



Annual Implementation Report

Executive Summary

Energy Community Secretariat

1 November 2020



01 State of Implementation

Energy Community at a crossroads

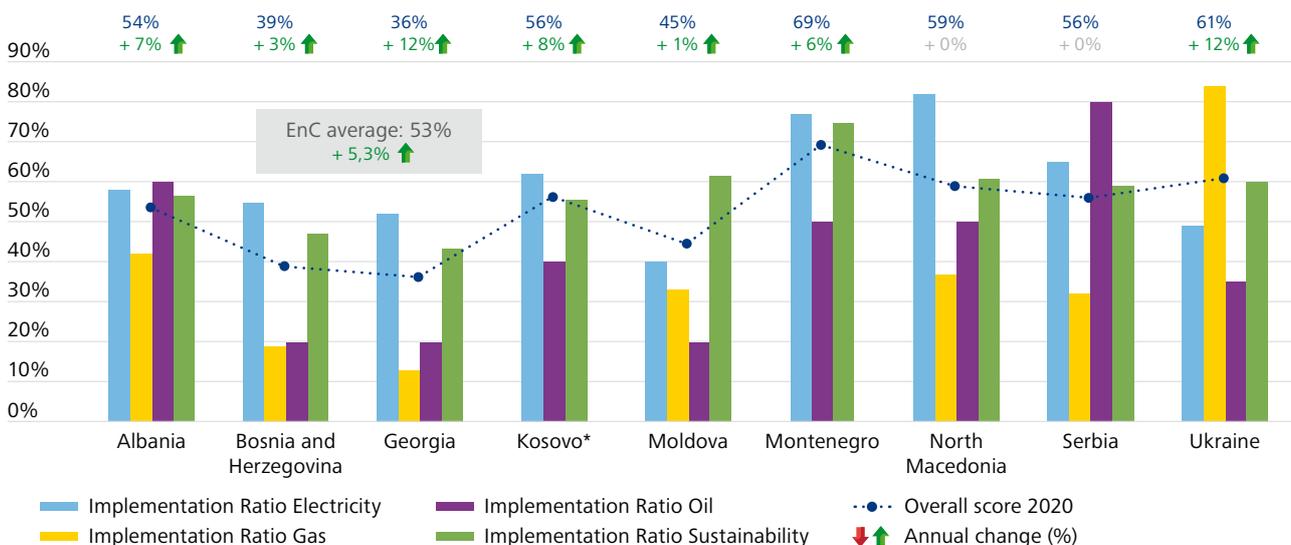
That the first year of the new decade would be challenging was clear even before the virus struck. The European Union, representing 87% of the Energy Community's population, had raised the energy transition bar high by announcing its Green Deal at the end of 2019. Would the Contracting Parties, with their specific socio-economic challenges and a lot of catching up in terms of energy reform still ahead of them, be able to follow the same path? Or would the rift created by slow implementation of the *acquis* by (some) Contracting Parties, the subject of many Implementation Reports in the past, widen further with the European Union having accelerated the transformation of the energy sectors.

Some of the recent developments did not really give rise to optimism. Decarbonisation, renewables and energy efficiency targets for 2030 were discussed as early as 2017 but have still not been set, and the Ministerial Council could not even agree on the adoption of non-binding decarbonisation guidelines in early 2020. What is more, the 2019 Ministerial Council failed to impose measures against two Contracting Parties in cases of clear-cut and long-standing breaches of the *acquis communautaire* – by joining up with each other they prevented the unanimity necessary to adopt those measures. One may recall that the enforcement procedures are the litmus test for the effectiveness

of exporting European law to neighbouring countries which have committed to follow these rules, in other words the heart and soul of the Energy Community. Moreover, the announced introduction of carbon border adjustments for countries not pricing in carbon emissions – the majority of Contracting Parties – entailed discussions about the future of their energy imports to the European Union.

But then again, there are plenty of indications that the Energy Community is not stagnating but actually moving forward on the path of energy transition, and has in some cases passed the point of no return. Without a legal obligation to do so, many Contracting Parties are currently engaging in drafting integrated energy and climate plans in line with the Governance Regulation of the Clean Energy Package. Without participating in the EU's emission trading scheme, Montenegro has developed and launched its own cap-and-trade system. With the Energy Community's *acquis* on reducing pollution from coal-fired power plants not yet respected, air pollution became an important issue of public concern in many Contracting Parties. Despite not adhering to the Paris Agreement, the use of coal came closer to being abandoned in Kosovo*¹ with the failure of the Kosovo e Re project, against which the Secretariat had opened infringement procedures. North Macedonia publicly announced a coal phase-out programme. These are encouraging signs.

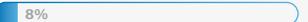
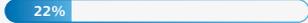
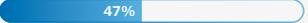
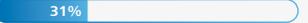
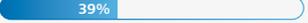
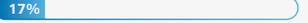
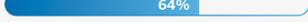
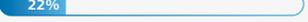
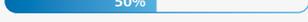
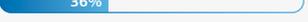
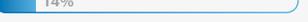
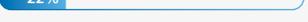
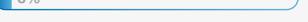
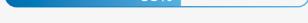
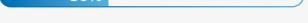
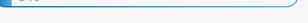
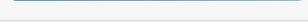
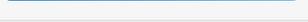
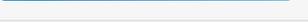
Overview of Implementation Performance by Contracting Parties



Source: compiled by the Energy Community Secretariat

1 Throughout this Implementation Report, this designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence.

Overview of Transposition Performance by Contracting Parties

			
Albania	 47%	 44%	 8%
Bosnia and Herzegovina	 22%	 47%	 31%
Georgia	 44%	 39%	 17%
Kosovo*	 64%	 22%	 14%
Moldova	 50%	 36%	 14%
Montenegro	 72%	 22%	 6%
North Macedonia	 58%	 36%	 6%
Serbia	 67%	 33%	 0%
Ukraine	 50%	 39%	 11%



Full transposition or significant progress



Partial transposition and ongoing activities



No transposition progress

This summary table groups together all the transposition assessments indicators displayed in the implementation tables of the nine Contracting Parties.

Source: compiled by the Energy Community Secretariat

Even without new renewables targets, the deployment of green electricity has been increasing in many Contracting Parties. Illustrating this positive trend, some Contracting Parties such as Albania, North Macedonia and Montenegro managed to achieve remarkable results with auctioning their support schemes, or even doing without subsidies. Persevering with administratively allocated support, on the other hand, led to crises and investor-state disputes, particularly in Ukraine. Support for the renewable energy source that affects the environment in the most adverse manner, small hydropower plants, increasingly faces opposition in several Contracting Parties and may eventually cease altogether.

And even in the area of market opening and integration, where the Western Balkan countries have come close to a standstill over the last years, the Contracting Parties in Eastern Europe have shown remarkable dynamics. 2020 saw the youngest member of the Energy Community, Georgia, be particularly active in this respect. Ukraine, which had unbundled its gas transmission system operator at the end of 2019, harvested the fruit of this achievement by concluding a new gas transit agreement with Russian Gazprom. And finally, most Contracting Parties' utilities, operators and authorities, supported by the Energy Community and international donors, passed the test of Covid-19 rather well and deserve a great deal of praise for that.

In the upcoming period, the Energy Community will have to prove that it can not only support the energy transition but actively boost and steer the process, taking the Contracting Parties along on the European pathway towards decarbonisation. The signs are looking good: after many years of negotiations, the amendments to the Energy Community Treaty will finally be sealed at the end of this year, which is expected to enhance compliance with the acquis by the Contracting Parties and at the same time unlock the potential for market integration between the European Union and the Western Balkans, at least in the electricity sector. A study identifying the scope for the 2030 energy efficiency, renewables and decarbonisation targets to be adopted, almost last minute, in 2021 together with the Clean Energy Package, has been launched. The European Union's interest in phasing out coal, pricing carbon and extending the "renovation wave" for non-efficient buildings also in its immediate neighbourhood is increasing. It has also pledged recovery and transition support to these countries. Taken together with the many bottom-up initiatives by and within the Contracting Parties, these activities forebode the revival of the Energy Community as a community for the European energy transition and integration across the entire continent.



Janez Kopač



Dirk Buschle

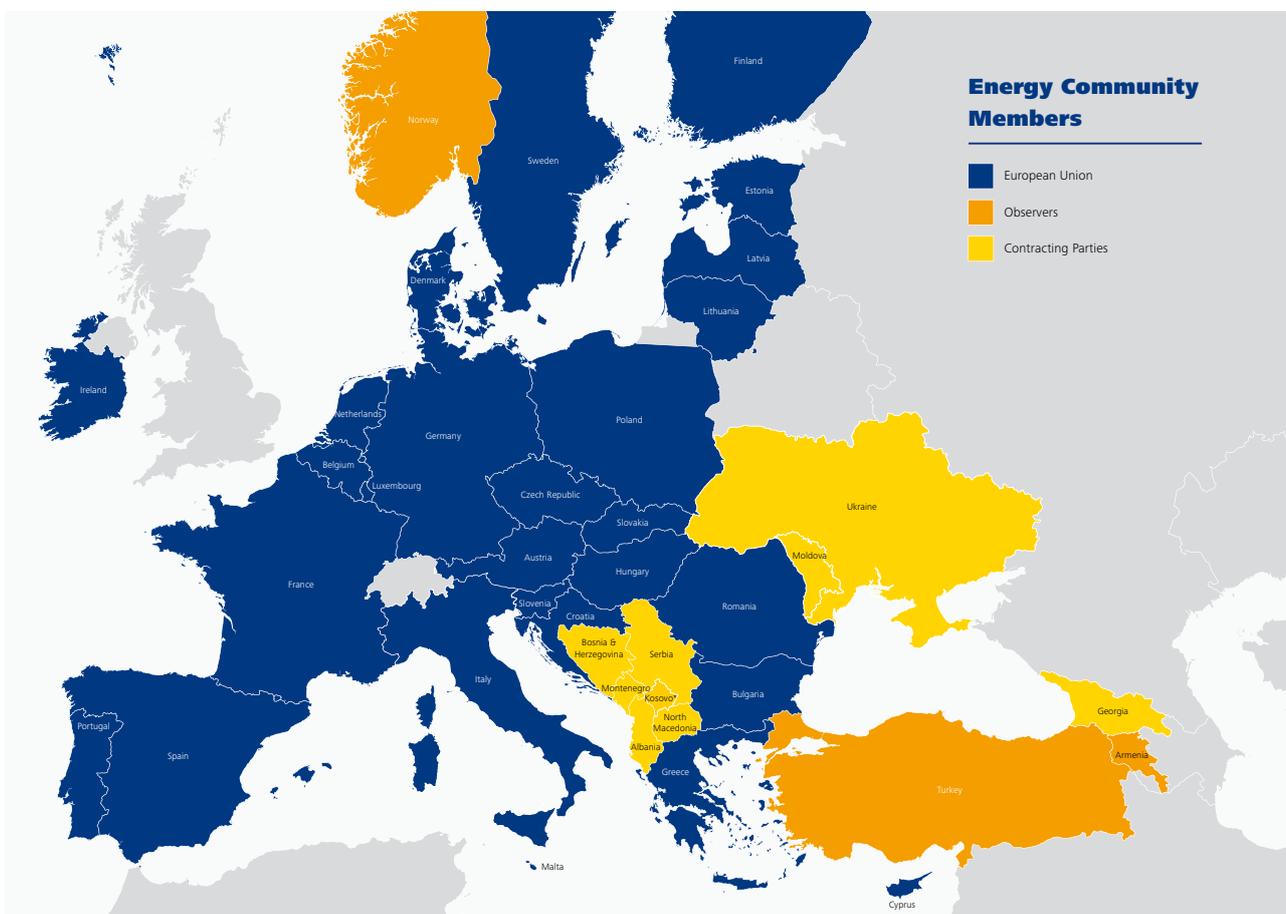


02 Introduction

a. Presenting the Energy Community

The Energy Community extends the European Union (EU) internal energy market to its neighbouring countries. The principle objectives of the Energy Community are to create a regulatory

and market framework which is capable of attracting investments for a stable and continuous energy supply. By signing the Energy Community Treaty, the Contracting Parties committed to implementing key EU energy legislation within a fixed timeframe.



b. Members

The Treaty establishing the Energy Community was signed in October 2005 in Athens. Following ratification by all Parties, the Treaty entered into force on 1 July 2006. As of 15 October 2020, the Parties to the Treaty are the European Union, and nine Contracting Parties, namely Albania, Bosnia and Herzegovina, Georgia, Kosovo*, North Macedonia, Moldova, Montenegro, Serbia and Ukraine. Armenia, Norway and Turkey are Observers under Article 96 of the Treaty.

c. Institutional setting

The Energy Community has its own institutional framework. The highest decision-making body is the Ministerial Council, which meets once a year to establish key priorities and adopt new legislation.

Recognizing the need for continuous improvement, the Energy Community has been discussing how to modernize the Treaty for the last six years. The 2020 Ministerial Council is envisaged to finalize the negotiations on Treaty amendments.

The Energy Community Secretariat, based in Vienna, is independent and performs the day-to-day work of the Community. The Secretariat is responsible for reviewing the progress made by the countries in transposing and implementing European energy law incorporated by the Energy Community Treaty.

d. Dispute settlement

The Energy Community Treaty provides for a dispute settlement procedure, which is meant to ensure the enforcement of the commitments under the Treaty.

A preliminary procedure precedes the submission of a case of non-compliance to the Ministerial Council under Article 91 of the Treaty. It may be initiated by the Secretariat by way of an Opening Letter to be followed, as the case may be, by a Reasoned Opinion and Reasoned Request to the Ministerial Council. The procedure is closed upon compliance by the party to the case with its obligations under the Treaty at any time of the preliminary procedure or with a decision of the Ministerial Council. If a breach identified by the Ministerial Council has not been rectified, a procedure for a decision under Article 92 of the Treaty may be initiated. If a Party to the Treaty persistently fails to comply with its obligations, the Ministerial Council may suspend certain rights derived from the application of the Treaty, including voting rights and right to participate in meetings or mechanisms provided for in the Treaty.

In the following chapter, the Secretariat reports about the open cases under both Article 91 and Article 92 of the Treaty.

e. Acquis

Since 2006, the Energy Community acquis has significantly evolved to incorporate new directives and regulations. Presently, the acquis covers legislation on electricity, gas, oil, infrastructure, renewable energy, energy efficiency, competition and State aid, environment, statistics, climate and cybersecurity. The adoption of the Clean Energy Package together with the 2030 targets will be tabled for the 2021 Ministerial Council.

In addition, the Energy Community is in the process of adopting additional network codes and guidelines for electricity and gas. All five gas and three out of the eight electricity codes have already been incorporated into the acquis.

The tables below display the core Energy Community acquis communautaire presently in force². The implementation deadlines have been set by the respective Ministerial Council decisions. Due to their later accession, some of the implementation deadlines differ for Moldova (2010), Ukraine (2011) and Georgia (2017). Also this year, the assessment of Georgia's compliance against the acquis remains incomplete as some of the implementation deadlines set by the country's Accession Protocol are yet to expire.

 Acquis on Electricity
Directive 2009/72/EC concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC
Regulation (EC) 714/2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) 1228/2003
Regulation (EU) 838/2010 on laying down guidelines relating to the inter-transmission system operator compensation mechanism and a common regulatory approach to transmission charging
Regulation (EU) 543/2013 on submission and publication of data in electricity markets and amending Annex I to Regulation (EC) 714/2009
Regulation (EU) 2016/1388 establishing a network code on demand connection
Regulation (EU) 2016/631 establishing a network code on requirements for grid connection of generators
Regulation (EU) 2016/1447 establishing a network code on requirements for grid connection of high voltage direct current systems and direct current-connected power park modules
Regulation (EU) 1227/2011 on wholesale energy market integrity and transparency

² Available on the Energy Community website: <https://www.energy-community.org/legal/acquis.html>.



Acquis on Gas

Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC

Regulation (EC) 715/2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) 1775/2005

Regulation (EU) 2015/703 establishing a network code on interoperability and data exchange rules

Regulation (EU) 2017/459 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) 984/2013

Regulation (EU) 2017/460 establishing a network code on harmonized transmission tariff structures for gas

Regulation (EU) 1227/2011 on wholesale energy market integrity and transparency



Acquis on Security of Supply

Directive 2005/89/EC concerning measures to safeguard security of electricity supply and infrastructure investment

Directive 2004/67/EC concerning measures to safeguard security of natural gas supply



Acquis on Infrastructure

Regulation (EU) 347/2013 on guidelines for trans-European energy infrastructure



Acquis on Environment

Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 2014/52/EU

Directive (EU) 2016/802 relating to a reduction in the sulphur content of certain liquid fuels

Commission Implementing Decision (EU) 2015/253 laying down the rules concerning the sampling and reporting under Council Directive 1999/32/EC as regards the sulphur content of marine fuels

Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants

Chapter III, Annex V and Articles 72(3)-(4) of Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control)

Article 4(2) of Directive 79/409/EEC on the conservation of wild birds

Directive 2004/35/EC on environmental liability with regard to the prevention and remedying of environmental damage, as amended by Directive 2006/21/EC, Directive 2003/31/EC and Directive 2013/30/EU

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment



Acquis on Renewable Energy

Directive 2009/28/EC on the promotion of the use of energy from renewable sources



Acquis on Energy Efficiency

Directive 2012/27/EU on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC

Directive 2010/31/EU on the energy performance of buildings

Regulation (EU) 2017/1369 setting a framework for energy labelling and repealing Directive 2010/30/EU



Acquis on Oil

Council Directive 2009/119/EC imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products

Recommendation 2018/02/MC-EnC on preparing for the implementation of Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC



Acquis on Statistics

Regulation (EC) 1099/2008 on energy statistics

Regulation (EU) 2016/1952 on European statistics on natural gas and electricity prices and repealing Directive 2008/92/EC



Acquis on Climate

Recommendation on preparing for the development of integrated national energy and climate plans by the Contracting Parties of the Energy Community

Recommendation on preparing for the implementation of Regulation (EU) 525/2013 on a mechanism for monitoring and reporting greenhouse gas emissions

General Policy Guidelines on the 2030 targets for the Contracting Parties of the Energy Community³



Acquis on Competition

The acquis on competition (Articles 18 and 19 of the Energy Community Treaty) rests on three pillars:

1. The prohibition of anticompetitive agreements established by Article 101 of the Treaty on the Functioning of the European Union (TFEU);
2. The prohibition of abuse of a dominant position provided for in Article 102 of the TFEU; and
3. The prohibition of State aid granted in violation of Article 107 of the TFEU.



Cybersecurity

Procedural Act 2018/02/MC-EnC on the establishment of an Energy Community Coordination Group for Cybersecurity and Critical Infrastructure

³ The General Policy Guidelines represent the political consensus reached in the 16th Ministerial Council on the 2030 targets for the Contracting Parties of the Energy Community in November 2018.



03 Annual Report

Annual Report on the Activities of the Energy Community 2019 - 2020

The Annual Report on the activities of the Energy Community outlines key actions and achievements in the period from 1 November 2019 to 1 November 2020 following the requirements of Article 52 of the Energy Community Treaty. It highlights the results of key activities set out in the Energy Community Work Programme for 2019 and 2020.

Spearheading the energy transition

Progressing the energy transition continued to be an integral part of all Energy Community activities during this reporting period. Convening under the Moldovan Presidency on 13 December 2019 in Chisinau, the 17th Energy Community Ministerial Council gave an important political impetus to advancing ambitious energy and climate reforms, including preparations for the adoption of key elements of the Clean Energy for All Europeans package.

The Secretariat continued to assist the Contracting Parties in the development of National Energy and Climate Plans, the central instrument to guide them in the energy transition. The Secretariat worked to strengthen modelling capacities and supported timely consultations among the Parties to ensure that regional challenges are tackled in the most secure and cost-effective way. North Macedonia was the first Contracting Party to submit its draft plan to the Secretariat for formal review.

As follow up to the Western Balkan 6 connectivity initiative, the Secretariat launched a new instrument to monitor the progress the WB6 parties are making on their energy transition path - the Energy Transition Tracker. It maps the Parties' emissions footprint, energy market development, penetration of renewables, energy efficiency measures and progress in the development of

integrated National Energy and Climate Plans. The report also put in the spotlight the Secretariat's work on implementation monitoring of the Large Combustion Plants Directive, essential for the health of citizens, air quality as well as decarbonisation.

To guide informed decision-making, the Secretariat designed several policy guidelines, including on energy efficiency financing mechanisms, renewables self-consumers and small hydropower plants. The Secretariat continued to assist the Contracting Parties in designing competitive support schemes for renewables. The Energy Community stayed abreast of new developments important for the energy transition including energy storages and hydrogen.

In November 2019, the Secretariat supported by stakeholders embarked on a process of analysing carbon pricing options for the Energy Community. The aim is to propose an effective carbon pricing mechanism in the electricity sector and prepare the Contracting Parties to join the EU Emissions Trading Scheme in the future. The results of the study will be unveiled by the end of 2020.

This reporting period also saw the Secretariat intensify its awareness raising activities on methane emissions from the gas sector, including the importance of adequate reporting. The Contracting Parties' gas industry has begun to collect methane emissions data, based on the methodology applied by EU companies. In addition, the Secretariat joined, as a supporting organisation, the Methane Guiding Principles, a global initiative aiming at reducing methane emissions across the natural gas value chain.

Recognising that its supporting role does not come without environmental impact, the Secretariat launched the process of introducing the Eco-Management and Audit Scheme (EMAS). The Secretariat expects to obtain the EMAS certification in the course of 2021.



17th Energy Community Ministerial Council, 13 December 2019, Moldova, Chisinau



Energy reform in a time of crisis

Treaty implementation activities were strongly impacted by the Covid-19 pandemic. Assisting in addressing effectively the challenges posed by the crisis and putting in place the needed recovery measures was at the forefront of the Energy Community's activities.

At the outset of the crisis, the Secretariat made all its resources available to support the Contracting Parties in the management of the crisis and the recovery process. The Secretariat coordinated virtual meetings among regulators, distribution system operators and members of the Permanent High Level Group of the Energy Community. It continuously monitored the security of supply situation and published regular updates on its website. This included reporting on the current status of financial liquidity of the electricity sector; measures taken by energy regulators and distribution system operators to address the crisis; and information about support from international financial institutions and commercial banks.

The Secretariat advocated for a smart recovery, including focus on energy efficiency as a source of boosting economic regeneration after the crisis. It called for enhanced investments in building renovations, increased use of sustainable heating and cooling, support for economies to produce nationally and install energy efficient technologies in residential, public and commercial buildings.

Creating an integrated energy market

Despite the difficult circumstances, several Contracting Parties succeeded in making far-reaching progress in their energy reform paths with the assistance of the Secretariat. Georgia, the newest Contracting Party, made a giant leap forward by adopting a set of laws transposing the Third Energy Package, the Renewables Directive, the Energy Efficiency Directive and the Energy Performance of Buildings Directive.

During this reporting period, the Secretariat drafted numerous primary and secondary laws and reviewed more than 150 national legal acts to assist the Contracting Parties in the transposition of the acquis. The Secretariat was deeply engaged in several transmission system operator certification processes in Bosnia and Herzegovina, Moldova, Serbia and Ukraine. Work also continued on adopting a legally binding framework for market coupling based on the reciprocal application of the Regulation on establishing a guideline on capacity allocation and congestion management (CACM). In order to make some of its legal assessments of particular provisions of national laws and secondary legislation public, the Secretariat launched a new document series "compliance notes". The first such assessments focused on provisions on public service obligations and transmission tariffs.

The Secretariat continued its market monitoring activities through the Energy Community Regulatory Board (ECRB), and shared best practice experience with other regional regulatory bodies and deepened international cooperation with the Agency for Cooperation of Energy Regulators (ACER), the Council

of European Energy Regulators (CEER) and the Association of Mediterranean Energy Regulators (MEDREG).

Secretariat's reviews of national legal acts per country in first to third quarter of 2020

Contracting Party	Number of reviews
Albania	10
Bosnia and Herzegovina	44
Georgia	14
Kosovo*	2
Moldova	13
Montenegro	4
North Macedonia	7
Serbia	4
Ukraine	37

Infrastructure as the backbone of market integration

In order to boost sustainable large infrastructure development, the Energy Community in close coordination with the European Commission conducted the third selection process of Projects of Energy Community Interest (PECI) and Projects of Mutual Interest (PMI), in line with Regulation (EU) 347/2013. The PECI or PMI label should facilitate the implementation of infrastructure projects, through faster and more streamlined permitting procedures, improved regulatory treatment and financial support from EU and international financing institutions. The Secretariat monitors the yearly progress of existing PECIs and PMIs via its web platform (PLIMA) and reports to the Ministerial Council.

The Regulation defines the general eligibility criteria for the PECI and PMI labels, namely that the project shall have cross-border impact and its potential benefits shall outweigh its costs. In order to select the most market driven projects from the candidate list, electricity and gas market models were used for the assessment, underpinned by a methodology that included a cost-benefit analysis and a multi-criteria assessment. The Regulation defines the specific criteria according to which the benefits shall outweigh the costs (market integration, sustainability and security of supply for electricity and gas projects and competition improvement for gas projects). The monetized benefits that represent the socio-economic welfare impact of each project were also calculated. The Secretariat continuously aims to implement methodological improvements to the assessment process. In 2020, a green future scenario in line with the scenarios available in the European Union (ENTSOs) was incorporated as well as a more sophisticated treatment of project maturity. The aim was to better reflect the future impact (benefit) of the projects and the actual development of the projects towards commissioning.

The PECI and PMI lists are expected to be adopted by the Ministerial Council during its forthcoming session, in line with the recommendation of the Permanent High Level Group.

Leading regional energy market connectivity in the Western Balkans

The so-called WB6 Initiative financially supported by the Grant Contract to “Technical Assistance to Connectivity in the Western Balkans - Component 2: Regional Energy Market”, which is funded by the European Union and implemented by the Secretariat, concluded in December 2019. It contributed to strengthening regional cooperation among the six Contracting Parties of the Western Balkans. The project successfully delivered 11 national, one bilateral and five regional projects, which were



Regional Energy Market Connectivity in the Western Balkans, project closing event, 5 December 2019, Tivat, Montenegro

instrumental in tackling some of the biggest challenges the WB6 were facing in creating a regional electricity market.

The WB6 regional electricity connectivity closing event brought together 80 stakeholders from all WB6 Contracting Parties on 5 December in Tivat, Montenegro. Event participants underlined that national projects delivered concrete results, while regional projects, e.g. day-ahead market coupling, cross-border balancing, capacity calculation, etc., need follow up to be implemented and reap the full benefits of the technical assistance.



EU4Energy Governance: Improving the legislative and regulatory environment in the Eastern Neighbourhood

The Energy Community Secretariat is one of the implementing partners of the “EU4Energy Governance” technical assistance project, funded by the European Union, under the EU4Energy Initiative. Within this four-year project initiated in June 2016, the Secretariat delivers technical assistance to Georgia, Moldova and Ukraine to improve the legislative and regulatory environment of their energy sectors in line with their Energy Community Treaty obligations and Association Agreements with EU.

In close collaboration with authorities, over 70 regulatory drafts and studies were prepared for Georgia, Moldova and Ukraine since the launch of the project. More than 200 workshops and 12 high-level policy talks were organized in order to address the need for specific reforms and accelerate the pace of adoption of legislation. Training, exchange of experience and best practice was provided to over 1.500 officials from the three beneficiary countries. The EU4Energy Governance project will complete its four-year Phase I at the end of 2020.



Signing of Memorandum of Understanding on Cooperation in the Area of Security of Gas Supply between Moldova and Ukraine, 13 December 2019, Chisinau, Moldova



EU4Energy Governance Workshop on Support in Development of Regulation on Protection of Vulnerable Customers in Natural Gas and Electricity Sectors, 4 December 2019, Tbilisi, Georgia

Supporting the energy digitalization future

To help address the twin challenges of market liberalization and decarbonization, the Secretariat issued a study on electricity system adequacy and capacity mechanisms in the Western Balkans. Another key element for maximizing system reliability that was in focus during this reporting period was the roll-out of smart grids. The Secretariat's scoping study on smart grid opportunities in the Energy Community pinpointed energy digitalization areas of most relevance for the Contracting Parties. It also proposed concrete regional projects that could be eligible for technical and financial assistance.

Given the increased shift towards energy system digitalization, enhanced cooperation in the field of cybersecurity continued at the level of the Energy Community. The central point of departure was the 2019 study on cybersecurity, which assessed the current state of development of the Contracting Parties with respect to the EU cybercrime legal framework. The Cyber Group set to work to develop guidelines for the early implementation of cybersecurity acquis and technical standards in the Energy Community.

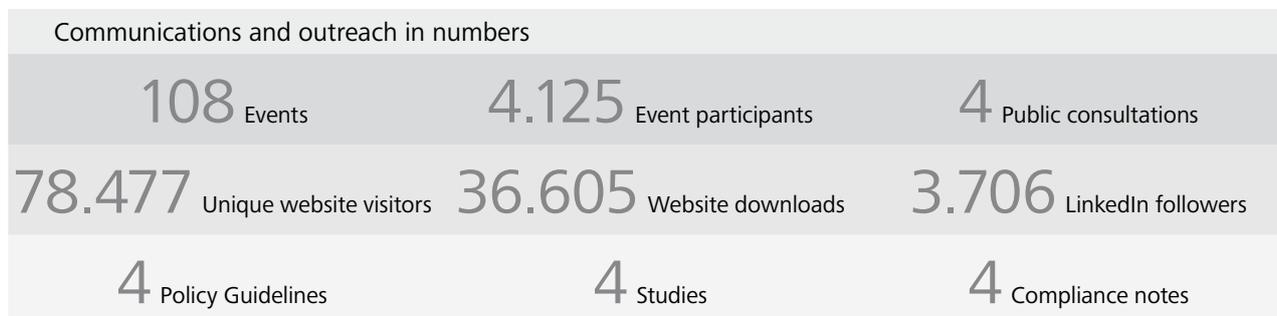
Communications and outreach

The Energy Community continued to increase its visibility. Communication activities by the Secretariat played a central role in reaching this objective.

Due to the Covid-19 crisis, the Secretariat shifted its engagement with stakeholders to digital platforms. The majority of events, including the flagship Energy Community Electricity (Athens), Gas, Oil and Sustainability Forums, took place via video conference. The Secretariat launched a series of free educational webinars on energy topics, which took place on a weekly basis from mid-April until the end of June 2020. The online lectures offering insights into contemporary energy issues attracted a new audience to the Energy Community and its activities. To continue its knowledge sharing activities under the Energy Community Summer School, the Secretariat launched the webinar series "Eternal Summer" in October 2020 filled with lectures by representatives of the faculty, alumni and other friends of the Summer School.

Reaching out to citizens and stakeholders, the Secretariat conducted four public consultations covering hydropower, renewables self-consumers, energy infrastructure and fuel quality. It also launched two new discussion platforms dedicated to gas distribution and district heating and cooling.

The Secretariat continued to improve the Energy Community public website making it an even more valuable tool for stakeholders. It expanded its legislative observatory of national secondary legislation, which now covers over 800 secondary legal acts and other national documents that have been assessed by the Secretariat. The website newly features a database on the sustainable use of biomass-based heating. All information is available in seven languages, Albanian, Bosnian, Croatian, English, Macedonian, Montenegrin and Serbian.



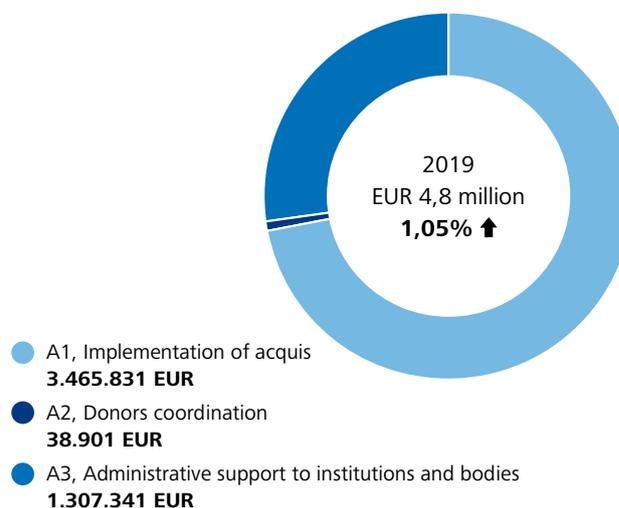
Staff

During the reporting period, the Energy Community Secretariat engaged 38 permanently employed professionals, covering diverse expertise from all areas covered by the Energy Community. Apart from its permanent staff members, fifteen interns, seven temporary staff members and one secondee made valuable contributions to the Secretariat's work.

Budget 2019

The Energy Community is funded by contributions from the Parties to the Energy Community Treaty. The final budget for 2019 amounted to EUR 4.812.073 (2018: EUR 4.761.931). This figure excludes EU4Energy Governance, Connectivity in the Western Balkans technical assistance funding and donations.

2019 indicative spending per activity





04 Report on Enforcement and Dispute Resolution Activities

Based on Article 67(b) of the Treaty, the Secretariat reviews the proper implementation by the Parties of their obligations under the Treaty and initiates dispute settlement procedures where needed (Article 90 of the Treaty). The Secretariat reports annually on implementation, and, in accordance with Article 2(5) of the Energy Community Dispute Settlement Rules as amended in 2015 (hereinafter, the “DSR”), submits to the Ministerial Council an annual report on the application and interpretation of Energy Community law by national authorities of the Contracting Parties within the framework of cooperation between the Secretariat and the national authorities of the Contracting Parties. Finally, the Secretariat’s Procedural Act on the Establishment of a Dispute Resolution and Negotiation Centre, together with Article 19(2) of the DSR require the Centre to draft a report on the results of the negotiations and the closure of the cases for submission to the Ministerial Council.

The present report covers these three sets of dispute resolution activities with the involvement of the Secretariat and is divided in three parts: activities related to the dispute settlement cases (Part I), activities based on Article 2 of the DSR related to cooperation with national authorities (Part II) and activities of the Dispute Resolution and Negotiation Centre (Part III).

Part I: Dispute Settlement Cases

By the time of drafting the present report, fourteen (14) cases were open in a preliminary procedure under Article 91 of the Treaty of which three (3) have been referred to the Ministerial Council by way of Reasoned Requests under Article 91 of the Treaty. Five (5) cases have been referred to the Ministerial Council under Article 92 of the Treaty.⁴

Reasoned Requests submitted to the Ministerial Council for a Decision under Article 91 of the Treaty

On 12 July 2019, the Secretariat submitted a Reasoned Request to the Ministerial Council under Article 91 of the Treaty in **Case ECS-13/17 against Serbia** related to the failure to ensure third party access to the Horgoš interconnection point between Serbia and Hungary. The Reasoned Request submitted by the Secretariat on 26 June 2020 in **Case ECS-10/18 against Bosnia and Herzegovina** concerns a guarantee granted by the Federation of Bosnia and Herzegovina in favour of the Export-Import Bank of China for a loan to the public utility Elektroprivreda BiH for the Tuzla 7 coal-fired power plant project. Finally, on 9 September 2020, the Secretariat submitted a Reasoned Request in **Case ECS-7/18 against Moldova** for non-transposition of Directive

2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants (for existing plants) and Chapter III and Annex V of Directive 2010/75/EU on industrial emissions (for new plants).

Requests submitted to the Ministerial Council for a Decision under Article 92 of the Treaty

On 22 September 2020, the Secretariat submitted Requests to the Ministerial Council to extend measures imposed against **Bosnia and Herzegovina** in cases:

- **ECS-8/11 S** (concerning lack of compliance with the provisions of the gas acquis from the Second Energy Package) and failing to implement previous Ministerial Council Decisions (Decision 2013/04/MC-EnC under Article 91 and four decisions under Article 92: 2014/04/MC-EnC, 2015/10/MC-EnC, 2016/16/MC-EnC and 2018/17/1MC-EnC);
- **ECS-6/16 S** (concerning lack of transposition of the Third Energy Package) and failing to implement previous Ministerial Council Decisions (Decision 2016/07/MC-EnC in Case ECS-6/16 and 2018/16/MC-EnC in Case ECS-6/16 S);
- **ECS-2/13 S** (concerning lack of transposition and implementation of some provisions of Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels) and failing to implement previous Ministerial Council Decisions (Decision 2016/03/MC-EnC in Case ECS-2/13 and 2018/13/MC-EnC in Case ECS-2/13 S).

On the same date, the Secretariat also submitted two Requests to the Ministerial Council to establish serious and persistent breaches in cases **ECS-10/17 S against Serbia** for not complying with requirements ensuring the effective unbundling of the gas transmission system operator YugoRosgaz-Transport and failing to implement previous Ministerial Council Decision 2019/02/MC-EnC, and **ECS-1/18 against Ukraine** concerning the non-transposition of Directive 2012/27/EU on energy efficiency and failing to implement previous Ministerial Council Decision 2018/6/MC-EnC.

Cases where breaches have been established by the Ministerial Council under Article 91 of the Treaty and have not been rectified by the Party in question

On 2 February 2018, the Ministerial Council adopted decisions under Article 91 of the Treaty establishing breaches in two case concerning lack of transposition and implementation of Directive 2006/32/EC on energy end-use efficiency and energy

⁴ In some of those cases, the Ministerial Council has already adopted one or several decisions under Article 92, but the breaches have not been rectified.

services, namely in **Case ECS-10/13 against Albania** Decision 2018/03/MC-EnC, and **Case ECS-1/14 against Bosnia and Herzegovina** Decision 2018/04/MC-EnC. In both cases certain activities aimed at rectifying the breach have been taking place but compliance has not been achieved and the Directive is not yet fully transposed in either of the two Contracting Parties.

Three more cases (**ECS-2/18 against Albania, ECS-3/18 against Bosnia and Herzegovina and ECS-4/18 against Ukraine**), in which the Ministerial Council has adopted decisions under Article 91 on 29 November 2018 (Decision 2018/07/MC-EnC, Decision 2018/08/MC-EnC and Decision 2018/09/MC-EnC respectively), concern the non-transposition of Regulation (EU) 347/2013 on guidelines for trans-European energy infrastructure. National measures transposing this Regulation have not been adopted in either of the two Contracting Parties, and the breaches are not rectified.

Finally, on 16 March 2020, the Ministerial Council adopted a decision in **Case ECS-6/18 against Kosovo*** for failure to transpose Directives 2001/80/EC and 2010/75/EU related to large combustion plants. Kosovo* has still not complied with this Decision because the draft legislation aiming to transpose the two directives has not yet been adopted.

Open preliminary procedures in 2019

At the time of drafting this report, fourteen (14) cases were open in preliminary procedure against Contracting Parties, three of which have been opened after last year's Implementation Report. Those new cases are cases ECS-1/20 against Serbia concerning the lack of adoption of the National Emission Reduction Plan (NERP) under Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants, ECS-3/19 against Albania related to the environmental impact assessment procedure of the planned hydropower plant Poçem on the Vjosa river and ECS-4/19 against Kosovo* related to compliance of the contractual framework for the Kosovo e Re coal-fired power plant project with the rules on State aid in the Treaty.

Other information

Twenty-one (21) more cases are currently registered at the Secretariat, but dispute settlement procedures have not or not yet been opened. Almost all of those cases are complaints lodged to the Secretariat under Article 90 of the Treaty.

There are currently no open cases against Georgia, Montenegro and North Macedonia.

Part II: Report on cooperation with national authorities under Article 2 DSR

Article 2 DSR provides for a cooperation mechanism between national authorities and the Secretariat by which national authorities can ask the Secretariat for assistance regarding questions of interpretation or application of Energy Community law. In the past year, this mechanism has been used two times.

In **Albania**, the Secretariat agreed to cooperate with the competition authority in the investigation regarding alleged anti-competitive conduct on the Albanian electricity market through manipulation of tender procedures and implementation of two exclusive contracts. The Secretariat assisted the Albanian Competition Authority with its assessment of the allegations contained in the complaint and in particular the application of competition law to these facts. The case has been concluded successfully with the termination of the respective contracts and commitments not to enact any similar contracts.

In **Ukraine**, the Secretariat was consulted by the Antimonopoly Committee of Ukraine (AMCU) regarding potential infringements of competition law through not utilizing cross-border transmission capacities to Burshtyn island and thereby achieving higher prices. The Secretariat shared with AMCU information on the definition of the relevant market and relevant case-law in the European Union. AMCU has finalised the collecting of information and evidence and issued preliminary conclusions; no decision has yet been rendered.

Part III – Activities of the Energy Community Secretariat's Dispute Resolution and Negotiation Centre

The Energy Community Secretariat's Dispute Resolution and Negotiation Centre has continued to be involved in the settlement of disputes in the Contracting Parties, which increases regulatory stability for the benefit of investors and governments alike, and supports compliance with the Energy Community acquis.

The mediation proceedings between the **Secretariat and Bosnia and Herzegovina** regarding an ongoing dispute settlement proceeding (Case ECS-10/18 related to the guarantee for the Tuzla 7 power plant) ended on 5 December 2019 without an agreement. The negotiations became futile after, during the mediation and drafting of an interim agreement, the Federal Minister of Finance signed the guarantee whose non-compliance with Energy Community State aid rules constituted the subject of the case.

On 26 March 2020, the Secretariat's Dispute Resolution and Negotiation Centre was requested to facilitate discussions between the Moldovan regulator **ANRE**, and **Moldovagaz** related to the determination of the technological consumption and technical losses in the gas distribution networks of Moldovagaz' affiliated companies. As a result of the facilitation, Moldovagaz on 5 August 2020 agreed to submit to ANRE calculations and data for the period 2011 - 2019, on the basis of which ANRE will approve the final amount of technological consumption and technical losses for the purpose of distribution tariff calculation in the following months.

On 2 December 2019, negotiations in the dispute regarding the restructuring of the support mechanism for renewable energy projects in Ukraine commenced between **three associations of renewable energy producers (EUEA, UWEA and UARE) and the Ministry of Energy and Environmental Protection of Ukraine**. The Secretariat's Dispute Resolution and Negotiation Centre mediated these negotiations, which were aimed at avoiding a potentially large number of arbitration cases and

improving the prospect for renewables in Ukraine in general. A Memorandum of Understanding was signed on 10 June 2020 by the Prime Minister of Ukraine, the acting Minister of Energy and Environmental Protection of Ukraine as well as EUEA and UWEA. The central elements of the Memorandum of Understanding are: the restructuring of the feed-in tariff for existing photovoltaic and wind projects, increased financial liability of the renewable energy producers for imbalances, as well as the compliance with payment obligations to the renewable energy producers. On 21 July 2020, Law No. 3658, which implements the Memorandum of Understanding, was adopted by the Ukrainian Parliament.

Implementation Report 2020

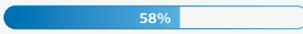
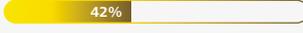
In the Contracting Party summary tables, the report displays open cases under both Article 91 and Article 92 of the Treaty, as well as cases where the procedure under Article 91 of the Treaty has been closed with the adoption of a Ministerial Council decision, but the breach has not been rectified yet. Cases in which the Ministerial Council has adopted a decision under Article 91 and which have been followed up by opening a procedure under Article 92 of the Treaty are reflected only in the boxes related to Article 92.

It also includes cases where the breaches are not rectified despite adoption of Ministerial Council decisions establishing serious and persistent breach or imposing measures under Article 92 of the Treaty.



05 Albania

Summary Implementation

Summary Indicators	Transposition Assessment	Implementation Status	Descriptions
 Electricity		 58%	Implementation in the electricity sector of Albania is moderately advanced.
 Gas		 42%	Implementation in the gas sector of Albania is moderately advanced.
 Oil		 60%	Implementation in the oil sector of Albania is moderately advanced.
 Renewable Energy		 59%	Implementation in the renewable energy sector of Albania is moderately advanced.
 Energy Efficiency		 42%	Implementation in the energy efficiency sector of Albania is moderately advanced.
 Environment		 74%	Implementation in the environment sector of Albania is well advanced.
 Climate		 40%	Implementation in the climate sector of Albania is still at an early stage.
 Infrastructure		 28%	Implementation in the infrastructure sector of Albania is still at an early stage.
 Statistics		 77%	Implementation in the statistics sector of Albania is well advanced.
 Cybersecurity		 57%	Implementation in the cybersecurity sector of Albania is moderately advanced.

Overall number of cases: **3**

Procedure by Article **91**

ECS-10/13 Energy efficiency

ECS-4/17 Electricity

ECS-03/19 Environment



Albania

State of Energy Sector Reforms

Albania has adopted framework legislation for electricity and gas in line with the Third Energy Package but implementation is lagging behind in some crucial aspects. Together with the Secretariat, the regulatory authority ERE certified both electricity and gas transmission system operators as unbundled. The electricity transmission system operator was immediately accepted as a full member of ENTSO-E in 2017. The distribution system operator OSHEE is legally unbundled, while functional unbundling is still ongoing. The electricity wholesale market is still determined by bilateral transactions between the state-owned generator KESH and utilities on the basis of excessive regulation under a public service obligation scheme.

However, during the reporting period, the long-awaited national power exchange came a decisive step closer. The transmission system operators of Albania and Kosovo*, as founding shareholders, established the company ALPEX, which will work to realize day-ahead market coupling planned for the second half of 2021. The retail market is being opened at a slow pace. A clause in the Power Sector Law unduly conditions the eligibility of customers below 35 kV to choose the supplier to technical requirements. Based on ERE's decision, standardized load profiles should be effective as of 1 January 2021 however.

Regulation of the nascent gas sector is developing well but still needs to stand the test of practice. The Trans Adriatic Pipeline (TAP) will bring gas by the end of this year to Europe. Albania must enhance its efforts to use this opportunity to develop a gas market. Otherwise, it will be reduced to the role of a transit country. Albania failed to adopt the draft Law on the establishment, maintenance and management of minimum security stocks of crude oil and petroleum products for the third year in a row.

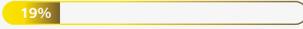
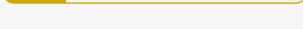
In the area of climate and environment, adoption of the draft Law and Decision on a mechanism for monitoring and reporting of greenhouse gas emissions, transposing Monitoring Mechanism Regulation (EU) 525/2013, and the draft Climate Change Law are still pending. As regards intermittent renewables, a law of 2017 marked a shift from feed-in tariffs to contracts for difference, which still depends on the establishment of a day-ahead market. While the first auctions for solar feed-in tariffs in 2018 yielded favourable support rates, the contract with the winning consortium has not been signed. A second round of solar auctions ended with a record low price of 24,89 EUR/MWh. Both the Energy Efficiency Directive and the Energy Performance of Buildings Directive have not been fully implemented. Finally, the quality of environmental impact assessments, in particular for hydropower projects, is regularly giving rise to complaints. During the reporting period, projects on the rivers Vjosa and Valbona were in focus of the Secretariat's scrutiny.

Albania is in an excellent starting position for the Green Deal, with a power sector fully based on carbon-free hydropower. With the exception of traders and a number independent hydropower producers, the players on the electricity market are all state-owned. Albania will be a transit country for the TAP once operational, and hopes to increase the role of gas in its domestic energy mix as well. Discussions on making the Vlora power plant operational and connecting it to TAP have not yielded concrete results. The production of electricity from solar plants is yet to begin. Like all Western Balkan Contracting Parties, it is well interconnected with its neighbours.



06 Bosnia and Herzegovina

Summary Implementation

Summary Indicators	Transposition Assessment	Implementation Status	Descriptions
 Electricity			Implementation in the electricity sector of Bosnia and Herzegovina is moderately advanced.
 Gas			Implementation in the gas sector of Bosnia and Herzegovina is yet to begin.
 Oil			Implementation in the oil sector of Bosnia and Herzegovina is yet to begin.
 Renewable Energy			Implementation in the renewable energy sector of Bosnia and Herzegovina is moderately advanced.
 Energy Efficiency			Implementation in the energy efficiency sector of Bosnia and Herzegovina is moderately advanced.
 Environment			Implementation in the environment sector of Bosnia and Herzegovina is moderately advanced.
 Climate			Implementation in the climate sector of Bosnia and Herzegovina is still at an early stage.
 Infrastructure			Implementation in the infrastructure sector of Bosnia and Herzegovina is yet to begin.
 Statistics			Implementation in the statistics sector of Bosnia and Herzegovina is almost completed.
 Cybersecurity			Implementation in the cybersecurity sector of Bosnia and Herzegovina is still at an early stage.

ECS-1/15 Environment	Overall number of cases: 8		ECS-8/11S Gas
ECS-5/17 Electricity	Procedure by Article 91	Procedure by Article 92	ECS-2/13S Environment
ECS-10/18 State aid			ECS-6/16S Third Energy Package
ECS-1/14 Energy efficiency			
ECS-3/18 Infrastructure			



Bosnia and Herzegovina

State of Energy Sector Reforms

In the past, Bosnia and Herzegovina has generally not been performing well in terms of energy sector reform, which to some extent is due to the country's complex constitutional structure. As a result, it has been impossible until now to transpose the Third Energy Package on the state level, and in the gas sector not even the Second Energy Package. The electricity transmission system operator is not unbundled, and neither are the distribution system operators under the jurisdiction of the two entities. The State regulatory authority SERC lacks important competences. The creation of a spot market in electricity as well as market coupling with Croatia, Serbia and Montenegro are prevented by the missing legal basis as well. On the other hand, Bosnia and Herzegovina has achieved progress where not blocked by inertia and dispute on the legislative level. A balancing and ancillary services market is effectively operated through secondary legislation.

The gas sector operates outside European law and practice, without a state-level law and regulatory authority. Only Republika Srpska has adopted a law governing the gas sector which is largely compliant with the Energy Community acquis but, in absence of state institutions, insulates this entity from the State. During the reporting period, the certification of one gas transmission system operator has started. There is no legislation on compulsory oil stocks on the state level and no progress was achieved during this reporting period.

In terms of climate and environment, the 2018 Framework Energy Strategy essentially locks the country in a number of projects for more coal-fired power production of which the extension project for thermal power plant Tuzla – Block 7 is subject to an infringement procedure related to the Federation's public guarantee issued to secure a loan from the Chinese Exim Bank.

As regards renewable energy, the country's 2020 target of 40% is not likely to be met. Market-based support schemes are still missing. Yet, a new support package based on auctions, including amendments to the relevant entities' legislation, is planned to be adopted by the end of 2020, with first auctions to be held in 2022. There is no appropriate system for guarantees of origin in place.

In the area of energy efficiency, the entity legislation is not fully compliant, and the existing laws are not properly implemented. Work on the National Energy and Climate Plan is already relatively advanced, but entity and state level plans need to be streamlined.

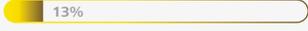
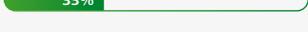
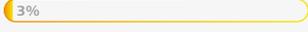
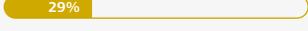
For the emissions from large combustion plants, Bosnia and Herzegovina has adopted a National Emission Reduction Plan (instead of complying with the emission limit values on an individual basis), but it is not implemented in practice (for sulphur dioxide). Bosnia and Herzegovina also opted out three thermal power plants. Two of them will reach the end of their operation already in early 2021. The country paid direct subsidies worth some EUR 22,7 million to support coal-fired power generation in 2019.

Bosnia and Herzegovina's three public utilities generate electricity predominantly from hydropower and lignite. Several new lignite-fired power plants are planned or currently under construction. The country is a major exporter of electricity to the regional market, including the European Union. It purchases natural gas imported from Russia through one interconnector with Serbia. The first wind farm in the country started operating in 2018.



07 Georgia

Summary Implementation

Summary Indicators	Transposition Assessment	Implementation Status	Descriptions
 Electricity		 52%	Implementation in the electricity sector of Georgia is moderately advanced.
 Gas		 13%	Implementation in the gas sector of Georgia is yet to begin.
 Oil		 20%	Implementation in the oil sector of Georgia is yet to begin.
 Renewable Energy		 33%	Implementation in the renewable energy sector of Georgia is still at an early stage.
 Energy Efficiency		 44%	Implementation in the energy efficiency sector of Georgia is moderately advanced.
 Environment		 53%	Implementation in the environment sector of Georgia is moderately advanced.
 Climate		 43%	Implementation in the climate sector of Georgia is moderately advanced.
 Infrastructure		 3%	Implementation in the infrastructure sector of Georgia is yet to begin.
 Statistics		 95%	Implementation in the statistics sector of Georgia is almost completed.
 Cybersecurity		 29%	Implementation in the cybersecurity sector of Georgia is still at an early stage.



Georgia

State of Energy Sector Reforms

The adoption of the Law on Energy and Water Supply compliant with the Third Energy Package at the end of 2019 paved the way for the liberalization of the electricity and gas markets in the country. The Law provides the legal basis for unbundling of the transmission and the distribution systems in both sectors, as well as for market opening at both wholesale and retail level. Georgia started to adopt secondary legislation in line with the set timetable. Adoption of an electricity market model concept in April 2020 and the electricity market rules, which will enter into force on 1 July 2021, provide a framework for the gradual opening of the wholesale and retail markets. Day-ahead and balancing markets, which are to be launched on 1 July 2021, are in the testing phase. The gas market concept is still under

discussion. Georgia continues not to have emergency oil stocks and no progress during the reporting period has taken place.

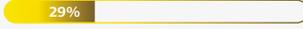
As regards climate and environment, Georgia, unlike other Contracting Parties, is not subject to a binding renewable energy target for 2020. A renewable energy law was adopted together with the Law on Energy at the end of 2019. An energy efficiency law is currently pending in Parliament. In the area of environment, Georgia has not yet transposed the Energy Community rules related to emissions into the air, despite operating four large combustion plants. Work on the National Energy and Climate Plan is under way and draft chapters of the plan have been submitted to the Secretariat for informal review.

Georgia is the only Contracting Party that is not (yet) directly interconnected with other Parties. Its power sector is mainly based on hydropower. The system is synchronized with Azerbaijan and Russia. Depending on the season, electricity is either exported or imported from its neighbours, including Turkey. The country hosts important gas and oil pipelines for the Southern Corridor. It is dependent on gas imports from Azerbaijan and Russia. In terms of solar and wind energy, the country's potential is yet to be tapped. Georgia also plans to further increase its hydropower capacities.



08 Kosovo*

Summary Implementation

Summary Indicators	Transposition Assessment	Implementation Status	Descriptions
 Electricity			Implementation in the electricity sector of Kosovo* is well advanced.
 Gas*			Implementation in the gas sector of Kosovo* is still at an early stage.
 Oil			Implementation in the oil sector of Kosovo* is still at an early stage.
 Renewable Energy			Implementation in the renewable energy sector of Kosovo* is moderately advanced.
 Energy Efficiency			Implementation in the energy efficiency sector of Kosovo* is well advanced.
 Environment			Implementation in the environment sector of Kosovo* is moderately advanced.
 Climate			Implementation in the climate sector of Kosovo* is still at an early stage.
 Infrastructure			Implementation in the infrastructure sector of Kosovo* is almost completed.
 Statistics			Implementation in the statistics sector of Kosovo* is well advanced.
 Cybersecurity			Implementation in the cybersecurity sector of Kosovo* is still at an early stage.

* Due to the lack of a gas market, implementation of the gas acquis is not taken into account in the overall score of Kosovo*.

Overall number of cases: **3**

Procedure by Article **91**

ECS-7/11 State aid

ECS-6/18 Environment

ECS-4/19 State aid



Kosovo*

State of Energy Sector Reforms

Kosovo's* electricity transmission and distribution system operators are unbundled in a manner compliant with the Energy Community rules. The wholesale electricity market and the supply of (three) high voltage customers are deregulated, but liberalization has stalled for customers on medium voltage levels. The contract for the Kosovo e Re project was terminated by the investor, which also ended infringement procedures initiated by the Secretariat. Kosovo* was the first Contracting Party to transpose the REMIT Regulation. A draft law on compulsory oil stockholding was again not adopted.

In the area of renewable energy, support in the form of feed-in tariffs defined by the regulatory authority ERO is still being awarded administratively, most recently for 25 MW of solar in a manner raising doubts as to the integrity of the procedure. A concept for market-based support schemes is being developed. The share of renewables in gross final energy consumption in 2018 was 24,9%, which puts Kosovo* on the trajectory for its 2020 target.

An energy efficiency law including a set of by-laws for implementation was adopted and an energy efficiency fund was established as an independent entity. Kosovo* is the only Contracting Party which, as a non-UN member, is not a signatory of the Paris Agreement. Yet, a climate change concept paper was drafted as well as national GHG inventories, and the 2019-2028 national strategy and action plan on climate change was approved by the Government. A law on climate change was also drafted. Work on the National Energy and Climate Plan is still at relatively early stages, but catching up.

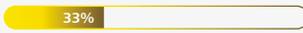
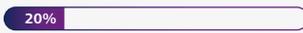
For the emissions from large combustion plants, Kosovo* has adopted a National Emission Reduction Plan (instead of complying with the emission limit values on an individual basis). It is not implemented in practice (for nitrogen oxide and dust). Kosovo* paid direct subsidies worth some EUR 6,5 million to support coal-fired power generation in 2019.

Kosovo* depends almost exclusively on two ageing lignite plants for its electricity. The contract for building a new one, the Kosovo* e Re project, was cancelled. The development of the electricity sector has suffered from a dispute with the transmission system operator of neighbouring Serbia, which came to an end by the signing of the connection agreement of the transmission system operator with ENTSO-E. Kosovo* is not connected to any natural gas system. A gas interconnector with North Macedonia would be a cost-efficient option for the import of gas, which could contribute to replacing lignite in power generation, as would market coupling with neighbouring countries. Electricity generated from wind and solar are underrepresented in Kosovo's* energy mix. The energy intensity of the Kosovo* economy is almost four times higher than the European Union average.



09 Moldova

Summary Implementation

Summary Indicators	Transposition Assessment	Implementation Status	Descriptions
 Electricity		 40%	Implementation in the electricity sector of Moldova is still at an early stage.
 Gas		 33%	Implementation in the gas sector of Moldova is still at an early stage.
 Oil		 20%	Implementation in the oil sector of Moldova is yet to begin.
 Renewable Energy		 58%	Implementation in the renewable energy sector of Moldova is moderately advanced.
 Energy Efficiency		 66%	Implementation in the energy efficiency sector of Moldova is well advanced.
 Environment		 67%	Implementation in the environment sector of Moldova is well advanced.
 Climate		 43%	Implementation in the climate sector of Moldova is moderately advanced.
 Infrastructure		 12%	Implementation in the infrastructure sector of Moldova is yet to begin.
 Statistics		 96%	Implementation in the statistics sector of Moldova is almost completed.
 Cybersecurity		 38%	Implementation in the cybersecurity sector of Moldova is still at an early stage.

Overall number of cases: **3**

Procedure by Article **91**

ECS-14/16 Energy efficiency

ECS-9/17 Electricity

ECS-7/18 Environment



Moldova

State of Energy Sector Reforms

While Moldova has transposed the Third Energy Package in both the electricity and gas sectors, the state of implementation is lagging behind in some crucial aspect. Due to the lack of interconnections and procurement procedures fulfilling only rudimentary transparency requirements, an electricity wholesale market based on fair competition is still nascent. The state-owned trader Energocom continues to play a central role in the current regime by winning all electricity procurements organized by regulated suppliers and system operators. The wholesale electricity market rules, developed with the support of the Secretariat, will enter into force only in the second half of 2021. A first attempt to unbundle and certify the electricity transmission system operator, Moldelectrica, failed due to ownership and control issues. The transposition of an independent system operator model in the Law on Electricity is ongoing. The functional unbundling of the distribution system operators is still to be finalised. Moldova has yet to transpose the REMIT Regulation.

In the gas sector, unbundling of the gas transmission system operator remains to be achieved. Though Moldovagaz started to implement the unbundling plan approved by the regulatory authority, which is based on the independent transmission

operator model, this process has slowed down significantly in recent months. ANRE has established entry-exit points, still with the temporary transmission tariffs in the Moldovan gas transmission sector. A dispute between Moldovagaz and ANRE on the issue of technical losses and tariff deviations incurred by the gas distribution companies in the past was successfully resolved with the support of the Energy Community Secretariat's Dispute Resolution and Negotiation Centre. A draft law on creating and maintaining a minimum level of oil product stocks has still not been adopted.

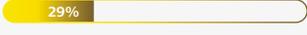
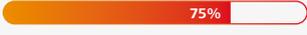
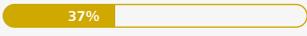
In the area of climate and environment, Moldova has not yet started with auctions for renewable energy support, pending changes in primary and secondary legislation. The central buyer for electricity from renewable sources is the state-owned company Energocom, which is also the supplier of electricity for all the regulated electricity companies in Moldova. Moldova has still to implement the Energy Efficiency in Buildings Directive. Climate legislation is in the process of being prepared by the Moldovan authorities. Work on the National Energy and Climate Plan is still at a relatively early stage.

Moldova's electricity sector is characterized by dependence on one source, a gas-fired power plant in the Transistria region, while not being interconnected with its Western neighbour Romania. Development of the interconnection project is slow. Dependence in the gas sector, where Gazprom controls the national gas incumbent, is equally high. The Romanian system operator Transgaz is building a pipeline connecting Moldova's key consumption centres to the Romanian system, thus providing alternative infrastructure to the one from Ukraine and/or in reverse flow from Bulgaria. The country has a high potential for renewable energy projects.



10 Montenegro

Summary Implementation

Summary Indicators	Transposition Assessment	Implementation Status	Descriptions
 Electricity		 77%	Implementation in the electricity sector of Montenegro is well advanced.
 Gas*		 29%	Implementation in the gas sector of Montenegro is yet to begin.
 Oil		 50%	Implementation in the oil sector of Montenegro is moderately advanced.
 Renewable Energy		 73%	Implementation in the renewable energy sector of Montenegro is well advanced.
 Energy Efficiency		 74%	Implementation in the energy efficiency sector of Montenegro is well advanced.
 Environment		 81%	Implementation in the environment sector of Montenegro is almost completed.
 Climate		 62%	Implementation in the climate sector of Montenegro is well advanced.
 Infrastructure		 38%	Implementation in the infrastructure sector of Montenegro is still at an early stage.
 Statistics		 75%	Implementation in the statistics sector of Montenegro is well advanced.
 Cybersecurity		 37%	Implementation in the cybersecurity sector of Montenegro is still at an early stage.

* Due to the lack of a gas market, implementation of the gas acquis is not taken into account in the overall score of Montenegro.



Montenegro

State of Energy Sector Reforms

Montenegro has been a frontrunner in implementing energy sector reforms in the Energy Community for years. The country continues legal reforms by adopting amendments of the Energy Law which introduce a legal basis for adoption of the 2030 energy and climate targets and the national energy and climate plan, as well as a framework for small LNG infrastructure. In the electricity sector, the Law's amendments brought a legal basis for the organized day-ahead market and designation of the nominated market operator. Unbundling of the transmission system operator has been achieved. The same goes for the distribution system. An organized wholesale market does not function yet, and a strategic partnership for servicing an organized market remains to be finalized. Montenegro has yet to transpose the REMIT Regulation. The country did not make any progress in adopting the draft law on security of supply of oil products.

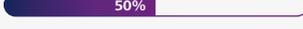
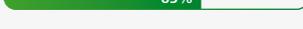
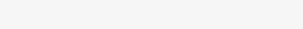
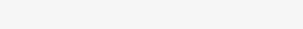
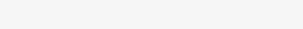
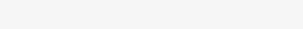
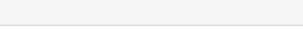
In terms of climate and environment, Montenegro is in the vanguard of the Energy Community. The recently adopted Law on Protection from the Negative Impacts of Climate Change and the regulation establishing an emission trading scheme from February 2020 constitute milestones not only for the country's but also for the Energy Community's path towards decarbonisation. Work on the National Energy and Climate Plan is still at a relatively early stage. Montenegro has already surpassed its 2020 renewable energy target by a wide margin. It successfully performed auctions for one wind and one solar power project without a premium (other than making available the land) but a possibility to sign a power-purchase agreement. The Pljevlja power plant is being opted out from compliance with the Large Combustion Plants Directive, and according to the Secretariat's estimations, will reach the end of its lifetime by the end of 2020. This will essentially decarbonize the country's electricity sector. Montenegro paid direct subsidies worth some EUR 400.000 to support coal-fired power generation in 2019.

Montenegro's power sector is mainly based on hydropower and still relies on one lignite-fired power plant in Pljevlja. Trade on the new undersea electricity interconnection between Italy and Montenegro started recently. The country is not connected to natural gas systems but could provide facilities for some quantities of LNG to be further transported by railway. In recent years, Montenegro supported investments in wind and solar power plants.



11 North Macedonia

Summary Implementation

Summary Indicators	Transposition Assessment	Implementation Status	Descriptions
 Electricity		 82%	Implementation in the electricity sector of North Macedonia is almost completed.
 Gas		 37%	Implementation in the gas sector of North Macedonia is still at an early stage.
 Oil		 50%	Implementation in the oil sector of North Macedonia is moderately advanced.
 Renewable Energy		 65%	Implementation in the renewable energy sector of North Macedonia is well advanced.
 Energy Efficiency		 58%	Implementation in the energy efficiency sector of North Macedonia is moderately advanced.
 Environment		 61%	Implementation in the environment sector of North Macedonia is well advanced.
 Climate		 56%	Implementation in the climate sector of North Macedonia is moderately advanced.
 Infrastructure		 12%	Implementation in the infrastructure sector of North Macedonia is yet to begin.
 Statistics		 96%	Implementation in the statistics sector of North Macedonia is almost completed.
 Cybersecurity		 40%	Implementation in the cybersecurity sector of North Macedonia is still at an early stage.



North Macedonia

State of Energy Sector Reforms

North Macedonia has been catching up in ensuring effective implementation of the Third Energy Package at an impressive pace, starting with the adoption of the Energy Law in 2018. The reforms are underpinned by an ambitious Energy Development Strategy 2020 - 2040. The electricity market is open, the regulation of wholesale and retail prices has been terminated. The electricity transmission system operator has been unbundled and unconditionally certified by the regulatory authority and the Secretariat. Balancing rules imposing balancing responsibility on all market participants have been implemented as of January 2020. The electricity market operator MEMO has been established and designated as the Nominated Electricity Market Operator (NEMO), a prerequisite for day-ahead market establishment and market coupling with the Bulgarian IBEX. North Macedonia has yet to transpose the REMIT Regulation.

While the reforms in the electricity sector are well advanced, the reform of the gas sector continues to be held back by a long-lasting unresolved dispute related to the ownership in the transmission system operator GA-MA. A settlement was broken by the Secretariat's Dispute Resolution and Negotiation Centre. The dispute prevents unbundling and puts at risk the timely construction of the gas interconnector with Greece. The Law on Compulsory Oil Reserves, adopted in October 2014, is envisaged to enter into force by 1 January 2021.

In terms of climate and environment, North Macedonia is essentially set for a decarbonisation path. The recently adopted energy development strategy sets out three scenarios, of which the green scenario turns out not only to be the most cost-effective but also decarbonizes the electricity sector. North Macedonia is also the most advanced of all Contracting Parties in working on the National Energy and Climate Plan. The draft plan has been formally submitted to the Secretariat for review and recommendations. By adopting an Energy Efficiency Law in early 2020, North Macedonia aligned with the energy efficiency acquis.

The country already ran auctions for the construction of solar power plants on state-owned land, and signed agreements with eleven companies that met the criteria of the public call. In most cases investors did not demand a premium, but competed for gaining and paying for the right to invest. A second tender for solar PV on private land resulted in 24 signed agreements. Another tender was conducted for solar PV installations on a closed open pit mine.

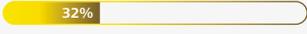
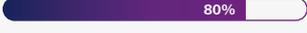
For the emissions from large combustion plants, North Macedonia has adopted a National Emission Reduction Plan (instead of complying with the emission limit values on an individual basis). It is not implemented in practice (for sulphur dioxide and dust). The country paid direct subsidies worth EUR 1,6 million to support coal-fired power generation in 2019.

North Macedonia's power generation mainly relies on lignite and hydropower and is dependent on electricity imports. The gas volumes consumed are rather insignificant and imported from Russia through an interconnector with Bulgaria. A second interconnector towards Greece is currently being planned. North Macedonia is the first country in the Western Balkans to build sizeable wind facility. The country currently tenders for a new pumped storage facility at Cebren.



12 Serbia

Summary Implementation

Summary Indicators	Transposition Assessment	Implementation Status	Descriptions
 Electricity		 65%	Implementation in the electricity sector of Serbia is well advanced.
 Gas		 32%	Implementation in the gas sector of Serbia is still at an early stage.
 Oil		 80%	Implementation in the oil sector of Serbia is well advanced.
 Renewable Energy		 58%	Implementation in the renewable energy sector of Serbia is moderately advanced.
 Energy Efficiency		 66%	Implementation in the energy efficiency sector of Serbia is well advanced.
 Environment		 64%	Implementation in the environment sector of Serbia is well advanced.
 Climate		 24%	Implementation in the climate sector of Serbia is still at an early stage.
 Infrastructure		 37%	Implementation in the infrastructure sector of Serbia is still at an early stage.
 Statistics		 92%	Implementation in the statistics sector of Serbia is almost completed.
 Cybersecurity		 62%	Implementation in the cybersecurity sector of Serbia is well advanced.

Overall number of cases: **4**

ECS-13/17 Gas

ECS-1/20 Environment

Procedure by Article **91**

Procedure by Article **92**

ECS-09/13S Gas

ECS-10/17S Gas



Serbia

State of Energy Sector Reforms

While Serbia has transposed the Third Energy Package in both the electricity and gas sectors, the state of implementation is lagging behind in several crucial aspects. As regards electricity wholesale market development, the country is in the lead among the Western Balkan Contracting Parties. Trading takes place on the bilateral and on the organised day-head market (operated by the power exchange SEEPEX). At the same time, regionally coordinated capacity allocation takes place on the interconnections with Bulgaria and Croatia only, while other interconnections are still bilaterally allocated. Moreover, competition in the balancing market still needs to be developed. Serbia also needs to complete the process of unbundling of electricity transmission and distribution system operators. Transposition of Connection Network Codes and REMIT is still pending. In the gas sector, Serbia is still far away from a true market. Neither of the two transmission system operators are unbundled and certified in line with the Third Energy Package, third-party access to the only entry point for gas is denied, and the degree of dominance of the domestic incumbent Srbijagas jointly with Gazprom over gas supplies is worrying. Serbia has yet to transpose the REMIT Regulation also for gas. Activities on the formation of emergency oil stocks continued.

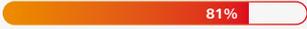
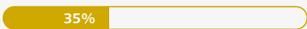
In the area of climate and environment, Serbia has implemented support under a feed-in tariff regime and power-purchase agreements. The country recently agreed to develop a project on the development of market-based support schemes, which may be expected to be finalized in a year's time. National legislation on energy labelling, energy performance contracting and an energy service company (ESCO) project is in place, but secondary legislation on buildings acquis is still missing. The adoption and official notification of obligation schemes is still pending. Work on the National Energy and Climate Plan is yet to be commenced. For the emissions from large combustion plants, Serbia has adopted a National Emission Reduction Plan (instead of complying with the emission limit values on an individual basis following an infringement procedure). It is not implemented in practice (for sulphur dioxide and dust). Four large combustion plants are operating under the opt-out regime since 1 January 2018 and are supposed to end their operation during mid-2021 and early 2023. The country paid direct subsidies worth some EUR 41 million to support coal-fired power generation in 2019.

Serbia's electricity production mostly relies on coal and, to a lesser extent, hydropower. The country is the first, and so far only, Contracting Party with an operational organized wholesale market. While Serbia produces oil and gas, the country remains highly dependent on imports, especially of gas and in particular from Russia. There is currently only one entry point for gas (from Hungary). The so-called TurkStream 2 project will also connect Serbia with Bulgaria, but breaches European rules. Despite efforts to meet its renewables targets (significant capacities in wind power generation are in place), the country will most likely not achieve the renewable energy target.



13 Ukraine

Summary Implementation

Summary Indicators	Transposition Assessment	Implementation Status	Descriptions
 Electricity		 49%	Implementation in the electricity sector of Ukraine is moderately advanced.
 Gas		 84%	Implementation in the gas sector of Ukraine is almost completed.
 Oil		 35%	Implementation in the oil sector of Ukraine is still at an early stage.
 Renewable Energy		 52%	Implementation in the renewable energy sector of Ukraine is moderately advanced.
 Energy Efficiency		 67%	Implementation in the energy efficiency sector of Ukraine is well advanced.
 Environment		 64%	Implementation in the environment sector of Ukraine is well advanced.
 Climate		 51%	Implementation in the climate sector of Ukraine is moderately advanced.
 Infrastructure		 8%	Implementation in the infrastructure sector of Ukraine is yet to begin.
 Statistics		 81%	Implementation in the statistics sector of Ukraine is almost completed.
 Cybersecurity		 35%	Implementation in the cybersecurity sector of Ukraine is still at an early stage.

Overall number of cases: **4**

ECS-6/17 Electricity

ECS-8/14 State aid

ECS-4/18 Infrastructure

Procedure
by Article **91**

Procedure
by Article **92**

ECS-1/185
Energy efficiency



Ukraine

State of Energy Sector Reforms

In the electricity sector, the opening of the wholesale market was completed with the introduction of the ancillary services market in 2020 complementing the earlier launch of bilateral, day-ahead, intraday and balancing markets. However, the market still remains largely distorted by a range of regulatory measures, including price caps and public service obligations, which channel nuclear and hydropower electricity from state-owned generators to the universal service suppliers at prices that are detrimental to competition and safe operation of power plants alike. Households are still supplied at prices below cost level, which impedes retail market competition. The certification of the transmission system operator Ukrenergo, one of the last ones not yet unbundled in the Energy Community, already failed once and now requires legislative changes transposing the independent system operator model. Unbundling and certification are no mere formalisms – membership in ENTSO-E, in the pan-European ITC mechanism and further market integration depend on it.

In the gas sector, the adoption of the Gas Market Law and certification of the transmission system operator have been a major breakthrough in the history of Ukrainian energy sector reform, with a pan-European dimension. Yet the market is still dominated by the incumbent Naftogaz and regional utilities on the retail level. Moreover, the lack of financial stability of district heating remains a major challenge to the gas market. The amended Public Service Obligations Act abolished regulation of supply prices to households and left the gas supply under this scheme only to district heating. Naftogaz's right to stop the supply to district heating companies in case of debts triggered

unauthorized offtakes and costs incurred by the transmission system operator (for balancing gas) as district heating companies will not be disconnected even if not paying. Progress has been made in the creation of a liquid gas exchange. A draft law on minimum stocks of crude oil and petroleum products is currently undergoing approval by the competent authorities.

In terms of environment and climate, Ukraine's biggest challenge remains the reduction of emissions from its outdated coal plants within the thresholds and timelines set by the Large Combustion Plants Directive. Ukraine has adopted a National Emission Reduction Plan (instead of complying with the emission limit values on an individual basis). It also opted out a total of 80 combustion plants. A modest carbon price is applied, and an emission trading scheme is under preparation. The country paid direct subsidies worth some EUR 476 million to support coal-fired power generation in 2019. Energy efficiency suffers from the lack of a legal basis.

Renewable energy production has boomed recently, mainly because of a generous feed-in tariff system which expired at the end of 2019. The boom critically affects the liquidity of the state-owned offtaker (the Guaranteed Buyer). The mediation process between the renewable energy investors and the Ministry in charge of energy under the auspices of the Secretariat resulted in a memorandum and a law restructuring the existing power purchase agreements. Auctions still remain to be launched. Work on the National Energy and Climate Plan is likely to be postponed.

Ukraine is the largest Contracting Party of the Energy Community. Despite producing significant volumes of natural gas, the country is dependent on gas (and oil) imports and remains a major transit route for Russian gas exports towards Europe. The electricity mix comprises coal, natural gas, nuclear and large hydropower. The so-called Burshtyn island, a zone not connected to the main part of the Ukrainian electricity network, trades electricity with its Western neighbours. The country's transmission system operator is engaged with ENTSO-E for the synchronization of the main grid with the one of continental Europe. The renewable energy sector has been rising fast in the last years due to increasing investment.

Energy Community Secretariat (ECS)
Am Hof 4, 1010 Vienna, Austria
Phone: 0043 (0)1 535 2222
Fax: 0043 (0)1 535 2222 11
Email: info@energy-community.org
Web: <http://www.energy-community.org>
