

CARDS Project 2005

**Facilitating and Implementing
the Energy Community in South East Europe**

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ENERGY COMMUNITY

GOOD GOVERNANCE REPORT

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1 BACKGROUND

The *Good Governance Report*, responds to the reporting requirements as outlined in Annex I (Description of the Action), Chapter 8: REPORTS, of the Grant Contract Ref.:100-231 of the project "Facilitating and Implementing the Energy Community in South East Europe". Under this project, the contracting parties are the European Commission acting through DG Enlargement and the *Bundesministerium fuer Wirtschaft und Arbeit* of Austria (BMWA).

In the *Inception Report* submitted by the BMWA to the European Commission on 29 May 2006 and in the letter sent by the BMWA to the European Commission on the 29 August 2006, it was stated that the *Good Governance Report* shall provide the annual update on a state by state basis on issues relating to good governance, corruption and transparency. The information on new developments shall be collected in a complete and symmetrical manner enabling state by state comparison. All issues of concern shall be listed in the *Good Governance Report* and made publicly available to the Ministerial Council. Incomplete and unsymmetrical information may prevent meaningful comparison on a state by state basis.

The detailed description of the procedural steps taken under the *Good Governance Report* is given in the following chapters. The operational activities have been undertaken in accordance with the part of the LOG Frame Matrix relating to the *Report* (Table 1.1). The operational activities under the *Report* were subjects to previously submitted *Inception Report* (May 2006) which contains complete LOG Frame Matrix of the whole project.

Table 1.1 Objectives, indicators of achievements, means of verification, risks and conditions

Good Governance Report

Objectives	Indicators of Achievement	Means of Verification	Risks and Conditions
Annual update on a state by state basis on issues relating to good governance, corruption and transparency (Good Governance Report);	Collect the information on new developments in a complete and symmetrical manner enabling state by state comparison by the iECS;	Listing of all issues of concern in the Good Governance Report and making them publicly available to the Ministerial Council;	Incomplete and unsymmetrical set of the information which prevents meaningful comparison on a state by state basis;

This *Good Governance Report* is not restricted to annual monitoring of specific behaviour of market participants and institutional organisations in the Contracting Parties. As the most critical element the *Report* hereby singles out the identification of structural issues that impede the development of competitive markets in the Energy Community. Therefore, this *Report* focuses more on the establishment of institutional and legislative framework as a prerequisite to good governance.

2 SCOPE OF THE GOOD GOVERNANCE REPORT

In his recent speech¹, Mr Andris Piebalgs, Energy Commissioner, clearly indicated need for a commitment to good governance when giving external projection of the EU internal energy market. However, in the speech he has prioritised the issue of good governance to the third out of three cooperation rings as follows:

- The first cooperation ring is a highly complex and regulated EU internal energy market which is still in development;
- For the second ring, the EC has initiated the Energy Community, which binds the EU and Contracting Parties in a common energy market with set of rules based on EU norms; and
- For the third, outer ring of countries that lie beyond EU immediate neighbourhood, a correct development of the local energy markets is expected.

For the second ring, as it concerns the Energy Community which replicates the EU internal energy market in its essentials (the rules on the gas and electricity markets, competition rules, renewables, environmental safeguards etc.), the priorities have been set on fulfilling concrete and strict deadlines in terms of alignment with the rules. For examples, in 2007 all Contracting Parties are bound to open their wholesale electricity and gas markets and to remove non-tariff barriers to trade. A greater emphasis shall be also put on energy efficiency. A significant oil dimension should be introduced into the Energy Community.

In the third ring, the importance of the following three issues is stressed:

- Firstly, an appropriate legal regime for investments;
- Secondly, greater international co-operation amongst donors and banks; and
- Thirdly, a commitment to good governance.

As given in the speech, in his views, Mr Piebalgs has prioritised good governance to the third cooperation ring of countries that lie beyond EU immediate neighbourhood, by noting the following:

'Lastly, we need a commitment to good governance. Initiatives such as the Extractive Industries Transparency Initiative (EITI) need to be adhered to. International accounting standards need to be in force. A commitment to proper and sound statistics needs to be made. The environmental challenges cannot be ignored.'

Therefore, it is obvious that the following four aspects may be taken into consideration when presenting the scope of the *Good Governance Report*:

1. Adherence to the initiatives such as the EITI;
2. Enforcement of the international accounting standards;
3. Commitment to proper and sound statistics; and
4. Environmental challenges.

Although good governance has not been mentioned explicitly as a priority for the Energy Community, the *Good Governance Report* is a part of the General Reporting Requirements of the interim Energy Community Secretariat under the Grant Contract and as such is covered hereafter on the previously explained basis.

¹ Andris Piebalgs, Energy Commissioner, External projection of the EU internal energy market, Opening speech at the External Energy Policy Conference, Brussels, 20 November 2006, available at: <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/06/712&type=HTML&aged=0&language=EN&guiLanguage=en>

2.1 Adherence to the initiatives

The Extractive Industries Transparency Initiative (EITI)² is the most prominent initiative among the ones which promote good governance and sustainable development in energy producing countries. The non-exhaustive list of similar initiatives, along with the conventions, codes, guides and policies, is given in the Annex 1 to this *Report*. All of them have been drafted to help fight against corruption and bribery, as well as to improve practice on transparency (especially fiscal and resource revenue ones).

Adherence to the EITI initiative, and largely to any similar one, essentially comprises addressing the issues of the good governance, transparency, accountability and anti-corruption in numerous fields such as:

- Quality of governance and processes related to the expenditure management (promotion of transparent budget, budget overspending, open approach to budget preparation, execution and reporting, fiscal transparency, high quality independently verified fiscal information, public availability of information on fiscal activity, competition and taxation, cross-subsides, distortions coming from vertically integrated distribution and supply companies);
- Quality of governmental spending and project management (partnership between governments and/or companies and civil society participants to enhance overall framework of investments, clarity of roles and responsibilities, information disclosure, inappropriate planning decisions, combating bribery, protection of consumer interests, procurement and concession-letting policies, discriminatory practices);
- Corporate governance and corporate monitoring (structure, direction and performance, business indicators, relations to the shareholders, management, employees, customers, suppliers and creditors, efficient management by use of incentive mechanisms, efficient use of resources, sustainable economic growth);
- Disregard for labour and environmental laws and standards (business ethics, employment and industrial relations, human rights, participation and guidance in environmental impact assessment, natural habitats, involuntary resettlement).

More specifically, the EITI supports improved governance in resource-rich countries through the full publication and verification of company payments and government revenues from oil, gas and mining. Resource-rich countries implementing EITI can benefit from an improved investment climate by providing a clear signal to investors and the international financial institutions that the government is committed to strengthening transparency and accountability over natural resource revenues. Some twenty countries have either endorsed, or are now actively implementing EITI across the world – from Peru, to Trinidad and Tobago, Azerbaijan, Nigeria, and East Timor. The EITI has set up 6 main criteria to follow:

1. Regular publication of all material oil, gas and mining payments by companies to governments (“payments”) and all material revenues received by governments from oil, gas and mining companies (“revenues”) to a wide audience in a publicly accessible, comprehensive and comprehensible manner.
2. Where such audits do not already exist, payments and revenues are the subject of a credible, independent audit, applying international auditing standards.
3. Payments and revenues are reconciled by a credible, independent administrator, applying international auditing standards and with publication of the administrator’s opinion regarding that reconciliation including discrepancies, should any be identified.
4. This approach is extended to all companies including state-owned enterprises.

² Extractive Industries Transparency Initiative (EITI), www.eitransparency.org

5. Civil society is actively engaged as a participant in the design, monitoring and evaluation of this process and contributes towards public debate.
6. A public, financially sustainable work plan for all the above is developed by the host government, with assistance from the international financial institutions where required, including measurable targets, a timetable for implementation, and an assessment of potential capacity constraints.

By following stated criteria, the lack of accountability and transparency can be avoided as it exacerbates poor governance and leads to corruption, conflict and poverty. Transparency needs to be linked to efforts to improve financial management and to tackle corruption. Without transparency, donors and International Financial Institutions will be less willing to engage in these countries and companies may be cautious about investing in an opaque (or-worse--corrupt) business environment. It is for the individual populations of a country to hold their government to account for the use of the resources.

2.2 Enforcement of the international accounting standards

Global accounting standards need to be put into force as they require transparent and comparable information in general purpose financial statements covering issues such as presentation of financial statements, cash flow statements, net profit or loss statements, inventories, balance sheets, financial instruments, earnings per share, interim financial reporting, impairment of assets, investment property...

One of the most comprehensible sources of information on this topic provides the International Accounting Standards Board (IASB)³, an independent accounting standard-setter based in London, UK. The IASB is committed to developing, in the public interest, a single set of high quality, understandable and enforceable global accounting standards that require transparent and comparable information in general purpose financial statements. In addition, the IASB co-operates with national accounting standard-setters to achieve convergence in accounting standards around the world.

The ultimate aims of the IASB and other accounting standard-setters are:

- a. to develop, in the public interest, a single set of high quality, understandable and enforceable global accounting standards that require high quality, transparent and comparable information in financial statements and other financial reporting to help participants in the world's capital markets and other users make economic decisions;
- b. to promote the use and rigorous application of those standards;
- c. in fulfilling the objectives associated with (a) and (b), to take account of, as appropriate, the special needs of small and medium-sized entities and emerging economies; and
- d. to bring about convergence of national accounting standards and international financial reporting standards to high quality solutions.

The IASB has a conceptual framework underlying its financial reporting standards and interpretations, the Framework for the Preparation and Presentation of Financial Statements. It sets out the concepts that underlie the preparation and presentation of financial statements for external users. The IASB also publishes its standards in a series of pronouncements called International Financial Reporting Standards (IFRS). It has also adopted the body of Standards issued by the Board of the International Accounting Standards Committee (IASC). The pronouncements continue to be designated "International Accounting Standards" (IAS)⁴.

³ International Accounting Standards Board, www.iasb.org

⁴ IFRS and IAS Summaries, www.iasb.org/Summaries+of+International+Financial+Reporting+Standards/IFRS+and+IAS+Summaries/IFRS+and+IAS+Summaries.htm

2.3 Commitment to proper and sound statistics

When it comes to the energy statistics, it is necessary to have developed databases and/or enabled access to the existing ones for the energy and non-energy related inputs. Data source for energy input could be the International Energy Agency (IEA) Energy Statistics⁵, which is a commercial data base. The World Resources Institute/Earth Trends Environmental Information⁶ could serve as a source of the non-energy input data (free data base whose principal sponsors are UNDP, UNEP, WB, USAID, Netherlands Ministry of Foreign Affairs, SIDA). Of course, there are some other useful sources of statistical information such as the BP Statistical Review of World Energy⁷, the Energy Information Administration⁸, the International Atomic Energy Agency⁹, the Organisation for Economic Cooperation and Development¹⁰, EUSTAT¹¹...

The Energy Statistics Division of the IEA collects, processes and publishes data and information on energy production, trade, stocks, transformation, consumption, prices and taxes as well as on greenhouse gas emissions. The geographical coverage of the IEA's statistics includes the 30 OECD Member countries and over 100 non-OECD countries worldwide. The data are originally collected by official bodies (often national statistical offices) in OECD Member countries from firms, government agencies and industry organisations, to meet national needs and are then reported to the IEA using special questionnaires to ensure international comparability. Data are also collected for non-OECD countries directly from government and industry contacts and from national publications.

EarthTrends is a comprehensive online database, maintained by the World Resources Institute (WRI), which focuses on the environmental, social, and economic trends that shape the world. EarthTrends' information and content are being used in diverse and important ways: in lesson plans and classroom lectures, for briefing or lobbying policy-makers, within business planning initiatives, as supporting materials in a wide range of reports and publications, and for general environmental and socio-economic knowledge interests. This searchable database contains country-level statistics for more than 600 variables, along with regional totals calculated by the WRI and global totals reproduced from data providers.

Access to databases enables users to analyse trends and make projections of the energy market size. By developing adequate numerical models and looking at historical data records (1970-2006), it could be made possible to forecast future market needs (2007-2050) at individual and regional level. In such an exercise, the following parameters should be analysed: population, GDP, GDP/capita, thermal useful in manufacturing per VA, useful thermal energy consumption, final electricity consumption, motor fuels, total final consumption, total final energy consumption by services, services shares in total final energy consumption, total final energy consumptions intensities, total electricity consumption, total electricity consumption intensities, brutto electricity per capita, total electricity consumption, natural gas share in thermal useful energy, natural gas produced electricity share in total electricity consumption, total natural gas consumption...

⁵ IEA Energy Statistics, www.iea.org/Textbase/stats/index.asp

⁶ The World Resources Institute, Earth Trends Environmental Information⁶, <http://earthtrends.wri.org>

⁷ BP Statistical Review of World Energy, www.bp.com/productlanding.do?categoryId=6842&contentId=7021390

⁸ Energy Information Administration, www.eia.doe.gov

⁹ International Atomic Energy Agency, www.iaea.org/inis

¹⁰ Organisation for Economic Cooperation and Development, www.oecd.org/statsportal/0,2639,en_2825_293564_1_1_1_1_1,00.html

¹¹ EUSTAT, http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1996,45323734&_dad=portal&_schema=PORTAL&screen=welcomeref&open=/H/H2/H24&language=en&product=Yearlies_new_environment_energy&root=Yearlies_new_environment_energy&scrollto=288

2.4 Environmental challenges

The United Nations Global Compact¹² is an international initiative that would bring companies together with UN agencies, labour and civil society to support universal environmental and social principles. The Global Compact is not a regulatory instrument – it does not ‘police’, enforce or measure the behaviour or actions of companies. Rather, the Global Compact relies on public accountability, transparency and the enlightened self-interest of companies, labour and civil society to initiate and share substantive action in pursuing the principles upon which the Global Compact is based.

The Global Compact’s operational phase was launched at UN Headquarters in New York in 2000. Today, thousands of companies from all regions of the world, international labour and civil society organizations are engaged in the Global Compact, working to advance ten universal principles in the areas of human rights, labour, the environment and anti-corruption. Related to the environment and taken from the 1992 Rio Declaration, the principles 7-9 of the UN Global Compact require business to: (7) support a precautionary approach to environmental challenges; (8) undertake initiatives to promote greater environmental responsibility; and (9) encourage the development and diffusion of environmentally friendly technologies.

The most important environmental challenges according to the UN Global Compact are the following: (1) loss of biodiversity and long-term damage to ecosystems; (2) pollution of the atmosphere and the consequences of climate change; (3) damage to aquatic ecosystems; (4) land degradation; (5) the impacts of chemicals use and disposal; (6) waste production; and (7) depletion of natural and non-renewable resources.

In the framework of the Treaty establishing the Energy Community, the Contracting Parties committed to improve the environmental situation in relation to Network Energy and related energy efficiency, foster the use of renewable energy, and set out the conditions for energy trade in the single regulatory space. More specifically, the Treaty asks not only for the implementation by the Contracting Parties of the *acquis communautaire* on energy and competition, but also environment and renewables. Articles 12-17 of the Treaty bring out provisions related to the *acquis* on environment, adapted to both the institutional framework of the Energy Community and the specific situation of each of the Contracting Parties.

Each Contracting Party shall implement the *acquis* on environment in compliance with the timetable for the implementation of those measures set out in Annex II. For the purpose of the Treaty, the *acquis* on environment shall mean (i) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive 97/11/EC of 3 March 1997 and Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003, (ii) Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC, (iii) Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants, and (iv) Article 4(2) of Directive 79/409/EEC of the Council of 2 April 1979 on the conservation of wild birds.

Moreover, the Parties recognise the importance of the Kyoto Protocol. Each Contracting Party committed to endeavour to accede to it. In addition, the Parties recognise the importance of the rules set out in Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control. Each Contracting Party committed to endeavour to implement that Directive. After the entry into force of the Treaty, the construction and operation of new generating plants shall comply with the *acquis communautaire* on environment.

¹² UN Global Compact, www.unglobalcompact.org

3 SUMMARY OF THE GOOD GOVERNANCE RELATED FINDINGS

In what follows, a summary of the good governance related findings is given hereafter based on previously conducted general considerations of the four main elements of this *Good Governance Report*. Situations in the Contracting Parties are given relating to: (1) adherence to the initiatives such as the EITI; (2) enforcement of the international accounting standards; (3) commitment to proper and sound statistics; and (4) environmental challenges.

3.1 Situation in the Contracting Parties relating to adherence to the initiatives

Contracting Parties to the Treaty establishing the Energy Community have neither endorsed, nor are currently actively implementing the EITI. However, the Contracting Parties are expected to apply international auditing standards to all companies including state-owned enterprises. The Athens Process, as an initiative per se, resulted in signature and ratification of the Treaty which has clearly identified commitments and timetables for its implementation. The implementation of the acquis on energy (electricity and gas) has been given the first priority, and eventual extension of activities to other initiatives such as the EITI would probably result in less attention paid to already prioritised activities especially due to inadequate institutional capability.

At the level of the Energy Community related documents, trading abuses, corruption, and non-commercial arrangements were first noted in the Electricity Transition Strategy (Chapter 8: Phasing and transitional measures for electricity) as items which shall be stamped out in order to make national/regional wholesale markets possible. To support its implementation the Secretariat drafted the Inception Report based on the questionnaire and submitted it at the 17th PHLG meeting held in Zagreb, Croatia, on 30-31 May 2006. The responses of seven Contracting Parties (Bulgaria and UNMIK had not responded) were negative to its question No. 5.1 ('Have you stamped out trading abuses, corruption and non-commercial arrangements according to Athens 2003 MoU? If yes, provide details?'). It means that these Contracting Parties have not identified appearance of trading abuses, corruption and non-commercial arrangements according to Athens 2003 MoU, but they put necessary measures in corresponding regulatory framework.

The Electricity Transition Strategy is politically binding document, whereas the Treaty establishing the Energy Community is legally binding one. When it comes to the issues of the good governance, transparency, accountability and anti-corruption in the fields related to the Treaty, it is estimated that establishment of a proper institutional and legislative framework is of utmost importance followed by effective operations of the institutions and application of legislation. Within 2006, the Energy Community Secretariat has conducted an analysis of institutional building and competition authorities per each Contracting Party as it is estimated to be a decisive factor for good governance. As for results of conducted analysis, the Annex 2 of this *Report* brings out three tables: 1) on existence of the institutions; 2) on general tasks of the institutions and their specific characteristics; and 3) on legislative basis and specific characteristics of competition authorities. The Annex 3 of this *Report* provides a simple benchmarking analysis related to the institutional building and competition authorities.

All Contracting Parties are anchored into the EU framework, either as EU accession countries, EU candidate countries (with and without started negotiations) or SAP related parties (with SAA signed, being negotiated or with halted negotiations). As the three different general political vehicles are applied, the Contracting Parties have three (if not more) speeds for fulfilment of taken EU related commitments. From the other side, the Treaty establishing the Energy Community sets a common (minimum acceptable) speed level of reform progress in the energy sector. All Contracting Parties have ratified the EnC Treaty.

The analysis has shown that from the regional perspective the energy policy issues are dealt with by a ministry in all Contracting Parties, which gives the comfort that these are treated at the high political level. Existence of respective ministries dealing with the energy and environment related sectors is at satisfactory levels. However, this is not the case when existence of specific bodies for renewable energy sources and/or energy efficiency is of major concern. All Contracting Parties have set up a regulatory authority for electricity, which is at least responsible for the tariff calculation methodology, among others. However, some Parties do not have a regulatory authority for gas. Establishment of competition authorities lags behind the regulatory ones.

Relating to electricity, in general, the Contracting Parties have a well developed set of primary legislation in electricity. In very few cases it needs further alignment to the EU Directive 2003/54/EC (instead to 96/92). Secondary legislation shall be improved, especially regarding cross border issues. National electricity markets need further harmonisation at the regional level. All Contracting Parties shall satisfy UCTE operational and planning technical criteria to avoid deterioration of system security. Special care shall be paid to improvement of collection rate and decrease of technical and non-technical losses, which shall be accompanied by the social action plans. Cross-subsidization shall be avoided. Unbundling activities shall be extended to include not only the transmission system operators, but the distribution ones as well.

Relating to gas, in general, few Contracting Parties have a well developed set of primary legislation in gas some of them have a less developed set of primary legislation and most of them are starting to develop a primary legislation. In very few cases it needs just slightly alignment to the EU Directive 2003/55/EC but in most cases the legislation significantly has to be redrafted or completely prepared. Secondary legislation shall be in some cases improved, or mostly completely prepared, especially regarding cross border issues. National gas markets - as far as existing - need significant harmonisation at the regional level. All Contracting Parties shall aim at a harmonised approach regarding operational and planning technical criteria to avoid deterioration of system security and improve cross border transport possibilities. Special care shall be paid to improvement of collection rate and decrease of technical and non-technical losses, which shall be accompanied by the social action plans. Cross-subsidization shall be avoided. Unbundling activities shall be extended to include not only the transmission system operators, but the distribution ones as well.

Overall institutional capacity strengthening in the Ministries and the Authorities, new staffing and training programs are urgently needed. One possible pipeline of how to achieve this is related to realisation of various EU CARDS and LIFE projects. Usage of the EU pre-accession instruments should be intensified as they may provide active support for the reform of the energy sector. Reinforcement of the institutional and administrative capacity is currently facilitated through instruments such as TAIEX, Twinning and SIGMA, aimed at implementation of the Acquis and preparation for participation in EU policy. From 2007 to 2013, IPA (an accession driven instrument) will be the main tool of EU assistance with concentration on institution building and alignment to the Acquis. It intends to facilitate the entry into the EU of candidate countries and potential candidate countries. Further initiatives, as well as financial and advisory help are needed across all institutions.

3.2 Situation in the Contracting Parties relating to enforcement of the international accounting standards

As relating to the Athens Process, the Athens Memorandum - 2002 (Memorandum of Understanding on the Regional Electricity Market in South East Europe and its Integration into the European Union Internal Electricity Market), mentions for the first time a necessity to apply international accounting standards. Provision No. 2(8) of the Athens Memorandum – 2002 brings out the following text:

'The adhering parties agree, in order to promote the functioning of effective markets to identify a transparent financial settlement systems, assign roles in accountancy and principles for apportioning of cost, and apply international accounting standards (IAS); to develop a system of independent audit; to implement accounts transparency at a level that meets international standards; and in addition adopt best practice on corruption abatement as advised by a reputable international body by December 2003.'

Later on along the Athens Process, the Electricity Transition Strategy (Chapter 8: Phasing and transitional measures for electricity) brings out that item in the context of active promotion of transmission and distribution system unbundling. It stressed that a full access to audited accounts would be a necessity when it comes to the holding company demonstrating that all necessary safeguards are in place to ensure diverging incentives between the management unbundled divisions. The Inception Report on the Electricity Transition Strategy (submitted at the 17th PHLG meeting held in Zagreb, Croatia, on 30-31 May 2006) was based on the questionnaire which contained this item as well. Seven Contracting Parties answered positively to the question No. 5.23 ('Is there a full access to audited accounts? Are the IAS Standards from the Athens 2002 MoU applied for accounts?'). It means that these Contracting Parties have confirmed that there is a full access to audited accounts, and that the IAS Standards from the Athens Memorandum - 2002 are applied for accounts. The accounts are regularly audited by an independent auditor. Audited accounts are made available to the regulator and undertakings publish their Annual Reports. Either licensing conditions for licensed companies provide for this, or application of the IAS is required by the law on accounting and auditing.

The Treaty establishing the Energy Community does not bring out that item directly in the text, but indirectly through definition of the *acquis communautaire* on energy (electricity and gas), more specifically through the Electricity Directive 54/2003/EC (CHAPTER VI UNBUNDLING AND TRANSPARENCY OF ACCOUNTS, *Article 18* Right of access to accounts and *Article 19* Unbundling of accounts) and the Gas Directive 55/2003/EC (CHAPTER V UNBUNDLING AND TRANSPARENCY OF ACCOUNTS, *Article 16* Right of access to accounts and *Article 17* Unbundling of accounts). The Energy Community Secretariat has conducted two different exercises in checking out the transposition of these provisions into domestic legislation of the Contracting Parties: 1) the benchmarking analysis on the Party-by-Party basis (Annex 4); and 2) the Action Plans for the implementation of the Treaty establishing the Energy Community (Annex 5).

The benchmarking analysis on the Party-by-Party basis contains a section which is related to transposition of unbundling provisions and access to accounts in both, electricity and gas (Annex 4). Relating to electricity, in general, unbundling provisions and provisions related to access to accounts are put in place. However, their full practical implementation and monitoring shall be of immediate first priority to the Contracting Parties. Relating to gas, in general, accounting unbundling between different activities is foreseen by almost all countries. However the legal, managerial and organisational unbundling of TSOs and DSOs are not clearly defined or foreseen by the some countries.

The Action Plans for implementation of the Treaty establishing the Energy Community contain a section on adoption of *acquis communautaire* providing a list of actions necessary to accomplish in both electricity and gas within 12 months upon entry into force of the Treaty (until 1 July 2007). The Action Plan relating to electricity contains items 1.14-1.15 and relating to gas 1.16-1.17 given on development and implementation of the provisions regarding unbundling/transparency of accounts - rights of access to accounts and unbundling of accounts (extracts are given in the Annex 5). Relating to the rights of access to accounts, the Contracting Parties have put in place adequate provisions and enabled the regulatory authority to have the right to access the accounts of the energy enterprises to carry out their functions. Relating to the unbundling of accounts, its application is mostly envisaged through the licensing system and rules. However, the implementation of

unbundling of accounts by undertakings is, in general, in initial stage. A separate account for supply of eligible and non-eligible customers is required, but its application is yet to come. Montenegro (EPCG) has yet to unbundle the accounts, and UNMIK (KEK) to draw up, submit to audit and publish its annual accounts for 2006.

Relating to the Energy Community (including its institutions), the Treaty establishing the Energy Community specifies that the Ministerial Council shall adopt a Procedural Act specifying the procedure for the implementation of the budget, and for presenting and auditing accounts and inspection (Article 74). Moreover, it says that the Ministerial Council may decide by Procedural Act, if appropriate, to entrust independent auditors with verifying the proper execution of the budget (Article 75).

3.3 Situation in the Contracting Parties relating to commitment to proper and sound statistics

The Electricity Transition Strategy (Chapter 8: Phasing and transitional measures for electricity) stressed importance of the work on the coherence and development of statistics and energy information within the Regional Energy Information Centre (REIC), an initiative tabled by Bulgaria long ago which has unfortunately faded away in the past year. Statistics and energy information were put in the context of bringing about compatible national and regional market designs and make this work transparent and coherent, and to make regular reports on this to the Electricity Forum. The Inception Report on the Electricity Transition Strategy (submitted at the 17th PHLG meeting held in Zagreb, Croatia, on 30-31 May 2006) was based on the questionnaire which also contained this item. Seven Contracting Parties answered positively to the questions No. 5.2 ('Have you developed energy statistics system on a state base? If yes, what are its main characteristics?') and No. 5.16 ('Have you started to work on coherence and development of energy statistics and information system within the REIC? If yes, what are the experiences?'). The Contracting Parties have confirmed that a work on national energy statistics and information system is well underway:

- **Albania.** The Albanian Energy Database has been developed so far, providing data on the consumption and production of energy resources and capacities. Albania is a part of the project of the Harmonization of Energy Statistics from 1999 and since then it reports annually to the EUROSTAT its energy balance on the basis of EUROSTAT's standards. There are Regional Energy Offices (Municipality Level) to be established through the implementation of the Energy Efficiency Law. They are going to deal with collection and provision of the energy data related to consumption and production side.
- **Bosnia and Herzegovina.** This work is just under way through the Energy Strategy Project. The EU finances a project on the strengthening of the institutional capacity of the Ministry of Foreign Trade and Economic Relations, which has been launched in February 2006 and carried out by the Greek consultancy firm Exergia. The aim of this two year long project is to get the energy strategy at the state level and develop a blueprint for the next 20 years. Three experts (electricity, oil, natural gas) have been assigned to this project to work directly with local experts on the subject matters in Bosnia and Herzegovina. This project has been halted recently due to inadequate cooperation of two entities.
- **Bulgaria.** Bulgaria was on its way to establishing the Regional Energy Information Centre in Sofia, which would as its primary task have the collection and processing of energy data and information on a regional basis. At the national level, the National Statistical Institute collects data and provides energy statistics to EUROSTAT and IEA under OECD.
- **Croatia.** The system is fully compliant with the EUSTAT and other EU (for statistic purpose) standards. A brochure entitled as 'Energy in Croatia – Annual Energy

Report' is published on a yearly basis. It treats general data, economic and financial indicators in energy in Croatia annually, specifically targeting oil and oil derivatives, natural gas, electricity, heat energy, coal, renewable energy sources, energy efficiency, air pollutant emissions from energy sector and energy balance.

- **The former Yugoslav Republic of Macedonia.** Energy balance is defined on a yearly basis and related to various energy production, supply and consumption data and projections. It is developed by the state energy authority (Ministry of Economy) for security of supply purposes and adopted by the Government. Data is regularly collected and planning conducted within the Regulator's and Transmission System Operator's (MEPSO) duties. Official statistical data is collected and processed by the Statistical Office, in accordance to the official EUSTAT standards for statistical purposes. The specific data required for medium and long-term planning and various energy projects will be collected and processed within the Energy Agency that has been recently established (start of activities envisaged in 2006).
- **Montenegro.** The system is fully compliant with the EUSTAT and other EU (for statistic purpose) standards.
- **Romania.** The National Statistical Institute collects data and provides energy statistics to EUROSTAT, in accordance with EU provisions. Also, an Energy Observer was set-up as a centre for data collection and dissemination.
- **Serbia.** There are some activities on this topic, but the energy statistics system itself needs additional harmonisation with the EUROSTAT requirements. This task is a responsibility of the Serbian Statistical Office.
- **UNMIK.** Not responded to the questionnaire.

The Contracting Parties stated their willingness to prepare themselves for cooperation within the REIC, but it has not been established yet.

Responses to the questionnaire show that the Contracting Parties are well under way in developing the energy statistics and information systems at national level (with exception of UNMIK) and making it compatible to EUSTAT requirements. However, regional integration of data is lagging behind.

3.4 Situation in the Contracting Parties relating to environmental challenges

The Electricity Transition Strategy (Chapter 10: Environmental aspects) stressed importance of the legislative framework (subchapter 10.1) and energy efficiency (subchapter 10.2). These two aspects are given an immediate priority. They are predicated on capacity building in Ministries and Regulators. The Inception Report on the Electricity Transition Strategy (submitted at the 17th PHLG meeting held in Zagreb, Croatia, on 30-31 May 2006) was based on the questionnaire which also contained this item. Seven Contracting Parties answered to 4 questions: No. 7.1 ('Are the environmental issues addressed through their alignment with the *acquis communautaire* in accordance with the negotiated timetables?'); No. 7.2 ('If the new plants are constructed and financed by the international community, are the EU environmental norms and standards applied?'); No. 7.3 ('Are there convincing and solid national energy efficiency, energy conservation and renewable energies policies applied to motivate customers to use energy more efficiently? If yes, do they differ for non-energy intensive sectors, energy intensive sectors, and residential energy use? Objectives / Strategy / Action plan / Legal framework / Organisation?'); and No. 7.4 ('Is there any national energy efficiency agency?').

Through the responses to the questionnaire, the Contracting Parties have confirmed that a work on legislative framework is underway (detailed responses are given in the Annex 6 and hereafter only conclusive remarks):

- **Albania.** It is working on the adoption of legislation in line with the *acquis communautaire*. However, it recalls that considerable investment will be necessary for its implementation and a discussion on funding possibilities will have to be held.
- **Bosnia and Herzegovina.** It has not tackled yet the environmental *acquis* although when international donor finance new projects the EU standards are applied.
- **Croatia.** It is implementing the *acquis* in accordance to the timetable agreed with the European Commission in the framework of the accession negotiations. Although there is no National Plan regarding energy efficiency, a number of programmes for its promotion are ongoing. Croatia has also set up a National Fund for Environmental Protection and Energy Efficiency.
- **The former Yugoslav Republic of Macedonia.** It is in the process of adopting the *acquis*. Renewables and energy efficiency policies are being drafted and in 2006 it is expected that the Energy Agency will be operational covering also energy efficiency issues.
- **Montenegro.** It is still in the process of adopting the environmental *acquis*. In 2005, the Strategy on energy efficiency was adopted and the plan for its implementation was approved in 2006.
- **Romania.** It concluded the *acquis* chapter on Environment with the EU in 2004. A transitional period for refurbishing the 174 power plants according to EU standards is 2017. Romania also has in place National Energy Efficiency Strategy since 2004.
- **Serbia.** The adoption of the *acquis* is ongoing in Serbia. RES and energy efficiency policies are being developed and an energy efficiency agency was set up through the Energy Law.

Concurrently with the previous work, the Energy Community Secretariat has undertaken various Party-by-Party benchmarking activities and delivered adequate report at the 17th PHLG meeting held in Zagreb, Croatia, on 30-31 May 2006. The report is entitled as the 'Summary of the adoption of the *acquis communautaire* by Contracting Parties in accordance with the Treaty establishing the Energy Community'. It contains a section related to implementation of the *acquis communautaire* on environment as given by the Treaty establishing the Energy Community. Accession to the Kyoto Protocol was also checked across, as well as energy efficiency and renewables. Later on, the Secretariat has produced the benchmarking analysis on Party-by-Party basis focusing solely on environment (legislative basis, institutional issues, Kyoto/UNFCCC and specific characteristics).

Through the structured interviews undertaken in the country missions with the main official stakeholders, the Contracting Parties informed the Secretariat about state of play related to legislative framework. Findings from detailed benchmarking analysis are given in the Annex 7 in a narrative format and in the Annex 8 in colour benchmarking one. Only conclusive remarks follow hereafter:

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

- **Romania.** 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. 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 regarding the energy labelling of household appliances are adopted.
- **Serbia.** 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. Serbia has still no legislation regarding the production of electricity from Renewable Energy Sources or the promotion of biofuels for transport.
- **UNMIK.** 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.

Conducted activities have shown that alignment to the Environmental Acquis as given by the Treaty establishing the Energy Community needs significant further work. Even more difficulties will appear when it comes to proper implementation of adopted legislation. Activities on establishment of environmental funds shall be intensified, and if possible, put into wider contexts through environmental strategy. Environmental agencies shall be established and strengthened where they exist. Kyoto Protocol and UNFCCC related activities also need intensification.

4 LIST OF ISSUES OF CONCERN IN RELATION TO GOOD GOVERNANCE

The Treaty establishing the Energy Community has clearly identified commitments and timetables for its implementation. The priorities have been set on fulfilling concrete and strict deadlines in terms of alignment with the rules on the electricity and gas markets, competition rules, renewables, environmental safeguards. The implementation of the *acquis* on energy (electricity and gas) has been given the first priority. Among others, in 2007 all Contracting Parties are bound to open their wholesale electricity and gas markets and to remove non-tariff barriers to trade. Good governance, in its extended description, may also enclose market related issues which call for additional explanation or further follow up. This chapter therefore contains a list of issues of concern related to timely opening and proper functioning of the electricity and gas market in each Contracting Party. The list has been drawn up by thorough reading of the following documents:

- European Commission's *2006 Progress Report*¹³ – *Sectoral Policy: Energy* (Annex 9);
- *Action Plans*¹⁴, a thorough party-by-party analysis of transposition of the *acquis* in energy (2003/54/EC and 1228/2003/EC for electricity, and 2003/55/EC for gas) into national legislation, and identification of current status and next steps needed for opening of the electricity market; and
- *Road Maps*¹⁵, a list of future activities identified on a party-by-party basis for implementation of the *acquis* and opening of the electricity market.

ALBANIA

2006 Progress Report

- Technical electricity losses and theft increased in the first semester of 2006 to excessive level while the rate of bill collection again dropped;
- Staff cuts in view of eventual privatisation;
- Asset allocation procedures of the TSO should be completed;
- No particular progress has been recorded in the process of market opening; Only two companies have been awarded a status of Eligible Customer;
- Framework and implementation legislation needs to be improved;
- The use of renewable energy sources remains at low levels despite some activities;
- Overall, despite some progress, the energy sector remains in an acutely critical situation which impinges on the social and economic development of the country;

Electricity

- Lack of infrastructures (meters, dispatching centre including a full EMS-SCADA, 400 kV system of lines) and human resources;
- Not all of the customers have electricity meters (missing 115,000 out of 760,000 in total);

¹³ Enlargement Strategy and Progress Reports 2006:
http://ec.europa.eu/enlargement/key_documents/reports_nov_2006_en.htm

¹⁴ Action Plans: www.energy-community.org/portal/page?_pageid=34,65260&_dad=portal&_schema=PORTAL&&p_eve_id=188

¹⁵ Road Maps: www.energy-community.org/portal/page?_pageid=34,65260&_dad=portal&_schema=PORTAL&&p_eve_id=188

- Recently, the operator has got a mini-SCADA to oversee 220 kV network only;
- Only one 400 kV interconnection line is currently in operation, and some others are in planning/construction phase;
- For summer season 2006, the NTC from JIEL+Greece block to Albania equals only 200-250 MW (from Greece to Albania it is 0 MW);
- The TSO has been created (ownership unbundling), dispatch process has not been changed;
- Single buyer model is applied and there exist only 1 GenCo and 1 DisCo; Traders are not really active, selling at the border;
- Country has a deficit of electrical energy most of time as its power system is dependent on hydrology (99% hydro, thermal power plant is under construction);
- Tenders for import to the wholesale supplier (part of the TSO) often fail due to low prices that can be paid;
- Equalizing fund has been established to compensate for the price difference between expensive imported electricity and cheap domestically produced one;
- Some market rules, 2 eligible consumers who can import directly; 100 GWh/year is still the current threshold; No further opening; Not complying with the requirement from the EnC Treaty;
- Still not a member of UCTE;
- Some large projects have been announced: LNG, gas-fired plants, interconnection with Italy; Locally, gas interconnection with Italy is welcome, but the electricity one not really;
- Need tariff restructuring, as the tariffs are not cost reflective yet and need better and newer methodologies;
- Invoice collection rate has improved in comparison to some years ago, but still not adequate; The problem is that each time when the price of electricity is increased, the collection rate decreases due to affordability problems;
- No privatisation; However, the privatisation (ownership in general) is not an issue relating to the EnC Treaty (Acquis);
- Technical and non-technical losses are high (currently around 35%); Even in the transmission network (only one 400 kV interconnection line);

Gas

- No gas market developed; No legislation developed related to gas;

BOSNIA AND HERCEGOVINA

2006 Progress Report

- The transfer of assets and liabilities between ISO and TransCo remains to be completed for these bodies to become fully operational;
- No steps have been taken towards the consolidation of the Entity and State level regulators;
- There have been attempts by the authorities of the F BiH to influence the regulator in relation to the establishment of new tariffs; This is contrary to the EU directives, which require regulators to be independent;

- Limited further progress has been made on the implementation of the Entities' Action Plans for the restructuring of the energy sector; An immediate priority in this respect is to start the unbundling of electricity generation and distribution in both Entities;
- Little progress has been made in gas sector; The legal framework is not yet in place; The system operator and regulator have not been established;
- BiH's energy strategy has not yet been finalised;
- Overall progress in terms of energy market liberalisation has been limited despite the reforms in the area of electricity transmission; Little progress has been achieved as regards other energy sectors (i.e. coal, oil, district heating, renewable energy) or energy efficiency measures;
- BiH's preparations in the field of energy have been initiated and some of the country's targets have been met;

Electricity

- Complex political structure - 2 entities (one of them a federation of two nations with 10 cantons) and one state government - influences reforms in electricity sector as well;
- Two energy laws at the entity level and two energy ministries at the entity level; No energy law on the state level; Recently, the Ministry of Foreign Trade and Economic Relations has established a unit for energy at the state level;
- Three electricity regulatory authorities (two entity ones and one state); State regulator (SERC) is responsible only for electricity transmission and international trade (supply); It licenses only the ISO and the state transmission company; Entity regulators are responsible for generation, supply and distribution licensing and tariffs; Initial discussions regarding harmonization started recently, but no concrete results;
- Market should open by January 2007 for large industrial, but many regulations and complexities exist due to presence of entities; Now complying fully with the market opening requirement from the EnC Treaty (calendar and thresholds);
- Local load of entities must be fulfilled first before exports; The three utilities (GenCos-Suppliers) sell their surplus to each other + other particularities inside the market rules; Selling of the surpluses is not symmetrical (in one entity the utility can sell at market price, but this is not the case in the other);
- Privatization cannot be envisioned for the near future; While the entities' ministries are pushing for new investments, it is difficult to see investors coming in given the current political and regulatory framework; The privatization per se is not an issue;
- Attraction of investments in new generation plants is another aspects; Recently the FBH Government launched a call for expression of interests for construction a series of large thermal and hydro plants; Authorisation procedures needed:
- Lack of knowledge inside GenCos-DisCos (Suppliers) about EU Directives; Knowledge is concentrated inside the ISO, the SERC and the unit inside the Ministry of Foreign Trade and Economic Relations (which is a state one and still weak);
- There is a separated independent state transmission network company (independent from the ISO); Its relations with the ISO are still not fully developed; They will have to collaborate fully to make the market work; The transmission network company is separated not from the ISO but from the three incumbent national utilities which have had to divest their transmission assets in favour of the independent and separate transmission network company at the state level;
- Retail tariffs in the two entities are not the same; The question here is if the generation/wholesale ones are the same in the two entities. The wholesale

generation prices are still mostly regulated (sales of surplus being regulated or not differently as well as mentioned above) on a *cost+* basis for each of the three companies, so even within the F BiH, these prices are not the same for the 2 companies; Upon opening of the wholesale market, there will be a big shock when the wholesale price will be market driven;

- Eventually, there could be a scope for competition among 3 GenCos/Suppliers, if the companies move away gradually from an entity based business operation;

Gas

- Small gas market; heavily dependent on one supplier;
- Complex political structure - 2 entities (one of them a federation of two nations with 10 cantons) and one state government - influences reforms in gas sector as well;
- Discussions about the designation of one or more (3 in analogy to the electricity sector) competent bodies with the function of regulatory authority to develop the restructured Market Model and to support the elaboration and implementation of the gas law are ongoing. A decision on this issue should certainly improve the progress on reforms.
- The market should open by January 2008 for eligible (non household) customers in accordance with the Treaty establishing the Energy Community, but many complexities exist due to presence of entities. The current draft gas law has to be further elaborated and implemented to meet the requirements from the Treaty (calendar and thresholds). An acceleration of the regarding process is necessary;
- Based on the framework regarding the unbundling requirements, given by the Directive 2003/55/EC, the possible models of establishing the TSO, should be analysed and a TSO established as soon as possible;
- While the entities' ministries are pushing for new investments, it is somewhat difficult for the investors to coming in, given the current political and regulatory framework. The results of the gasification study, and in particular the analyses concerning the viability of further gasification in Sarajevo, Banja Luka and Mostar shall be considered carefully; based on the recommendations of the study, the proper framework for investments, and in particular the authorisation and tendering rules for construction of gas infrastructure shall be provided;
- Incentives for further gasification have to be developed and implemented. The risk perception when adapting the rate of return on the regulatory asset base and when setting incentives for investments shall be considered;
- Progress with security of energy supply standards is needed;

BULGARIA

2006 Progress Report

- The package of 2006 Progress Reports does not contain Bulgaria; The May 2006 Enlargement Package on Bulgaria and Romania contain monitoring reports on their preparation for EU accession;
- Framework and implementing legislation has been adopted in the field of competitiveness and the internal energy market;
- The electricity and gas market has yet to be fully opened in line with the *acquis*;
- The implementation of the elaborated plans should lead to the unbundling of Bulgargas before accession; In addition, in the solid fuel sector Bulgaria has to

ensure that state intervention is in line with the *acquis*; Preparations in this area need to be stepped up;

- Regarding Bulgaria's commitments to early closure of units 1 to 4 of the Kozloduy nuclear power plant, as enshrined in the Act of Accession, Bulgaria has not yet taken the necessary steps to ensure irreversible dismantling of units 1 and 2, which were shut down in 2002;
- It has also not yet taken tangible operational and administrative action to secure the definitive closure of units 3 and 4 in 2006 and to guarantee their subsequent decommissioning, thereby allowing appropriate use of the available EU funds;
- Overall, limited progress has been made on **competitiveness and the internal energy market**. Increased efforts and swift action are now needed in order to complete the opening of the electricity and gas markets before accession. In the area of **nuclear energy and nuclear safety**, the situation has deteriorated with regard to the decommissioning process. Increased efforts and swift action are now needed to guarantee the irreversible closure of units 1 to 4 of the Kozloduy nuclear power plant.

Electricity

- On paper, large scope for competition: 4-5 state owned GenCos and 3-4 private ones; 3 privatised DisCos (Suppliers) and 14 traders/independent suppliers;
- However, NEK is accepting changes very slowly: it will become the TSO, but still owns large hydro power plants; Moreover, it is the wholesale supplier and has had an export-import monopoly until 31 December 2006 (to check for the abolition of the monopoly from 1 January 2007);
- Still lot of work to properly create a TSO; The revised Electricity Law was passed by the Bulgarian Parliament; Not clear if the regulated suppliers will be able to contract directly, especially when the market will be open 100% in 2007; Lots of changes as well when the monopoly will be abolished; Difficult to envision the future after 2007 with a less powerful NEK;
- Market rules are in place but will need to be changed; Many large industrial customers have changed suppliers; Peculiarities, they sign directly with GenCos – no role now for suppliers/traders even if 14 of them got a license; It seems that as per the current market rules, the traders (suppliers) cannot be responsible for imbalances, thus there is no need for generators and eligible consumers to use them; All those who got trading licenses (the same for supply) are waiting for new market rules and possibilities to export and import;
- The wholesale generation prices are still mostly regulated on a *cost+* basis for the regulated market, meaning the generation companies (more than 6) are regulated based on *cost+///* This means that within a year, there will be a big shock when the wholesale price will be market driven;
- Retail tariffs should be made fully cost-reflective; Lots of increases in recent years;
- Consequences of the phasing out of the NPP Kozloduy's two units relating to the electricity prices in the region should be evaluated; Remaining generation reserves should be put in the context of maintenance, especially of the coal-fired power plants); Bobov Dol and Varna units were kept mostly on cold reserves due to requirements to have more than 1200 MW reserves (there are 2 nuclear units of 1000 MW each); Varna for example, had utilization factors of 25% in recent years; Varna was recently privatised and the new owners may want to sell energy and not just being paid for cold reserves; Wholesale price inside Bulgaria may increase; An independent TSO would be wise to contract some reserves from abroad eventually;

Gas

- More mature gas market; heavily dependent on one supplier;
- Still lot of work ahead, in order to create a TSO (Bulgartransgaz EAD); Foreseen completion of the restructuring process of Bulgargaz activities (vertically integrated company) at the end of 2006;
- The dialogues with third countries for transit and transmission, and regional projects have to be improved in order to gain full benefit of the regional approach of the Energy Community;
- The completion of the unbundling process in accordance with the requirements of the Directive 2003/55/EC is envisaged for the end of 2006;
- Incentives for further gasification have to be developed and implemented. The risk perception when adapting the rate of return on the regulatory asset base and when setting incentives for investments shall be considered;
- The cooperation between regulatory authority and competition authority should be extended;
- Any practices which are incompatible with the proper functioning of network energy trade shall be assessed;
- Preparation of market opening for household customers is foreseen for 1 July 2007. In order to meet this requirement customer switching mechanism have to be developed and the cost reflectivity of tariffs has to be increased. Additionally procedures for dealing with customer complaints have to be improved;
- Some progress including on security of energy supply standards is still needed;

CROATIA

2006 Progress Report

- There has been good progress in the area of the internal electricity and gas markets;
- A regulatory body established in 2005 currently employs 34 persons; Its administrative strengthening is a matter of priority;
- The state owned electricity company HEP has been restructured into a holding company; However, all unbundled assets remain in the ownership of the holding company;
- The state gas company INA holds a monopoly as the only supplier and importer;
- Limited progress can be reported in the field of energy efficiency and renewable energy sources;
- There is no guarantee of origin for renewable energy and for combined heat and power yet; No target for renewable electricity for 2010 has been set; To align with the *acquis*, Croatia's target for the share of renewable electricity must include all hydropower;
- Administrative capacity requires significant strengthening; Alignment has well begun, but needs continued efforts;
- Overall, there has been some progress, including on security of energy supply and on the internal energy and gas market; However, increased efforts are needed, particularly on energy efficiency, nuclear safety and regulatory strengthening;

Electricity

- Large importing country; It has an access to cheaper sources from abroad than to use its own oil-fired thermal power plants; Otherwise, it is capable to cover its own consumption from its own generation sources;
- Reforms have started more than 5 years ago, but are going very slowly; A new law was passed in December 2004; The former ISO structure was changed into a TSO one inside a holding company and a separate market operator to accept schedules and do the settlement of deviations – no real balancing market or day ahead for now;
- Cross border issues need immediate attention (ITC mechanism, capacity allocation, congestion management, TPA); Relationship between TSO and holding company need further clarification and transparency;
- Questions are raised to the regulatory agency if it is sufficiently independent and equipped;
- Reforms have been mostly on paper up to now: laws after laws after regulations and back and forth (moving from ISO to TSO, as well as the saga with the regulatory agency); On the ground, not much has changed; The time will show if the latest changes will result in some market opening: zero supplier switching and no new player except the Korlea Invest up to now;
- HEP is still the only player in generation and supply (the Korlea Invest has been licensed also as a supplier); Most contracts are thus regulated: HEP GenCo selling to HEP Public Supplier; There is also HEP Trade (Independent Supplier) which is ready to compete in the open market;
- Activities of HEP-Trade have not been very transparent up to now; Roles of the Public Supplier and the Independent Supplier need clarification; Role of TSO?;
- Besides HEP, there is RWE present with 50% stake in 210 MW coal-fired thermal generation power plant (the other 50% of that plant belongs to HEP); RWE has a long term PPA - signed many years ago;
- New Market Rules and Grid Code have been approved recently; While slightly better than before, it is still to be seen if there will be more supplier switching; The target is to have all industrial/commercial eligible by next year; Any switch is hard to believe to happen only because of the Market Rules;
- The HEP's prices are so good that no present and clearly visible benefit for the customers to switch is there. Transparency should be increased in accounting in order to avoid cross-subsidization – possible cause of low prices; It remains to be checked if any new entrant who could try to match these prices would be faced with very harsh imbalance prices in case of schedule deviations;
- Moving on renewables and energy efficiency, although formally still nothing in secondary legislation – no implementation plans of major directives;

Gas

- Small but more mature gas market; domestic production available;
- Reforms are ongoing, but have to be accelerated; A new gas law (primary legislation) was drafted in the year 2006 in order to meet the requirements of the Treaty establishing the Energy Community, thus the provisions of the Directive 2003/55/EC have to be transposed;
- Based on the primary law the Transitory Market Model and the market rules have to be updated, which is an ongoing process but has to be speeded up;

- Besides these, authorisation and tendering rules for the elaboration and construction of additional distribution systems - needed for the gasification of additional cities - have to be provided;
- Incentives for the further gasification of the country have to be developed and implemented. The risk perception when adapting the rate of return on the regulatory asset base and when setting incentives for investments shall be considered;
- The preparation of the market opening for eligible (non household) customers by 1 January 2008 is ongoing but a lot of effort is still needed to fulfil the regarding requirements of the Treaty establishing the Energy Community in due time; Customer switching procedures have to be elaborated and implemented;
- The process of restructuring and consolidating of the distribution companies has to proceed;
- A storage system operator – fulfilling the needed tasks – is foreseen in the draft of the new gas act, but it still has to be established;
- A concept for cost determination of transmission and distribution system tariffs, including all inclusive tariffs based – among others – on the principle of cost reflectivity has to be elaborated and implemented in the course of the development and implementation of the new gas act, in particular in the development and implementation of the secondary law;
- Some progress with security of energy supply standards is still needed;

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

2006 Progress Report

- Good progress can be reported as regards the internal energy market;
- The new Law on Energy has been adopted; Appropriate implementing legislation needs to be developed;
- Administrative capacity should be significantly strengthened in the energy sector;
- Particular attention should be paid to the independence of the Energy Regulatory Commission;
- No significant developments can be reported as regards state aid;
- Some progress can be reported in the field of energy efficiency and renewable energy for which the new Energy Law requires the adoption of a 10-year strategy;
- Implementing legislation on energy efficiency and renewable energy remains to be adopted;
- Further significant efforts are needed to increase the share of renewable energy sources; Preparations in this area are at an early stage;
- The former Yugoslav Republic of Macedonia has made notable progress in parts of the energy sector, in particular as regards internal energy market related legislation; However, adoption of implementing legislation is a matter of priority, in particular in view of commitments under the Treaty;

Electricity

- Importing country; Large rate of increase of imported electricity;
- There is one oil-fired power plant that is rarely operated due to high costs (recently subject to arrangement with Greek PPC during summer peak load conditions);

- Distribution/Supply has been privatized as well as one power plant; Guarantee to build a new 400 MW gas-fired plant – No PPA;
- Disconnections and cut off supply due to non-payment is the hottest topic nowadays;
- TSO is under development; It is separated and unbundled in ownership terms; However, it act as a wholesale supplier as well – thus GenCo sells to the TSO who is reselling to the newly privatized DisCo; Likely to change in the medium term;
- Still needs to implement unbundling of wholesale supplier and TSO functions;
- Small system, non cost reflective tariffs; Recently, tariffs are slightly increased;
- Important transit country (especially for Greece and in summer season);

Gas

- Small gas market; heavily dependent on one supplier
- Development of unbundling provisions for transmission and distribution system operators in accordance with the requirements of the Treaty establishing the Energy Community is ongoing but still a lot of effort is needed to implement these provisions in due time. The same goes for provisions regarding the appointment of a supplier of last resort, vulnerable customers and customer complaints;
- New investments are needed; the results of the gasification study, in particular the analyses concerning the viability of the gasification of Skopje and Tetovo shall be considered and the proper framework for investments, in particular authorisation and tendering rules for construction of gas infrastructure shall be provided. Besides these procedures to assure high collection rates have to be established;
- Incentives for the further gasification of the country have to be developed and implemented. The risk perception when adapting the rate of return on the regulatory asset base and when setting incentives for investments shall be considered;
- Market should open by January 2008 for eligible (non household), customers; customer switching procedures have to be developed and implemented. The up to date developed gas regulatory framework, and in particular secondary law has to be further elaborated and implemented to meet the requirements from the Treaty establishing the Energy Community (calendar and thresholds). An acceleration of the regarding process is necessary;
- A concept for cost determination of transmission and distribution system tariffs, including all inclusive tariffs based – among others – on the principle of cost reflectivity has to be elaborated and implemented;
- Some progress with security of energy supply standards is needed;

MONTENEGRO

2006 Progress Report

- Some progress has been made regarding the electricity and gas sectors;
- The adoption of the acquis relevant to the Treaty for the creation of an effectively liberalised energy market in electricity and gas is underway, notably on electricity tariffs;
- Energy Development Strategy to cover the period 2025 is under way;
- The power utility EPCG has been functionally unbundled, while legal unbundling has not been achieved yet;

- Tenders for the privatisation of the thermal power plant Pljevlja and for a minority share in the coal mine AD Pljevlja have been completed;
- No progress was noted regarding state aids to the coal industry;
- Strategy for restructuring and privatisation of the power utility (EPCG) has been adopted;
- The establishment of the Energy Regulatory Agency has been launched;
- Good progress can be reported on energy efficiency and renewable energy sources;
- Administrative capacities in all energy sub-sectors need to be strengthened;

Electricity

- Small system; Recently privatized the thermal generation plant (200 MW) with an obligation for the buyer to invest in a new plant as well;
- Peculiarity, two large industrial consumers must import through traders since there is not enough domestic capacity to supply them; They get part of their supply at low regulated rate (subject to change partly with the privatization of the thermal unit) and part of their supply at open market rate;
- No threshold and no timetable for eligibility status; Regulatory agency decides on the status;
- TSO has not been unbundled properly yet (still under development) as well as the final rules/grid codes; Actually, the TSO has been established but to be unbundled first in functional terms (including decision making) without specifying a deadline for its unbundling in legal terms; There are now two generation companies, but one DisCo (regulated supplier);
- The EPCG is still the only one with all the licenses;
- The EPCG floats on the bourse;
- Tariffs are not cost reflective;

Gas

- No gas market developed; No legislation developed related to gas;

ROMANIA

2006 Progress Report

- The package of 2006 Progress Reports does not contain Romania; The May 2006 Enlargement Package on Bulgaria and Romania contain monitoring reports on their preparation for EU accession;
- There is not Chapter on Energy in the May 2006 Monitoring Report for Romania;

Electricity

- Largest country and big exporter; Export potential currently depends a lot on inflows;
- Most advanced in terms of reforms; Industrial and commercial customers are eligible; Many switch of suppliers; Working day ahead and balancing markets;
- Key to success was the gradual opening of the wholesale market; The percentage of regulated contracts between GenCos and regulated suppliers has declined from 90% to approximately 40%;
- A large part of the nuclear output is still regulated – it helps keep residential retail tariff at lower level;

- 5 out of 8 DisCos were privatized and the process is starting for generation; Recently halted and thoroughly checked;
- Some of the top management of the National Electricity Regulatory Agency was replaced recently;
- TSO is legally unbundled and has developed all its functions; It is a member of ETSO;
- The scheme for renewables is in place and functioning;
- Working on developing a framework for security of supply, supplier of last resort, etc.

Gas

- Mature gas market; significant domestic production available but dependence on imports is increasing;
- The Decision of the National Authority for Natural Gas on full unbundling (legal, accounting, functional and management) of TSO and DSO was passed on 16 October 2006;
- The elaboration of provisions regarding new infrastructure in the sense of Article 22 of the Directive 2003/55/EC. The process for the unbundling of distribution system operators is under preparation;
- Any practices which are incompatible with the proper functioning of network energy trade shall be assessed;
- Incentives for investments in gas infrastructure have to be developed and implemented. The risk perception when adapting the rate of return on the regulatory asset base and when setting incentives for investments shall be considered;
- Market opening for household customers is foreseen for 1 July 2007;
- The adoption of the secondary legislation on imposing public service obligation is in the completion phase;
- Some progress, in the elaboration of the network code, the non-discriminatory balancing regime and on security of energy supply standards is still needed;

SERBIA

2006 Progress Report

- The adoption of the *acquis* relevant to the Treaty has started;
- Adoption and implementation of the necessary tariffs and methodologies are pending;
- The process of restructuring of the state owned utility (EPS) is stalled;
- No particular progress has been registered regarding the gas sector;
- Serbian Energy Efficiency Agency has initiated several promotional programmes;
- Administrative capacity remains weak and needs to be strengthened;
- The Ministry of Energy and Mining faces problems to cover all its tasks;
- The Energy Agency (AERS) has adopted its internal structure; The necessary market regulations need to be finalised, adopted and enforced;
- The financing of the Agency is still to be secured in the mid term perspective (3-5 years) so as to guarantee the establishment of a functioning energy market;

- Overall, some progress can be reported in the area of energy; Serbia's preparations in the energy sector are advancing but are still on a relatively early stage;

Electricity

- The most important problem remains the very low level of final tariffs in a context of high inflation;
- The question arises if it is sustainable to indebt the utilities heavily with loans to rebuild the infrastructure if the final tariffs remain low; Currently, it is mostly grants, but it will be loans in the future; The current tariff is clearly unsustainable, especially as demand is expected to grow along with economic growth;
- There has been unbundled the power generation utility (EPS) and the transmission system and market operator (EMS);
- It has been implementing seriously a legally separated TSO with new infrastructures (EMS/SCADA, balancing market software);
- EPS generation and distribution/supply are decentralized, but are still acting like one company;
- The market rules are under development (having similarities to French ones);
- It will take a few more years before there is a possibility for new entrants given the low tariffs;

Gas

- Small but more mature gas market; heavily dependent on one supplier;
- Development of unbundling provisions for transmission and distribution system operators in accordance with the requirements of the Treaty establishing the Energy Community are ongoing but still a lot of effort is needed to implement these provisions in due time. The same goes for provisions regarding to appointment of a supplier of last resort, vulnerable customers, customer complaints and the provisions regarding major infrastructure in the sense of Article 22 of the Directive 2003/55/EC;
- New investments are needed; the results of the gasification study, and in particular the analyses concerning the viability of the gasification of Nis, Leskovac and Zajecar shall be considered carefully; based on the recommendations of the study, the proper framework for investments, and in particular the authorisation and tendering rules for construction of gas infrastructure shall be provided;
- Incentives for the further gasification of the country have to be developed and implemented. The risk perception when adapting the rate of return on the regulatory asset base and when setting incentives for investments shall be considered; besides these, procedures to assure high collection rates have to be established;
- Market should open by January 2008 for eligible (non household) customers in line with the requirements of the Treaty establishing the Energy Community; customer switching procedures have to be developed and implemented. The up to date developed regulatory framework, and in particular secondary legislation has to be further elaborated and implemented to meet the requirements from the Treaty establishing the Energy Community (calendar and thresholds). An acceleration of the regarding process is necessary;
- Removal of the dominant position of the incumbent seems to be necessary in order to provide the proper framework for competition;
- The dialogues with third countries for transit and transmission, and regional projects have to be improved in order to gain full benefit of the regional approach of the Energy Community;

- A concept for cost determination of transmission and distribution system tariffs, including all inclusive tariffs based – among others – on the principle of cost reflectivity has to be elaborated and implemented in the course of the development and implementation of the gas act;
- Some progress with security of energy supply standards is needed;

UNMIK

2006 Progress Report

- Good progress has been made in the electricity sector; A strategy on energy was approved in October 2005 and an implementing programme 2006-2008 has been established;
- The Energy Regulatory Office became operational in September 2005 and has issued substantial implementing legislation in the reporting period;
- The electricity market was opened in March 2006 when all four consumers connected at 110 kV and over were declared eligible;
- It is not yet possible to identify consumers by their consumption levels due to inadequate supply;
- However, Kosovo's electricity supply situation remains very difficult;
- Distribution network is in a very poor state after years of underinvestment and poor maintenance;
- Mining of the dominant fuel, coal, also suffers from underinvestment;
- The utility KEK lacks adequate funds to invest in and properly maintain the electricity supply system;
- Cash collection rates, although markedly improved, remain at unsustainably low levels and technical losses and theft remain very high;
- Little progress has been made on promoting energy efficiency and renewable energies;
- Overall, while the some progress has been made in the energy area, particularly regarding reforms at the energy utility and in the preparations for a regional energy market, the sector remains in an acutely critical situation;

Electricity

- On paper, it has developed most documents for reforms: TSO, new tariff structure, market rules, grid code...;
- Status of the TSO also depends on political resolution – it has been legally separated from the generation-distribution businesses of KEK; Recently became a SETSO TF member; Many consultants are working on the TSO and with the regulator, but UCTE has yet to recognize it;
- Necessity to resolve disputes with the Serbian TSO related to cross border issues (capacity allocation, ITC mechanism, TPA);
- New investment in lignite-fired plant expected (call for EoI appeared recently); Due to its large capacity, mostly for export; PPA?;
- Despite massive investments, needs are even larger on generation, metering, etc.; The plants are very old and will be gradually phased out as the new ones will be constructed; The World Bank is pushing hard for new plant - consultants being selected and tender announced for attracting investors;

- Invoice collection rate is very low; Tariffs need to increase;

Gas

- No gas market developed; No legislation developed related to gas;

5 CONCLUSIONS

The *Good Governance Report* provides the annual update on a state by state basis on issues relating to good governance, corruption and transparency. The information on current state of play and new developments within 2006 has been collected in a complete and symmetrical manner enabling state by state comparison. All issues of concern are listed in the *Report* and thereby made publicly available. However, this *Report* is not restricted to annual monitoring of specific behaviour of market participants and institutional organisations in the Contracting Parties. As the most critical element the *Report* singles out the identification of structural issues that impede the development of competitive markets in the Energy Community. Therefore, this *Report* focuses more on the establishment of institutional and legislative framework as a prerequisite to good governance.

Four aspects of good governance have been taken into consideration within the *Good Governance Report* and their conclusive remarks are give hereafter:

Adherence to the initiatives such as the EITI

Contracting Parties have neither endorsed, nor are currently actively implementing the EITI. However, they are expected to apply international auditing standards to all companies including state-owned enterprises. The Athens Process, as an initiative per se, resulted in signature and ratification of the Treaty which has clearly identified commitments and timetables for its implementation. The implementation of the acquis on energy (electricity and gas) has been given the first priority, and eventual extension of activities to other initiatives such as the EITI would probably results in less attention paid to already prioritised activities especially due to inadequate institutional capability.

Contracting Parties specified that they had not identified appearance of trading abuses, corruption and non-commercial arrangements, but they put necessary measures in corresponding regulatory framework. Establishment of a proper institutional and legislative framework is of utmost importance followed by effective operations of the institutions and application of legislation.

The energy policy issues are dealt with by a ministry in all Contracting Parties, which gives the comfort that these are treated at the high political level. Existence of respective ministries dealing with the energy and environment related sectors is at satisfactory levels. However, this is not the case when existence of specific bodies for renewable energy sources and/or energy efficiency is of major concern. All Contracting Parties have set up a regulatory authority for electricity, which is at least responsible for the tariff calculation methodology, among others. However, some Parties do not have a regulatory authority for gas. Establishment and especially effective work of competition authorities lags behind the regulatory ones.

Overall institutional capacity strengthening in the Ministries and the Authorities, new staffing and training programs are urgently needed. Usage of the EU pre-accession instruments should be intensified as they may provide active support for the reform of the energy sector. From 2007 to 2013, IPA (an accession driven instrument) will be the main tool of EU assistance with concentration on institution building and alignment to the Acquis.

Enforcement of the international accounting standards

In order to promote the functioning of effective markets it is necessary to identify a transparent financial settlement systems, assign roles in accountancy and principles for apportioning of cost, and apply international accounting standards (IAS); to

develop a system of independent audit; to implement accounts transparency at a level that meets international standards; and in addition adopt best practice on corruption abatement.

This *Report* puts the issue of international accounting standards in the context of active promotion of transmission and distribution system unbundling. A full access to audited accounts would be a necessity when it comes to the holding company demonstrating that all necessary safeguards are in place to ensure diverging incentives between the management unbundled divisions.

The Contracting Parties have confirmed that there is a full access to audited accounts, and that the IAS are applied for accounts. The accounts are regularly audited by an independent auditor. Audited accounts are made available to the regulator and undertakings publish their Annual Reports. Either licensing conditions for licensed companies provide for this, or application of the IAS is required by the law on accounting and auditing.

Relating to electricity, in general, unbundling provisions and provisions related to access to accounts are put in place. However, their full practical implementation and monitoring shall be of immediate first priority to the Contracting Parties.

Relating to gas, in general, accounting unbundling between different activities is foreseen by almost all countries. However the legal, managerial and organisational unbundling of TSOs and DSOs are not clearly defined or foreseen by the some countries.

Relating to the rights of access to accounts, the Contracting Parties have put in place adequate provisions and enabled the regulatory authority to have the right to access the accounts of the energy enterprises to carry out their functions.

Relating to the unbundling of accounts, its application is mostly envisaged through the licensing system and rules. However, the implementation of unbundling of accounts by undertakings is, in general, in initial stage. A separate account for supply of eligible and non-eligible customers is required, but its application is yet to come.

Commitment to proper and sound statistics

Statistics and energy information databases enable users to analyse trends and make projections of the energy market size. By developing adequate numerical models and looking at historical data records, it could be made possible to forecast future market needs at individual and regional level.

Moreover, information and content can be used in diverse and important ways: in lesson plans and classroom lectures, for briefing or lobbying policy-makers, within business planning initiatives, as supporting materials in a wide range of reports and publications, and for general environmental and socio-economic knowledge interests.

Statistics and energy information are in this *Report* put in the context of bringing about compatible national and regional market designs and making this work transparent and coherent.

The Contracting Parties have confirmed that a work on national energy statistics and information system is well underway. The Contracting Parties stated their willingness to prepare themselves for cooperation within the REIC, but it has not been established yet. They have developed the energy statistics and information systems at national level (with exception of UNMIK) and they currently work on making it compatible to EUSTAT requirements. However, regional integration of data is lagging behind.

Environmental challenges

The legislative framework and energy efficiency are two aspects that are given an immediate priority. They are predicated on capacity building in Ministries and Regulators, who are expected to ensure that: (1) the environmental issues are addressed through their alignment with the *acquis communautaire* in environment in accordance with the negotiated timetables; (2) If the new plants are constructed and financed by the international community, the EU environmental norms and standards are applied; (3) there are convincing and solid national energy efficiency, energy conservation and renewable energies policies applied to motivate customers to use energy more efficiently; and (4) there are national energy efficiency agencies put in place or any similar body to take care of these items.

The Contracting Parties have confirmed that a work on legislative framework is underway. Implementation of the *acquis communautaire* on environment as given by the Treaty establishing the Energy Community is given due attention by existing institutions whose effective capability has yet to be significantly improved. They also analyse accession to the Kyoto Protocol, as well as energy efficiency and renewables.

Should legislative basis, institutional framework, Kyoto/UNFCCC and specific characteristics of environment sector be improved, overall capability of national institutions shall be strengthened. Alignment to the *acquis* on environment as given by the Treaty needs significant further work. Even more difficulties will appear when it comes to proper implementation of adopted legislation. Activities on establishment of environmental funds shall be intensified, and if possible, put into wider contexts through environmental strategy. Environmental agencies shall be established and strengthened where they exist. Kyoto Protocol and UNFCCC related activities also need intensification.

List of issues of concern

The Energy Community Secretariat has made the first screening check of the primary legislation as per each Contracting Party. There is a need for an up-to-date overview of the primary legal framework as to avoid any doubts whether the primary legislation of most Contracting Parties complies with the Directives or not. There is still a need for lots of work to draft and implement secondary legislation for most issues. Implementation is the most difficult part, as the economy of these countries is not strong – everything follows out of this. Public Service Obligations/Customer Protection, Monitoring of Security of Supply and Market Opening might appear as the areas where the legislation is not well developed yet. Development and unbundling of TSO have been under way at least on paper. But, DSO and separation of network from supply lag a way behind. Ownership unbundling is the key factor for the success – but it is not required by the Directives.

6 ANNEXES

- Annex 1: *List of initiatives (non-exhaustive)*
- Annex 2: *Institutional building and Competition authorities per each Contracting Party – Status H2 2006 (narrative format)*
- Annex 3: *Institutional building and Competition authorities per each Contracting Party – Status H2 2006 (colour grading format)*
- Annex 4: *The benchmarking analysis on Party-by-Party basis – Unbundling provisions and access to accounts (electricity and gas)*
- Annex 5: *The Action Plans on implementation of the Treaty – Unbundling/transparency of accounts: rights of access to accounts and unbundling of accounts (extracts from the Electricity and Gas Action Plans)*
- Annex 6: *Environmental aspects as seen by the Electricity Transition Strategy*
- Annex 7: *The benchmarking analysis on Party-by-Party basis - Environment (narrative format)*
- Annex 8: *The benchmarking analysis on Party-by-Party basis - Environment (colour benchmarking format)*
- Annex 9: *2006 Progress Report – Sectoral Policy: Energy (extracts from the European Commission’s annual estimation of progress in energy)*

Annex 1: *List of initiatives (non-exhaustive)*

Annex 1 - List of initiatives (non-exhaustive)

Following initiatives are the most prominent in the field of good governance:

- Extractive Industries Transparency Initiative (EITI)¹⁶;
- WEF Partnering Against Corruption Initiative¹⁷;
- UN Global Compact¹⁸ (in the areas of environment and anti-corruption);
- G8 Compacts to Promote Transparency and Combat Corruption¹⁹;
- Global Opportunities Fund²⁰ (in support of projects promoting good governance and sustainable development in energy producing countries – DFID/DTI).

Following conventions, codes, guides and policies have been drafted to help fight against corruption and bribery, as well as to improve practice on transparency (especially fiscal and resource revenue ones):

- UN Convention Against Corruption²¹;
- OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions²²;
- OECD Guidelines for Multinational Enterprises²³;
- IMF Code of Good Practice on Fiscal Transparency²⁴;
- IMF Guide on Resource Revenue Transparency²⁵;
- IFC Safeguard Policies²⁶;

Many institutes and schools provide consultancy and education in the field of governance:

- The Basel Institute on Governance²⁷;
- The Hertie School of Governance²⁸;
- Maastricht Graduate School of Governance²⁹.

¹⁶ Extractive Industries Transparency Initiative (EITI), www.eitransparency.org

¹⁷ WEF Partnering Against Corruption Initiative, www.weforum.org/en/initiatives/paci/index.htm

¹⁸ UN Global Compact, www.unglobalcompact.org

¹⁹ G8 Compacts to Promote Transparency and Combat Corruption, <http://en.g8russia.ru/g8/history/seaisland2004/10>

²⁰ Global Opportunity Fund, www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1059131211423

²¹ UN Convention Against Corruption, www.unodc.org/pdf/crime/convention_corruption/signing/Convention-e.pdf

²² OECD Convention on Combating Bribery, www.oecd.org/document/21/0,2340,en_2649_34859_2017813_1_1_1_1,00.html

²³ OECD Guidelines for Multinational Enterprises, www.oecd.org/document/28/0,2340,en_2649_34889_2397532_1_1_1_1,00.html

²⁴ IMF Code of Good Practice on Fiscal Transparency, www.imf.org/external/np/fad/trans/index.htm

²⁵ IMF Guide on Resource Revenue Transparency, www.imf.org/external/pubs/ft/grrt/eng/060705.htm

²⁶ IFC Safeguard Policies, www.ifc.org/ifcext/policyreview.nsf/Content/SafeguardPoliciesUpdate

²⁷ The Basel Institute on Governance, www.baselgovernance.org

²⁸ The Hertie School of Governance, www.hertie-school.org

²⁹ Maastricht Graduate School of Governance, www.governance.unimaas.nl

Annex 2: *Institutional building and Competition authorities per each Contracting Party – Status H2 2006* (narrative format)

Annex 2 - Table 1: Institutional Building – Existence of the Institutions

	Institutional Building				Competition Authority
	Ministries			Energy Regulators	
	Energy	Environment	Renewables and Energy Efficiency		
Albania	Ministry of Economy, Trade and Energy (www.mete.gov.al);	Ministry of Environment, Woods and Water Administration (www.moe.gov.al); The Albania - EU Energy Efficiency Centre (www.eec.org.al);	Ministry of Economy, Trade and Energy (www.mete.gov.al); The Albania - EU Energy Efficiency Centre (www.eec.org.al);	Albanian Electricity Regulatory Authority (www.ere.gov.al);	Competition Authority (www.caa.gov.al);
Bosnia and Herzegovina	At the state level, Ministry of Foreign Trade and Economic Relations (www.mvteo.gov.ba); At the FBH and RS entity levels, respective Ministries of Energy (www.fbihvlada.gov.ba & www.vladars.net);	At the state level, Ministry of Foreign Trade and Economic Relations (www.mvteo.gov.ba); At the FBH and RS entity levels, respective Ministries of Environmental Protection (www.fbihvlada.gov.ba & www.vladars.net);	There is no specialised agency, neither for energy efficiency nor for renewable sources;	At the state level, the State Electricity Regulatory Commission (www.derk.ba); At the entity level, the Regulatory Commission for Electricity in the FBH entity (www.ferk.ba) and the Regulatory Commission for Electricity of the RS entity (www.reers.ba);	Council of Competition of Bosnia and Herzegovina (www.bihkonk.gov.ba);
Bulgaria	Ministry of Economy and Energy (www.mee.government.bg);	Ministry of Environment and Water (www.moew.government.bg);	Ministry of Economy and Energy (add.); Energy Efficiency Agency (www.seea.government.bg);	State Energy and Water Regulatory Commission, SEWRC (www.dker.bg);	Competition Authority (www.cpc.bg);
Croatia	Ministry of Economy, Labour and Entrepreneurship (www.mingorp.hr);	Ministry of Environmental Protection, Physical Planning and Construction (www.mzopu.hr); Croatian Environmental	Ministry of Economy, Labour and Entrepreneurship (www.mingorp.hr); Croatian Energy Market Operator (www.hrte.hr);	Croatian Energy Regulatory Agency (www.hera.hr);	Croatian Competition Agency (www.croocompet.hr);

		Agency (www.azo.hr); Fund for Environment Protection and Energy Efficiency (www.fzoeu.hr);	Energy Institute Hrvoje Pozar (www.eihp.hr); HEP-ESCO (www.hep.hr/esco);		
The former Yugoslav Republic of Macedonia	Ministry of Economy (www.economy.gov.mk)	Ministry of Environment and Physical Planning (www.moepp.gov.mk);	Macedonian Centre for Energy Efficiency (www.macef.org.mk);	Energy Regulatory Commission (www.erc.org.mk);	Monopoly Authority (www.mon.upr.gov.mk);
Montenegro	Ministry of Economy (www.vlada.cg.yu/eng/minekon);	Ministry of Environmental Protection and Physical Planning (www.vlada.cg.yu/eng/minzast sred);	Ministry of Economy (www.vlada.cg.yu/eng/minekon);	Energy Regulatory Agency (www.regagen.cg.yu);	Agency for competition does not exist in Montenegro;
Romania	Ministry of Economy and Trade, with a Directorate General for Energy Policy (www.minind.ro);	Ministry of Environment and Water Management (www.mmediu.ro);	The Ministry of Economy and Trade (www.minind.ro); The Romanian Energy and Heat Regulatory Authority, ANRE (www.anre.ro); The Market Operator (OPCOM) for the Green Certificates Market Energy Conservation Agency, ARCE (www.arceonline.ro);	Romanian Electricity and Heat Regulatory Authority, ANRE (www.anre.ro); Romanian Regulatory Authority in Natural Gas Sector, ANRGN (www.anrgn.ro); Romanian Regulatory Authority for Communal Services, ANRSC (www.anrsc.ro);	Competition Council (www.competition.ro)
Serbia	Ministry of Mining and Energy (www.mem.sr.gov.yu);	Ministry of Science and Environmental Protection (www.mntr.sr.gov.yu);	Shared responsibilities. Additionally agency for the promotion of energy efficiency and RES – Serbian Energy Efficiency Agency (www.seea.sr.gov.yu);	Energy Agency of the Republic of Serbia (www.aers.org.yu);	Commission for Protection of Competition established in late April 2006
United Nations Interim Administration Mission in Kosovo	Ministry of Energy and Mining (www.ks-gov.net/mem);	Ministry of Environment and Spatial Planning (www.ks-gov.net/mmph);	Apart from the Ministry of Energy and Mining (www.ks-gov.net/mem), there is no other specific body for energy efficiency or	Energy Regulatory Office, ERO (www.ero-ks.org);	Under the Kosovo Law on Competition 2004/36, the Kosovo Competition Commission shall be established under the

			renewable energy sources;		Title IV of the law as competent authority for issues on competition;
Turkey	Ministry of Energy and Natural Resources, MENR (www.enerji.gov.tr);	The Ministry of Environment and Forestry, MoEF (www.cevreorman.gov.tr);	There is no specific body for energy efficiency or renewable energy sources;	Energy Market Regulatory Authority, EMRA (www.emra.org.tr);	Competition Authority, (www.rekabet.gov.tr);
Regional perspective	<p>Existence of respective ministries dealing with the energy and environment related sectors is at satisfactory levels. However, this is not the case when existence of specific bodies for renewable energy sources and/or energy efficiency is of major concern.</p> <p>Regulatory Authorities have been established. However, some of them are active only in the electricity sector.</p> <p>Establishment of Competition Authorities lags behind the other ones.</p>				

Annex 2 - Table 2: Institutional Building – General Tasks of the Institutions and Their Specific Characteristics

Institutional Building					
	Ministries		Energy Regulators	Competition Authority	
	Energy	Environment	Renewables and Energy Efficiency		
Albania	<p>The Ministry of Economy, Trade and Energy has a new operational structure since January 2006;</p> <p>Now the Ministry is not only a policy maker, but also owner of all assets;</p> <p>Energy policy activities are separated from regulatory and trade/market ones by processing them in 4 its directorates;</p> <p>The tariff methodology is described in the primary legislation by the Ministry giving general principles of the methodologies;</p>	<p>Environment related topics belong to the Ministry of Environment, Woods and Water Administration;</p> <p>UNDP supports the Government and the Ministry in implementation of main conventions (CBD, UNCCD, UNFCCC) to ensure environmental sustainability;</p> <p>The Albania - EU Energy Efficiency Centre has realized a number of projects;</p>	<p>Topics related to renewable sources and energy efficiency belong into the domain of the Ministry of Economy, Trade and Energy;</p> <p>The Albania - EU Energy Efficiency Centre has realized a number of projects related to energy efficiency, renewables, and environment;</p>	<p>ERE prepares concrete rules for the tariffs (methodology and fees), Government then deals with the vulnerable consumers through compensations (not subsidies);</p> <p>ERE is engaged in regulatory issues related to electricity market operation only. The Law on Power Sector from 2003 defines its current position, independency and practice;</p> <p>ERE at the end approves the secondary legislation (approximately 80% of it has been approved so far);</p>	<p>CAA is established in 2004 and supposed to cooperate with ERE on issues related to the competition and abuse of a dominant position in the field of energy;</p> <p>ERE has <i>ex ante</i> responsibilities, and CAA <i>ex post</i> ones;</p> <p>CAA has drafted an agreement on cooperation with ERE, and currently awaits a response from ERE. So far, there has not been any report filed in relation to the energy sector having in mind this subject.</p> <p>Issues related to the public aid are under jurisdiction of the Ministry of Economy.</p>
Bosnia and Herzegovina	<p>Energy policy issues are under jurisdiction of the Ministries at the state and entity levels;</p> <p>Coordination of general</p>	<p>The Ministry of Foreign Trade and Economic Relations has received the authority over natural resources, including environmental protection at the</p>	<p>There is no specialised agency, neither for energy efficiency nor for renewable sources;</p> <p>It is expected that the sector</p>	<p>Competence over energy policy issues falls to the scope of the Ministry, while the tariffs and prices are solely under the three</p>	<p>Council of Competition of BiH has been established since 2004 on the basis of the Law on Competition from 2001, as</p>

	<p>policy activities and international relations related to energy and environmental protection is carried out in the MOFTER at the state level;</p> <p>Actual responsibility for implementation is at the FBH and RS entity levels through their Ministries of Energy and Ministries of Environmental Protection;</p> <p>The FBH and RS entities have developed their own energy legislation and institutions;</p> <p>There is no energy law and energy strategy at the state level;</p>	<p>state level;</p> <p>The Ministry is a focal point for the GEF projects, and Ozone/POPS related projects. It has ratified the Danube Convention;</p> <p>Environmental issues are primarily dealt with in the Entity Ministries through laws, regulations and standards;</p> <p>There is no legislation on environment at the state level. Existing ones have adopted key items from the key directives;</p> <p>There is an absence of environmental policy and strategy;</p>	<p>of renewable sources will be arranged through the set of by-laws;</p>	<p>regulatory authorities (one at the state level and two at the entity levels);</p> <p>The entities (FBH and RS) have decided to have their own regulators;</p> <p>The state regulator deals with electricity transmission issues, while the two entity regulators deal with electricity generation and distribution issues;</p> <p>The state regulator cooperates and harmonises its operation with the regulators at the FBH and RS entity levels. It also cooperates with other state level regulatory bodies;</p> <p>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;</p>	<p>independent legal body authorised for decision making on forbidden activities related to competition in the BiH market;</p> <p>The Law from 2001 contained fundamental rules based on Arts. 81-82 of EC Treaty, but it did not follow modern practice from the Acquis. Therefore, the new Law on Competition has been enforced in 2005. It is compatible with EU rules and regulations, and introduces leniency policy, efficient mechanisms for control of internal market and cooperation with international institutions;</p> <p>No authority in BiH is currently responsible for overseeing state aid granted in the country;</p>
Bulgaria	<p>Responsible for drafting and implementing the legislation in the electricity and gas sectors;</p>	<p>Responsible for environmental affairs. Main tasks: a) organize and coordinate elaboration of environmental protection regulatory system; b) coordinate and control the National environmental protecting program; c) coordinate and control the rational utilization of natural resources; and d) implement a special control on environmental protection;</p>	<p>Shared responsibilities between Institutions;</p>	<p>SEWRC regulates the electricity, natural gas, district heating and water sectors;</p> <p>SEWRC is mainly responsible for price regulation, and licensing of enterprises;</p> <p>SEWRC is also responsible for monitoring the efficient functioning of the markets and for certifying the origin of the production of</p>	<p>Responsible for enforcing the Competition Act and the State Aid Act;</p>

				electricity from Renewable Energy Sources and CHP plants;	
Croatia	<p>Primary and secondary legislation are under the auspices of the Ministry of Economy, Labour and Entrepreneurship;</p> <p>The Government makes the final decision on the tariffs based on the proposal from the Ministry. An energy subject which undertakes its respective activity submits a proposal to the Ministry for which a reasoned opinion is asked from the Energy Regulatory Agency;</p>	<p>Environment related topics belong to the Ministry of Environmental Protection, Physical Planning and Construction and Croatian Environmental Agency;</p> <p>The Fund for Environment Protection and Energy Efficiency deals with both environment and energy efficiency;</p> <p>The Fund for Environment Protection and Energy Efficiency finances a small number of renewable energy projects;</p>	<p>There is no particular Energy Efficiency Agency as such (such opportunity remains opened in the law);</p> <p>Instead, these issues are addressed by the Energy Institute Hrvoje Pozar and HEP-ESCO company;</p> <p>Market Operator is in charge of keeping the register of eligible producers and collecting the charges from eligible and tariff customers' suppliers for the promotion of electricity production from RES and Cogen;</p>	<p>An independent regulatory authority has been established as the Croatian Energy Regulatory Agency;</p> <p>The Croatian Energy Regulatory Agency is responsible for setting the tariff methodologies only;</p> <p>The Regulatory Agency carries out regulatory and other activities defined by the Law on Regulation of Energy Activities;</p>	<p>The Regulatory Agency works together with the Croatian Competition Agency on competition issues related to energy on the basis of a formally signed agreement related to cooperation in the energy sector;</p> <p>National legislation includes provisions related to prevention, restriction or distortion of competition according to the Act on Protection of Competition from 2003;</p>
The former Yugoslav Republic of Macedonia	<p>In the Ministry of Economy, the Sector for Energy and Energy Efficiency is obliged to conduct energy policy of the state through the programs, measures and other activities, and to create and develop laws, sub-laws, and other legal documents on energy. The State Energy Agency, established in January, 2004, is responsible for professional technical support on data management, strategy analysis, policy and project assessment and implementation coordination;</p>	<p>Ministry of Environment monitors the state of the environment, proposes measures and activities aimed at water resources, air and ozone layer protection, protection against noise, radiation, conservation of biological diversity, geological diversity, national parks and protected areas, remedies polluted parts of the environment, cooperates with scientific institutions for development of standards and regulations to regulate environment protection, and develops self-financing system from independent sources, types and levels of</p>	<p>Macedonian Centre on Energy Efficiency is sustained by a voluntary scientific society established to promote energy efficiency technologies and projects. This society has 14 members mainly from faculties, Makpetrol and Skopje Clinical Centre. It is involved in the process of creating the energetic policy, planning and development in the energetic sector, efficient use of energy resources and promotion of scientific approach in the domain. It develops and implements action plans for EnEff;</p>	<p>The Energy Regulatory Commission was established in June 2003 (Energy Law). Its 5 Commissioners were nominated by the Parliament Assembly in July 2003. It is engaged in a) establishment of tariff systems and prices, b) authorization procedures (licenses for generation, distribution, supply and eventually other services within the energy industry), c) development / verification of Grid Codes and Market Codes, and d) dispute settlement and customer protection. It is responsible for regulations in the sectors</p>	<p>Minister for Economy and the Monopoly authority are competent for enforcement of the Law against limiting competition. The Monopoly authority comprises a Director, a Dept. for conducting managerial procedures and decision-making, and a Dept. for monitoring and analyses of market affairs. The Monopoly committee is formed within the Government, which assesses the present condition of business concentration, assesses predictable trends and the</p>

		environmental charges and other payments;		of electricity, natural gas, district heating, geothermal energy, oil and oil derivatives;	development of concentrations, and assesses the dominant position and the mergers;
Montenegro	<p>Based on the Energy Law, the Government of Montenegro through its Ministry of Economy defines and implements the national energy policy and national energy strategy;</p> <p>The responsibilities of the Ministry are the preparation and proposals for national energy policy, long term and annual balances and promotion of private sector participation in the energy sector as well as use of renewable energy resources;</p>	<p>On the basis of the Environmental Law, the Government of Montenegro through its Ministry of Environmental Protection and Physical Planning deals with issues of environmental protection;</p> <p>The Republic of Montenegro has established the mark „ECOLOGICAL STATE OF MONTENEGRO“, expressing its identity as an ecological state;</p>	<p>The Government of Montenegro through its Ministry of Economy carries out energy efficiency and resources preservation policies;</p> <p>During March 2005 the Strategy of Energy Efficiency of Montenegro was finalized;</p> <p>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;</p>	<p>Competence over energy policy issues falls to the scope of the Ministry, while the tariffs and prices are solely under the Energy Regulatory Agency;</p> <p>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;</p> <p>On the basis of the Energy Law, the Energy Regulatory Agency has been established as an independent and functionally autonomous not-for profit organization;</p>	<p>Competence over energy policy falls to the scope of the Ministry, while the tariffs and prices are solely under the Energy Regulatory Agency;</p> <p>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;</p> <p>On the basis of the Energy Law, the Energy Regulatory Agency has been established as an independent and functionally autonomous not-for profit organization;</p>
Romania	<p>The Directorate General for Energy Policy of the Ministry of Economy and Trade is responsible for the preparation of policy documents and the legal framework in the energy sector including: electricity, natural gas, petroleum, renewable energy sources and energy efficiency, as well as for the privatization of energy companies;</p>	<p>Responsible for the adoption of primary and secondary legislation related to the adoption and implementation of the Environment Acquis;</p> <p>The National and the eight Regional Protection Agencies, as well as the Environment Guard are responsible for monitoring the implementation of the environment laws and regulation, and the companies' compliance with these;</p>	<p>Shared responsibilities in RES between institutions; the ministry for the strategy, ANRE for licensing and certification of origin, organization of the Green Certificates Market, etc.</p> <p>In EnEff, ARCE: a) implements the National EnEff Strategy and AP; b) promotes and monitors implementation of EnEff investments; c) monitors the household appliances' market; d) promotes RES; e)</p>	<p>ANRE was set up in 1998, and it, among others, issues and approves calculation methodologies to set tariffs and prices; sets tariffs for captive consumers; sets tariffs for electricity system, transmission and distribution services, etc.</p> <p>ANRGN (2000), and is under the co-ordination of the Prime Minister's office. It, among others, elaborates, approves and applies criteria and methods for</p>	<p>The Competition Council is an independent body since 1996. Its members are appointed by the President of Romania, pursuant the Government's proposal. Its role is two folded: 1) corrective relating to its interventions to restore and maintain normal, and competitive environment, and 2) preventive related to its interventions that significantly prevent unfair competition on the</p>

			certifies energy auditors/managers;	price setting and regulated tariffs; elaborates and submits to the GoR for approval the regulations on TPA to upstream lines, storage facilities, natural gas T/D system; elaborates and approves the regulations for organization and functioning of the gas market; etc.;	market; The Competition Law no. 21/1996 was amended and republished in 2005 to fully reflect the Acquis;
Serbia	Responsible of preparing and implementing the legislation for the mining, electricity, gas, oil, energy efficiency and RES sectors and energy sector restructuring;	In charge of drafting and implementing the legislation in the area of environment. Ministry of Mining and Energy assists in the part of environmental legislation in relation to the negative impact of energy activities on the environment. Ministry of Science and Env. Protection assists to the Ministry of Mining and Energy in preparation of the EnEff and RES legislation	Shared responsibilities between Institutions;	Among other responsibilities, the Energy Agency is responsible for issuing the tariff methodologies for electricity and natural gas prices, as well as for the tariffs structures. The Government of Serbia is in charge of the final approval of the tariff structure and final prices. The Agency also issues the licenses and approves the grid code and the market rules;	Competition Authority (Commission for Protection of Competition) was established by the Law on Protection of Competition. Members of its Management Board (Council of the Commission) were appointed on 3rd of April 2006;
United Nations Interim Administration Mission in Kosovo	The Ministry of Energy and Mining is responsible for energy policy issues; In the area of vulnerable customers the responsibilities are linked to the competences of Ministry of Labour and Social Welfare (www.ks-gov.net/mpms);	The Ministry of Environment and Spatial Planning is responsible for Environmental affairs; The Energy Strategy and the energy legislation pay particular attention to environment protection; Further to the principle approach, indicated in all acts, protection of the environment is a particular criterion for granting licenses (Article 30.2 of the Law on the Energy	The Ministry of Energy and Mining is responsible for the policy aspects of RES and EnEff; The Energy Regulator is responsible for issuing the certificates for origin of electricity produced from RES; Provisions are reflected in the Energy Strategy and licensing requirements;	The Energy Regulator is authorized to regulate the electricity, natural gas and district heating sectors;	For competition issues in the energy sector, the Energy Regulatory Office has additional tasks, foreseen by both the Law on Energy (Chapter 6), and the Law on the Energy Regulator (Art 16); The ERO shall be responsible in particular for creation and maintenance of competitive markets when practicable, and the prevention and

		Regulator);			punishment of any predatory or anti-competitive conduct;
Turkey	The Ministry of Energy and Natural Resources (MENR) is responsible for the preparation and implementation of energy policies, plans and programs in coordination with its dependent and related institutions and other public and private entities. The Ministry is mainly responsible to determine and implement national energy policy objectives;	The Ministry of Environment and Forestry (MoEF) has an overall co-ordinating role for the development and implementation of environmental policies, including approximation process for the EU environmental Acquis. The main duties of the MoEF are as follows; a) programme and project development to determine principles of env. protection, b) conduct, approve and ensure the implementation of env. plans taking economic and ecological values for decision making, c) monitoring and control of activities which might have negative impacts on the environment;	A law is being drafted regarding energy efficiency and RES. The production of electricity from RES is addressed in the 2005 Law on Utilisation of Renewable Energy Resources for the purpose of Generating Electrical Energy and in the Regulation and Procedures for Granting Guarantee of Origin; The Electricity Market Licensing Regulation defines the RES scheme and requires generators to obtain a license;	Energy Market Regulatory Authority (EMRA) is the independent regulator responsible of electricity, natural gas, petroleum and LPG market regulations. The main duties and responsibilities of EMRA are to prepare the secondary legislation, issue licenses to authorize market participants to engage in market activities, approve and publish tariffs, monitor and supervise activities of the market participants, conduct technical, legal and financial audits, settle disputes and apply sanctions where necessary;	The legal basis is provided by the Competition Law (The Act on the Protection of Competition);
Regional perspective	<p>Overall institutional capacity strengthening in the Ministries and the Authorities, new staffing and training programs are urgently needed. One possible pipeline of how to achieve this is related to realisation of various EU CARDS and LIFE projects. Difficulties with financing from these programmes should be avoided (for example, Croatia is not eligible for the LIFE+ programme that starts from 2007 onwards).</p> <p>Usage of the EU pre-accession instruments should be intensified as they may provide active support for the reform of the energy sector. Reinforcement of the institutional and administrative capacity is currently facilitated through instruments such as TAIEX, Twinning and SIGMA, aimed at implementation of the Acquis and preparation for participation in EU policy.</p> <p>From 2007 to 2013, IPA (an accession driven instrument) will be the main tool of EU assistance with concentration on institution building and alignment to the Acquis. It intends to facilitate the entry into the EU of candidate countries and potential candidate countries.</p> <p>Further initiatives, as well as financial and advisory help are needed across all institutions.</p>				

Annex 2 - Table 3: Competition – Authority, Legislative Basis and Specific Characteristics

Competition			
Authority	Legislative Basis	Specific Characteristics	
Albania	<p>The Competition Authority (www.caa.gov.al), established in 2004;</p> <p>Department of State Aid in the Ministry of Economy (new);</p> <p>Negotiations of the SAA between Albania and the EU comprise topics related to competition, abuse of a dominant position in the market and public aid. Institutional requirements have been listed and Albania committed itself to obey them within the SAP process;</p>	<p>Prevention, restriction or distortion of competition and abuse of a dominant position in the market are subject to the Law on Protection of Competition from 2003;</p> <p>Issues related to the public aid are subject to the Law on Public Aid from January 2006;</p> <p>Both of these two laws are based on relevant EU Directives and the EC Treaty;</p>	<p>Albanian legislation includes provisions prohibiting agreements between undertakings which have as their object or effect the prevention, restriction or distortion of competition (Art. 4 of the Law on Protection of Competition from 2003);</p> <p>Albanian legislation includes provisions prohibiting any abuse by one or more undertakings of a dominant position within the market (Arts. 8-9 of the Law on Protection of the Competition from 2003);</p> <p>Issues related to the public aid are subject to the Law on Public Aid from January 2006 and under jurisdiction of the Ministry of Economy within the new Department of State Aid;</p> <p>The equalising fund that compensates for a price difference between electricity generated in the domestic market (lower value) and imported one (higher value) might be a subject to this law due to a fact that the government (and/or the KESH electricity utility) might be asked to provide subsidies to cover the difference due to variable hydrological conditions;</p>
Bosnia and Herzegovina	<p>The Council of Competition of Bosnia and Herzegovina (www.bihkonk.gov.ba), established in 2004;</p> <p>The Council is an independent legal body which is authorised for decision making on existence of forbidden activities related to competition in the market of Bosnia and Herzegovina;</p>	<p>The new Law on Competition has been drafted and enforced in 2005. It is compatible with EU rules and regulations, and introduces leniency policy, efficient mechanisms for control of internal market and cooperation with international institutions in this area;</p> <p>The Law on Public Aid is still not enforced (in procedure);</p>	<p>The new Law on Competition is related to all forms of prevention, restriction or distortion of competition on the territory of Bosnia and Herzegovina or out of it if it has an impact on the territory of Bosnia and Herzegovina. Special attention is paid to agreements between undertakings, abuse of dominant position in the market and rules and procedures related to competition between undertakings;</p> <p>Since the new Law has regulated some of the issues in a rather general way, a series of by-laws has been drafted in 2006 which enabled further harmonisation with the Acquis;</p> <p>So far, the Council has got 16 cases to process (2 related to the market dominance agreements and the rest for giving opinion on competition issues). No cases have been reported to the Council from the energy sector.</p> <p>The Council and the regulatory commissions expect intensification of mutual</p>

			<p>cooperation, since decisions brought by the commissions should be submitted to the Council for giving a reason opinion if related to the competition area. So far, the SERC has recognised a significance and authority of the Council and submitted one of its decisions to the Council for issuance of opinion.</p> <p>No authority in Bosnia and Herzegovina is currently responsible for overseeing state aid granted in the country.</p>
Bulgaria	The Bulgarian Competition Authority (http://www.cpc.bg);	Law on Protection of Competition; State Aids Act;	The primary legislation aims to transpose the EU provisions on antitrust practices and State Aid;
Croatia	The Croatian Competition Agency (www.crocompnet.hr);	The Act on Protection of Competition from 2003; The Act on State Aid from 2005;	<p>Regarding the Acquis on competition, national legislation includes provisions related to prevention, restriction or distortion of competition;</p> <p>Agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between states are prohibited (Art. 9 of the Act on Protection of Competition from 2003);</p> <p>National legislation includes provisions prohibiting any abuse by one or more undertakings of a dominant position within the market (Art. 15 of the Act on Protection of Competition from 2003);</p> <p>National legislation prohibit for any public aid granted by the State which distorts competition by favouring certain undertakings (Act on State Aid 140/2005);</p> <p>There are no direct nor cross subsidies for electricity or gas. There is no state aid in electricity or gas. The Regulatory Agency works together with the Croatian Competition Agency on competition issues related to energy on the basis of a formally signed agreement. So far, only one complaint/opinion has been filed in from the EFET to the Regulatory Agency and the Ministry of Economy regarding a need to pay for a licence fee;</p>
The former Yugoslav Republic of Macedonia	Monopoly Authority, (www.mon.upr.gov.mk)	The Law against limiting competition (2000); State Aid Law (2003);	<p>The Minister for Economy and the Monopoly Authority are the monopoly bodies that according to the Law against limiting competition shall be competent for its enforcement;</p> <p>The Monopoly Authority comprises a Director, a Department for conducting managerial procedures and decision-making, and a Department for monitoring and analyses of market affairs. The decisions of the Monopoly Authority are being made in the decision-making department, which is formed as a separate department within the Management. The department</p>

			<p>for monitoring and analyses of market conditions is formed with the aim of procuring information based on which the department for conducting administrative procedures and decision-making will make decisions. The department summarizes information about the state of competition, information regarding the market condition, performs branch analyses, product analyses etc. This department may request insight in the financial and other work of enterprises with previous court approval;</p> <p>The Monopoly Committee is formed within the Government, which assesses the present condition of business concentration, assesses predictable trends and the development of concentrations from the aspect of economic policy, and especially the policy regarding competition, and an assessment of the dominant position and the mergers. The Monopoly Committee has a coordinative role in order to provide creating, implementing and development of competition policy;</p>
Montenegro	<p>Agency for competition does not exist in Montenegro;</p> <p>Within the Ministry of Economy there is an organisational unit called Trade Sector which is authorised to deal with competition related issues;</p>	<p>The Law on Protection of Competition from 2003;</p> <p>The Energy Law contains provisions related to competition (Art. 21) and competitive supply (Art. 38);</p>	<p>Related stipulations and provisions are put in place in existing legislation;</p>
Romania	<p>The Competition Council was set up in 1996;</p> <p>The role of the Competition Council is twofolded: corrective relating to its interventions to restore and maintain normal, competitive environments, and preventive related to its interventions that significantly prevent unfair competition on the market;</p> <p>The Competition Council is organised based on its role, in two directions: Mergers and Antitrust, and State Aid;</p>	<p>The Competition Council was set up by the Competition Law No.21/1996, amended and completed by the Government Emergency Ordinance no. 121/2003;</p> <p>For enforcing the rules implementing the state aid provisions referred to in Art.64, par.1 (iii) and 2 from the European Association Agreement, it has been adopted the Law on State Aid No. 143/July 27, 1999. The Law entered into force in January 2000;</p> <p>The Law on State Aid no.</p>	<p>National legislation includes provisions related to prevention, restriction or distortion of competition. Agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between states are prohibited by the national law on competition;</p> <p>National legislation includes provisions prohibiting any abuse by one or more undertakings of a dominant position;</p> <p>National legislation prohibits for any public aid granted by the State which distorts competition by favouring certain undertakings;</p> <p>There are no cross subsidies for electricity and gas. The regulatory authorities have concluded formal cooperation agreements with the Romanian Competition Council;</p> <p>So far only one case has been filed in regarding the possible abuse of a dominant position. Currently there are other two investigations ongoing;</p>

		143/1999 was amended and completed by the Law no. 603/2003 and the Government Ordinance no. 94/2004 on settlement of certain financial measures, in order to fully transpose and reflect the Acquis communautaire;	
Serbia	Competition Authority recently established;	2005 Law on Protection of Competition;	<p>The Law on Protection of Competition was adopted in September 2005. The law aims to transpose articles 81 and 82 of the Treaty establishing the European Community. Hence it includes provisions regarding those practices that violate competition the following; agreements between undertakings preventing, restricting or distorting competition; abuse of dominant position; or concentration leading to prevention, restriction or distortion of competition;</p> <p>The issue of aid granted by the State to certain undertakings which could distort competition is not however covered in this Law;</p> <p>With the recent establishment of the Competition Authority it is expected that Secondary legislation will be developed;</p>
United Nations Interim Administration Mission in Kosovo	Kosovo Competition Commission; The Energy Regulatory Office;	<p>Kosovo Law on Competition 2004/36 defines the Kosovo Competition Commission appointed by Assembly of Kosovo as Competent Authority for issues on competition;</p> <p>However, particularly for the energy sector, there are strict rules on law level, related to competition, which are in full compliance with the acquis. These are both in the Law on Energy (Chapter 6) and in the Law on the Energy Regulator (Article 16 in Particular);</p>	<p>The Law on Energy Regulator is giving the power to the Energy Regulatory Office who shall be responsible 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;</p> <p>On the ground of the Law on Energy Regulator (Article 15.4 (c), the Energy Regulatory Office is responsible for ensuring the creation and maintenance of competitive market when practicable, and the prevention and sanctioning of any anti-competitive conduct. This responsibility has been also assigned to the Regulatory office pursuant to Article 24 of the Law on Energy;</p> <p>In addition, the Law on Competition stipulates the establishment of Kosovo Competition Commission which has to be responsible authority for enforcing and promoting competition among enterprises and consumer welfare in Kosovo;</p>
Turkey	The Competition Authority, www.rekabet.gov.tr	The Competition Authority, having a public legal personality and an	The legal basis is provided by the Competition Law (The Act on the Protection of Competition). The competition legislation covers just anti-trust policies, not state aid control measures although those measures have been

administrative and financial autonomy is established in order to ensure the formation and development of a free and sound competitive environment. The Authority is independent in fulfilling its duties. The main tasks of Authority are as follows; a) to carry out, upon application or on its own initiative, examination, inquiry and investigation about the activities and legal transactions, b) to permit mergers and acquisitions, c) to monitor legislations, practices, policies regarding to competition;

required by the Customs Union Agreement that has been signed between Turkey and EU in 1995. However there is a draft law on issue;

The article 81 and 82 of EC Treaty are harmonised and adopted to a large extent by Turkish Competition Authority. However, article 86 and 87 of EC Treaty have not been adopted yet. Nevertheless it was notified that an amendment is under preparation regarding the adaptation of the Article 86 as the subject is linked with several authorities. The authorisation of Competition Authority is sought for the privatisation of energy related activities;

Regional perspective


































In general, the Competition Authorities have been just recently established. Their further institutional strengthening is needed as well as strengthening of their formal cooperation with the Regulatory Authorities on issues related to the energy sector. Legislation in the field of protection of competition exists, but further work is needed on legislation related to public/state aid.


Annex 3: *Institutional building and Competition authorities per each Contracting Party – Status H2 2006 (colour grading format)*


Annex 3 - Table 1: Benchmarking – Institutional Building


	Institutional Building										
	Main EU political framework	Energy policy tasks	Environ. policy task	RES policy tasks	Competition policy tasks	Regulatory authority		Primary legislation		Jurisdictions over tariffs	
						Elec.	Gas	Elec.	Gas	Method.	Fees
Albania	SAP (SAA signed)	Ministry (METE)	Ministry (MOE)	Ministry (METE)	Competition Authority	Yes	No	Yes	No	Regulator	Regulator
Bosnia and Herzegovina	SAP (neg. started)	Ministry (MVTEO)	Ministry (MVTEO)	/	Council of Competition	Yes	No	Yes	No	Regulator	Regulator
Bulgaria	EU ACC (neg. ended)	Ministry (MEE)	Ministry (MOEW)	Shared with MEE	Competition Authority	Yes	Yes	Yes	Yes	Regulator	Regulator
Croatia	EU CC (neg. started)	Ministry (MINGORP)	Ministry (MZOPU)	Ministry (MINGORP)	Competition Agency	Yes	Yes	Yes	Yes	Regulator	Ministry
The former Yugoslav Republic of Macedonia	EU CC (neg. not started)	Ministry (MECON)	Ministry (MOEPP)	Ministry (MECON)	Monopoly Authority	Yes	Yes	Yes	Yes	Regulator	Regulator
Montenegro	SAP (neg. stopped)	Ministry (MEKON)	Ministry (MINZS)	Ministry (MEKON)	/	Yes	No	Yes	No	Regulator	Regulator
Romania	EU ACC (neg. ended)	Ministry (MININD)	Ministry (MMEDIU)	Shared with MININD	Competition Council	Yes	Yes	Yes	Yes	Regulator	Regulator
Serbia	SAP (neg. suspended)	Ministry (MEM)	Ministry (MNTR)	Shared with MEM	Competition Authority	Yes	Yes	Yes	Yes	Regulator	Ministry
UN Interim Admin. Mission in Kosovo	SAP (UNMIK Pillar IV)	Ministry (MEM)	Ministry (MMPH)	Ministry (MEM)	Competition Commission	Yes	Yes	Yes	No	Regulator	Regulator
Turkey	EU CC (neg. started)	Ministry (ENERJI)	Ministry (CEV)	Shared with MENR	Competition Authority	Yes	Yes	Yes	Yes	Regulator	Regulator
Regional perspective	Existence of ministries of energy and environment are at satisfactory levels. However, this is not the case for RES and/or EnEff. Regulatory Authorities have been established. However, some of them are active only in the electricity sector. Establishment of Competition Authorities lags behind the other ones. Overall institutional capacity strengthening, new staffing and training programs are urgently needed. Usage of the EU pre-accession instruments should be intensified. From 2007 to 2013, IPA will be the main tool of EU assistance with concentration on institution building and alignment to the Acquis. It will facilitate the entry into the EU of candidate countries and potential candidate countries.										


Annex 3 - Table 2: Benchmarking – Competition

	Competition		
	Existence of competition authority	Act on protection of competition	Act on public/state aid
Albania			
Bosnia and Herzegovina			
Bulgaria			
Croatia			
The former Yugoslav Republic of Macedonia			
Montenegro			
Romania			
Serbia			
UN Interim Admin. Mission in Kosovo			
Turkey			
<i>Regional perspective</i>			

 Process has started recently

 Some provisions are available

 Some provisions are missing

 All provisions are available

Annex 4: *The benchmarking analysis on Party-by-Party basis – Unbundling provisions and access to accounts (electricity and gas)*

Annex 4 - Table 1: Electricity – Unbundling Provisions and Access to Accounts

Electricity	
Unbundling Provisions and Access to Accounts	
Albania	<p>Unbundling of activities (Art. 33) envisages only financial account unbundling (Para 1) and keeping separate accounts for each activity (Para 2);</p> <p>However, the TSO (OST) has been designated and its duties have been defined. It is unbundled in its legal form, organisation, and decision making. It is expected that the full ownership unbundling will be completed by the end of 2006;</p> <p>The TSO (OST) does not publish the rules regarding the dispatching of generation facilities. However, according to the Market Rules the OST is obliged to give to all interested parties and market players the information related to the market operation under request which is not treated as confidential. The rules regarding the balancing of the system are stated in the Grid Code (Rules of Dispatching);</p> <p>The DSO has not been designated yet;</p> <p>Combined TSO-DSO is not an option;</p> <p>National legislation (Energy Sector Law) envisages the unbundling of accounts of transmission and distribution from competitive activities. Under current credit agreements with IFIs, an independent financial audit of the financial statements of the electricity utility shall be obligatory made every year. The accounts of electricity undertakings are published (www.kesh.com.al);</p>
Bosnia and Herzegovina	<p>Transmission unbundling has been actively promoted within the scope of EU Directives and interpretative notes. Transmission activity is separated. A new company for transmission has been established and has started its operation from the beginning of 2006. It comprises the transmission assets of all three utilities. The assets are evaluated and transferred to the TransCo and the Independent System Operator which has been established earlier in 2005;</p> <p>Both companies have been licensed. Licensing conditions for licensed companies provide for a full access to audited accounts. The existing legislation envisages the unbundling of accounts of transmission and distribution from competitive activities;</p> <p>Both companies will have their own balance sheets published for year 2006. The State Electricity Regulatory Commission has an access to their accounts, as well as the Audit Office of the Institutions of Bosnia and Herzegovina;</p> <p>The unbundling of DSOs has not started yet in the FBH entity, while it has happened in the RS entity in its legal form. As the bottom line, the electricity utilities are still vertically integrated, having only transmission undertaking unbundled. In the FBH entity, the financial unbundling of the DSOs is envisaged in the beginning of that process, followed by the functional one. In the RS entity, there are already 5 DSOs with issued licences (form of the legal unbundling);</p> <p>Combined TSO-DSO is not an option;</p>

Bulgaria	<p>The National Electricity Company (NEK) has been appointed as the Transmission System Operator. Its tasks are defined in the Transmission Grid Code and the Electricity Market Rules;</p> <p>In the past months NEK has undergone a new restructuring in its pursue to full unbundling. The authorities are committed to achieve this goal by January 2007. A balancing market, based on the adopted Balancing Code, is operating under a provisional scheme;</p> <p>The tasks of the distribution network operators are defined in the Energy Law and further developed under the Distribution Grid Code. Further unbundling of the distribution operators in necessary as they are still undertaking network and retail activities. The authorities are committed to unbundle these activities as of January 2007. The rules for publishing the accounts are stated in the Accounting Act;</p> <p>The energy regulator is granted access to the accounts of the electricity undertakings under the provisions of the Energy Act. The Energy Act also obliges energy undertakings to keep separate accounts for each licensed activity. The energy regulator has adopted an Ordinance setting the rules for the separation of the accounts;</p>
Croatia	<p>The TSO has been designated and its duties have been defined (Arts. 11-14, Arts. 15-17 of the Electricity Market Act). It is unbundled in its legal form, organisation and decision making (although with leased assets). The rules regarding the dispatching of generation facilities and the rules regarding the balancing of the system are in preparation, and once drafted the TSO intends to publish them;</p> <p>The DSO has been designated and its duties have been defined (Arts. 11-14, Arts. 18-19 of the Electricity Market Act). It is unbundled in its legal form, organisation and decision making (although with leased assets). The DSO performs duties other than the operation of the distribution grid (supplying and billing end users until July 1, 2007);</p> <p>Combined TSO-DSO is not an option;</p> <p>The Regulatory Agency has been entitled to access the accounts of electricity undertakings (Art. 13 of the Electricity Market Act). The unbundling of accounts of transmission and distribution from competitive activities has been envisaged in the national legislation (Art. 14 of the Electricity Market Act). The accounts of electricity undertakings have been audited and published (HEP web page);</p>
The former Yugoslav Republic of Macedonia	<p>According to the Law on energy (Art. 70-77), the TSO has been designated and its duties defined. The TSO has been unbundled in its legal form, organization and decision making (even in ownership) according to the Law on energy (Art. 73 on independent decision making, Art. 6 para 5 on separate accounts), Law on transformation of the ESM (March 2004) and the Statute of the MEPSO, Licences obligations from Law on energy (Art. 42, 70-77), Annual Report of the Energy Regulatory Commission. The TSO is obliged to publish the rules regarding the dispatching of generation facilities according to the Transmission Grid Code. The rules regarding the balancing of the system are one of the obligations from the Transmission Grid Code;</p> <p>According to the Law on energy (Art. 78-82), the DSO has been designated and its duties defined. The DSO has been unbundled since September 2005 in its legal form, organization and decision making (even in ownership) according to the Law on energy (Art. 81 on independent decision making, Art. 6 para 5 on separate accounts), in accordance to Licences obligations (Annual Report of Regulatory Commission, page 14), unbundled since September 2005. The DSO performs duties other than the operation of the distribution grid. According to the Law on energy (Art. 68, 78, 80, 82), the DSO has four licences: 1) distribution of electricity, 2) operation of the electricity distribution system, 3) supply of electricity for retail tariff customers, and 4) distributed generation;</p> <p>The Energy Regulatory Commission has been designated as a competent authority entitled to access the accounts of electricity undertakings. The Law on energy defines provisions. The TSO and DSO have separate accounts because of unbundling and they are separate legal entities (Statute of MEPSO, Official Gazette no. 92/04). The TSO has to have separate accounting of regulated activities in accordance to the Licences obligations</p>

and the Rulebook of the method and conditions for regulating electricity prices (ongoing);

The national legislation envisages the unbundling of accounts of transmission and distribution from competitive activities. The Law on energy defines provisions. This is due to unbundling of transmission and distribution as new legal entities;

The accounts of electricity undertakings have been audited. The accounts are reviewed by proper consultancy which is chosen according to the procurement procedure;

The accounts of electricity undertakings have been published. It is obligation from the Law on trade companies, and Law on audit. Annual Reports bring out published accounts;

Montenegro

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 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;

Romania

The Romanian TSO has fully unbundled its network activities from generation and supply activities, through the provisions of the GD 627/2000, as well as the Licence 161/2000. The Wholesale Market Commercial Code, approved by ANRE Orders 25/2004;

The tasks of the Transmission System Operator are defined in Art. 32, 33 and 34 of the Electricity Act 318/2003, in the Government Decision 627/2000 regarding the re-organization of the National Power Company, as well as in the Licence nr. 161/2000. These include: to operate the balancing market (rules provided by ANRE Orders 20/2004 and 35/2004 – the Technical Grid Code, and 25/2004); to purchase ancillary services on market based procedures; to allocate interconnection capacities on market – based procedures, to award green certificates to green energy producers. The TSO is requested to publish rules for dispatching of generation capacity. The Electricity Regulator has access to the TSO accounts and approves the regulated tariffs;

The key tasks of the distribution network operators are outlined in the Electricity Act 318/2003 (Art. 37 and 38), the Government Decision 627/2000 as well as in the Distribution Licences;

Romania still has to unbundle distribution from supply and billing activities. The combined operator is not an option;

Access to the accounts of the electricity undertakings, as stated in the Electricity Act has the Electricity Regulator, the Fiscal National Authority, the Ministry of Public Finances and the National Audit Office. The electricity undertakings must submit annual reports to the Electricity Regulator their annual reports, according to their Licences. For the purpose of price regulation, the Regulator is entitled to request any accounting, technical or economical information from the companies.

Serbia

In July 2005 the incumbent vertical company was unbundled and EMS –in charge of transmission network activities and the operation of the system- was appointed as the TSO;

The Energy Law defined the tasks of Distribution System Operators. An Act was also adopted to establish five distribution companies under the ownership of the incumbent electricity company, EPS, which also has generation facilities. The Energy Law allows however Distribution System Operators to perform retailing to regulated customers without the need of legal and organisational unbundling;

The energy regulatory authority has the right to access the accounts of electricity undertakings. Accounting unbundling between energy activities is required under the Energy Law and companies are responsible of ensuring that the accounts are audited by an independent auditor. The reports must be submitted to the energy regulatory authority and publish them in accordance to the legislation regarding accounting;

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Transmission System Operator

- A separate chapter in the Law on Electricity deals in details with the Transmission System Operator (Chapter 4 – Articles 12-16). Further, the matter is also subject of the Law on the Energy Regulator, especially from the point of view of unbundling (Article 49);
- The law describes the tasks of the TSO. Further, relevant secondary legislation and rulings, concerning its functions are being finalized – this particularly refers to the Transmission Grid Code. Market rules are in place, although not applicable;
- The appointed TSO is a former part of the KEK (the Kosovo Electricity Company). It has recently been separated in accordance with the Decision of the Government on Restructuring/Unbundling of KEK, 28 June 2005, and by the corporatization of KEK and is still in a process of organizing its work from formal point of view. However, the preparations are that it starts working autonomously by 1st July 2006;
- Progress has been made on unbundling of KEK and its incorporation. KEK and a separate transmission entity were incorporated and KEK was therefore transformed into two Joint Stock Companies: KEK JSC and TransCo JSC;
- TransCo is still in a process of formation from the functional point of view. The work is ongoing and intention is that it starts working autonomously by 1st July 2006. The availability of the relevant legislation and further rulings, related to the operation of the system (currently finalized) will contribute to its proper operation;

Distribution System Operators

- The key tasks of the distribution network operator are outlined in the Law on Electricity (Chapter 5 – Articles 17 – 19). The Law on Energy Regulator gives particular authority to the regulator to authorize and control its activity in accordance with the licensing regime (Article 28, 32 etc.);

- Currently KEK performs distribution functions as well;

Access and unbundling of the accounts

- The Energy Regulator is fully entitled to access the accounts of the energy undertakings (Article 50 of the Law on Energy Regulator). The electricity undertakings must submit annually to the Energy Regulator their financial statements and the audit reports. For the purpose of price regulation, the Energy Regulator is entitled to request any accounting, technical or economical information from the companies;
- The electricity companies are requested under the Law on Energy Regulator to keep separate accounts for energy licensed activity (Article 49);

Developments July – December 2006

TSO has been legally unbundled from the KEK since July 2006. The PISG of Kosovo nominated the Kosovo Transmission System and Market Operator J.S.C (KOSTT) as TSO and MO enterprise in Kosovo in July 2006. ERO licensed it in October 2006;

Turkey

The Turkish Electricity Transmission Company (TEIAS) is the company responsible for the transmission network activities and for the operation of the system. The tasks are defined in both the Electricity Market Law and in the Electricity Market Licensing Regulation. Accounting unbundling is required between both regulated activities. The rules regarding the operation of the system, the dispatching of generation facilities and the balancing of the system are defined in the Transmission Grid Code and in the balancing and settlement Regulation;

The Turkish Electricity Distribution Company (TEDAS) is expected to be privatised and divided into smaller companies. For this purpose 21 distribution regions have been defined. A call for tenders is expected to be issued by the end of 2006. During a transitional phase of 5 years there will be no price differences across the country allowing therefore a cross regional subsidization. The Electricity Market Law and the Electricity Market Licensing Regulation will allow however for the privatised electricity distribution companies to request a license for generation. The distribution companies are also allowed to undertake retail activities with only account unbundling between the activities. In fact non-eligible customers are being supplied by the distribution company;

Account unbundling has been achieved. However, there has been no action yet to unbundle legally and organisationally the network activities from the liberalised activities. The Electricity Market Law requires the licenses' holders to allow the energy regulator to access and audit their accounts. This same Law also requires licensees to keep separate accounts for each activity. The Electricity Market Licensing Regulation (Art. 41) further develops the requirements for the unbundling of accounts and for avoiding cross-subsidies between activities;

Regional perspective

In general, unbundling provisions and provisions related to access to accounts are put in place. However, their full practical implementation and monitoring shall be of immediate first priority to the Contracting Parties.

Annex 4 - Table 2: Gas – Unbundling Provisions and Access to Accounts

Gas	
Unbundling Provisions and Access to Accounts	
Albania	No gas regulatory framework has been put in place yet;
Bosnia and Herzegovina	No gas regulatory framework has been put in place yet;
Bulgaria	The unbundling between natural gas activities (Bulgargas and others) are foreseen by Energy Law. Bulgargas EAD is a vertically integrated company performing activities on public supply, transmission, transit and storage of natural gas. Account unbundling between these activities is already in place. Although the legal, organizational and managerial unbundling are foreseen for transmission and supply activities by Energy Law, the unbundling of Bulgargas has not been completed yet. Bulgargas is expected to complete the unbundling of its activities by the end of 2006. The unbundling of distribution activities belonging to Bulgargas has already been completed and all the distribution activities are carried out by private companies which have been selected by a tender process carried out by regulatory authority;
Croatia	Currently the TSO is unbundled. DSO(s) will be unbundled in compliance with the Directive 2003/55/EC (legal organisational and decision making) at is foreseen for the year 2008. At the moment one DSO will have to be unbundled, but there are ongoing discussions on how to improve the cost structure and efficiency of small and medium sized DSOs (the high number of DSOs is a result of the domestic production, since gas which was produced in combination with oil was supplied to local communities in order to avoid flaring of the gas and so small DSOs developed). This could happen by merging some of them;
The former Yugoslav Republic of Macedonia	The legal entity that performs energy activity of public interest, if performing another energy activity, is liable in his accounting to provide separate bookkeeping for each of the energy activities of public interest it performs. The legal entity who performs energy activity of public interest submits its audited annual financial reports to the Regulatory Commission as well as its consolidated accounting reports of other activities and will submit a balance report with a review of the revenues, expenses, sources of financing of the investments, means of financing of the investments, and the business results of each of the activities separately; However there is no article regarding to unbundling of transmission and distribution activities;
Montenegro	No gas regulatory framework has been put in place yet;
Romania	Currently the accounting unbundling fro TSO and DSO is in place, the provisions for the legal and functional unbundling are being prepared; accomplishment/implementation is foreseen for the beginning of 2007. The regulatory authority has access to the regarding accounts;
Serbia	The Energy Regulatory Authority has the right to access the accounts of natural gas undertakings. Accounting unbundling is adopted in the

	<p>Energy Law and the energy regulator is responsible of its monitoring and has right to access to accounts. The natural gas entities are required to publish their account reports and submit the balance sheets and auditing report to Regulatory Agency;</p> <p>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;</p>
United Nations Interim Administration Mission in Kosovo	No gas regulatory framework has been put in place yet;
Turkey	The unbundling of natural gas activities (BOTAS and others) are foreseen by Natural Gas Market Law in parallel with the 2003/55/EC Gas Directive. BOTAS is a vertically integrated company performing activities on supply, transmission, distribution, LNG, storage of natural gas. The account unbundling is envisaged between all natural gas activities by Law. EMRA has right to access of all accounts of market participants. The legal unbundling of BOTAŞ between transmission, storage and trade is foreseen to be completed within two years after 2009. The new transmission and distribution companies are also obliged to unbundle their activities from the other activities other than transmission and distribution;
Regional perspective	In general, accounting unbundling between different activities is foreseen by almost all countries. However the legal, managerial and organisational unbundling of TSOs and DSOs are not clearly defined or foreseen by the some countries.

Annex 5: The Action Plans on implementation of the Treaty - Unbundling/transparency of accounts: rights of access to accounts and unbundling of accounts (extracts from the Electricity and Gas Action Plans)

Annex 5 - Table 1: The Action Plans on implementation of the Treaty - Unbundling/transparency of accounts (extracts from the Action Plans)

	Electricity	Gas
	Unbundling/transparency of accounts	Unbundling/transparency of accounts
	Rights of access to accounts (item 1.14) and Unbundling of accounts (item 1.15)	Rights of access to accounts (item 1.16) and Unbundling of accounts (item 1.17)
Albania	<p>Based on the Power Sector Law (Art. 8) the ERE monitors and controls services and accounts in respect to the terms of licenses.</p> <p>Power Sector Law envisages the unbundling of accounts of transmission and distribution from competition activity (Arts. 21, 22, 23).</p> <p>Electricity undertakings have to draw up balance sheets showing revenues, expenditures and results for each activity pursuant to the Power Sector Law (Art. 23).</p> <p>The accounts of electricity undertaking are audited independently and published (www.kesh.com.al). The TSO's web site is under construction and will be fully completed by the end of 2006 when its accounts will be uploaded.</p>	
Bosnia and Herzegovina	<p>The ISO is a subject to the regulation of the SERC. The SERC is entitled to inspect the books and records of the ISO.</p> <p>According to the ISO Law and the TransCo Law, the SERC has a right of access to the accounts of the ISO and the TransCo.</p> <p>Legally unbundled.</p> <p>The SERC has not consumed its right so far (according to the Laws, it is not obliged to do so, but has a right of access). The ISO is obliged to publish an annual report on its affairs during the fiscal year in the Official Gazette of BiH. Annual report has been published for a part of the year 2005.</p> <p>Article 7 of the Electricity Law F BiH("Official Gazette of F BiH"; 41/02,24/05 and 38/05) defines the obligations of the electricity</p>	Draft Gas law is in preparation including account unbundling.

	<p>undertaking towards separate accounting and financial reporting.</p> <p>The Action plan of the F BiH for restructuring and privatization of the electricity sector in BiH (“Official Gazette of F BiH”; 31/05) within the phase 1 also requires unbundling of accounts.</p> <p>Adopted documents of the FERC such as the Licensing Rules (“Official Gazette of F BiH”; 29/05) and the Book of rule for tariff methodology and tariff proceedings (“Official Gazette of F BiH”; 45/05; Articles 7 and 67), also require unbundling of accounts.</p> <p>The FERC makes audits on a continuous basis.</p> <p>Articles 23, 32 and 113 of the Law on Electricity (Official Gazette of RS 6/02, 29/03, 86/03, 117/04) and the Terms and conditions of the issued temporary licenses define the Right of Supervision. Audit has been made so far and the report has been published.</p> <p>Terms and conditions of the issued licenses and Rule on tariff methodology and tariff proceeding define obligation for the unbundling of accounts and audit of the unbundled accounts segments.</p>	
Bulgaria	<p>The provisions regarding unbundling/transparency of accounts, rights of access to accounts and unbundling of accounts are reflected in articles 37 - 38 of the Energy Act.</p>	<p>Rights of access to accounts - Energy Act: Art. 38 – submission of accounting information to the energy regulator.</p> <p>Unbundling of accounts - Energy Act: Art. 37 – unbundled accounting by types of activities provision and Art. 31 - principle of prohibition of cross subsidies through the prices.</p>
Croatia	<p>Rights of access to accounts - Act on the Regulation of Energy Activities (Croatian Official Gazette 177/04), Article 10.</p> <p>Unbundling of accounts - Energy Act (Croatian Official Gazette 68/01 and 177/04), Article 21.</p>	<p>Rights of access to accounts - Act on the Regulation of Energy Activities (Croatian Official Gazette 177/04), Article 10.</p> <p>Unbundling of accounts - Energy Act (Croatian Official Gazette 68/01 and 177/04) Article 21.</p>
The former Yugoslav Republic of Macedonia	<p>Article 6 of the Energy Law.</p> <p>Additional obligations are given by the licenses.</p>	<p>According to the Article 6 of the Energy Law, if the legal person that performs energy activity of public interest performs energy activity that is not of public interest, that person is obliged in the accounting to supply separate accounting for each energy activity performed of public interest. The legal person that performs energy activity of public interest submits the annual audited financial reports to the Energy Regulatory Commission as well as consolidated accounts for the other activities and balances with review of the incomes, expenditures, financing sources, the manner of financing of the investments and the results of the working for each of the activities separately.</p>

Montenegro	<p>Rights of access to accounts - Regulator is allowed to control the companies including accounts. Energy Law, art.12 (3) and 12 (4).</p> <p>Unbundling of accounts - Unbundling of accounts is in procedure.</p>	/
Romania	<p>Rights of access to accounts - There are several entities that are entitled to access the accounts of the electricity undertakings as stated in the Electricity Law; these are the Electricity Regulator, the Fiscal National Authority, the Ministry of Public Finances and the National Audit Office. The electricity undertakings must submit annual reports to the Electricity Regulator, according to their Licenses. For the purpose of price regulation, the Regulator is entitled to request any accounting, technical or economical information from the companies.</p> <p>Unbundling of accounts - Romania has put into force unbundling of accounts (art. 17) in Electricity Law no. 318/2003 and Licenses conditions.</p>	<p>Rights of access to accounts - ANRGN is entitled to access information and documents related to the activity of the gas undertakings, including their accounting books. (Gas Law No. 351/2004 with subsequent amendments, art. 9). The confidentiality of all the information obtained while or as a consequence of service responsibilities within ANRGN is compulsory for the entire personnel and for the members of the Advisory Council, as per law. (Gas Law No. 351/2004 with subsequent amendments, art. 13, para. 2).</p> <p>Unbundling of accounts - Natural gas licensees have the obligation to draw up, to submit for approval to ANRGN and to publish annual accounting reports, in compliance with the legislation in force; within their internal accounting system separate accounts shall be kept for storage, production, transmission, distribution and supply of natural gas, same as the relevant accounting corresponding to the respective activities accomplished by the operators in the sector, in order to avoid discrimination, cross subsidies and altering competition. (Gas Law No. 351/2004 with subsequent amendments, art. 17). ANRGN has the responsibility to monitor the effective unbundling of accounts for the storage, transmission, distribution and supply activities of natural gas, LNG - liquefied natural gas, LPG -liquefied petroleum gas, CNGV-compressed natural gas for vehicles, in order to make sure that cross subsidies are prevented. (Gas Law No. 351/2004 with subsequent amendments, art. 8, let. p), point 8).</p>
Serbia	<p>Right of access to accounts - Energy Agency of the Republic of Serbia (AERS) is authorized to request any information and documents it deems necessary to perform its regulatory activity (Energy Law, Art.15-16).</p> <p>Unbundling of accounts - The Energy Law envisages the unbundling of accounts for all energy activities performed by one energy entity. Accounts of electricity undertakings are audited independently and auditing reports are published. Electricity undertaking draws up balance sheets showing revenues, expenditures and operating results for each activity individually pursuant to (Energy Law, Art.43) and laws regulating commercial entities business operations, accounting and auditing.</p>	<p>Rights of access to accounts - AERS may request any kind of information and documents it deems necessary to perform its regulatory activity. The Energy Law envisages the unbundling of accounts for all energy activities performed by one energy entity (Energy Law, art. 43). AERS is responsible for monitoring the account unbundling (Energy Law art. 15, 16).</p> <p>Unbundling of accounts - Energy Law art. 43. The Energy Law envisages the unbundling of accounts for all energy activities performed by one energy entity.</p>

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Rights of access to accounts - Based on the Law on Energy Regulatory (Article 50), Energy Regulatory Office (ERO) have the right to access the accounts of the energy enterprises to carry out their functions.

Unbundling of accounts - Unbundling of accounts is envisaged in the Rule on Licensing and licenses as well. Implementation of Rules defined in accounting acquis by undertakings is in initial stage. Unbundling of accounts for all electricity activities pursuant to the provision in the Law on Energy Regulator (Article 49) is a License Condition in Licenses that are in the process of being issued to the energy activities. A separate account for supply of eligible and not-eligible customers is required in relevant licenses for KEK and suppliers but isn't applicable yet. KEK will to draw up, submit to audit and publish its annual accounts for 2006 according to rules defined in accounting acquis, and will do so annually thereafter. Separate accounts for the generation, distribution and supply activities will be introduced as part of KEK's internal accounting. In addition, separate accounts for supply activities for eligible and non-eligible customers will be introduced in Jan 2007.

Annex 6: Environmental aspects as seen by the Electricity Transition Strategy

Annex 6 - Table 1: Environmental aspects as seen by the Electricity Transition Strategy

Environmental Aspects from the Electricity Transition Strategy (subchapters 10.1 Legislative Framework and 10.2 Energy Efficiency)	
Albania	The environmental issues are addressed through their alignment with the Acquis Communautaire in accordance with the negotiated timetables. If the new plants are constructed and financed by the international community, the EU environmental norms and standards will be applied. There are different institutions in Albania that are in charge with environmental aspects of energy such as Ministry of Economy, Trade and Energy, Energy Efficiency Centre, APC (KESH). Energy efficiency law was ratified in April 2005. The objective is to establish an efficient energy sector from financial and technical points of view and to increase the energy efficiency in generation/production and final use of energy sources aiming at minimal environmental pollution. National Agency of Energy (NAE) deals with energy efficiency as well as energy policy and planning issues. In cooperation with EU, since 1995 the Energy Efficiency Centre has been established in Tirana.
Bosnia and Herzegovina	The environmental issues are not yet addressed through their alignment with the Acquis Communautaire in accordance with the negotiated timetables. However, if the new plants are constructed and financed by the international community, the EU environmental norms and standards will be applied. There are some of national energy efficiency, energy conservation and renewable energies policies applied to motivate customers to use energy more efficiently, such as time of day metering in the domestic sector, industrial two-part tariffs etc. There is no any national energy efficiency agency.
Bulgaria	Not responded to the questionnaire.
Croatia	The environmental issues are addressed through their alignment with the Acquis Communautaire in accordance with the negotiated timetables which are defined within the negotiating procedure in the EU accession process. The EU environmental norms and standards are applied in case that the new plants are constructed and financed by the international community. There are convincing and solid national energy efficiency, energy conservation and renewable energies policies applied to motivate customers to use energy more efficiently, but however they shall be improved in respect of “motivation” policy. National Fund for Environmental Protection and Energy Efficiency has been established, but however there is no any particular national energy efficiency agency in place. Instead, there are institutions/companies dealing with energy efficiency such as ESCO company and Energy Institute Hrvoje Pozar.
The former Yugoslav Republic of Macedonia	The negotiated timetables related to the environmental issues addressed through their alignment with the Acquis Communautaire are in accordance with the planned implementation. In all new plants that are constructed and financed by the international community, the EU environmental norms and standards will be applied. National energy efficiency, energy conservation and renewable energies policies applied to motivate customers to use energy more efficiently are in the process of defining. Appropriate customer response mechanisms are important and should be considered. The policies and policy measures should be sector – related in respect of energy intensity. The Energy Agency, which is in the course of establishment (2006), is in the same time the national energy efficiency agency.
Montenegro	The environmental issues are addressed through their alignment with the Acquis Communautaire in accordance with the negotiated timetables. If the new plants are constructed and financed by the international community, the EU environmental norms and standards will be applied. With respect to convincing and solid national energy efficiency, energy conservation and renewable energies policies, 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.

	<p>During March 2005 the Strategy of Energy Efficiency of Montenegro was finalized. Action plan for implementation of the Strategy for 2006 was adopted in March 2006. There is no any particular national energy efficiency agency, but 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.</p>
Romania	<p>Romania has concluded the negotiations of Chapter 22 on Environment for the EU Accession and adopted all the primary legislation related to the Acquis. The EC Directive on the limitation of emissions of certain pollutants into the air from large combustion plants was also adopted; 174 large combustion plants were found that need to be made compliant with the EU standards and the transitory period is till 2017. Romania has an excess of carbon credits of approx. 50 million tons per year, equivalent of CO₂, for the first commitment period and has adopted a National Climate Change Strategy and Action Plan, created a Directorate for Climate Change in the Ministry of Environment and Water Management and is planning to harvest the carbon credits. The National Environmental Fund is operational and lends soft money to companies and municipalities for environmental projects, included in the area of climate change. The National Energy Efficiency Strategy was adopted in 2004 and is implemented by the Energy Conservation Agency; a new, amended Law on Energy Efficiency nr. 97 was passed in March 2006. Most EU directives regarding the energy labelling of household appliances are adopted.</p>
Serbia	<p>The environmental issues are addressed through their alignment with the Acquis Communautaire in accordance with the negotiated timetables. If the new plants are constructed and financed by the international community, the EU environmental norms and standards will be applied. Convincing and solid national energy efficiency, energy conservation and renewable energies policies are in the process of establishing. Response of consumers to use energy more efficiently is very important. The policies should be sector related with the respect of energy intensity. Serbian Energy Efficiency Agency is re-established by the new Law on Energy.</p>
United Nations Interim Administration Mission in Kosovo	<p>Not responded to the questionnaire.</p>

Annex 7: The benchmarking analysis on Party-by-Party basis – Environment (narrative format)

Annex 7 – Table 1: Environment – Legislative Basis, Institutional Issues, Kyoto/UNFCCC and Specific Characteristics

Environment				
	Legislative Basis	Environmental Strategy, Action Plan, Agency and Fund	Kyoto Protocol and UNFCCC	Specific Characteristics
Albania	Along ongoing negotiations of the SAA, Albania expressed its willingness to form a required environmental legal framework, especially by enabling public participation and start watching GHG emissions;	/	Albania ratified the UNFCCC in October 1994 and it entered into force on 1 January 1995; As a party to the Convention, Albania has finalized and has submitted its First National Communication in October 2002; In December 2004, Albania's Parliament ratified the Law for ratification of the Kyoto Protocol;	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; With respect to the CDM Albania has started some work trying to get a benefit out of it;
Bosnia and Herzegovina	The SAA demands inclusion of environmental provisions into the legislation through various instruments, laws and institutions. Negotiation team has been established at the state level for the SAA; The establishment of a nationwide and harmonised legal framework for environmental protection is very important; Environmental issues are	There is an absence of environmental policy and strategy; Although the National Environment Action Plan exists, there is no capacity amongst the authorities for deciding on priorities, policy or measures to implement it; Integrated system for management of environmental protection is needed; Administrative capacity of the Agency needs to be	With respect to the Kyoto Protocol, the Ministry of Foreign Trade and Economic Relations is the one who shall proceed further on. Related initiatives currently come mostly from the NGOs' side; Bosnia and Herzegovina currently does not have calculations of the GHG emissions, but they would like to follow Croatian pathway related to the calculation procedure. In past three years there has been a continuing dispute with Croatia over calculation of the emissions related to common investments in power generation plants in Bosnia and Herzegovina (only emissions	Entity level legislation provides for Environmental Impact Assessment (EIA) on the basis of the EIA Directive. Both entities have adopted by-laws on EIA. In the FBH entity, regulation on environmental permits for existing facilities was also adopted; There are no formal obligations to go into the process of harmonisation with the EU directives related to environmental protection. This process has been voluntary and supported through the EC/Phare programme; The provisions of the Bird/Habitat directive are included in the Law of Environmental Protection in the FBH entity, but the provisions from the Sulphur one are still missing. There is no plan related to the Bio-fuel Directive;

	<p>primarily dealt with at the entity level through laws, regulations and standards;</p> <p>There is no legislation on environment at the state level;</p> <p>Existing legislation adopted key items from the key environmental directives;</p> <p>The first draft of the Law for Environmental Protection has appeared recently, as well as the Law for Establishment of Agency for Environmental Protection;</p> <p>So far, at the FBH and RS entity levels, there are 5 laws related to the environmental protection and fund/funds for environmental protection. There are ongoing activities to formulate corresponding fund authority/authorities. These laws have motivated a drafting of by-laws, but with a limited success due to insufficient capacity for their finalisation;</p>	<p>significantly strengthened to ensure it can carry out the tasks listed in the proposed draft law;</p> <p>Strengthening of the capacity of the Ministry of Foreign Trade and Economic Relations and establishing of a state environmental agency is already recommended by the EU. Establishment of the Agency for Environmental Protection which is a pending activity for 2006 through CARDS;</p> <p>The Environmental Funds are in the process of establishment on the basis of 'polluter pays' principle, but currently envisaged as dealing only with water issues. They are based on the experiences with the Fund from Croatia, with majority of fee collection coming from the process of car registration. There are actually two Funds envisaged for this purpose according to two environmental laws in the two entities. There is no fund envisaged at the state level;</p>	<p>originating from the territory of the country should be included in the calculation of the referent value in 1990);</p> <p>There are expectations that these disputes are going to be solved soon, which would enable Bosnia and Herzegovina to realise various CDM projects that are offered in large numbers;</p> <p>The mechanism is conditioned by previous ratification of the Kyoto Protocol which is under jurisdiction of the Ministry of Foreign Trade and Economic Relations and not under the entities;</p>	<p>Most of the items that have been included are operationally not applied at all;</p> <p>Administrative capacity in the field of environmental protection is insufficient;</p> <p>Although the international technical assistance is present in the energy sector, it is insufficient in the environmental protection which also seeks for a unified approach;</p> <p>The institutional structure in this field is complex and there is a lack of central coordination and implementation even for international agreements;</p> <p>Fragmentation does not contribute to unified care of the environment as asked by relevant EU regulations. In addition, stronger state level responsibility for environment is not always accepted at the entity levels. Absorption capacity is also very limited, as well as own financial resources, which has a negative effect on the possibilities to put in place important environmental investments;</p>
Bulgaria	During Bulgaria's negotiations towards accession to the EU, the chapter on environment			The legal basis regarding the effects of certain public and private projects on the environment is provided by the Environmental Protection Act and the Regulation on the terms and conditions

	was opened in July 2001 and closed in December 2004;			for carrying out an Environmental Impact Assessment; The emissions by combustion power plants is covered through the Regulation on the emission limit values of SO ₂ , NO _x and dust discharged to the atmosphere from large combustion plants and the Regulation on the requirements to liquid fuels, terms, procedures and method of control. The Ministry of Environment and Water is the institution responsible of monitoring SO ₂ emissions; A number of legal measures have also been adopted to protect wetland areas. Some of these are the Law on Biological Diversity, Protected Areas Act, Law on Hunting and Game Protection, Law on Fishing and aquacultures, Regulation on Developing Protected Areas Management Plans, etc;
Croatia	<p>Croatia is in the process of EU accession. The screening process is ongoing. The Acquis on environment is larger for the EU accession than for the EnC Treaty, and therefore from the Treaty perspective there are no problems foreseen if the EU accession one would be fulfilled;</p> <p>The CARDS 2002 project "<i>Strategy for EU Environmental Law Approximation</i>" commenced in June 2004;</p>	<p>National Environmental Strategy and National Environmental Action Plan are prepared in 2002;</p> <p>The CARDS 2004 two-year project "<i>Capacity Strengthening Measures for the Croatian Environment Agency</i>" commenced in October 2004;</p> <p>Environmental Protection and Energy Efficiency Fund was established in 2003 and became operational in 2004;</p> <p>Action plan on energy efficiency is needed. Road map for renewable energy</p>	<p>Strategy for the implementation of the UNFCCC and Kyoto Protocol in Croatia is under preparation;</p> <p>Ratification of the Kyoto Protocol to the United Nations Framework Convention on Climate Change is listed as a mid-term priority;</p> <p>The timeframe for complying with the Kyoto Protocol envisages its ratification in the first quarter of 2007;</p> <p>The Draft of National Communication on Climate Change (2nd, 3rd and 4th) covering the period 1996-2003 has been prepared. After reviewing by the Committee, the State Council and the Parliament Committee, the Croatian National Communication on Climate Change will be submitted to the UNFCCC</p>	<p>Implementation of two large projects has begun, co-financed by GEF, through the World Bank and UNDP: 1) Croatian Energy Efficiency Project, and 2) Removing Barriers for Implementation of Energy Efficiency in the Service and Household Sector. The total budget for these projects is 43.5 million USD. The Croatian Renewable Energy project is in its final stage of preparation and with a budget of 13.4 million USD it shall stimulate the utilisation of biomass, wind energy and small hydro-power plants;</p> <p>Compliance with the Kyoto Protocol may be problematic. Since it asks for an integrated approach to tackling climate change, electricity generation planning in Croatia may be brought in a difficult situation. The GHG emission level from the 1990 (which is taken as a base year and a subject to increase/negotiation) has a particularly large impact to electricity generation planning in Croatia. Without further negotiation</p>

		is needed in order to set up a predictable framework for the long term development of RES. Strategic energy technology plan should include development of both energy efficiency and renewables technologies. Action plan is needed at state level to comply with the Directive 2003/30/EC;	Secretariat in October 2006;	of the level it would be almost impossible to build any new thermal power plant in Croatia;
The former Yugoslav Republic of Macedonia	<p>The Law on Environment (2005);</p> <p>The Law on ambient air quality (2004);</p> <p>The Law on nature protection (2004);</p> <p>The Law on waste management (2004);</p> <p>Decree determining the projects for which an environmental impact assessment shall be carried out;</p> <p>Ordinance regulating the procedure for carrying out environmental impact assessment;</p> <p>National environmental health action plan;</p> <p>National environmental action plan;</p> <p>Technical report on EIA and IPPC;</p>	<p>Vision 2008 - The Roadmap of the Ministry of Environment and Physical Planning;</p> <p>Environmental Monitoring Strategy;</p> <p>Environmental Communication Strategy;</p> <p>Environmental Awareness Strategy;</p> <p>Environmental Data Management Strategy;</p> <p>The Fund of Environment was established by the end of 1997, on the basis of Articles 30 and 31 of the Law on Environment and Nature Protection and Improvement, in order to mobilize the available financial resources in the country and potential financial resources originating from abroad and to channel them towards undertaking</p>	<p>In November 2004 FYR Of Macedonia has acceded to the Kyoto Protocol which has entered into force in February 2005;</p> <p>FYR Of Macedonia has submitted the First National Communication under the UNFCCC (acceded 1998) in March 2003;</p>	<p>The Office of Environment has been established as a constituent part of the Ministry of Environment and Physical Planning for the purpose of performing professional activities in the domain of environment and nature protection and improvement;</p> <p>The main goal of the Office of Environment is to establish efficient and integrated system of environmental protection, a system that will improve the quality of the environment and contribute to the efforts of the Government to achieve sustainable development;</p> <p>The Office of Environment carries out professional activities and technical supervision over protected parts and items of nature, over sources of pollution of soil, water and air, proposes professional, technical and technological solutions for reduction and prevention of environment and nature pollution and degradation, elaborates technical documentation in the domain of environment and nature protection and improvement, conducts measurements and monitors the state of and changes in environment and nature;</p> <p>The Budget of the Fund is independent from the budget of the Ministry of Environment and Physical Planning, and is allocated on the basis</p>

		preventive and remedial measures aimed at environment protection. The new Law on the Fund will specify in more detail the criteria for allocation of the Fund's resources to environmental areas;		of the Program adopted by the Government;
Montenegro	<p>The Environment Law is a fundamental legislation which makes the framework for the so called environmental legislation;</p> <p>The Republic of Montenegro established the mark „ECOLOGICAL STATE OF MONTENEGRO“ expressing its identity as an ecological state;</p> <p>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;</p> <p>Directive 2001/80/EC has not been transposed yet. Directive 1999/32/EC is under jurisdiction of the Ministry of Economy;</p>	<p>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);</p> <p>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;</p>	<p>Parties that are eligible to sign the UNFCCC are State Members of the United Nations. The state union of Serbia and Montenegro, under its former name Federal Republic of Yugoslavia, acceded to the Convention on 12th March, 2001;</p> <p>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;</p> <p>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 after Montenegrin referendum on independency;</p> <p>Until 27th 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;</p>	<p>The Law on Environmental Impact Assessment has passed a procedure in the Parliament in December 2005, and will be enforced in January 2008;</p> <p>The EIA is obligatory for all new projects in the energy sector since 1997;</p> <p>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 the Kyoto Protocol, while it could enjoy significant benefits. Only UN member states have the right to accede to the Convention and Kyoto Protocol;</p> <p>It is essential that compiling of the First National Communication on Climate Change is initiated. The communication would also include the <i>Inventory of Greenhouse Gases</i>, as well as long-term projections of GHG emissions in the future;</p> <p>Administrative capacity in the field of environmental protection is insufficient. International technical assistance is necessary in the field of environmental protection;</p>

Romania	The negotiations with the EC on Environment were concluded in 2004;	Romania has a Strategy for Environmental Protection, a National Agency and 8 Regional Agencies for Environmental Protection and the Environmental Guard; The National Environmental Fund is operational and lends soft money to companies and municipalities for environmental projects, included in the area of climate change;	Romania ratified the UN Framework Convention on Climate Change in 1994 and the Kyoto Protocol to the UNFCCC in 2001; In 2005, Romania adopted the National Strategy on Climate Change and the National Action Plan on Climate Change, as well as sent the 3 rd National Communication on Climate Change to the UNFCCC Secretariat;	The EC Directives 1999/32/EC and 2001/80/EC regarding the maximum sulphur content in fuels for combustion power plants were transposed in the Romanian legislation. The maximum content of 1 sulphur is limited to 1 % starting with 1 January 2007. EC Directives 2003/35/EC, 85/337/EC and 96/61/EC on public consultations in respect of drawing plans and programmes related to the environment, were also transposed; Directive 79/409/EC was adopted through the Law 5/1991 related to the UN Convention on Wetlands, as well as the Environment Minister's Order nr. 1198/2005 that modifies and completes annexes II and III to the Law 662/2001; The legal framework is in place and in compliance with EC Directives. Nevertheless, the implementation of the Directives will be very costly and very cumbersome;
Serbia	Some legislation has been passed;	National Environmental Strategy is under preparation;	The Ministry of Environment and the European Agency for Reconstruction have prepared a Draft National Environmental Strategy which is at present under inter-Ministerial consultation. The document intends to cover all the economic activities and also includes an economical assessment of its implementation estimated in 4b euros during the period 2005-2014. About 30% would account for expenditure in the energy sector;	
United Nations Interim Administration Mission in Kosovo	The Energy Strategy and the energy legislation pay particular focus to the environment. Further to the principle approach, indicated in all acts, protection of the environment is a particular criterion for granting		The Party considers further concrete steps as to implement the directives, listed in the environmental acquis in the Treaty, and in particular 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, whose implementation is due one	

licenses (Article 30.2 of the Law on the Energy Regulator);

year after the Treaty comes into force;







































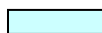









Certainly, as the development of the energy legislation is very advanced and as there is a particular focus on the environmental issues on strategic level, this will hardly cause any particular problems to be fulfilled in due time;

Regional perspective

Alignment to the Environmental Acquis as given by the EnC Treaty needs significant further work. Even more difficulties will appear when it comes to proper implementation of adopted legislation. Activities on establishment of environmental funds shall be intensified, and if possible, put into wider contexts through environmental strategy. Environmental agencies shall be established and strengthened where they exist. Kyoto Protocol and UNFCCC related activities also need intensification.

Annex 8: The benchmarking analysis on Party-by-Party basis – Environment (colour grading format)

Annex 8 – Table 1: Benchmarking – Environment

	Environment								
	Existence of respective framework in environment				Ratification of Kyoto Protocol	Submission of Nat. Comm. to UNFCCC	Adoption of Directives		
	Strategy	Action Plan	Agency	Fund			85/337/EEC	1999/32	79/409/EEC
Albania	N/A	N/A	N/A	N/A		N/A	N/A	N/A	N/A
Bosnia and Herzegovina							N/A	N/A	N/A
Bulgaria	N/A	N/A	N/A	N/A					
Croatia							N/A	N/A	N/A
The former Yugoslav Republic of Macedonia								N/A	N/A
Montenegro	N/A	N/A					N/A	N/A	N/A
Romania									
Serbia				N/A				N/A	N/A
UN Interim Admin. Mission in Kosovo	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Turkey	N/A	N/A	N/A	N/A			N/A	N/A	N/A
Regional perspective	N/A						N/A		



Annex 9: 2006 Progress Report – Sectoral Policy: Energy (extracts from the European Commission’s annual estimation of progress in energy)

2006 PROGRESS REPORT

- Sectoral Policy: Energy -

Albania³⁰

The sixth Power Section Action Plan has been approved. Albania has ratified the Energy Community Treaty and has begun to adopt the relevant *acquis*. A tariff revision has been agreed between the State Electricity Company (KESH) and the World Bank and submitted to the regulatory authority. A task force has been set up under the Ministry of Economy, Trade and Energy to take forwards the restructuring and privatisation of the electricity sector.

Some improvements were made as regards national energy supply following the latest serious energy crisis that occurred in the last quarter of 2005 and during January 2006. Energy was contracted from Romania and Serbia and transmitted through Serbia. KESH adopted a strategy of power security by diversification of sources, and contracted four foreign companies. By the end of the first semester of 2006, KESH was able to “store” excess energy via facilities in Kosovo, Greece and two trading companies.

However, technical electricity losses and theft increased in the first semester of 2006 to excessive levels while the rate of bill collection again dropped. Alongside staff cuts in view of eventual privatisation, this puts KESH in a difficult situation. The unbundling of KESH into three independent entities has started, and the Transmission System Operator has been legally and financially separated from KESH, but asset allocation procedures are still ongoing. In an effort to ensure successful privatisation following a failed attempt, restructuring of the refining and trading company ARMO has also started. No particular progress has been recorded in the process of market opening. So far, only two companies have been awarded the status of Eligible Customer. Framework and implementing legislation needs to be improved.

The Government has confirmed its plans to proceed with the construction of a new thermal power plant in Vlora, while other projects related to the planned Energy Park will be moved to Bisht Poro and Porto Romano. A further thermal power project is envisaged in Korca. The Albanian Energy Efficiency Law of April 2005 creates the legal framework for the promotion and improvement of the efficient utilisation of energy in Albania. The law creates an energy efficiency fund. The Albania EU Energy Efficiency Centre continued to be involved in several pilot projects, including on renewable energy, such as training on solar water heaters. The use of renewable energy sources however remains at low levels.

Overall, despite some progress, the energy sector remains in an acutely critical situation which impinges on the social and economic development of the country.

Bosnia and Herzegovina³¹

Bosnia and Herzegovina ratified the Energy Community Treaty in July 2006, and is preparing a roadmap for the implementation of the Electricity Transition Strategy (ETS). The Energy Department in the Ministry of Foreign Trade and Economic Relations is operational and increasingly active.

In the electricity sector, transmission has been unbundled with the Independent System Operator (ISO) and the Transmission Company (Transco) being legally established. The transfer of assets and liabilities between ISO and Transco remains to be completed for these bodies to become fully operational.

³⁰ http://ec.europa.eu/enlargement/pdf/key_documents/2006/Nov/al_sec_1383_en.pdf

³¹ http://ec.europa.eu/enlargement/pdf/key_documents/2006/Nov/bih_sec_1384_en.pdf

Regarding regulation of the electricity market, the State Electricity Regulatory Commission and the two Entity regulators are operational. No steps have been taken towards the consolidation of the Entity and State-level regulators. During the reporting period, there have been attempts by the authorities of the Federation of Bosnia and Herzegovina to influence the regulator in relation to the establishment of new tariffs. This is contrary to the EU directives, which require regulators to be independent.

Limited further progress has been made on the implementation of the Entities' Action Plans for the restructuring of the energy sector. An immediate priority in this respect is to start the unbundling of electricity generation and distribution in both Entities.

Little progress has been made in the gas sector. The legal framework is not yet in place. The system operator and regulator have not been established.

Bosnia and Herzegovina's energy strategy has not yet been finalised. Overall progress in terms of energy market liberalisation has been limited despite the reforms in the area of electricity transmission. Little progress has been achieved as regards other energy sectors (i.e. coal, oil, district heating, renewable energy) or energy efficiency measures.

Bosnia and Herzegovina's preparations in the field of energy have been initiated and some of the country's targets have been met.

Bulgaria³²

Framework and implementing legislation has been adopted in the field of **competitiveness and the internal energy market**. The electricity and gas market has yet to be fully opened in line with the *acquis*. The implementation of the elaborated plans should lead to the unbundling of Bulgargas before accession. In addition, in the solid fuel sector Bulgaria has to ensure that state intervention is in line with the *acquis*. Preparations in this area need to be stepped up.

Regarding Bulgaria's commitments to early closure of units 1 to 4 of the Kozloduy nuclear power plant, as enshrined in the Act of Accession, Bulgaria has not yet taken the necessary steps to ensure irreversible dismantling of units 1 and 2, which were shut down in 2002. It has also not yet taken tangible operational and administrative action to secure the definitive closure of units 3 and 4 in 2006 and to guarantee their subsequent decommissioning, thereby allowing appropriate use of the available EU funds.

Limited progress has been made on **competitiveness and the internal energy market**. Increased efforts and swift action are now needed in order to complete the opening of the electricity and gas markets before accession. In the area of **nuclear energy and nuclear safety**, the situation has deteriorated with regard to the decommissioning process. Increased efforts and swift action are now needed to guarantee the irreversible closure of units 1 to 4 of the Kozloduy nuclear power plant.

Croatia³³

There has been good progress in the area of the **internal electricity and gas markets**. A regulatory body established in 2005 currently employs 34 persons. Its administrative strengthening is a matter of priority. The state-owned electricity company HEP has been restructured into a holding company. However, all unbundled assets remain in the ownership of the holding company. In addition to the transmission system operator, there is also a market operator. The state gas company INA holds a monopoly as the only supplier and

³² http://ec.europa.eu/enlargement/pdf/key_documents/2006/monitoring_report_bg_en.pdf

³³ http://ec.europa.eu/enlargement/pdf/key_documents/2006/Nov/hr_sec_1385_en.pdf

importer. Croatia ratified the Energy Community Treaty in June. Alignment in this area is on track.

As for **state aids** to the coal industry, Croatia no longer produces coal domestically.

Limited progress can be reported in the field of **energy efficiency** and **renewable energy sources**. Ordinances on hot-water boilers and household appliances were adopted. Croatia is partially aligned with the directive on the energy performance of buildings. There is no guarantee of origin for renewable energy and for combined heat and power yet. No target for renewable electricity for 2010 has been set. To align with the *acquis*, Croatia's target for the share of renewable electricity must include all hydropower. A target for biofuels has been set in line with the *acquis*. Administrative capacity requires significant strengthening. Alignment has well begun, but needs continued efforts.

Overall, there has been some progress, including on security of energy supply and on the internal energy and gas market. However, increased efforts are needed, particularly on energy efficiency, nuclear safety and regulatory strengthening. The Accession Partnership's short term priorities have been mostly met.

The former Yugoslav Republic of Macedonia³⁴

Good progress can be reported as regards the **internal energy market**. The country ratified the Energy Community Treaty in May. The new Law on Energy regulates, amongst others, energy policy, the regulatory authority, construction of new facilities, the electricity market, the natural gas market, the oil and oil derivatives market, the thermal and geothermal energy market, licensing, energy efficiency and renewable energy sources, and includes provisions on supervision and penalties. Appropriate implementing legislation needs to be developed.

Administrative capacity should be significantly strengthened in the energy sector, and particular attention paid to the independence of the Energy Regulatory Commission.

The state-owned electricity company was restructured and divided into three companies. In March, the privatisation of the distribution company was completed. The privatisation of the other two companies has been decided. Preparations in this area are well on track.

No significant developments can be reported as regards **state aid**.

Some progress can be reported in the field of **energy efficiency** and **renewable energy** for which the new Energy Law requires the adoption of a 10-year strategy. Implementing legislation on energy efficiency and renewable energy remains to be adopted. A programme for sustainable energy was adopted in March, aimed at promoting investment in energy efficiency and renewable energy, in particular the removal of financial and administrative barriers. Further significant efforts are needed to increase the share of renewable energy sources, as required by the Renewable Energy Directives on transport and electricity. Preparations in this area are at an early stage.

The former Yugoslav Republic of Macedonia has made notable progress in parts of the energy sector, in particular as regards internal energy market related legislation. However, adoption of implementing legislation is a matter of priority, in particular in view of commitments under the Energy Community Treaty.

Montenegro³⁵

Some progress has been made regarding the electricity and gas sectors. Montenegro has ratified the Energy Community Treaty. However, the adoption of relevant *acquis* for the

³⁴ http://ec.europa.eu/enlargement/pdf/key_documents/2006/Nov/fyrom_sec_1387_en.pdf

³⁵ http://ec.europa.eu/enlargement/pdf/key_documents/2006/Nov/mn_sec_1388_en.pdf

creation of an effectively liberalised energy market in electricity and gas is underway, notably on electricity tariffs. An Energy Development Strategy to cover the period 2025 is under way. The power utility EPCG has been functionally unbundled, while legal unbundling has not been achieved yet. Tenders for the privatisation of the thermo power plant Plijevlja and for a minority share in the coal mine AD Plijevlja have been completed. No progress was noted regarding state aids to the coal industry. A Strategy for restructuring and privatisation of the power utility (EPCG) has been adopted.

The establishment of the Energy Regulatory Agency has been launched.

Good progress can be reported on energy efficiency and renewable energy sources. Montenegro adopted an energy efficiency strategy and an action plan for its implementation. An Energy efficiency Department has been established in the Ministry of Economy. However, its administrative capacity is limited. A strategy for the development of small hydroelectric power plants has also been adopted.

Administrative capacities in all energy sub-sectors need to be strengthened.

Romania³⁶

There is not Chapter on Energy in the May 2006 Monitoring Report for Romania.

Serbia³⁷

Following the ratification by the Serbian parliament in July 2006, the Energy Community Treaty entered into force in Serbia. The adoption of the relevant *acquis* has started.

In the electricity sector, following the unbundling of the power generation utility (EPS) and the transmission system and market operator (EMS), the adoption and implementation of the necessary tariffs and methodologies are pending. While the process of restructuring of the state owned utility (EPS) is stalled. No particular progress has been registered regarding the gas sector.

In the area of energy efficiency and renewable energy, the Serbian Energy Efficiency Agency has initiated several programmes to promote energy efficiency. A mission of the Agency is to draft proposals for implementing energy efficiency and the exploitation of renewable energy sources.

Administrative capacity remains weak and needs to be strengthened. The Ministry of Energy and Mining faces problems to cover all its tasks. The Energy Agency (AERS) has adopted its internal structure. The necessary market regulations need to be finalised, adopted and enforced and the financing of the Agency is still to be secured in the mid term perspective (3-5 years) so as to guarantee the establishment of a functioning energy market.

Overall, some progress can be reported in the area of energy. Serbia's preparations in the energy sector are advancing but are still on a relatively early stage.

UNMIK³⁸

Good progress has been made in the electricity sector. A strategy on energy was approved in October 2005, and an implementing programme 2006-2008 has been established, aiming at rational and sustainable use of natural resources, economic and social development and

³⁶ http://ec.europa.eu/enlargement/pdf/key_documents/2006/monitoring_report_ro_en.pdf

³⁷ http://ec.europa.eu/enlargement/pdf/key_documents/2006/Nov/sr_sec_1389_en.pdf

³⁸ http://ec.europa.eu/enlargement/pdf/key_documents/2006/Nov/ks_sec_1386_en.pdf

environmental protection. Kosovo was the first signatory to ratify the Energy Community Treaty.

The energy regulatory office became operational in September 2005 and has issued substantial implementing legislation in the reporting period, including on tariffs, dispute settlement, licensing, and a code of conduct. The electricity market was opened in March when all four consumers connected at 110kV and over were declared eligible. It is not yet possible to identify consumers by their consumption levels due to inadequate supply.

However, Kosovo's electricity supply situation remains very difficult. The distribution network is in a very poor state after years of underinvestment and poor maintenance. Mining of the dominant fuel, coal, also suffers from underinvestment. The utility KEK lacks adequate funds to invest in and properly maintain the electricity supply system. Little progress has been made on promoting energy efficiency and renewable energies. Cash collection rates, although markedly improved, remain at unsustainably low levels and technical losses and theft remain very high.

Overall, while the some progress has been made in the energy area, particularly regarding reforms at the energy utility and in the preparations for a regional energy market, the sector remains in an acutely critical situation.

Turkey³⁹

Some progress has been made as regards the **internal energy market**. The privatisation process of distribution assets has started for three regions. Implementing regulations were enacted on electricity demand forecasting, and cross-border electricity trade. The threshold for eligible consumers has been reduced to 6 GWh. A new amendment, however, allows cross subsidies and vertical integration. High electricity losses, including theft, persisted. Two six hour blackouts occurred in July affecting 13 cities, mainly due to generation capacity constraints. Unchanged electricity tariffs in the context of rising gas import prices may in the short term result in real capacity reductions. Turkey is not yet a member of the Union for the Coordination of Transmission of Energy. Turkey has not signed the Energy Community Treaty establishing a regional energy market in southeast Europe.

Regarding the internal gas market, no new implementing legislation has been issued. Some liberalisation took place: in-city natural gas distribution tenders were undertaken for 54 cities. The market share of any importer or wholesaler is limited by law to 20%. The state-owned company BOTAS has not transferred existing contracts and maintains its monopolistic position. Overall alignment in these areas is well underway, however implementation is lagging behind.

Concerning **state aids** to the coal industry, no progress can be reported. Alignment in this area is low.

No progress can be reported on **energy efficiency**. Turkey does not have a framework law for its promotion. Some progress has been made on **renewable energy** sources. However, Turkey has not set itself an ambitious target yet for their increase. An implementing regulation on the guarantee of origin has been issued. Turkey is partially aligned in this area.

Some progress has been achieved in the field of energy. Overall, alignment is uneven. A framework law for energy efficiency remains to be developed. Administrative capacity and the independence of regulatory bodies need strengthening.

³⁹ http://ec.europa.eu/enlargement/pdf/key_documents/2006/Nov/tr_sec_1390_en.pdf