal with issues of natural resources, including environmental protection at state level. It is a focal point for the GEF projects, and Ozone/POPS related implementation projects. It has ratified the Danube Convention and expects its implementation. The first draft of the Law for Environmental Protection has appeared recently, as well as the Law for Establishment of Agency for Environmental Protection. Its administrative capacity needs to be significantly strengthened to ensure it can carry out these tasks. Entity level legislation provides for Environmental Impact Assessment (EIA) on the basis of the EIA Directive. Both entities have adopted by-laws on EIA. In the FBH entity, regulation on environmental permits for existing facilities was also adopted.

The SAA demands inclusion of environmental provisions into the legislation through various instruments, laws and institutions. Negotiation team has been established at the state level for the SAA to deal with the issues such as emission trading scheme. However, there are no formal obligations to go into the process of harmonisation with the EU directives related to environmental protection. This process has been voluntary and supported through the EC/Phare programme. So far, at the FBH and RS entity levels, there are 5 laws related to the environmental protection and fund/funds for environmental protection. There are ongoing activities to formulate corresponding fund authority/authorities. These laws have motivated a drafting of by-laws, but with a limited success due to insufficient capacity for their finalisation. The provisions of the Bird/Habitat directive are included in the Law of Environmental Protection in the FBH entity, but the provisions from the Sulphur one are still missing. There is no plan related to the Bio-fuel Directive. Most of the items that have been included are operationally not applied at all. Harmonisation and alignment with the Acquis has started through the TAIEX program in order to identify those elements in the legislation that are in collision. The software is put in place and the training for its usage is currently awaited.

Administrative capacity in the field of environmental protection is insufficient. Although the international technical assistance is present in the energy sector, it is insufficient in the environmental protection which also seeks for a unified approach. The institutional structure in this field is complex and there is a lack of central coordination and implementation even for international agreements. Capacity on the state level is particularly weak. There is a gap between attribution of environmental responsibilities and means to fulfil them. There is a low number of professional environmental specialists in the subject fields, and many officials who are multifunctional in order to cover for the lack of specialists. Segmentation of bodies in charge with environmental care is more than obvious. They are under capacitated in terms of human resources as well. There are 7 experts in the RS entity, 9 in the FBH entity, 5 at the state level and another 50 at lower cantonal level (10 cantons in the FBH entity). Such fragmentation does not contribute to unified care of the environment as asked by relevant EU regulations. In addition, stronger state level responsibility for environment is not always accepted at the entity levels. Absorption capacity is also very limited, as well as own financial resources, which has a negative effect on the possibilities to put in place important environmental investments.

Strengthening of the capacity of the Ministry of Foreign Trade and Economic Relations and establishing of a state environmental agency is already recommended by the EU, but it has not been adequately implemented. There is a proposal for the CARDS project for establishment of the Agency for Environmental Protection which is a pending activity for 2006. From the perspective of the EU, the establishment of a well equipped and operational state environmental agency would be a significant step forward in this respect. However, the Ministry of Foreign Trade and Economic Relations expresses somewhat different opinion as it prefers a strengthening of the Ministry's capacity while the agency should provide a technical support to the Ministry. It is expected that a state environmental agency would integrate local activities and serve as a focal point for international communication.

With respect to the Kyoto Protocol, the Ministry of Foreign Trade and Economic Relations is the one who shall proceed further on. Related initiatives currently come mostly from the NGOs' side. Bosnia and Herzegovina currently does not have calculations of the GHG emissions, but they would like to follow Croatian pathway related to the calculation procedure. In past three years there has been a continuing dispute with Croatia over calculation of the emissions related to common investments in power generation plants in Bosnia and Herzegovina (only emissions originating from the territory of the country should be included in the calculation of the referent value in 1990). There are expectations that these disputes are going to be solved soon, which would enable Bosnia and Herzegovina to realise various CDM projects that are offered in large numbers. The mechanism is conditioned by previous ratification of the Kyoto Protocol which is under jurisdiction of the Ministry of Foreign Trade and Economic Relations and not under the entities.

The Environmental Funds are in the process of establishment on the basis of 'polluter pays' principle, but currently envisaged as dealing only with water issues. They are based on the experiences with the Fund from Croatia, with majority of fee collection coming from the process of car registration. There are actually two Funds envisaged for this purpose according to two environmental laws in the two entities. There is no fund envisaged at the state level.

6. RENEWABLE ENERGY AND ENERGY EFFICIENCY

There are no specialised agencies neither for energy efficiency nor for renewable sources. It is expected that the sector of renewable sources will be arranged through the set of by-laws. Due to use of gas in cogeneration, the efficiency is rather low and several studies have shown so far that a lot of progress can be made in this area. The Energy Charter Treaty has been signed and accordingly the state has committed itself to develop appropriate energy efficiency strategy. Requests for construction of small hydro power plants come in large numbers, but there is no relevant framework for their actual realisation.

Price for electricity generated in small hydro power plants is considered to be very low, and it prevents investors from further plant construction activities. A request is submitted to the regulatory commission to analyse this price thoroughly. However, there are several ongoing project activities, but more on an ad hoc basis and in a sporadic way. Systematic approach does not exist and institutionalisation in this field is needed to avoid development on a voluntary case-by-case basis.

Issues related to the network connection of the renewable sources of electricity are not resolved yet. The ISO expects to come up with the framework solution based on the first case that would appear. The ISO intends to apply an affirmative attitude towards possible investors.

7. ENERGY INFRASTRUCTURE PROJECTS

A proposal for construction of 400 kV overhead transmission line between towns Banja Luka (Bosnia and Herzegovina) and Zagreb (Croatia) has been filed for quite some time. Length of line is cca 200 km. The ISO expects that this line would enable better connection of eastern and western part of the region and better power flow from the generation plants (TPP TUZLA and HPP VISEGRAD) located in the eastern part of Bosnia and Herzegovina. Moreover, it is expected to gain an additional interest upon construction of the 400 kV line Ernestinovo – Pecs. Related feasibility study should show advantages of its construction.

Another 400 kV transmission line between generation power plants HPP Visegrad (BH) and TPP Pljevlja (MN) has been proposed for construction. Length of the line is cca 60 km. It is expected that this line would provide better connection of western and south-eastern parts of the region and better power flow evacuation from the generation power plant HPP VISEGRAD, as well as it would increase the importance of 400 kV line PODGORICA – ELBASAN.

In the gas sector, the new Zenica (BH) – B. Brod (BH, connection to Croatia) gas pipeline is proposed for construction. Length of that pipeline is cca 114 km, and capacity 1.49 bcm/year. It is expected that this line would provide Bosnia and Herzegovina alternative gas supply and new transport line and for Croatia and the region better usage of gas storage capacities. In the future this line could provide for Bosnia and Herzegovina connection to NABUCCO pipeline.

Currently, the World Bank finances the Energy Sector Study in Bosnia and Herzegovina with money left from the Power 3 project, which would serve as a basis for the blueprint of the Energy Strategy (Exergia is appointed as consultancy firm). Drafting of the Energy Strategy blueprint is a task from the ToR for the EU Aid Project, CARDS 2005, entitled as 'Technical Assistance to support the Energy Department of MOFTER'. The Contract is awarded to Exergia.

EU Aid Project, CARDS 2006, is under preparation and the plan is to support establishing TransCo and ISO companies.

It is under preparation World Bank's ECSEE APL-3 BiH Project with the final goal to enable electricity sector of BiH to join Energy Community effectively.

8. CONCLUSIONS

Bosnia and Herzegovina participates in the **Stabilisation and Association Process (SAP)**. Negotiation talks for a Stabilisation and Association Agreement (SAA) just started recently in January 2006. Currently, there is a complex legislative and institutional framework envisaged in Bosnia and Herzegovina, which makes difficult distribution of tasks between the existing institutions and their execution both at the state and entity levels.

Energy policy issues are under jurisdiction of the Ministries at the state and entity levels. The coordination of general policy activities and international relations related to energy and environmental protection is carried out in the Ministry of Foreign Trade and Economic Relations at the state level, while the actual responsibility for implementation and undertaking is found at the FBH and RS entity levels through their Ministries. The FBH and RS entities have developed their own legislation and institutions in the energy field. There is no law on energy at the state level, and no energy strategy yet as well. The entity governments have adopted the Action Plans for restructuring of the electricity sector. However, an action plan at the state level still needs to be drafted and adopted. The

establishment of TransCo presents a major milestone in the reform of the B&H's power sector.

The single national **electricity** transmission company in Bosnia and Herzegovina has taken over the power transmission from the three existing power enterprises. The TransCo is based in Banja Luka with four operational centres in Banja Luka, Mostar, Sarajevo and Tuzla, which are not defined by the borders of the entities, but according to functionality issues. The electricity tariffs and prices are solely under jurisdiction of the three regulatory authorities (one at the state level and two at the entity levels). Proposal for the electricity market opening slightly differs from the timetable given by the Treaty. The state regulator deals with electricity transmission issues, while the two entity regulators deal with electricity generation and distribution issues. In accordance with clear regulatory principles it is necessary to further harmonise all tariffs in the power sector in Bosnia and Herzegovina, thus ensuring the existence of an overall tariff regulatory regime. The consolidation of the energy regulators is now necessary, as well as a reform of the gas sector and establishment of a regulatory body for it.

The natural **gas** sector is still not regulated, but a work on drafting of the legislation (Draft Gas Law) has recently commenced, which has to be accomplished in compliance with the Directive 2003/55/EC.

The **competition** council and the regulatory commissions expect intensification of mutual cooperation, since decisions brought by the commissions should be submitted to the council for giving a reason opinion if related to the competition area.

Environmental issues are primarily dealt with at the entity level through laws, regulations and standards. There is an absence of environmental policy and strategy, as well as legislation on environment at the state level. Although the National Environment Action Plan exists, there is no capacity amongst the authorities for deciding on priorities, policy or measures to implement integrated system for management of environmental protection. With respect to the Kyoto Protocol, the Ministry of Foreign Trade and Economic Relations is the one who shall proceed further on. Bosnia and Herzegovina currently does not have calculations of the GHG emissions.

There are no specialised agencies neither for **energy efficiency** nor for **renewable sources**.

Institutional capacity in all Ministries (at the state and entity levels) is recognised as being very weak especially when it comes to practical implementation of internationally agreed commitments and domestic legislative provisions.