

(Agenda Item nr. 2, PHLG Meeting, 30-31 May 2006)

DRAFT REPORT

On the current developments related to the preparation of the national roadmaps towards adoption and implementation of the *acquis communautaire* in accordance with the Treaty Establishing the Energy Community

DISTINGUISHED MEMBERS OF THE MINISTERIAL COUNCIL,

Following a decision of the PHLG from March 2006 and in accordance with the approved by the Group Work Programme (Item B.2), the Energy Community Secretariat hereby presents to you the current report.

I. GENERAL

One of the most important current tasks of the Secretariat was to prepare a report on the current status of the adoption of the legislation in the Parties to the Treaty Establishing the Energy Community and Turkey. This task is part of the generally agreed approach to identify via roadmaps the current state of play towards adoption and implementation of the *acquis communautaire* as listed in the Treaty Establishing the Energy Community and to propose concrete steps towards improvement in these both directions. Further to the general information about the current status, the task of this report is also to indicate those areas of the *acquis*, which – from the point of view of its adoption - represent matters of concrete concern and – subsequently – would require particular attention by the relevant parties, the EC and the Donors' Community.

The Parties share the understanding that the implementation of the relevant *acquis* shall be performed taking into consideration the process of implementation of projects of regional importance; thus, the report gives a general overview on this issue as well.

II. ON THE APPROACH

This report gives an outline of the findings of the Secretariat, which represent summary of the contribution by the Parties as well as by the fact finding missions, which were respectively organized.

As at this stage the Treaty is not into force yet, and further to the overwhelming support, which the Parties expressed in relation to having Turkey joining the Treaty as soon as possible, this country was also a subject of surveillance. Therefore, further in the document Turkey is also referred as a Party (to the Athens Memoranda).

III. GENERAL FINDINGS

The review indicated once again the huge discrepancies in the region from the point of view of the development of the legislative framework as indicated in the Treaty.

There are several major findings, which can be noted:

1. There is an overall political support in all the Parties to implement the general energy policy objectives in compliance with the EU energy policy i.e. security of supply, competitiveness, environmental protection, sustainable development; this can be definitely backed up by the undertaken reforms;
2. The legislative reforms, currently undertaken, are in line with the overall policy objectives as outlined above;
3. The institutional reforms, needed to meet the requirements of the energy policy objectives, are ongoing;
4. In general, the legislative framework on law level – particularly in the electricity sector - is available, although there are substantial differences in the approach from the point of view of direct introduction of particular elements of the market mechanisms, as identified by the acquis; however, there is concern in some Parties in relation to the development of the gas framework – both strategic and legislative;
5. There is a clear understanding of the Parties that attraction of investments in the energy sector is directly linked with reforms in line with the acquis, including legislative framework, institutional building and a clear vision for the strategic development;
6. In parallel, most of the Parties face problems of social nature, related to the ongoing reforms in the energy sector; however, all the Parties take relevant steps as to deal with these issues to the possible extent;
7. Some Parties indicate their requests for concrete support provided by other institutions in the process of development of their legislative framework in certain concretely identified areas.

IV. SUMMARY INFORMATION ABOUT THE PARTIES

The major findings, related to each of the Parties to the Treaty and Turkey, and priority projects, as identified by the Parties, are attached.

V. PROPOSAL FOR NEXT STEPS

It is on this ground that the Energy Community Secretariat proposes the following steps, the outcome of which could be presented at the next Ministerial meeting in November 2006:

1. In accordance with the Work programme of the Secretariat, as adopted by the PHLG during its 16th meeting (March 2006), the Secretariat and the Parties shall further identify the concrete elements of the acquis, which are still not in place;
2. On the ground of the findings, each of the Parties assisted by the Secretariat will present a tentative time frame for adoption of the relevant acquis;

3. The Secretariat shall be asked to communicate to the European Commission the particular requests of the Parties for assistance in development of the relevant acts of strategic and/or legislative nature;
4. The European Commission and the Secretariat shall be asked to propose, after consultation with the donors' community, a scheme for support, related to development of the acts in accordance with the previous step;
5. The Secretariat, in consultation with the European Commission shall be asked to plan and organize within 2006 – 2007 expert meetings' events on topic of particular interest for most of the parties.

VI. ON THE PROJECTS' APPROACH

1. There is an overwhelming principal support of any activities, which could bring to realization of projects, related to the development of the energy market both on national and regional level.

The concrete expression of this fact is the active position of all the Parties, related to indicating projects, which they find necessary for the market reforms.

2. However, as project related activities go on different levels (Donors' Community, EU programmes, national level, bilateral agreements), the Secretariat supported the idea of having a particular consultancy, focusing on investment related issues, which will include:
 - a. establishment of criteria for investments of a truly regional character in the electric power and natural gas sectors;
 - b. establishment of a project pipeline of such projects for which financing (public and/or private) is being sought during 2006-2010, including determination of financing gaps and possible ways to fill these gaps;
 - c. work with the relevant international financial institutions to explore ways and means to accelerate their funding for regional investments, including specifically investments that help meet Energy Community's market opening objectives;
 - d. work out a concept for establishing of Regional Investment Funds;
 - e. organize the intellectual content of the Oct 2006 Investors' Conference in Athens (topics, best speakers) and work with Energy Community members to ensure that specific and well defined projects, containing basic required information and if possible following a common format, are presented to investors.

Currently, it is planned that the consultant works till the end of 2006.

VII. CONCLUSIONS

DISTINGUISHED MEMBERS OF THE MINISTERIAL COUNCIL,

On the ground of the current information, the understanding of the Secretariat is that all Parties to the Athens' Memoranda are deeply committed to the reforms in their energy sectors in accordance with the general principles both of the energy policy and the energy acquis of the European Union.

However, there is still substantial work to be done by all the Parties. Nevertheless, there is a common belief that under the further guidance of the European Commission and with the direct ongoing substantial assistance, provided by the Donors' Community, the positive results in compliance with the Treaty Establishing the Energy Community will definitely be achieved.

In parallel, there are concrete expectations by the Parties that their operational needs and relevant proposals in the process of establishment and development of the Energy Community, will be taken into consideration adequately.

It is on this ground that I take the liberty to propose to you the adoption of this report and the proposals for next steps as indicated above.

ALBANIA

Albania participates in the **Stabilisation and Association Process (SAP)**. Negotiations for a Stabilisation and Association Agreement (SAA) started in January 2003 and are nearing completion.

The **energy** policy topics are under jurisdiction to the Ministry of Economy, Trade and Energy which is still in adjustments as it has got a new operational structure since January 2006. Now the Ministry is not only a policy maker, but also an owner of all assets. The regulatory authority regulates issues related to electricity market operation only. It prepares concrete rules for the tariffs (methodology and fees).

The **competition** authority is established in 2004 and supposed to cooperate with the regulatory authority on issues related to prevention, restriction or distortion of competition and abuse of a dominant position in the energy market. Implementation of the Transitory Market Model asks for a review of the legal framework (harmonisation with the Acquis), a restructuring of the KESH (the KESH unbundling according to the provisions of the Energy Community Treaty), opening of the market (electricity market design and opening), and consolidation of the transmission system operator (facilitation of the market opening).

In **electricity**, the transmission system operator (OST) has been established in 2004 and there is ongoing work towards consolidation of the company which will be finished by the end of 2006. Assistance in re-evaluation of the KESH's assets began in 2003 and finished in May 2005. In 2006, for the first time, the OST has published its own development plan and program separately from the KESH. There are two main targets in the next period that need continuous attention and monitoring from the Government and the donor's community: 1) improvement of collection rate (currently 92-93%), and 2) decrease of technical and non-technical losses (currently around 35%).

In **gas**, Albania does not have many activities. Domestic gas fields are depleted and annual gas production has been decreased from 1bcm in 1982 to 0.01bcm nowadays. Therefore, there is no gas market in Albania, and consequently no gas regulatory framework and authority is put in place. However, the Ministry is prepared to transpose EU requirements into national gas legal and technical framework, which would enable participation of Albania in the regional gas network interconnection projects.

In **environment**, through the ongoing negotiations of the SAA, Albania expressed its willingness to form a required legal framework, especially by enabling public participation and start watching GHG emissions. Environmental issues related to building of the TPP Vlore have been analysed according to the EU requirements. The Kyoto Protocol is under jurisdiction of the Ministry of Environment. Albania is not a member of Annex 1, and there are no further requirements for Albania. Albania ratified the UNFCCC in October 1994 and as a party to the Convention, has finalized and submitted its First National Communication in October 2002. In December 2004, Albania's Parliament ratified the Law for ratification of the Kyoto Protocol.

In **energy efficiency** Albania has legislation on, but has not the one related to the **renewable sources**.

BOSNIA AND HERZEGOVINA

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 power sector.

In **electricity**, 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** or **renewable energy 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.

BULGARIA

Bulgaria accession negotiations with the European Union were concluded in December 2004 and a Treaty of Accession was signed in April 2005 with a view to welcoming the country as member as from January 2007. The *acquis communautaire* chapters on Energy, Competition and Environment were opened in 2001 and closed in December 2004.

Bulgaria has established the basic **institutional framework** for energy, environment and competition affairs. In addition to the relevant Ministerial Departments, the Energy Regulatory Authority, the Competition Authority and an Energy Efficiency Agency have been established.

In **electricity**, the 2003 Energy Act provides the legal framework for the liberalisation of the electricity sector along the lines of the Directive 2003/54/EC. Bulgaria has also adopted a comprehensive package of secondary legislation. The most remarkable issues still to be adopted are the legal and organizational unbundling of the Transmission System Operator from generation and supply activities and the unbundling of the Distribution System Operators from supply activities. Both issues are expected to be implemented by the time when Bulgaria becomes a full member of the European Union.

In **Natural gas**, the legal and regulatory framework was established by the Energy Act too. Natural gas market was opened to competition in 2003. The new legal and regulatory framework is mostly compatible with EU Natural Gas Directive 2003/55/EC. However, there are some specific articles to be harmonized with the 2003/55/EC Natural Gas Directive such as minimum requirements for the independence of TSO and DSOs. Although the state company Bulgargas dominates the wholesale market, gas distribution networks are being constructed and developed by private and municipal companies.

In **competition policy**, Bulgaria has in force a Law on Protection of Competition and a State Aid Act with the aim to align their antitrust and State Aid policies with the *acquis communautaire*. The Competition Authority is responsible of enforcing both Acts.

In the area of **renewable energy sources**, Bulgaria has in place the provisions of the Directive regarding the production of electricity from Renewable Energy Sources. As for the Directive on the promotion of biofuels for transport, a new law is being drafted on the promotion of renewable energy sources.

The relevant **environmental** *acquis* for the Treaty has been addressed in several legal acts such as the Environmental Protection Act, the Regulation of the terms and conditions for carrying out an Environmental Impact Assessment or the Regulation on the requirements for liquid fuels. The next challenge to be faced is the full implementation, ensuring that financing is available for the required investment.

CROATIA

As Croatia has recently become the **EU candidate country** and entered the process of EU accession, it has started a screening process related to alignment to the *acquis*, including chapters common to the four main areas of the Energy Community Treaty (energy, environment, renewable energy sources, and competition). Ongoing thorough screening process will show within next few months whether a transposition of the EU requirements into the Croatian legislation has been done and implemented in a proper way.

In **electricity**, the institutional and primary legislative framework is well developed. Secondary legislation still remains to be implemented, especially in the field of **renewable** sources and energy efficiency. The by-laws are needed with respect to setting indicative targets for production of electricity from renewable sources and for reduction of GHG emissions, appointment of institution to certify the energy source from which the electricity was produced, putting in place a tariff support scheme and specific authorisation procedures applicable to renewable sources of electricity. The proper functioning of the regulatory agency, transmission system operator, distribution system operator, and market operator has to be ensured.

The regulatory agency works together with the **competition** agency on competition issues related to energy on the basis of a formally signed agreement. The tariff methodology is under jurisdiction of the regulatory agency, whereas the Government makes the final decision on tariffs based on the proposal from the Ministry in charge with energy. The Croatian Electricity Utility HEP, as a vertically integrated undertaking, has leased its assets and properties to the HEP-TSO (established in April 2005) and HEP-DSO (established in December 2005). Both operators need to implement a compliance program to ensure their impartiality in exercising daily operation routine with respect to all market players.

In **gas**, the Ministry in charge of energy is responsible for the approval of the tariffs submitted by the regulatory agency which is in charge of determination of the costs and of the preparation of the tariffs. The transmission system operator Plinacro, owned 100% by the state, owns, operates, maintains and develops the transmission system. At the moment there are 38 DSOs in Croatia - owned either by local communities or privately. A storage system operator has not been installed yet. Amendments to the existing Law on Gas Market have to be accomplished in compliance with the Directive 2003/55/EC in the ongoing process which is foreseen to finish by the end of 2006.

In **environment**, in the following short-term period it is necessary to continue development of horizontal legislation, including environmental impact assessment and public participation. In the medium-term, it is necessary to ratify the Kyoto Protocol to the UNFCCC (related to the EU accession). Overall institutional capacity strengthening, new staffing and training programs are needed. Usage of the EU pre-accession instruments for Croatia should be intensified as they may provide active support for the reform of the Croatian energy market.

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

The basic **institutional framework** in electricity, gas, competition, energy efficiency and environment has been established.

The **electricity** acquis is reflected in the new Energy Law, that is up for debate in the Parliament. The Law on Electricity and Gas Market was adopted in May 2005; the Market rules are in the final stage of adoption. The Regulatory Commission, the Electric Power System Operator (TSO and dispatch center), the Market Operator and the DSO are in place. TSO and DSO have been legally unbundled. However, both the governmental authorities and the Regulator indicated the need to further develop the primary and secondary legislation and the different rulings, which outline the functioning of the energy market. This is relevant both to electricity and gas; however, the reforms in the electricity sector are much more advanced. The Regulator plays a substantial role in the market relations in the energy sector. In fact, most of the concrete demands as indicated in the energy acquis, are not to be found in legislative acts, but in rulings of the Regulator

The **gas** market is not very developed and there is one single gas transportation and distribution company, Makpetrol. The Gas Directive was reflected in the Electricity and Gas Market Law.

The key **environmental** acquis related to the Treaty has been adopted and partially implemented. The Party has implemented partially the acquis on environment and will have no difficulties to face the time frame in this aspect as indicated by the Treaty.

In **competition**, the Law on Protection of Competition stamps the trading abuses, and the state subsidies are strictly regulated by the law. The Regulatory Commission oversees the enforcement.

The **Energy efficiency strategy** was prepared in 2005 and an Action plan on **renewable energy sources** will be developed.

Anyhow, the established appropriate legislative and institutional framework in the energy sector, combined with the will for reforms, will certainly bring to further positive results.

This is being concretely demonstrated by the active process of the ongoing restructuring of the electricity sector, which has gone through tremendous changes for the last three years – adoption of legislative changes as to introduce the principles of the market rules at a law level in line with the acquis, establishment of the Regulator, legal unbundling of the former electricity company, development of market rules by the Regulator, related to the energy sector (still ongoing).

Requests and proposals

For its further strengthening, two particular projects have been proposed by the Regulator:

- Acquisition of software package for analysis of transmission and distribution network;
- Preparation of the Rulebooks on Quality of Supply and Monitoring of Security of Supply in the Electricity and Gas Sector.

MONTENEGRO

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.

Renewable energy sources 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.

ROMANIA

Romania accession negotiations with the European Union were concluded in December 2004 and a Treaty of Accession was signed in April 2005 with a view to welcoming the country as member as from January 2007. The *acquis communautaire* chapters on Energy (14) and Environment (22) were opened in 2002 and closed in December 2004; the chapter on Competition was open in 2000 and closed in 2004.

Romania has established the basic **institutional framework** for energy, environment and competition affairs. In addition to the relevant Ministerial Departments, the National Electricity and Heat Regulatory Authority, the Natural Gas Regulatory Authority, the Public Services Regulatory Authority, the Competition Council and an Energy Efficiency Agency have been established.

In **electricity**, the national Electricity Act nr. 318/2003 provides the legal framework for the liberalisation of the electricity sector along the lines of the Directive 2003/54/EC. Romania has re-structured the sector by vertical unbundling of generation, transmission, distribution/supply activities and horizontal splitting of generation and retail supply. A new trading platform was implemented in July 2005 in order to achieve a market based on bilateral contract and self-scheduling for generators, accompanied by a voluntary energy exchange (Day-Ahead Market) and a balancing market. Starting with 1st of July 2005 the degree of the opening of the market was raised to 83.5 %; the rest of the market opening is scheduled for 1st July 2007. The only important outstanding issues are: the legal unbundling of Distribution System Operators from supply activities, expected in 2006; the adoption of the procedure to designate the supplier of last resort, expected in 2006; the introduction of a capacity market, expected in 2006- 2007.

In **natural gas**, the legal framework (primary and secondary legislation) has been established almost completely in accordance with Directive 2003/55/EC. As of 1 January 2006 the natural gas market is opened at a degree of 65% and will be opened for all customers at 1st July 2007. The regulatory authority is independent, sufficiently resourced, and having operational autonomy. However, there are some specific issues to be harmonized with Natural Gas Directive such as the full unbundling of TSO expected by January 2007, and legal unbundling of the DSOs is expected by July 2007; additionally, the authority to approve the single mechanism for cross border transmission and/or transportation of Network Energy was not yet established.

Romania adopted the **Renewable Energy Strategy** in 2004, with a clear target for electricity from renewable energy sources of 33 % by 2010; introduced green certificates with mandatory quota and the market for trading these. In **energy efficiency**, Romania adopted the National Energy Efficiency Strategy in 2004 and set a target of 40 % reduction of energy intensity by 2025. A new law, nr. 56 was passed in March 2006, to reflect better the EU requirements. Most EU directives on energy labelling of household appliances are adopted.

In **environment**, the legal and institutional framework is in place and in line with the *Acquis*. Compliance plans for certain directives were prepared by the Ministry of Environment and Water Management and the transitory periods were negotiated with the European Commission and are currently being implemented and monitored by the competent authorities.

In **competition**, the law nr. 21/1996 was amended and republished in 2005 to fully reflect the provisions of the *Acquis*. The Competition Council is in place, independent and staffed and cooperates closely with the two regulatory agencies for electricity and gas, to prevent any abuse of power by energy companies and other market players.

SERBIA

Serbia is in negotiations for establishing a Stabilisation and Association Agreement with the European Union although these have been temporarily put on hold.

Serbia has established the basic **institutional framework** for energy, environment and competition affairs with some of them being operational only for a few months. In addition to the relevant Ministerial Departments, the Energy Regulatory Authority and the Competition Authority have been established. Currently there is no National Plan regarding Energy Efficiency.

In **electricity**, in 2004 Serbia adopted the Energy Law which opened the way for the liberalisation and opening of the electricity sector. The Secondary legislation is under way to adopt the Market Rules, the Transmission Grid Code and the Distribution Grid Code. The energy regulatory authority intends to approve by summer a new tariff methodology. While the Transmission System Operator has been recently unbundled, the Distribution System Operators can still however perform supply activities without further unbundling being envisaged. One of the most outstanding obstacles to the true functioning of the market is the low level of the regulated retail electricity prices, which are well below the costs. This is one of the reasons why no eligible customer is participating in the market. Serbia calls for assistance to analyse the problem and to propose solutions.

In **natural gas**, Serbia has already started to establish legal and regulatory framework for natural gas market. The Energy Law came into force in 2004. The secondary legislation is still under preparation. Nonetheless, the new structure is seen to be mostly compatible with 2003/55/EC Natural Gas Directive. The Energy Law does not foresee a time table for the unbundling of Srbijagas. However the organisational unbundling is in place currently. The legal and managerial unbundling is not envisaged within the new legal framework.

In **competition**, Serbia has recently passed a Law on Protection of Competition which tackles antitrust practices. However it is still to be addressed State Aid.

Serbia has still no legislation regarding the production of electricity from **Renewable Energy Sources** or the promotion of biofuels for transport.

In **Environment**, Serbia has adopted some legal acts such as the procedures for Environmental Impact Assessment or air pollution. Serbia is also preparing a National Environmental Strategy which also intends to provide an economical assessment of the implementation of the environmental Acquis. The energy sector would account under this plan for approximately one third of the investment needs.

TURKEY

Turkey has been a candidate country to the European Union since 1999 although Association Agreements have been in place since the 60s. The opening of the negotiations for accession to the European Union started in October 2005. During these years Turkey has been working on the alignment of its legislation with the *acquis communautaire*.

Turkey has established the basic **institutional framework** for energy, environment and competition affairs. In addition to the relevant Ministerial Departments, the Energy Regulatory Authority and the Competition Authority are in place. It is still to be developed a strategy in the area of energy efficiency.

In **electricity**, the Electricity Market Law adopted in 2001 paved the way for the liberalisation of the electricity sector along the lines of the *acquis communautaire*. A comprehensive package of secondary legislation has been passed since then to develop the provisions of the Law. Turkey will soon tender the privatisation of the distribution companies. The privatisation of the state owned generation company is scheduled to take place at a later stage. The most remarkable issue still to be adopted is the legal and organisational unbundling between network and supply activities of the distribution companies. In addition private distribution companies are allowed to obtain a license of generating electricity.

In **natural gas**, the natural gas legal and regulatory framework was established in 2001. Natural gas market has been opened to competition at the end of 2002. The regulatory and legal framework is mostly compatible with 2003/55/EC Natural Gas Directive. In addition, despite that a competitive environment is in place, BOTAS still retains a dominant market position. However, gas release programme and unbundling of activities will reduce the dominant position of BOTAS gradually until 2009. The legal unbundling of BOTAS between transmission, storage and trade is foreseen to be completed within two years after 2009.

In **competition**, the legal basis for antitrust provisions is provided by the Competition Law. However, State Aid provisions have not been adopted yet but a review of the needed amendments in the Turkish legislation is under way.

Regarding **renewable energy sources**, Turkey has adopted a Law on the Promotion of electricity from Renewable Energy Sources. Turkey is in addition drafting an Act regarding energy efficiency which shall include provisions on the promotion of biofuels for transport.

In **environment**, the environmental provisions in the Energy Community Treaty is one the major reservations of Turkey for not signing the Treaty. Turkey is concerned about the economical implications of implementing the environmental *acquis* as the required investments have not fully assessed.

UNMIK

In UNMIK, the institutions responsible for the sectors relevant to the Treaty are as follows: the Ministry of Energy and Mining, for **energy policy issues**, including those related to renewable energy sources and Energy Efficiency; in the area of vulnerable customers its responsibilities are linked to the competences of the Ministry of Labour and Social Welfare; the Ministry of Environment and Spatial Planning, for environmental affairs.

In **electricity**, UNMIK has a well developed energy framework, including an **Energy Strategy** and a set of Laws on: Energy, Electricity, Energy regulator, Energy efficiency and renewable energy sources, that were adopted in 2004. These are in compliance with the principles of the energy acquis as identified by the Treaty. However, as the process of restructuring the electricity sector is still going on, certainly there might be space for updating and improvement.

The **Energy Regulatory Office** (ERO) has been established by the Law on Energy Regulator in 2004, as an independent body with competences outlined in the Law. This is authorized to exercise regulation in electricity, natural gas and district heating.

Both the Electricity Law and the Law on the Energy Regulator have provisions regarding the Transmission System Operator' set up and unbundling. The appointed TSO, Transko JSC has recently been separated from the Kosovo Electricity Company (KEK). The expectations are that this will start operating autonomously by 1st July 2006. The key tasks of the distribution network operator are outlined in the Law on Electricity.

The electricity market was opened in March 2006 for all consumers (four) connected to 110kV and over, that were declared eligible for 2006. A timetable for further market opening will be produced by MEM during 2006.

The **natural gas** sector is not developed at all in UNMIK. The only existing gas pipe line with the former Yugoslav Republic of Macedonia was destroyed to an extent which does not allow a justified reconstruction. However, both the energy Strategy, the Law on Energy and the Law on Energy Regulator envisage rules about the gas sector as well.

In **competition**, the Law on Energy Regulator is giving the power to the Energy Regulatory Office for the establishment and enforcement of a regulatory framework for the energy sector in Kosovo, ensuring non-discrimination, effective competition, and the efficient functioning of the energy market.

The Energy Strategy and the energy legislation pay particular attention to the **environmental protection**, especially through criteria for granting licenses. However, UNMIK considers further concrete steps in order to implement the directives listed under the environmental acquis in the Treaty, and in particular, the Council directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment and Directive 79/409/EEC on the conservation of wild birds, etc.

The Energy Strategy and all major energy laws make particular reference to **energy efficiency and renewable energy sources**. The Energy Act states that the Ministry of Energy and Mining shall each year establish indicative targets for the consumption of electricity or heat generated from RES or cogeneration.