

## MONTENEGRO - COUNTRY REPORT 2006

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## 1. INSTITUTIONAL BUILDING

This chapter aims to review existing institutional framework in Montenegro and the distribution of tasks between the existing institutions. Only those institutions whose activities fall to the scope of the EnC Treaty are singled out and briefly described.

### 1.1 Ministries

- **Energy**

On the basis of the Energy Law, the Government of Montenegro through its Ministry of Economy (web: [www.vlada.cg.yu/eng/minekon](http://www.vlada.cg.yu/eng/minekon)) defines and implements the national energy policy and national energy strategy as well as long term and annual energy balances and implementing policies, ensures the application of measures for environmental protection, promotes and facilitates the investments in the energy sector of Montenegro, promotes and facilitates the competition within the sector and connecting the energy sector of Montenegro with other countries' systems, participation of private sector in the energy sector. The responsibilities of the Ministry in the energy sector are, among others, the preparation and proposals for national energy policy, long term and annual balances and promotion of private sector participation in the energy sector of Montenegro as well as use of renewable energy resources.

- **Environment**

On the basis of the Environmental Law, the Government of Montenegro through its Ministry of Environmental Protection and Physical Planning (web: [www.vlada.cg.yu/eng/minzastsred](http://www.vlada.cg.yu/eng/minzastsred)) deals with issues of environmental protection. The Republic of Montenegro has established the mark „ECOLOGICAL STATE OF MONTENEGRO“ expressing its identity as an ecological state. Natural wealth are used following the principles of preservation of the environment, and following the laws, ecological and development policy providing that it does not undermine the environments of other countries.

- **Renewables and Energy Efficiency**

The Government of Montenegro through its Ministry of Economy (web: [www.vlada.cg.yu/eng/minekon](http://www.vlada.cg.yu/eng/minekon)) carries out energy efficiency and resources preservation policies, develops and promotes efficient use of energy and renewable energy sources, encourages the use of renewable sources in domestic generation, and controls the funds for conservation and efficient use of energy. During March 2005 the Strategy of Energy Efficiency of Montenegro was finalized. The Montenegrin Unit for Energy Efficiency has been organised within the Ministry according to the Energy Efficiency Strategy and related Action Plan for 2005-2006.

### 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 Energy Regulatory Agency (web: [www.regagen.cg.yu](http://www.regagen.cg.yu)). The Agency deals with the electricity issues only, as there is no natural gas market established in Montenegro so far and no regulatory body for it. On the basis of the Energy Law, the Energy Regulatory Agency has been established as an independent and functionally autonomous not-for profit organization.

### **1.3 Competition Authority**

- Agency for competition does not exist in Montenegro. Within the Ministry of Economy there is an organisational unit called Trade Sector which is authorised for competition related issues according to stipulations of the Law on Protection of Competition from 2003. The Energy Law contains provisions related to competition (Art. 21) and competitive supply (Art. 38).

## **2. ELECTRICITY SECTOR**

The reform of the energy sector of Montenegro started with the enactment of the Energy Law in 2003. The Energy Law has its basics in the EU Directive 96/92 on the internal electricity market, having in mind specific problems related to the energy sector of Montenegro. It is a basic legislation which lays down general principles for implementation of energy policy and strategy, a framework for the energy sector, responsibilities of the Government of Montenegro in the energy sector as well as establishment, roles and responsibilities of the regulatory body when the implementation of the Law is concerned. Currently, there are no activities taken towards its harmonisation with the 2003/54/EC Directive.

The Energy Law regulates the following activities of the energy sector:

- Generation, transmission, and supply of electricity as market activities and/or public service, organization and functioning of the electricity market,
- Production and market of coal for use in electricity generation, and
- Transport, distribution, storage, wholesale and retail sale of oil products and gas,

It also emphasizes that energy activities are activities of public interest.

The main characteristics of the energy and in particularly electricity sector regulation are as follows:

- Established independent and non-profit Energy Regulatory Agency;
- Defined and divided roles, duties and responsibilities among the Government, Ministry and the Regulator;
- Services in the electricity sector are defined as Public Services;
- Implementation of the Regulated Third Party Access (rTPA) for the electricity network use and services;
- Functional unbundling of the activities inside the national vertically integrated electricity utility – EPCG: Generation, Transmission System Operator (TSO), Distribution System Operator (DSO), Market Operator (MO), Supply. Regulator sets the rules for the unbundling;
- Gradual opening of the electricity market with no dynamics specified. In other words, there is no consumption threshold (or some other applicable criteria) for the customer eligibility (i.e. Contract Customer). The market will be open according to the needs and requests from the customers and the evaluation of the Energy Regulatory Agency;
- General support to energy efficiency and renewables.

It is on the basis of this Law that the Government of Montenegro defines and implements the national energy policy and national energy strategy as well as long term and annual energy

balances and implementing policies, ensures the application of measures for environmental protection, promotes and facilitates the investments in the energy sector of Montenegro, promotes and facilitates the competition within the sector and connecting the energy sector of Montenegro with other countries' systems, participation of private sector in the energy sector. The Energy Law is also the framework for policy and strategy development of new capacities and reconstruction of the existing ones and for appropriate procedures. The responsibilities of the Ministry in the energy sector are, among others, the preparation and proposals for national energy policy, long term and annual balances and promotion of private sector participation in the energy sector of Montenegro as well as use of renewable energy resources.

The Energy Regulatory Agency is independent in financial, functional and legal terms. Financial independence is ensured through its budget that is separated from the state budget and state financing. Montenegro Parliament approves the Agency's budget, which is financed from license fees paid by energy undertakings. Functional independence is ensured through the appointment of the Board of the Agency and the directors. The Board of the Agency is appointed by Parliament, and the Director and Deputy Director of the Agency are appointed by the Board. Legal independence is ensured by the fact that the Regulator decisions are final and are subject to administrative appeal. Until now the Agency has issued several important rules and regulations, including the Rules for licenses. According to the Energy Law, the Agency has the following prerogatives:

- Supervision over functioning and operation of energy undertakings,
- Audits and approvals of market rules, grid codes, requirements and deadlines for connections and network access,
- Issuance of licenses for activity performance, interconnection of energy sector facilities, networks and installations for generation, transmissions and distribution, supply and sale of energy,
- Issuance of authorizations for construction of new generation capacities and reconstruction of existing capacities,
- Setting out tariffs and rates in accordance with requirements defined by this Law and general acts;
- Authority to change, recall, supervise, control and ensure that the license requirements are complied with,
- Assurance of compliance of the competition procedures for construction of new capacities, in accordance with its prerogatives under this law, etc.

The Energy Regulatory Agency issues licenses for a determined period of time to energy undertakings following the requirements it defines and in accordance with principles set out in the Energy Law. In addition, electricity producers and suppliers have the right of access to transmission and distribution networks on non-discriminatory and regulated basis, and in accordance with the rules and procedure set out by the Agency.

According to the Energy Law, the Energy Regulatory Agency establishes tariffs pursuant to the following principles:

- Prices are fair, non-discriminatory, based upon objective criteria and determined in a transparent manner;
- Prices are determined periodically based upon the submission of energy undertakings to the Energy Regulatory Agency;

- Submission to the Energy Regulatory Agency includes operating costs (including depreciation, interest payments and taxes), environmental costs and tariff customer protection costs, maintenance, replacement, construction and reconstruction costs and annual return on net investments.

Apart from the above, pricing and tariffs are based on the 'cost+' approach with some elements of the 'price cap' approach. They depend on the business performance of the energy undertakings, interruptible supply costs, load balancing costs, demand side management programs, mechanism for the improvement of energy efficiency, season/time of energy use changes in generation and consumption patterns. Cross subsidies should be minimized and where possible eliminated. Any direct subsidies to tariff or contract customer are in the responsibility of the Government and should not be included in the prices and tariffs.

Prices for generation, transmission, distribution and supply are regulated by tariff system or unregulated (freely contracted) depending of the existence of the competitive market. The Energy Regulatory Agency has a right to release customers or energy undertakings from the regulated tariff system. The Energy Regulatory Agency also has a right to require an energy undertaking to change tariff or if the Agency finds that the tariff in question is inaccurate, fraudulent or misleading.

The Energy Regulatory Agency currently faces two very important issues: 1) high energy losses in the system (3.6-3.8% in transmission; 25% in distribution with only 10% being technical loss), and 2) collection rate (100% expected for consumers connected at  $\geq 10$  kV; >90% expected for consumers connected at <10 kV). Cross subsidization appears for consumers connected at low voltage. Households pay the price which is below economic one, while the public customers pay higher one (their ratio could be up to 1:3, which makes it difficult to calculate realistic average value). Elimination of the cross subsidies is expected to be realised within 5 year period, which is a rather long period but taken as necessary due to high 1:3 ratio. Upon expiration of this period it is expected that direct subsidies, if any left, should be given directly by the Government according to legal provisions (and by avoiding collision with the market postulates).

Technical assistance for strengthening of institutional capacity has not shown very good results so far. Approach based on providing consultancy services has reached limited achievements due to lack of local expert staff in terms of numbers. Education and training of the experts that stay in the country after consultancy firms leave should have a priority. Furthermore, there is a prevailing opinion that the Montenegrin power system is a very small one in terms of size and capacity and therefore it needs only smaller assistance programmes in the process of restructuring the energy sector. However, with respect to legislation and regulation in the energy sector the Republic of Montenegro needs to realise the very same tasks as the larger countries. Capacity strengthening in Montenegro is therefore faced with neglecting from the start.

National vertically integrated electricity utility EPCG AD Niksic is the only holder of licenses for the activities in the electricity sector of Montenegro and operates all generation, transmission and distribution facilities. It is envisaged by the Energy Law that the EPCG will be functionally divided into the following activities: Generation, Transmission System Operator, Distribution System Operator, Market Operator and Supplier (these parts of the EPCG are not separate legal persons). Rules for the unbundling of the EPCG are set by the Energy Regulatory Agency. Functional separation of the activities encompasses account, management and information unbundling. Deadline for the functional unbundling is set as being no later then 18 months after the enactment of the 2003 Energy Law (realised in 2005), while a deadline for legal unbundling is not stated (expected in 2007). The Energy

Law states that the Market Operator should be legally unbundled from the EPCG. During the transitional phase, activities of the Market Operator are incorporated into the Transmission System Operator, while the Supplier is a part of the Distribution System Operator. Relationships between all functional parts should be defined by contracts.

The final aim is to have a complete legal unbundling of the EPCG activities into several companies. Dynamics of this process is not defined and is postponed for some time in the future depending on the previous steps (asset valuation, definition of separate tariff for each activity, ownership of the facilities, rights and obligation of each function). Having in mind legal, energy and financial situation, functional unbundling of the EPCG has started with the enactment of the new Statute of the EPCG in December 2004. The main point of the Statute is the new organization of the company as a vertically integrated and joint stock company comprising four functionally unbundled departments: Generation, Transmission, Distribution and Supply, and two organizational units – Direction of the Company and Elektrogradnja (for the construction and refurbishment of the electricity facilities). The EPCG holds its legal status, but internal organization is functionally unbundled. Departments are not separate legal persons.

There are several important facts to get a better picture of the energy sector in Montenegro as follows:

- There is no National Energy Strategy defined yet. National Energy Strategy should be the basis for the mid-term and long-term development of the Energy Sector.
- It is expected that the Strategy for Development of Energy Sector till 2025 will be completed by June 2006. It is composed of five books, concerning energy balance, final energy consumption, coal/oil/gas, master plan for development of electric power system and long-term energy balance till 2025;
- Strategy for privatization is also started up within the project financed by EAR and carried out by IPA Energy. Privatization programme will follow after adoption of the Strategy for privatization. Currently, the Government of Montenegro has a majority of shares of the EPCG (67.66%). A tender for privatization of 5 small hydro power plants is going to be launched soon. TPP Pljevlja is entering into the privatization process in the next 2-3 months (including 31% value of capital in the coal mine);
- Legal framework for the energy sector is still under construction (some law, rules and regulations are missing, some are in the pipeline);
- During March 2005 the Strategy of Energy Efficiency of Montenegro was finalized. The EE Strategy deals with some problems related to the renewable energy sources. There is an Action Plan for 2005-2006 related to the EE Strategy and organized Montenegrin Unit for Energy Efficiency;
- Montenegro is part of the Athens Process, i.e. contracting party of the Energy Community Treaty. Better interconnection to neighbouring energy systems and regional energy market integration can have a positive influence on Montenegro energy system in terms of secure and reliable energy supply;
- Systematically ignored and neglected construction of domestic resources for energy generation have lead to a high degree of dependence on energy imports;
- Renewables have a relatively high potential and there is a need to create stable and favourable environment for their use and development. Particularly strong development opportunities exists in the field of solar energy, small and large hydro, wind and biomass;

- Existing facilities of the energy sector are very old and have an adverse impact on the reliability and security of energy supply. Overall energy efficiency (generation, transmission, consumption) is rather low;
- There are no special funding for the research and development in the energy sector;
- Energy prices and tariffs are generally low and often subsidized.

### **2.1 Public service obligation and customers protection**

- The Energy Law regulates generation, transmission, distribution and supply of electricity in the market and/or as a public service (Art. 1, Para 2)
- The Energy Law emphasizes that energy activities are activities of public interest (Art. 1, Para 3).
- One of the objectives of the Energy Law is to ensure a safe, secure, reliable quantity and quality supply of energy at fair prices, taking into account tariff and contract customer protection (Art. 1, Para 4).
- Energy sector activities shall be conducted as public services (Art. 24).
- Tariff customers' rights and obligations are stated in the Energy Law (Art. 31).

### **2.2 Monitoring of security of supply**

- According to the Energy Law, the term 'Security of Supply' means technical safety as well as the provision of an adequate quantity of energy to service the needs of Tariff Customers (Art. 2).
- Monitoring of security of supply is addressed in the Energy Law with respect to the security of facilities (Art. 36) and protection of energy facilities (Art. 37).
- Energy balance obligations are stated in the Energy Law (Art. 5) with respect to electrical energy, coal and oil balance. Energy undertakings shall prepare and submit to the Ministry the relevant energy Balance not later than November 15<sup>th</sup> of the current year for the subsequent year. The Government shall adopt the annual energy balance not later than the 1<sup>st</sup> of December, of the current year for the subsequent year.
- The Energy Strategy has not been completed yet and that poses a risk for security of supply due to a lack of future plans. There is currently a shortage of electricity generation.

### **2.3 Technical rules**

- The Rules on Electricity Supply were adopted in March 2005 on the basis of the Energy Law (Art. 29, Para 5) by the Montenegrin Electricity Company Niksic (EPCG). The Rules regulate: supply of domestic generated or imported electricity for tariff customers, conditions for customer supply, contracts, calculations and payment of supplied energy, purchase and import of electricity, termination of electricity supply and procedure regarding the illegal use of energy.
- The EPCG adopted and Regulatory Energy Agency approved the Provisional Distribution Code which sets out technical rules for connecting users (producers or customers) to the distribution network and interconnections to other networks (Art. 28, Para 7). The Code also sets out tasks of all distribution operators, establishes procedures approved by the Energy Regulatory Agency referring to the distribution

network operation in state of contingency or emergency and ensures programs and procedures for provisions of services for contractual customers and tariff customers. This Code is mandatory for all distribution operators and distribution system users.

- The EPCG adopted the Provisional Grid Code (transmission) which is approved by the Regulatory Energy Agency (Art. 28, Para 10). The Code sets out technical rules for minimum technical, planning and operational requirements for connection to the transmission network and for interconnections to other networks. It is the meeting of these requirements that ensures smooth operation of the transmission system.
- The Market Operator (currently incorporated in the EPCG-TSO) recently drafted the Market Rules and submitted it to the Energy Regulatory Agency for approval.

## **2.4 Generation**

- Generation of electricity for purchase and sale, including auto producers that are connected to a network shall be licensed pursuant to procedures issued by the Agency (Art. 19, 26).
- New construction of generation capacity, modification of existing generation capacity, and new interconnection transmission capacity are subject to authorisation (Arts. 12 and 40).

## **2.5 Unbundling provisions and access to accounts**

- Functional unbundling means the structural separation of energy activities within an integrated energy undertaking, including accounting separation, management separation and information separation (Art. 2).
- Competition (Art. 21) and unbundling (Art. 22) provisions are given in the Energy Law.
- Vertically integrated electricity undertakings shall separate accounts and financial records for generation, transmission, distribution and supply activities (Art. 22).
- Vertically integrated electricity undertaking shall publish a separate balance sheet, profit and loss statement, a cash flow statement and all other statements required for each separate activity pursuant to the Law on Accounting and Auditing (Art. 22).
- Legal unbundling of energy undertakings may be carried out any time after the entry into force of the Energy Law (Art. 22).
- Total of 6 licences have been issued to the EPCG (generation, distribution system operator, supply, transmission, transmission system operator, market operator).
- The Energy Regulatory Agency has the right, at any time, to examine, inquire into, and determine, the extent, condition and value of the whole or any portion of the property and assets, of any energy undertaking that is providing services at regulated prices (Art. 12).
- In determining the value of such property and assets, the Energy Regulatory Agency shall ensure that the valuation methods used and the determination of base annual and accrued depreciation comply with generally accepted international valuation and accounting standards (Art. 12).
- Functional unbundling of DSOs has not been completed yet. As the bottom line, the functional unit of distribution within the EPCG is going to become the distribution system operator.

- Combined TSO-DSO is not an option.

## **2.6 Third party access**

- Electricity producers and suppliers have the right of access to transmission and distribution networks on non-discriminatory and regulated basis, and in accordance with the rules and procedure set out by the Energy Regulatory Agency (Art. 25).
- The Energy Regulatory Agency applies so called 'shallow approach' in determination of connection costs. Network tariffs provide for development needs, and customer pays only direct costs of connection.

## **2.7 Market opening**

- Gradual opening of the electricity market with no dynamics has been specified (Art. 24). In other words, there is no consumption threshold (or some other applicable criteria) for the customer eligibility (i.e. Contract Customer).
- The market will be open according to the needs and requests from the customers and the evaluation of the Energy Regulatory Agency. If at any time an energy undertaking demonstrates to the Agency its ability to provide services in a competitive market at the same or more favourable conditions, the Agency shall be entitled to release such energy sector undertaking from regulation under the Agency's regulated tariff system.
- Currently, 36% of consumption in Montenegro is procured through tendering procedure.
- Licensed producers and buyers have the contractual rights to apply for authorization for construction of direct line (Art. 40). The Agency issues the authorizations if applicants meet all legal, technical and economic requirements.
- In the event of a sudden crisis in the energy market caused by a *force majeure* event where the physical safety or security of the people, installations or network integrity is threatened, the Government and, pursuant to the provisions of the Energy Law and Secondary Legislation, the Agency shall be entitled to introduce temporary measures (Art. 39).

## **2.8 Cross border trade mechanism**

Cooperation between the Energy Regulatory Agency and the EPCG-TSO is good. Both of them participate in discussions on transmission capacity allocation and congestion management mechanisms at the SEE regional level (SETSO TFs).

The EPCG-TSO (the EPCG as the signatory) has participated in establishment of the SETSO ITC mechanism and in the dry-run project. Since the EPCG has signed the SETSO ITC agreement for 2006, it represents a responsible body for its implementation. However, the EPCG-TSO is compensated for transited electricity (the EPCG-TSO is a payer due to net import of electricity). There are no additional export/import tariffs at the interconnectors for electrical energy delivered to domestic consumers which would exist in parallel to the CBT ones. Transited electricity is treated only by the CBT mechanism.

The EPCG-TSO publishes information and procedures regarding safety, operational and planning standards. It also publishes estimated ATC values at the interconnectors at its web page ([www.tso-epcg.com](http://www.tso-epcg.com)). Rules on allocation of transmission capacity are currently put forward into drafting procedure. Long term contracts for the use of the existing

interconnectors do not exist for usage of the transmission capacity. However, they exist for exchange of electrical energy generated in the HPP Piva (EPCG) and delivered to Elektroprivreda Srbije (HPP Piva delivers peak power to EP Srbije, which delivers base load power on the way back to EPCG).

The EPCG-TSO 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, if congestions appear. Besides the Provisional Grid Code, the Rules on allocation of transmission capacity that are currently put forward into drafting procedure will treat congestions as well. 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. Balancing mechanism is treated in the Provisional Grid Code and in the Market Rules (to be adopted soon).

### **3. GAS SECTOR**

The natural gas market does not exist in Montenegro, and consequently there is no related legislation. Such situation motivates further work on establishment of institutional and legislative framework in the gas sector in parallel to gasification plans and projects. A regulatory body remains to be designated in the gas sector, once serious activities are commenced.

#### ***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**

Agency for competition does not exist in Montenegro. Within the Ministry of Economy there is an organisational unit called Trade Sector which is authorised for competition related issues according to stipulations of the Law on Protection of Competition from 2003. The Energy Law contains provisions related to competition (Art. 21) and competitive supply (Art. 38).

#### **5. ENVIRONMENT**

The Environment Law is a fundamental legislation which makes the framework for the so called environmental legislation. This Law of the Republic of Montenegro aligns its economic and social development with principles of environmental protection. The republic of Montenegro established the mark „ECOLOGICAL STATE OF MONTENEGRO“ expressing its identity as an ecological state. Natural wealth are used following the principles of preservation of the environment, and following the laws, ecological and development policy providing that it does not undermine the environments of other countries.

Documents concerning environmental protection envisaged by the Law are the following:

- Ecological Program (program of environmental protection of RoM);
- Programs for environmental protection adopted by the local self-government units in accordance with the Ecological Program;
- Programs for environmental protection adopted by the legal person and natural persons carrying out activities for which the assessment is mandatory.

In implementation, the environmental protection standards and norms of environment quality are instrumental and brought by the Government of Montenegro. They are classified as follows:

- Standards of environment quality,
- Standards concerning emissions,
- Standards concerning production process (Article 16).

Other important instrument for environmental protection is the assessment of impact on environmental, which is mandatory for all investors (domestic or foreign natural or legal

persons), for all interventions planned and executed, which may cause pollution of environment or to bring risks for it.

From the Environment Law, the Government of Montenegro:

- Adopts the Ecological Program (Program for Environmental Protection of Montenegro);
- Adopts standards concerning quality, environment and production processes;
- Adopts the Program for the Environment Surveillance;
- Adopts the list of polluters;
- Sets environmental charges, methodology for accounting and collection of environmental charges;
- Sets out the form of the environmental sign and its application;
- Sets out the types of interventions which require environmental impact assessment, content and methods of assessment, selection of location, method for assessing and verifying, participation of public and other relevant issues (Ordinance on Environmental Impact Assessment, Instructions for the Contents of Environmental Impact Assessment).

Ministry of Environmental Protection and Physical Planning is responsible for the following:

- Issues Location Authorization (depending on the level of spatial and urban plans);
- Issues Urban Approval (depending on the level of spatial and urban plans);
- Approves detailed conditions for the environment protection for the facilities and works design (detailed conditions are part of the urban and technical conditions);
- Issues Approval to the technical documentation (of investor);
- Approves Environmental Impact Assessment (approved EIA is the prerequisite for obtaining the Approval for Realization);
- Prescribes the types of emissions which should be monitored within the environmental status monitoring, taking samples, ways of recording, deadlines for provision of information and other requirements that an institution for pollution monitoring should meet;
- Keeps environmental pollution cadastre, prescribes the content of the pollution cadastre and the method of keeping;
- Establishes and monitors the environment information system.

Environmental Protection Fund is proposed in the draft Law on the Environmental Protection Fund. The main objective of the Fund is the implementation of the national environmental policy and financing of projects, programs and other activities aimed for the improvement and protection of the environment. Fund operation is financed from environmental charges and fines paid by polluters, from domestic and foreign donations and credits, financial operations of the Fund, charges for investments and other financial sources (one of the possibility in consideration is the state budget). Fund will finance following activities:

- Conservation, protection and improvement of the air, water and land quality,
- Stimulation of the renewable energy use,

- Stimulation of the sustainable development of rural areas,
- Stimulation of the sustainable use of natural resources,
- Stimulation of the education, scientific research and the development projects.

Financing of the projects is provided through public tendering procedure applicable to physical and legal persons (as loans, subventions, grants and other applicable forms).

Administrative capacity in the field of environmental protection is insufficient. International technical assistance is necessary in the field of environmental protection. 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. 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. Practical implementation of existing legislation is very difficult due to lack of human resources, which are mostly engaged in harmonisation of the existing legislation as well as in drafting of the new one. The Law on Environmental Impact Assessment has passed a procedure in the Parliament in December 2005, and will be enforced in January 2008. Strengthening of the capacity of the Ministry of Environmental Protection and establishment of a state environmental agency is already envisaged with respect to implementation of the Law on EIA. Establishment of a well equipped and operational state environmental agency (expected by the end of 2006) would be a significant step forward in this respect. It is financed from the CARDS programme (including construction of completely new building). However, the EIA is obligatory for all new projects in the energy sector since 1997. Harmonisation of existing legislation is related to the SAP, which contains environmental issues. The SAP is unified for the State Union of Serbia and Montenegro, but its realisation goes into two rail tracks separately for Serbia and Montenegro (however, it has been stopped recently due to political reasons). Directive 2001/80/EC has not been transposed yet. Directive 1999/32/EC is under jurisdiction of the Ministry of Economy.

Over a decade ago, most countries joined an international treaty - the United Nations Framework Convention on Climate Change (UNFCCC) - to begin to consider what can be done to reduce global warming and to cope with whatever temperature increases are inevitable. Recently, a number of nations have approved an addition to the treaty: the Kyoto Protocol, which has more powerful (and legally binding) measures. The UNFCCC Secretariat supports all institutions involved in the climate change process.

Parties that are eligible to sign the UNFCCC are State Members of the United Nations. Since Montenegro is currently an integral part of the state union of Serbia and Montenegro, its position in the context of UNFCCC and the Kyoto Protocol is determined by the position of the whole country. The state union of Serbia and Montenegro, under its former name Federal Republic of Yugoslavia, acceded to the Convention on 12<sup>th</sup> March, 2001. According to its provisions, the Convention entered into force for Serbia and Montenegro 90 days later (10<sup>th</sup> June 2001).

On the other hand, Serbia and Montenegro have neither signed nor ratified the Kyoto Protocol yet, although this would not imply any additional concrete commitments regarding the GHG emissions reductions, since it is not listed as one of the Annex B countries in the Protocol. Commitments of Non-Annex I countries as defined within the Kyoto Protocol are basically only reiterated commitments from the UNFCCC. In other words, the Kyoto Protocol does not impose any new obligations to the Non-Annex I countries regarding their policy towards climate change. The Law on Ratification of the Kyoto Protocol has been drafted and adopted by the Montenegrin and Serbian Governments, and given into further procedure to the Government at the State Union level. Further procedure of this law is rather unknown

due to current political status of the State Union which is challenged by the Montenegrin referendum on independency scheduled for May 21, 2006.

The UNFCCC imposes a concrete commitment in the form of submitting national communications on climate change for every Non-Annex I country, which should include the national inventory of GHG emissions and removals by sources, i.e. sinks, as well as general description of steps taken, or intended to be taken in order to implement the UNFCCC. First national communications of Non-Annex I countries are to be submitted within three years upon entry into force of the Convention for that country, or three years upon the availability of financial resources to prepare the communication. Namely, the UNFCCC envisages that the additional resources necessary to fulfil the obligations of developing countries (submitting national communications etc.) are to be provided by the developed countries.

Until 27<sup>th</sup> March 2006, the UNFCCC Secretariat has received 130 national communications of Non-Annex I countries. They do not include the communication of Serbia and Montenegro. For the purpose of preparing national communications of Non-Annex I countries certain financial resources are provided within the *Global Environment Facility* (GEF), and the UNFCCC Secretariat has compiled the guidelines for preparing the communications.

Given the fact that acceding to the Kyoto Protocol does not imply any additional commitments for Non-Annex I countries (as compared to commitments taken by acceding to the UNFCCC), it is thought that Serbia and Montenegro cannot lose much by acceding to the Kyoto Protocol, while it could enjoy significant benefits. This is, naturally, the decision that can be reached only at the level of the State Union of Serbia and Montenegro, since only member states of UN have the right to accede to the Convention and Kyoto Protocol.

Moreover, it is essential that compiling of the First National Communication on Climate Change is initiated (proposed to the GEF). The communication would also include the *Inventory of Greenhouse Gases*, as well as long-term projections of GHG emissions in the future. For this purpose it is possible to request and receive necessary financial and expert support in the framework of Financial Mechanism of the Convention (usually through GEF).

Adopting Kyoto Protocol is also a prerequisite for certain integration processes that are currently in progress, or are a long-term strategic goal. On one hand, adopting the Kyoto Protocol is one of conditions for accession to the EU, since EU is one of its strongest advocates. This should also be borne in mind in light of the EU accession process, which is pointed out as a strategic goal among the governing authorities of Serbia and Montenegro.

Adopting the Kyoto Protocol is also one of the prerequisites for participation in the Clean Development Mechanism. The CDM projects include the project activities that have a goal to reduce emissions, which are undertaken by Annex I countries (with the specified reduction targets) in Non-Annex I countries (which have no reduction targets). This category of projects, naturally, also includes the construction of renewable power plants, since generating electricity in such plants causes almost zero harmful emissions in the environment.

The possibility to acquire a certain quantity of emission credits (CERs) through implementing such projects represents an additional incentive for the potential investors, enabling them to harvest further benefits from their investment. Currently, one CDM project with Italy has been prepared (renewables/biomass), and many others are proposed. The Energy Efficiency Unit that is recently organised body within the Ministry of Economy is in charge for approval of the CDM projects.

## 6. RENEWABLE ENERGY AND ENERGY EFFICIENCY

The Government of Montenegro through its Ministry of Economy carries out energy efficiency and resources preservation policies, develops and promotes efficient use of energy and renewable energy sources, encourages the use of renewable sources in domestic generation, and controls the funds for conservation and efficient use of energy. During March 2005 the Strategy of Energy Efficiency of Montenegro was finalized. The Montenegrin Unit for Energy Efficiency has been organised within the Ministry according to the Energy Efficiency Strategy and related Action Plan for 2005-2006. The Small Hydropower Plant Development Strategy for Montenegro has been adopted by the Government together with the preliminary Action Plan. It is going to become an integral part of the Strategy for Development of the Energy Sector in Montenegro till 2025. Currently, three project studies (solar/wind/biomass) are in a preliminary phase of formulating terms of reference. Upon completion, they will serve as a basis for a strategy for development of renewable sources in Montenegro providing among other targets, support scheme, guarantee of origin...

The Energy Law specifically regulates generation from renewable energy resources. The concerned provisions require that potential investors in power plants using alternative resources should apply for authorization and license. For such projects, the Energy Regulatory Agency sets out simplified procedures and requirements regarding applications for authorizations and licenses. In addition, the Energy Law envisages the simplified procedures for realization of the right of access to transmission and distribution networks on non-discriminatory basis.

In promoting renewable generation the Ministry responsible for energy has the obligation to:

- Provide information to the public in order to facilitate development projects, which relate to locations available for such projects; specific information about layout of usable potential locations (water flows for construction of small hydropower plants) and licenses, permits, authorizations and particular information which may be required for project realization.
- Coordinate with other ministries and the Agency with a view to facilitating the process of applying for licenses and authorizations and simplified process of project development.

Further, it is established that power plants of installed capacity below 10 MW using renewable resources is entitled to sell energy in the distribution network. The Ministry sets out methodology, including price setting methodology, for efficient connection to the network, since the document "Rules for the Electricity Tariffs" issued by the Energy Regulatory Agency is not applicable to small power plants with installed power less than 10 MW.

## 7. ENERGY INFRASTRUCTURE PROJECTS

A proposal for construction of 400 kV overhead transmission line between towns Podgorica (Montenegro) and Elbasan (Albania) has been active for quite some time. The line has a length of 203 km total (156+47) between Montenegro and Albania. It is scheduled to be completed by 2008. Pre-condition for this link is a construction of the 400 kV network in Albania (SS 400/x kV Tirana and 400 kV line Tirana – Elbasan).

Revitalisation of the HPP Perucica is proposed for financing. Total installed generating capacity of the HPP Perucica is equal to 307 MW.

Advancement and upgrading of the tele-communication system in the EPCG is proposed for financing. It is expected that this project will contribute to better operation of the Montenegrin power system.

It is expected that the Strategy for Development of Energy Sector in Montenegro till 2025 will be completed by June 2006. It is composed of five books, concerning energy balance, final energy consumption, coal/oil/gas, master plan for development of electric power system and long-term energy balance till 2025.

Strategy for privatization is also started up within the project financed by EAR and carried out by IPA Energy. Privatization programme will follow soon after adoption of the Strategy for privatization. Currently, the Government of Montenegro has a majority of shares of the EPCG (67.66%). A tender for privatization of 5 small hydro power plants is going to be launched soon. TPP Pljevlja is entering into the privatization process in the next 2-3 months (including 31% value of capital in the coal mine).

## 8. CONCLUSIONS

Montenegro participates in the **Stabilisation and Association Process** (SAP), but in a rather complex way based on a "twin-track" approach with Serbia. Nevertheless, it is expected that various institutional requirements will be listed within the SAP process once it is continued.

The reform of the **energy** sector of Montenegro started with the enactment of the Energy Law in 2003 which has its basics in the EU Directive 96/92. Currently, there are no activities taken towards its harmonisation with the 2003/54/EC Directive. There is no National Energy Strategy defined yet, but is expected to be completed by June 2006. Strategy for Privatization is started up. Privatization programme will follow after its adoption. Currently, the Government of Montenegro has a majority of shares of the EPCG (67.66%).

As competence over energy policy issues falls to the scope of the Ministry, the **electricity** tariffs and prices are solely under the regulatory agency, which deals with the electricity issues only. Gradual opening of the electricity market is envisaged with no dynamics specified and no consumption threshold for the customer eligibility. The market will be open according to the needs and requests from the customers and the evaluation of the regulatory agency, which currently faces two very important issues: 1) high energy losses, and 2) collection rate. Cross subsidization appears for consumers connected at low voltage. National vertically integrated electricity utility EPCG AD Niksic is the only holder of licenses for the activities in the electricity sector of Montenegro and operates all generation, transmission and distribution facilities. The EPCG will be functionally divided into Generation, Transmission System Operator, Distribution System Operator, Market Operator and Supplier, which are not separate legal persons. Deadline for the functional unbundling is realised in 2005, while a deadline for legal unbundling is not stated (expected in 2007).

The natural **gas** market does not exist in Montenegro, and consequently there is no related legislation. Establishment of institutional and legislative framework in the gas sector is needed in parallel to gasification plans and projects. A regulatory body remains to be designated in the gas sector, once serious activities are commenced.

The Law on **Environmental** Impact Assessment has passed a procedure in the Parliament in December 2005, and will be enforced in January 2008. Strengthening of the capacity of the Ministry of Environmental Protection and establishment of a state environmental agency is already envisaged. Since acceding to the Kyoto Protocol does not imply any additional commitments for Non-Annex I countries, it is thought that Serbia and Montenegro cannot lose much by acceding to it, while they could enjoy significant benefits. Moreover, it is

essential that compiling of the First National Communication on Climate Change is initiated (proposed to the GEF).

The Montenegrin Unit for **Energy Efficiency** has been organised within the Ministry according to the Energy Efficiency Strategy and related Action Plan for 2005-2006. **Renewables** have a relatively high potential and there is a need to create stable and favourable environment for their use and development. The Small Hydropower Plant Development Strategy for Montenegro has been adopted by the Government together with the preliminary Action Plan. It is going to become an integral part of the Strategy for Development of the Energy Sector in Montenegro till 2025.

Agency for **competition** does not exist in Montenegro. The Energy Law contains provisions related to competition and competitive supply. Overall administrative and absorption capacity is insufficient and international technical assistance is necessary.