The cover page image of the IR 2013 was provided by courtesy of Serbia, the Energy Community Presidency in 2013. The photograph shows a 110 kV switchgear connecting the run-of-river hydro power plant Djerdap II with the Serbian transmission grid. HPP Djerdap II was built at the river shore of the Danube in 1985. The distance from its junction to the Black Sea amounts to 863 km. Like its upstream counterpart, Djerdap I, the plant was jointly constructed with Romania.

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Table of Content

1 | PREFACE | 5
2 | INTRODUCTION | 6
3 | IMPLEMENTATION of the TREATY – PROGRESS MADE and OPEN ISSUES | 10
   3.1 ELECTRICITY | 15
      3.1.1 Regional Overview | 16
      3.1.2 Albania | 23
      3.1.3 Bosnia and Herzegovina | 29
      3.1.4 Croatia | 37
      3.1.5 Kosovo* | 43
      3.1.6 Former Yugoslav Republic of Macedonia | 48
      3.1.7 Moldova | 54
      3.1.8 Montenegro | 60
      3.1.9 Serbia | 66
      3.1.10 Ukraine | 71
   3.2 COMPETITION – A REGIONAL OVERVIEW | 79
   3.3 GAS | 87
      3.3.1 Regional Overview | 88
      3.3.2 Albania | 94
      3.3.3 Bosnia and Herzegovina | 97
      3.3.4 Croatia | 102
      3.3.5 Kosovo* | 106
      3.3.6 Former Yugoslav Republic of Macedonia | 108
      3.3.7 Moldova | 112
      3.3.8 Montenegro | 116
      3.3.9 Serbia | 118
      3.3.10 Ukraine | 122
   3.4 OIL – A REGIONAL OVERVIEW | 128
   3.5 RENEWABLE ENERGY | 137
      3.5.1 Regional Overview | 138
      3.5.2 Albania | 141
      3.5.3 Bosnia and Herzegovina | 144
      3.5.4 Croatia | 146
      3.5.5 Kosovo* | 148
      3.5.6 Former Yugoslav Republic of Macedonia | 150
      3.5.7 Moldova | 152
      3.5.8 Montenegro | 154
      3.5.9 Serbia | 156
      3.5.10 Ukraine | 159
   3.6 ENVIRONMENT - A REGIONAL OVERVIEW | 164
   3.7 ENERGY EFFICIENCY | 173
      3.7.1 Regional Overview | 174
      3.7.2 Albania | 177
      3.7.3 Bosnia and Herzegovina | 179
      3.7.4 Croatia | 181
      3.7.5 Kosovo* | 183
      3.7.6 Former Yugoslav Republic of Macedonia | 185
      3.7.7 Moldova | 187
      3.7.8 Montenegro | 198
      3.7.9 Serbia | 191
      3.7.10 Ukraine | 193
   3.8 STATISTICS - A REGIONAL OVERVIEW | 197
   3.9 DISPUTE SETTLEMENT REPORT | 205
   3.10 INVESTMENT REPORT | 209
   3.11 SOCIAL ISSUES - A REGIONAL OVERVIEW | 215
   GLOSSARY | 218
   ENERGY MARKET SCHEME LEGENDS | 222

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1. PREFACE

With this Implementation Report, the Secretariat discharges its monitoring duties under Article 67 of the Treaty. Its focus is on the state of implementation of the acquis communautaire under the Energy Community Treaty. The report takes stock of the progress achieved by the nine Contracting Parties in the time period from mid-2012 to mid-2013.

During this period, the Energy Community continued to evolve both in terms of geography and substance. While Croatia terminated its (direct) membership in the Energy Community successfully to join the European Union in July 2013, Georgia applied for full membership in January of that year. On substance, the adoption of the Renewables Directive 2009/28/EC, the Emergency Oil Stocks Directive 2001/19/EC and two pieces of EU legislation on statistics significantly broadened the scope of work for both the Contracting Parties and the institutions. At the same time, the implementation deadline for some of the existing acquis expired during the reporting period. For other Directives and Regulations, most notably the Third Energy Package and the Large Combustion Plants Directive, the deadlines are approaching. Given the profound impact their implementation will have on the national energy sectors, it is easy to predict that the preparatory work will become more intensive for everybody involved during the next reporting periods. Upcoming challenges such as a coordinated approach to infrastructure development and compliance with the European Union’s network codes can be added to the to-do list. There will be no time for complacency in the upcoming years.

This report has been prepared by all units of the Secretariat, coordinated by its deputy director. Nina Grall, Milka Mumovic, Heli Lesjak and Daniel Stern deserve special thanks for their contribution to editing and compiling the individual texts. The Secretariat will be at your disposal for all comments and questions related to the information contained in this report and the assessments made.

Janez Kopač
Director
2. INTRODUCTION

a. The Energy Community

The Energy Community extends the 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. This paves the way for an integrated energy market, allowing for cross-border trade and integration with the EU market. The Energy Community strives to enhance security of supply and competition, and to improve the environmental situation in its Contracting Parties. The Treaty covers network energy, which includes electricity, gas and oil.

The Treaty establishing the Energy Community was signed in October 2005 in Athens and entered into force on 1 July 2006. As of 1 July 2013, the Parties to the Treaty are the European Union, and eight Contracting Parties, namely Albania, Bosnia and Herzegovina, Kosovo*, the former Yugoslav Republic of Macedonia, Moldova, Montenegro, Serbia and Ukraine. Despite Croatia’s accession to the European Union on 1 July 2013, the country is still covered by the present report.

Pursuant to the Article 95, the European Union Member States have the possibility to become a Participant to the Treaty. Following Croatia’s accession to the EU, currently 16 Member States have that status, namely Austria, Bulgaria, Croatia, Czech Republic, Cyprus, France, Germany, Greece, Hungary, Italy, the Netherlands, Poland, Romania, Slovakia, Slovenia, and the United Kingdom.

Armenia, Georgia, Norway and Turkey are Observers under Article 96 of the Treaty. Georgia applied to join the Energy Community as a full member.

* Following an agreement between the Serbian and Kosovo* Governments reached under EU facilitation, Kosovo* is the only denomination to be used within the framework of regional cooperation.

* 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.

The means to achieve the objectives underlying the Energy Community Treaty is integration by law being based on EU rules and principles. The Contracting Parties have committed themselves to the implementation of selected parts of the acquis communautaire on electricity, gas, oil, renewable energy, energy efficiency, competition, environment, statistics and security of supply.

Additionally, a unique institutional setup supports the further implementation and development of the acquis. The institutions comprise the Ministerial Council as the supreme decision-making body, the Permanent High Level Group preparing its work, the Regulatory Board, Fora for electricity, gas, oil and social issues, and the Secretariat.

Energy Community Institutional Setting

The Secretariat of the Energy Community is the only permanent and independent institution under the Treaty. Its roles comprise providing assistance to the Parties and institutions of the Treaty, enforcing the implementation of the Treaty’s acquis and monitoring the state of implementation.

In accordance with Article 67(b) of the Treaty, the Secretariat shall review the proper implementation by the Contracting Parties of their obligations under the Treaty and submit annual progress reports to the Ministerial Council of the Energy Community.

Source: Energy Community Secretariat
3. Implementation of the Treaty

Progress made and open issues
3. IMPLEMENTATION OF THE TREATY – PROGRESS MADE AND OPEN ISSUES

1. Over the past years, the Energy Community has developed into a dynamic organization. On many occasions it showed its determination to ensure that both the package set by the European Union in reforming and integrating its internal energy markets. Most of EU landmark legislation of the past years, such as the so-called Third Energy Package or the Renewables Directive, seeks to be incorporated promptly by the Secretariat. The incorporation of others, such as the new Energy Efficiency Directive or the Energy Infrastructure Regulation, is currently being prepared. On a secondary level, the Network Codes and Guidelines, still under development within the European Union, need to be taken over by the Energy Community promptly in accordance with the commitments made by its institutions and the need to ensure a co-ordinated operation throughout Europe. The constant evolution of the body of Energy Community law in line with the European acquis is important for maintaining the legislative homogeneity without which the single pan-European energy market pursued by the Treaty should be established. The Energy Community would become impossible. Full implementation by the Contracting Parties, however, is vital. Without such implementation, the commitments made amount to little more than lip service.

As regards reforming the domestic and regional energy sectors, the implementation report – the perspective in institutional and bilateral discussions has indeed shifted to Third Package implementation. Plans were prepared by most Contracting Parties and drafting work started in some of them. But at the same time, it cannot hide the fact that the opening of energy markets – the thrust of European energy legislation, and linked to concrete dates by the Second Package – is still far from reality on the eve of Third Package implementation. This goes for both the electricity and gas sectors. The absence of open markets in an environment dominated by the involvement of the State – through control over incumbent utilities, granting of subsidies and regulating energy prices – has been analyzed and spelled out on many occasions. The Secretariat’s response to the implementation gap includes enforcement, the insistence on changes to the market designs for which the forthcoming reports will be key. But even if new market designs are not always reflected in the implementation reports, they are part of the vertically integrated and state-owned undertaking.

2. The Treaty evolved as a tool to reform and integrate the electricity and hydrocarbon sectors in the Contracting Parties in accordance with legislation originating in the EU. These sectors are complemented by flanking policies such as energy efficiency, environment, renewable energy, competition and statistics. They are often governed by institutions and legislation different from those in charge of the energy sectors. However, certain aspects of energy reform in the Contracting Parties, which is why they are fully included in the Secretariat’s monitoring, assistance and enforcement activities. At the same time, the structural reform of the market designs for electricity and hydrocarbons is the most pressing task – not only to increase their efficiency, attractiveness and sustainability but also as a precondition to achieving all other objectives. Today, the Treaty in its present form and the two sectors take center stage also in this implementation report.

a. As in previous years, the larger part of the past year’s activities both within the Contracting Parties and the Secretariat was linked to the electricity sector. In South East Europe, this sector used to be fully integrated within Yugoslavia (with the exception of Montenegro and Slovenia) and the Balkan electricity interconnection, with the Balkan Electric Power Exchange (BEPX) as an essential element of the regional electricity market. In the EU, the internal electricity market is a central aspect of the Third Energy Package – is still far from reality on the eve of third Package implementation. Plans were prepared by most Contracting Parties and drafting work started in some of them. But at the same time, it cannot hide the fact that the opening of energy markets – the thrust of European energy legislation, and linked to concrete dates by the Second Package – is still far from reality on the eve of Third Package implementation. This goes for both the electricity and gas sectors. The absence of open markets in an environment dominated by the involvement of the State – through control over incumbent utilities, granting of subsidies and regulating energy prices – has been analyzed and spelled out on many occasions. The Secretariat’s response to the implementation gap includes enforcement, the insistence on changes to the market designs for which the forthcoming reports will be key. But even if new market designs are not always reflected in the implementation reports, they are part of the vertically integrated and state-owned undertaking.

Most laws envisage full market opening by 2015, and formal eligibility is typically well-transposed. But in reality the larger share of markets in the Contracting Parties cannot be considered open. In some countries, step-wise liberalization programmes were also implemented. Serbia deserves credit here. Too often the public service obligations imposed by the current market designs are excessive. This is visible in features such as the supplier of last resort which essentially replicates the incumbent utilities, granting of subsidies and regulating energy prices – has been analyzed and spelled out on many occasions. The Secretariat’s response to the implementation gap includes enforcement, the insistence on changes to the market designs for which the forthcoming reports will be key. But even if new market designs are not always reflected in the implementation reports, they are part of the vertically integrated and state-owned undertaking.

b. The hydrocarbons sector – oil and gas products have been included in the Treaty’s definition of “network energy” next to gas since 2008 – is rather different. As a far as gas is concerned, the acquis communautaire is limited to transportation and downstream markets, and thus not applicable to upstream exploration and production. It was therefore necessary to establish a temporary compromise to cover any gas imports not covered by acquis. Given the geographical structure of gas imports into the Acquis, this compromise was agreed in its initial form, and then subject to limited change in the 2009 energy acquis. The acquis communautaire is limited to transportation and downstream markets, and thus not applicable to upstream exploration and production. It was therefore necessary to establish a temporary compromise to cover any gas imports not covered by acquis. 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energy sector, and may be beneficial or detrimental, depending on their design. As the case of Bulgaria shows for instance, the manner in which support schemes for renewable energy are applied in a given social climate may have fundamental impacts far beyond the energy sector alone. This example, as well as the general European discussion on the future of renewable energy promotion, also irritates the Contracting Parties who in 2012 agreed to commit to very challenging targets. Here, as in the cases of increasing energy efficiency or reducing emissions from coal-fired power plants and petroleum products under the environmental acquis, investments are key. The success of horizontal objectives thus depends again on successful reform – including prices – and integration of the energy market, the core objective of the sectoral policies. The Secretariat supports this process also in the area of social policy by proposing to the Ministerial Council a Community-wide definition of vulnerable customers in the outline of a social strategy. Other areas, most notably the competition and state aid rules with a high potential to help liberalizing markets, suffer from an enforcement problem which is not only a national one but also due to an inadequate institutional design of the Treaty.

3. It has been remarked by many observers that the Energy Community pursues objectives equally – or given the social conditions and the prevailing backlog indeed: more – ambitious than the European Union in the energy sector. At the same time, it was said that the Treaty fails to provide the instruments needed to actually achieve these objectives. In the beginning of 2013, and based on practical experience so far, the Secretariat made an analysis of the weaknesses of the Treaty and its acquis. Among others, the inadequacy of the enforcement regime, the limited role of environmental standards, the lack of harmonization measures for market designs and prices and the lack of a possibility for participation of the Energy Community Regulatory Board in Agency for the Cooperation of Energy Regulators were identified. The Secretariat recommended that the Energy Community, to live up to its full potential and create a true pan-European community of shared laws and principles, starts a discussion on how to increase the efficiency of its institutional and legal framework. In response, the Permanent High Level Group in June 2013 expressed both its full support to the continuation of the Treaty beyond 2016, and agreed to recommend to the Ministerial Council the setting up of a High Level Reflection Group which would assess the functioning of the Treaty and propose potential amendments. This process and the state of play of the present Treaty’s implementation should be seen in close relation.

Dirk Buschle
Deputy Director / Legal Counsel
3.1 Electricity

3.1.1 Regional Overview
3.1.2 Albania
3.1.3 Bosnia and Herzegovina
3.1.4 Croatia
3.1.5 Kosovo*
3.1.6 Former Yugoslav Republic of Macedonia
3.1.7 Moldova
3.1.8 Montenegro
3.1.9 Serbia
3.1.10 Ukraine
3.1.1 ELECTRICITY – A Regional Overview

The Contracting Parties committed to implementing the following legislative documents:

1. Directive 2003/54/EC concerning Common Rules for the Internal Market in Electricity sets minimum requirements for the establishment of competitive electricity markets, including public service obligations and customer protection, monitoring of supply, authorisations and tendering of new generation capacity, tasks for transmission and distribution system operators, unbundling of network operation and unbundling of accounts, transparency, third-party access to networks, eligibility and market opening, as well as the independence, scope of responsibilities and instruments for enforcement of the regulatory authority.

According to the Treaty, the deadline for implementation of Directive 2003/54/EC expired on 1 July 2007. Accordingly, the electricity markets in the Contracting Parties were expected to be open to competition for all customers except households from 1 January 2008. Households should become eligible no later than 1 January 2015.

Pursuant to the Accession Protocol of Moldova, the country committed to implement the Directive before the end of December 2009 and to open the electricity market for non-household customers before 1 January 2013. The respective Protocol for Ukraine sets both deadlines at 1 January 2012.

2. Regulation (EC) 1228/2003 on Conditions for Access to the Networks for Cross-Border Exchanges in Electricity, together with the Guidelines on Management and Allocation of Available Transfer Capacity of Interconnections between National Systems set the basic principles of regional market integration. Building on Directive 2003/54/EC, the Regulation lays down rules for the use of interconnected systems and for coordinated management of cross-border electricity flows, including compensation of costs, imbalance and network access charges, availability and access to information, capacity allocation and congestion management on interconnections including secondary trading of capacity rights, exemptions for new interconnectors, use of congestion revenues, etc.

According to the Treaty, the implementation deadline for Regulation (EC) 1228/2003 also expired on 1 July 2007. The Guidelines became part of the Energy Community acquis by Decision 2008/82/EC of the Ministerial Council in 2008, and the deadline for application of a common coordinated congestion management method and a procedure for allocation of capacity rights was set for 31 December 2009. In the case of Moldova, the Accession Protocol sets the deadline for implementation of the Regulation and the Guidelines to 31 December 2010. Ukraine, in its Accession Protocol, has committed to implement both acts not later than 1 January 2012.

3. Directive 2005/98/EC concerning Measures to Safeguard Security of Electricity Supply and Infrastructure Investment provides a legal framework for the Contracting Parties to develop coherent, transparent and non-discriminatory security of supply policies compatible with the operation of a competitive electricity market. Building on Article 4 of Directive 2003/54/EC (Monitoring of Security of Supply), the Directive indicates necessary measures to safeguard an adequate level of security of supply, encourage new investments in generation, transmission, distribution and interconnection infrastructure in order to maintain sustainable balance between supply and demand, to meet and monitor the quality of supply policies, including cross-border security while contributing to the proper functioning of the regional and internal electricity markets.


(4) Within the European Union Directive 2003/54/EC and Regulation (EC) 1228/2003 have been replaced by new acquis in the framework of the so-called “Third Energy Package”. On 6 October 2011, the Ministerial Council in Chisinau adopted Decision 2011/02/MC-Enc on the implementation of Directive 2009/73/EC and Regulation (EC) 715/2009, with a general implementation deadline set for 1 January 2015. Despite the fact that the Contracting Parties’ implementation commitments currently still relate to the “Second Energy Package”, preparation for the legal and practical amendments necessary to implement the Third Package should have already started in all Contracting Parties to meet the implementation deadline.

1. Authorisation procedures for new generation and tendering are important for improving the investment climate and, usually the basic provisions are transposed. Implementation follows a standard pattern – the Minister or the Cabinet of Ministers is responsible for authorisation of the construction and operation of a power plant, if required. There are cases where supporting laws, such as a law on concessions or public private partnership, or a construction law, are applicable, and cases where the regulatory authority is authorised for issuing the construction permits.

The tenders are typically organised by the Ministry. The regulatory authority later licenses the operation.

The existing legal frameworks and administrative practices still fall short of compliance. The implementation fails to ensure efficiency and transparency. A better level of transparency is provided in Albania where an independent company has been established to improve the investment climate, and in the Federation of Bosnia and Herzegovina with the newly adopted Electricity Law.

2. The legal unbundling of the transmission system operator is transposed in all jurisdictions. The transmission system operator is usually in state ownership, in some cases (Moldova, Serbia, Ukraine) still not corporatised. In Montenegro the State is a dominant owner (55% of the shares). In Bosnia and Herzegovina an “ISO” model is applied (not according to the Third Package) but in practical terms the unbundling has not been thoroughly implemented which has resulted in problems with the management and investment capacity of the transmission company.

Distribution has not yet been legally unbundled, at least from the supply under regulated prices, in any jurisdiction. This is one of the common tasks to be faced in the next period.

The accounting unbundling is still insufficient in some vertically integrated utilities and in some jurisdictions not even duly enforced (Kosovo*, Albania and Ukraine). Unbundling of regulated from market-based activities is not enforced or implemented in Ukraine.

3. Third party access implementation is more advanced in all Contracting Parties, both for the transmission and distribution networks.

Transmission grid codes are developed, adopted by the regulators and publicly available, however not fully implemented in all jurisdictions (Kosovo*, Albania). The general conditions for electricity supply cover the connections and access to the distribution grid. In some countries the access is limited by administrative conditions (Ukraine, Kosovo*). The treatment of the refusal of access and the exemption from third party access still require improvements in all jurisdictions.

Network tariffs for transmission and distribution are determined, approved by the regulator, published and applied in each jurisdiction.

4. The aspects of eligibility (criteria, calendar, enforcement, etc.) are addressed in all jurisdictions except Ukraine. The definition is generally compliant while the market opening in real terms is adjusted to national market sizes. The applicable calendar for market opening is often linked to the type of network – transmission / distribution (Montenegro), or to the voltage level of the connection to the distribution grid (Bosnia and Herzegovina, former Yugoslav Republic of Macedonia, Serbia) and/or to the level of consumption (Albania). In some jurisdictions, eligible customers are not entitled to regulated prices (former Yugoslav Republic of Macedonia, Serbia) which so far has been applied to large industry customers only. It remains to be seen whether and to what extent it will be applied to the low-voltage commercial customers and households.

Regulated tariffs are still offered, in one way or another to some categories of eligible customers in all Contracting Parties. This in turn prevents effective deregulation of the gen-
5. Supplier switching rules are being gradually applied (Bosnia and Herzegovina, former Yugoslav Republic of Macedonia, Montenegro, Serbia). All contain some form of a “supplier of last resort”, under various names, powers and methods of price regulation. No competitive switching has been effectively introduced yet.

Supplier switching is curtailed by the potential of new suppliers from entering the end-customer supply resulting from the generally concentrated and undeveloped wholesale market and lack of access to low-cost generation. The “single buyer” market model is applied in the legal framework of Albania and Ukraine; however all Contracting Parties suffer from significant concentration and dominance of state-owned generation and/or supply companies.

6. The conditions for cross-border transmission and allocation of interconnection capacity are generally at an advanced degree of compliance – to the level that market-based mechanisms (auctions) are applied on all interconnectors operated as part of ENTSO-E network, for various time horizons. Coordinated bilateral auctions are applied on some borders (Serbia, Croatia).

The capacity allocation rules are being improved (in Albania and Ukraine), capacity reservation is gradually being abolished upon intervention of the Secretariat. The congestion revenue is not always adequately treated and data not always available.

7. The balancing rules are developed in the context of the market rules or grid codes. However they are not always adequately applied. In some cases the balancing mechanisms have introduced limited levels of competition (Serbia) but in most cases they have not been developed in the context of market conditions. The balancing of the demand basically remains in the domain of regulated services. In some systems the balancing is still performed implicitly by the transmission operator/distributor, and the costs are socialised in the wholesale tariff (Ukraine).

8. Provisions for transparency of data are partially available and applied. The availability of information to the market participants is sometimes problematic and, along with the monitoring obligations of the regulatory authorities, requires improvement. The practical implementation nevertheless corresponds to the minimum needs of market participants owed to the limited complexity and dynamics of the relevant transactions. Not all requirements from the acquis for transparency and access to information have been fulfilled, which is a challenge for future development.

9. The provisions for customer protection are usually transposed to satisfactory level but far from full complying with the requirements from the acquis. In particular it is important to apply the specific rules for support of the final customer including contractual obligations and availability of data. They are missing or incomplete in most cases. Universal service is not always recognised or adequately enforced. The rules of the Third Package are targeting a much higher level of compliance in all customer protection aspects.

The aspects of public service are misinterpreted in all jurisdictions. The most common pattern is the treatment of public service as a default condition available in excess and used to justify whatever type of regulation in is question (TSO, DSO, balancing, generation, supply). There is almost no adequate treatment of the exceptional character of public service, or any obligation to report on it.

The treatment of the protection of vulnerable customers is also critical. It is available to a certain extent in all jurisdictions in diverse modes and protection mechanisms, and is in most cases in one way or another not in compliance. There are mechanisms applying cross-subsidies and/or state subsidies (Ukraine). In a growing number of cases the use of funds from the State budget is envisaged. Identification of the vulnerable customers is not always clear and the definition of the support is not always comprehensive or fully adequate.

2. The regional electricity market

The creation of a coherent and convergent regional market, operating on harmonised legal and regulatory rules is a central trigger for attracting investments and increasing market liquidity in the Energy Community. Only if the relatively small individual Western Balkan markets join forces and create a common and competitive trading area, can the benefits for customers and social development be gained from market liberalisation materialize.

The path towards a common regional market in the Energy Community strongly orientates around European developments, having in mind the final target of integration into the European and Energy Community markets. In the electricity sector the so-called Regional Action Plan for Wholesale Market Opening in South East Europe (SEE RAP) defines the steps for regional market integration in the 8th Region streamlined with the milestones and actions of the European electricity target model and the four cross-regional roadmaps - capacity calculation, long term capacity allocation, day ahead capacity allocation (market coupling), continuous mechanisms for implicit cross border intraday trading.

The 8th Region was established following a decision by the Ministerial Council of the Energy Community in 2008 with a view to implement a common procedure for electricity congestion management and transmission capacity allocation on a regional level. It covers the Energy Community Contracting Parties and eight neighbouring EU Member States.

The SEE RAPs deadlines related to intraday markets are still ahead of the target of establishing cross-border intraday capacity markets on several borders by mid 2014 and reaching a harmonised regional solution by mid 2015.

In line with the European targets, the SEE RAP foresees the establishment of a SEE Coordinated Auction Office (SEE CAO), targeting harmonization of the allocation and nomination rules for long and medium term transmission rights in the 8th Region and executing multilateral coordinated auctions on all SEE borders as regional one-stop-solution for end of 2014. A so-called Project Team Company in Charge of Establishing a SEE CAO (PTC) has been registered in Montenegro in July 2013 with the scope of preparing the effective operation of the SEE CAO. This included organizational, legal and technical assistance related to the company’s set up. The network operators of Albania, Bosnia and Herzegovina, Croatia, FYR of Macedonia, Greece, Kosovo*, Montenegro, Romania, Slovenia and Turkey are shareholders of the PTC.

The original deadline for SEE CAO to auction the annual capacities for 2014 at the end of 2013 will not be met. Instead, SEE CAO is expected to be functional no later than 1 July 2014, starting with monthly allocation periods as the initial step for centrally coordinated forward capacity allocation and complementary to market coupling. A positive development in the direction of a coordinated regional approach was the Serbian TSO, EMS, at the 18th Energy Community Electricity Forum declaring its readiness to enter into joint bilateral auctions, as a first step, with the SEE CAO. Commitment by the Bulgarian network operator is still missing.

Also, concrete progress has not been made either relating to the choice of a single capacity allocation algorithm as a key requirement for market coupling, nor regarding the establishment of Power Exchanges (PXs) or commissioning services from existing PXs. The related deadlines of the SEE RAP have been clearly missed.

However, the support of the 18th Athens Forum for the Serbian SEEPEX as a possible pilot project for the development of market coupling across the Region - that can be extended to other Contracting Parties on a step by step basis – has to be seen as a positive signal towards progress. A comparable initiative has been started in Croatia with the aim of establishing a PX or entering into joint venture agreements by the end of 2013 or early 2014 the latest.
It has to be underlined that delays in progress are strongly home-made and mainly due to lack of serious political commitment: all elements of the SEE RAP can be implemented within the legal framework of the Second Energy Package. The establishment of regionally coordinated congestion management is even explicitly required by Regulation (EC) 1228/2003.

Effective market opening is also hindered by a number of legislative barriers in the Contracting Parties that need to be abolished, in particular relating to public supply, single buyer models, regulated energy prices, market based procurement and trade of electricity and monopoly positions in electricity generation and supply. In addition, un-harmonized VAT establishes an obstacle for regionally coordinated capacity allocation and market coupling.

The lack of a regionally coordinated capacity allocation mechanism remains a key concern also due to the negative effects on market liquidity. Insufficient transmission interconnection capacity with neighboring systems is a core obstacle for limited cross-border trading and the establishment of a regional electricity market. Coordinated capacity allocation and congestion management schemes are therefore essential. Although the TSOs of all Energy Community Contracting Parties, except Moldova, have already introduced market-based capacity allocation mechanisms (based on NTC auctions) for congestion management at their borders, there is still insufficient harmonisation in the 8th Region.
### 3.1.2 Albania

#### Electricity

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<th></th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricity Produce (GWh)</td>
<td>4,157</td>
<td>4,723</td>
</tr>
<tr>
<td>Net Imports (GWh)</td>
<td>3,068</td>
<td>2,715</td>
</tr>
<tr>
<td>Net Exports (GWh)</td>
<td>187</td>
<td>297</td>
</tr>
<tr>
<td>Total Electricity supplied (GWh)</td>
<td>7,338</td>
<td>7,140</td>
</tr>
<tr>
<td>Gross Electricity Consumption (GWh)</td>
<td>7,338</td>
<td>7,140</td>
</tr>
<tr>
<td>Losses in Transmission (GWh)</td>
<td>173</td>
<td>169</td>
</tr>
<tr>
<td>Losses in Transmission [%]</td>
<td>2.35%</td>
<td>2.21%</td>
</tr>
<tr>
<td>Losses in Distribution (GWh)</td>
<td>2,006</td>
<td>2,178</td>
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<tr>
<td>Losses in Distribution [%]</td>
<td>30.50%</td>
<td>46.10%</td>
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<tr>
<td>Consumption of energy sector (GWh)</td>
<td>27</td>
<td>21</td>
</tr>
<tr>
<td>Final consumption of electricity (GWh)</td>
<td>5,032</td>
<td>3,772</td>
</tr>
<tr>
<td>Consumption Structure (GWh)</td>
<td>Industrial, transport, services and other non-residential sectors 2,444, Households (Residential Customers) 2,580</td>
<td>2,619, 2,163</td>
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<tr>
<td>Net maximum electrical capacity of power plants (MW)</td>
<td>1,573</td>
<td>1,824</td>
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<table>
<thead>
<tr>
<th>Fuel Type</th>
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<tr>
<td>Coal</td>
<td>42</td>
<td>195</td>
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<tr>
<td>Gas</td>
<td>1,475</td>
<td>1,726</td>
</tr>
<tr>
<td>Oil</td>
<td>98</td>
<td>98</td>
</tr>
<tr>
<td>Nuclear</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hydro</td>
<td>1,726</td>
<td>1,475</td>
</tr>
<tr>
<td>Other renewables</td>
<td></td>
<td></td>
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<tr>
<td>Wind</td>
<td>42</td>
<td>195</td>
</tr>
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</table>

#### Horizontal Transmission Network [km]

<table>
<thead>
<tr>
<th>Voltage Level [kV]</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>380 kV or more</td>
<td>320</td>
<td>320</td>
</tr>
<tr>
<td>220 kV</td>
<td>1,228</td>
<td>1,228</td>
</tr>
<tr>
<td>110 kV</td>
<td>1,251</td>
<td>1,285</td>
</tr>
<tr>
<td>HVDC</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Substation Capacity (MVAs)</td>
<td>2,916</td>
<td>3,843</td>
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#### Electricity Customers

<table>
<thead>
<tr>
<th>Category</th>
<th>2011</th>
<th>2012</th>
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</thead>
<tbody>
<tr>
<td>Total</td>
<td>1,108,000</td>
<td>1,046,972</td>
</tr>
<tr>
<td>Non-households</td>
<td>196,440</td>
<td>298,253</td>
</tr>
<tr>
<td>Eligible customers under national legislation</td>
<td>6</td>
<td>7</td>
</tr>
<tr>
<td>Active eligible customers</td>
<td>1</td>
<td>7</td>
</tr>
</tbody>
</table>

#### Domestic market

<table>
<thead>
<tr>
<th>Parameter</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricity supplied to active eligible customers (MWh)</td>
<td>131,271</td>
<td>596,850</td>
</tr>
<tr>
<td>Share of total consumption [%]</td>
<td>1.81%</td>
<td>8.36%</td>
</tr>
</tbody>
</table>

Source: ENTSO-E

#### The electricity sector in Albania

In Albania, the virtually complete reliance on hydro-power, and the low financial liquidity of the electricity sector (caused, inter alia, by an unsustainably high level of losses, a low collection rate, non-payment by the public sector) are obstacles for the sustainable development of the electricity market and security of supply. This situation caused a long-standing and very harmful dispute between the State and its companies, and the privatized distribution and supply company, CEZ Shperndarje. The dispute in early 2013 culminated in the revocation of the latter’s license by the regulatory authority, an unprecedented event in the Contracting Parties to the Energy Community.

The primary legal act governing the electricity sector in Albania is the Power Sector Law of 2003, as amended several times since. The Law is based on a tight “single buyer” mar-
The transmission system operator is legally unbundled in the form of a state-owned company Operatori i Sistemit te Transmetimit (OST). OST operates the transmission system and performs central dispatching and electricity market administration. The transmission losses were at a level of 2.2% in 2012. The electricity system of Albania is interconnected with the neighboring systems of Greece and Montenegro on 400 kV, and on 220 kV with the system of Kosovo*. The relatively low level of stability of the transmission system in the southern part of Albania, and the missing SCADA functions still underpin the security of network operation and quality of service. The system needs significant improvement in the areas of infrastructure performance and quality of operation in order to reach the requirements of ENTSO-E and allow OST to join the market.

Korporata Elektroenergjitike Shqiptare (KESh) is the incumbent generation holder. It consists of “KESH-Gen” which operates the large state-owned hydro-generation capacities (1,433 MW) and the only thermal power plant in Albania – the (currently idle) TPP Vlorë (98 MW). KESh operates as “wholesale public supplier”, the single buyer established by the Law and the market model. Private producers operate a total of 196 MW of hydro-power capacity, and contributed 7% of the domestic production of 4,722 GWh in 2012. There were four electricity traders active in supplying electricity to or through Albania in 2012. Imports of electricity are also carried out, when required, by KESh to cover the missing demand, and by the “retail public supplier” CEZ Shperndarje to cover the enormous losses in distribution.

On the supply side the market is dominated by the distribution system operator and retail public supplier CEZ Shperndarje, dominantly (76%) owned by the Czech energy holding CEZ. The Albanian company CEZ Shperndarje operates the distribution system and supplies electricity under regulated prices. In 2012 CEZ Shperndarje registered 6,852 GWh of electricity supplied. However, the billed consumption was only 3,771 GWh indicating distribution losses in 2012 of 45%. Household consumption amounts to 54% of the electricity invoiced by CEZ Shperndarje.

The electricity market is thus dominated by two companies operating under regulated prices both in the wholesale and retail segment. Following the Government’s Market Model of 2008, the “wholesale public supplier” (KESh) produces under regulated costs or procures from the market, and sells to the “retail public supplier” at regulated wholesale prices the whole supply of electricity, including the balancing energy and excluding only the electricity required to cover the distribution network losses. The retail public supplier CEZ Shperndarje covers the demand, at regulated prices, of non-eligible customers and eligible customers which have not contracted an alternative supplier. Other than (wholesale) traders, there were no independent suppliers active in Albania in 2012. According to the Market Report of 2008, the wholesale public supplier (KESh) also functions as a supplier of last resort.

Pursuant to the Power Sector Law’s amendments of 2011, all customers supplied directly from the 110 kV network (regardless of their consumption) as well as the customers with annual consumption greater than 50 GWh (regardless of the voltage level of their connection) are automatically considered eligible. In practice, seven customers comply with these criteria and all have switched from the public supply. They are supplied by traders, independent domestic producers or by KESh, to the extent production exceeds the demand of captive consumers. This supported effective opening of the market to the level of 8.4% in 2012.

A subsidy structure (“block tariff”) is applied to household customers supplied by CEZ Shperndarje. It envisions a reduction of tariffs for consumed quantities below 300 kWh per month, which in practice covered 75% of the households in 2012.

A draft of the outated Power Sector Law has already been under development since 2010. Even though the draft, following interventions by the Secretariat, was widely compliant with the Second Package and ready for adoption in 2011, the events around CEZ Shperndarje and other political circumstances prevented it from entering into force. By now, the draft is widely obsolete as it would not transpose the Third Energy Package.

The draft was expected to implement a new market model through phasing-out the function of a wholesale public supplier and supporting supplier-switching by eligible customers thus achieving gradual market liberalisation.

The missing financial consolidation in the electricity sector and the history of disputes over the past two years between CEZ Shperndarje and the State companies and institutions, including ERé, led to the revocation of CEZ Shperndarje’s distribution and supply licenses in January 2013. The main accusations by ERé are the lack of imports of electricity to cover losses, missing investments, the soaring share of distribution losses and bad debts since privatization and late payments to KESh and OST.

A new alliance to establish the necessary electronic platform. Amendments to the Rules on Interconnection Capacity Allocation are currently under review by ERé. Following the
In 2012 ERE adopted several rules which improved transparency and consumer protection by setting criteria for the quality of services, handling of customer complaints, imposition of penalties to license holders and the calculation of economic damage. The monitoring practice of ERE has improved in the past several years.

ERE adjusted the tariffs and prices for 2012 and approved new levels of costs for 2013 and 2014 respectively for all types of regulated activities, namely generation (KESH-gen), small HPP, TPP Vlora), for wholesale public supply, for the transmission tariff, for the distribution tariff and for retail supply services per category of customer.

In 2012 ERE also adopted new Connection Rules, including a connection agreement template. Among other aspects the new Rules improve procedures’ efficiency, provide standardisation of the equipment, define ownership rights, stipulate rules for limitations, refusals, complaints and disputes, and provide more transparency in the ownership rights.

The project for construction of a 400 kV interconnection line with Kosovo* did not develop significantly and is still in the tendering stage. In the beginning of 2013 Albania contracted the construction of 245 km of 110 kV transmission lines and the rehabilitation of the substations in the southern part of the country in order to reduce losses and increase network stability and security of supply in this region.

C. State of compliance

In the absence of a new Electricity Law, the Power Sector Law of 2003, as amended, remains the primary legal reference for compliance assessment.

1. According to the Power Sector Law, the Government is the responsible authority for authorisation and tendering for new power generation capacity. The Law sets the main authorisation criteria in an adequate manner but does not enforce transparency requirements. Tendering is not stipulated in this Law, some relevant provisions are to be found in the Law on Concessions and the Law on Licenses, Authorizations and Permits. The National Licensing Centre provides practical conditions for shorter authorisation procedures, in particular when concession certificates or other administrative prerequisites are required. Nonetheless, a consistent primary legislation in compliance with Articles 6 and 7 of Directive 2003/54/EC is still not in place.

2. The unbundling provisions and status are not in compliance with Directive 2003/54/EC. The transmission system operator OST is legally unbundled from the rest of the system and performs market operator functions. KESH operates as the dominant generation company and wholesale market supplier at the same time. None of the two is obliged or have committed to apply compliance programmes. Unbundling of the accounts is basically required by the Power Sector Law however the enforcement provisions are insufficient. In practice this applies in particular to the unbundling between generation and wholesale supply activities in KESH.

3. The third party access to the electricity networks is practically omitted from the Power Sector Law with almost no reference further than the definition. An obligation of the network operators to grant access as well as the treatment of refusals and appeals is not enforced. ERE is obliged to set tariffs and tariff methodologies for access and use of networks but the conditions are only partially specified, with missing provisions for clear cost-reflectivity and mandatory publication.

In practice ERE managed to improve the situation and the right of access is supported through the grid code and rules for the allocation of interconnection capacity. The new Connection Rules improved the visibility and efficiency of the procedures and treatment of ownership rights, limitations, refusals, complaints, disputes and transparency in this area. The right of use and access remains fundamentally short of compliance with Article 20 of Directive 2003/54/EC.

4. As regards eligibility, the amendments of the Power Sector Law in 2011 define the status of eligibility based on the grid code and rules for the allocation of interconnection capacity and not based on customer categories (households/non-households) as defined by Directive 2003/54/EC. Albania is not compliant in this respect. Furthermore, rules for supplier-switching have not been developed.

5. As regards market opening, the Law and the market model in force budge the incumbent generation company with the function of a wholesale public supplier, thus creating a single buyer, an exclusive reseller and an import monopoly for the electricity needed to cover the demand of the captive customers (with the exemption only of losses of electricity). The Law thus implicitly defines the public interest in a manner that results in the indigenous and public generation capacities being used for exclusive and regulated supply to Albanian consumers, with only a few exceptions. This market model violates Article 41 of the Treaty and prevents wholesale market opening, a fundamental objective of the Treaty.

Supply under regulated tariffs is available to all customers except those identified as eligible by the Power Sector Law in a non-compliant manner. The across-the-board and unlimited persistence of price regulation for all customer categories, including the retail public supplier, is not in compliance with the acquis. Moreover, the high costs of imports needs to be transferred to the end-users. Using the depreciated cost of KESH’s production to compensate relatively high prices of imports distorts price signals and prevents the entry of new suppliers.

The legal framework on public service obligation is not adequately structured and left for ERE to define with no sufficient and compliant legal scrutiny. The Power Sector Law stipulates under this category and subdues to regulation, unconditionally and without limitation, electricity generation which should in fact participate on the market by default. There are no provisions for conditionality and exceptionality of such measures and no reporting or review is required. The legal framework is thus not in compliance with Article 3 of Directive 2003/54/EC.

In practice, the public service is extended to all non-eligible customers through their access to regulated supply. Such practice has negative effects on the process of opening the market to the extent that regulated prices are lower than the costs of supply under competitive conditions.

6. For capacity allocation, compliance significantly improved after the Rules for Allocation of Interconnection Capacity were amended by ERE in 2011, following an Opening Letter by the Secretariat. Their application, however, has been delayed on account of security of supply. Daily auctions are envisaged, but not yet applied. The rules and their application are still not compliant with regard to the enforcement of the “use-it-or-lose-it” principle, secondary market, use of allocation revenues, timely publication of data by the transmission system operator, as well as criteria for transparency and monitoring. Despite OST’s participation in the CAO project company, regionally coordinated auctions as required by the Congestion Management Guidelines still do not take place.

7. The balancing regime has been slightly improved, but inadequate metering and the overall balance responsibility allocated to KESH still remain problematic. The Balancing Rules amended in 2012 still lack adequate balancing groups, treatment of positive and negative imbalances (in particular of CEZ Shperndarje) and adequate identification of energy losses. Other shortcomings relate to the netting-off of imbalances over a long period of time (i.e. a month), allocated balance responsibility of KESH to OST, lack of adequate reference prices for imbalances, accounting unbundling for the balance settlement purposes, etc. Under these circumstances, the rules are considered not compliant.

8. Transparency in general is still far from being sufficient. The Power Sector Law is comprehensive in some aspects of transparency such as those related to metering and ownership status but short of compliance in other aspects requested by the acquis. ERE holds transparent public hearings and dispute settlement procedures, however the overall access to the information monitored and reported by ERE still requires substantial improvement.

OST, KESH and CEZ Shperndarje do not always provide consistent information to ERE and their internet platforms do not contain sufficient or adequate information, especially in English. The format of the information provided by OST for efficient access to the network has been improved; however it still does not fully comply with the level of transparency required by Regulation (EC) 1228/2003.

9. The protection of consumers is neglected by the Power Sector Law of 2003 – limited essentially to metering, disconnection and property rights, even though it is mentioned prominently in its preamble among the fundamental conditions for electricity supply. The obligations imposed to the undertakings as stipulated in Article 3 of Directive 2003/54/EC are not sufficiently detailed, and enforced mainly through the licences issued by ERE. Recently, ERE improved the situation through the Rules on Quality of Service, which cover the handling of customer complaints, imposition of penalties to license holders, and calculation of economic damage.
Implementation of the Third Energy Package

The Third Package will require the transition of several new elements into Albanian law, mainly related to unbundling, protection of vulnerable customers and the tasks, competences and independence of ErE. The current draft of the Power Sector Law is not apt to achieve these tasks.

UNBUNDLING

All operators and dominant incumbent companies in Albania are corporatised and their assets are on the balance sheets. Both OST and KESH are 100% state-owned – which requires restructuring in line with one of the options provided in the new acquis. Currently this is not in compliance with any of the options provided by Directive 2009/72/EC.

REGULATORY AUTHORITY

The independence of ErE from the Government, or from any other public body in Albania and its impartiality shall need to be legally scrutinised, including provisions for independent appeal. The objective of ErE to promote and support the development of a competitive market needs to be enforced along with its increased powers to investigate, request information and impose penalties. These, and other competences and tasks of ErE, need to be brought into compliance with Directive 2009/72/EC.

CUSTOMER PROTECTION

The notion of vulnerable customers is currently not defined in Albanian law, as required by Article 3(7) of Directive 2009/72/EC. Once defined, these customers should be protected against disconnection in critical conditions and be supported by schemes outside the regulated pricing system, as is the case now.

Conclusions and Priorities

Albania failed to update their legal framework in the electricity sector in the reporting period. As such it remains among the least compliant in the Energy Community. At the same time the organisation of the electricity market does not keep pace with the ongoing developments and growing requirements in this area in the region and in the EU.

The foreclosed and highly concentrated market model is not only non-compliant, it will never provide the level of flexibility required to allow for the entry of new market players and thus competition. Structural reform must be of the highest priority.

Eliminating the market concentration following from the wholesale public supplier and retail public supplier tandem and the exclusivity of their relations remain high on the agenda. The first and most urgent step in this direction is the adoption of the new Power Sector Law. As the current draft is not advanced enough to implement the Third Energy Package, it requires substantial re-drafting before adoption. Besides opening up the market design, the law must introduce competitive platforms, such as day-ahead trading.

The financial viability of the electricity sector has improved by mid 2013 mainly due to the improved hydrology. Its consolidation is still work in progress, including the settlement of internal debts and treatment of the arrears. The level of distribution losses and payment discipline are still unsustainable. They have to be systematically addressed by CEZ Shperndarje, but also by ErE and the State administration. They must learn the lessons made from past mistakes and restructure the wholesale sector through transparency, non-discrimination and strict adherence to the rule of law.

Albania also must and will address the lack of reliability of hydropower generation, on which it almost entirely depends. In that respect, the recent support given to the TAP pipeline project by the authorities (and the Secretariat) will hopefully bear fruit, most notably by allowing the idle power plant in Vlorë to start operations on gas soon. Others may follow.

The transmission system operator OST so far has failed to improve Albania’s system security and reliability to a level that it could join ENTSO-E, despite ample international support. ErE must be stricter in enforcing the applicable rules and its own decisions, otherwise Albania will remain lagging behind in regional integration.

The electricity sector in Bosnia and Herzegovina is characterised by its fragmentation. The legal, administrative and regulatory frameworks for electricity production, distribution and supply are divided between the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District of Bosnia and Herzegovina. Despite the legal definition of the electricity market in Bosnia and Herzegovina as “a single economic space” the three structures operate in parallel. Despite the lack of legal barriers there are no customers switching between utilities and supply across utilities’ borders is not taking place.

The Federal Ministry of Energy, Mining and Industry is responsible for the electricity sector of the Federation of Bosnia and Herzegovina. The Federation adopted a new Law on Electricity in 2013, substituting the one from 2002. The Federal

### Electricity

<table>
<thead>
<tr>
<th>2011</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Electricity Production [GWh]</td>
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<td>Net Imports [GWh]</td>
<td>4,210</td>
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<td>Net Exports [GWh]</td>
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<tr>
<td>Total Electricity supplied [GWh]</td>
<td>12,593</td>
</tr>
<tr>
<td>Gross Electricity Consumption [GWh]</td>
<td>12,593</td>
</tr>
<tr>
<td>Losses in Transmission [GWh]</td>
<td>324</td>
</tr>
<tr>
<td>Losses in Transmission [%]</td>
<td>1.791%</td>
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<tr>
<td>Losses in Distribution [GWh]</td>
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<td>Losses in Distribution [%]</td>
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<td>Consumption of energy sector [GWh]</td>
<td>11,008</td>
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<td>Industrial, transport, services and other non-residential sectors</td>
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<td>Households (residential customers)</td>
<td>4,547</td>
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<td>Net maximum electrical capacity of power plants [MW]</td>
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<td>Coal-fired</td>
<td>1,855.93</td>
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<td>Oil-fired</td>
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<td>out of which: multi-fuel</td>
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<td>Nuclear</td>
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<td>Hydro</td>
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<td>out of which: pumped storage</td>
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<tr>
<td>Other renewables</td>
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<tr>
<td>380 kV or more [km]</td>
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<tr>
<td>220 kV [km]</td>
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<tr>
<td>110 kV [km]</td>
<td>3,920</td>
</tr>
<tr>
<td>HVDC [km]</td>
<td>12,299</td>
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<tr>
<td>Total</td>
<td>14,050</td>
</tr>
<tr>
<td>Electricity Customers</td>
<td>1,459,524</td>
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<td>out of which: Non-households</td>
<td>1,179,046</td>
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<tr>
<td>Eligible customers under national legislation</td>
<td>179,046</td>
</tr>
<tr>
<td>Active eligible customers</td>
<td>1</td>
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<tr>
<td>Domestic market</td>
<td>876,000</td>
</tr>
<tr>
<td>Share of total consumption [%]</td>
<td>6.98%</td>
</tr>
</tbody>
</table>

Source: SEE
Electricity Regulatory Commission (FERC) is the authority for regulation of the electricity activities in that entity.


The Assembly of Brčko District has adopted its own Electricity Law (2004, amended in 2011). The state-level regulatory authority SERC has been assigned as the responsible regulatory authority for the generation, distribution, supply, trade and consumption of electricity in Brčko District. The Electricity Law provides SERC with the power to overrule any provision in the Law contrary to an SERC decision “until the overall legal framework in Bosnia and Herzegovina is brought in full compliance with the EU acquis.”


Each within the boundaries of its own jurisdiction, the Governments of the entities and the Brčko District dominate with their ownership and management rights in the incumbent electricity companies. The two vertically integrated enterprises in the Federation of Bosnia and Herzegovina, Elektroprenos BiH and Elektroprenos Hrvatske, are 90% owned by the Federation. On their respective territories they are distribution companies or utilities, each responsible for the dispatching of generation and loads to the network, its maintenance and development, the transmission of electricity and metering. The transmission network of Bosnia and Herzegovina is interconnected with the neighbouring systems of Croatia, Serbia and Montenegro.

The transmission network performances indicate relatively stable operational safety and a low level of losses at 1.84% in 2012. These technical indicators, however, result mainly from the development of the network in the past. They cannot complement the fact that Elektroprenos persistently fails to perform most of its duties related to maintenance, development, planning and investment in the transmission infrastructure. Due to a protracted stalemate in the company’s decision-making bodies, for a period of five years no significant activities in these areas have been undertaken. The standard transmission network performance indicators (SAF, SAD) are comparable with the neighbouring networks. However, the lack of investment activities alone represents a serious shortcoming in the performance of the electricity sector and a possible threat to the future safety of the transmission system operation and electricity supply in Bosnia and Herzegovina.

The distribution networks on entity level are relatively well developed and maintained by each of the operators. Distribution losses in 2012 averaged 12.5%.

The electricity market in Bosnia and Herzegovina is not sufficiently developed. Its fragmentation along the entity borders follows the constitutional design of Bosnia and Herzegovina. The co-existence of several sets of legal frameworks and utilities could – unlike in other Contracting Parties – stimulate intra-domestic competition and market opening. However, despite the absence of legal or regulatory barriers for supplier switching, to date only one customer in Bosnia and Herzegovina is supplied by a supplier outside its own territory. With the production also monopolized by the utilities or their subsidiaries, and the cost of generation regulated at relatively low levels in all jurisdictions, the entry of any new supplier is hardly conceivable.

On the wholesale market, the only players are the three incumbent enterprises (all except KIB and 22 licensed traders – supplying one another with energy for covering their local demands, providing ancillary services, and providing energy for balancing the system and for export. Trading patterns generally encompass bilateral OTC agreements – no spot-trading mechanisms have been established. Energy for balancing is provided by the incumbent generators under prices regulated by SERC, only exceptionally is it provided through imports performed by NOS BiH (under the market clearing price). The only balance responsible parties in Bosnia and Herzegovina are the distribution companies or utilities, each responsible for the imbalances of its own customers. The ancillary services are regulated and respective costs are included in the costs of service. The energy for covering network losses is not purchased on the market but preferably provided by the local incumbent. The active traders eventually licensed for supply, with their limited service portfolios do not comply with the needs of all categories of eligible customers. No customer except one (Alumin – Mostar) has switched away from its local incumbent utility.

The utility Komunalno Brčko is supplied with electricity from two of the neighbouring utilities, through annual full-supply regulated contracts with a preferable supplier from one of the two entities, including electricity supply for all customers in Brčko District, full balance responsibility and provision of network services. Since 2010 the supplier for Brčko District has been EP RS.

On the retail market, the largest importer and the only customer not supplied by its local incumbent was again the alu-
minimun producer Aluminij - Mostar which covered 47.3% of its consumption from HEP (Croatia). This translates into a market share of 8.2% of the overall electricity supplied in Bosnia and Herzegovina. Transits amounted to 24% of the cross-border flows in Bosnia and Herzegovina in 2012.

Cross-border transmission capacity is allocated through daily, monthly and annual explicit auctions (for 50% of the capacity). NOS BiH participates in the SEE Coordinated Auction Office Project Company.

The opening of the market and, as a prerequisite, full implementation of the acquis, remains a primary challenge in the Federation of Bosnia and Herzegovina. The amendments to the Electricity Law include the indicative Development Plan for Generation which is developed by NOS BiH and approved by SERC. However, these improvements do not change the fact that all except one customer is still supplied by their incumbent provider.

The indicative Development Plan for Generation is also supposed to provide a basis for the new domestic Network Development Plan which is developed by NOS BiH and approved by SERC. It has not been updated for the past five years as a consequence of the management stalemate in Elektroprenos.

The activities are currently scheduled until mid-November 2013, when it is expected that the legal acts will be submitted to the political and legislative authorities in Bosnia and Herzegovina for adoption.

In November 2012 the EU-funded “Project for the development of an electricity legislative framework compliant with the Third Package” was established to reform the legal framework for all jurisdiction levels in Bosnia and Herzegovina. The project aims at bringing the legal framework at primary and regulatory level in full compliance with the Third Package, developing a market model for Bosnia and Herzegovina as well as providing technical assistance related to the required restructuring of the electricity sector and the regulatory environment.

Initially its pace of progress was very slow. After months of administrative delays the project finally commenced its activities in the first months of 2013. The first drafts of new legal acts and initial aspects of the new market structure were developed in July and August 2013. They then entered into public discussions and review by the expert groups in Bosnia and Herzegovina established within the project, and were consulted with the Secretariat on the aspects of their compliance with the acquis.

In the Federation of Bosnia and Herzegovina, following three years of preparation, the new Law on Electricity has been adopted in July and made publicly available in August 2013. The Law is expected to fill the gaps and deficiencies of the Electricity Law of 2002. Most of the relevant provisions of the Second Package are transposed significantly improved. Some areas however, such as public service obligation, unbundling and supply of eligible customers, still fall short of compliance.

In terms of the regulatory activities, the state-level SERC adopted amendments to its rules on the Connection to the Transmission network. The amendments improve the conditions for the connection of new wind farms. SERC also adopted several acts aimed to facilitate the regulatory framework in Brčko District. This includes improved Licensing Rules for Generation, Distribution and Supply Activities in Brčko District and simplified tariff procedures for access to the network and regulated cost of supply.

Furthermore, SERC approved the Indicative Development Plan for Generation in Bosnia and Herzegovina for the period 2013 – 2022 as developed by the system operator NOS BiH. The plan aims, inter alia, to accommodate the ENTSO-E requirements for the development of its new bi-annual update of the Ten-Year Network Development Plan (TyrDP) which is an obligation of NOS BiH to this association. It should be noted that the development of new generation capacity in Bosnia and Herzegovina in the reporting period did not reach anything close to what was forecasted in the previous plans.

The Indicative Development Plan for Generation is also supposed to propose a basis for the new domestic Network Development Plan which is developed by NOS BiH and approved by SERC. However, these improvements do not change the fact that all except one customer is still supplied by their incumbent provider.

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The Indicative Development Plan for Generation is also supposed to propose a basis for the new domestic Network Development Plan which is developed by NOS BiH and approved by SERC. It has not been updated for the past five years as a consequence of the management stalemate in Elektroprenos.

The construction of new generation capacity in Bosnia and Herzegovina is a process that is still subject to approval by the government. Tendering for new capacity is treated in a similar manner.

In practical terms the procedures applied by the regulators in both entities are assessed by the industry as lengthy, and require various certificates, hearings and consultations thus introducing significant delays.

In Brčko District there are no rules for new generation capacity authorisation in place.

2. The legal unbundling of the transmission system operation from generation and supply has been applied since 2004, through the establishment of the two companies NOS BiH and Elektroprenos. In Elektroprenos, however, financial statements and audit reports have not been adopted for five years due to the blocked decision-making structures, which is contrary to Article 19 of Directive 2003/54/EC. The legal unbundling in Republika Srpska is more advanced due to the unbundled generation and supply activities, but still insufficient when it comes to unbundling of the distribution system. In Republika Srpska, a differentiation was made between the fully-regulated tariffs for households and small and medium enterprises and prices for medium and low voltage customers which are supplied by the public supplier at prices proposed by them and approved by RERS. However, these improvements do not change the fact that all except one customer is still supplied by their incumbent provider.

3. The third party access to the transmission network is provided in the South of the Federation of Bosnia and Herzegovina for adoption of the acquis. The obligations for Elektroprenos to provide connection to the network, and hence access to the market, to all customers depends on the operational capacity of the company to invest in new infrastructure, which is currently highly problematic. Adequate transparency in the treatment of revenues from transmission services or from the management of congestions as required by Regulation (EC) 1228/2003 is still missing. Provisions for exemptions to third party access are also missing.

The State Law tasks SERC to set transmission network tariffs. SERC has adopted a methodology and approved the published cost of services for Elektroprenos and NOS BiH, balancing costs and costs of ancillary services (provided by NOS BiH). The latter includes reserve capacity for secondary and tertiary regulation, reactive power and covering the loss-in transmission.

Both entities and Brčko District provide for third party access in their legislation, and General Rules for Electricity Supply cover connection to the distribution networks. The responsible regulatory authorities have approved and published distribution tariffs in each jurisdiction.

4. In terms of eligibility SERC’s Decision on the Scope, Conditions and Timing for Opening of the Electricity Market in Bosnia and Herzegovina of 2009 brought the eligibility calendar into formal compliance with the acquis.

The (new) Law on Electricity in the Federation of Bosnia and Herzegovina fails to provide for legal unbundling of the distribution system operation and stipulates only conditions for mandatory unbundling of accounts and functions. The utilities (EP BiH and EP HŽHB) are still vertically integrated companies. Account unbundling is required by the Electricity Law and is applied in practice. Functional unbundling is questionable and there is no compliance program in place as required by Article 15 of Directive 2003/54/EC.

The legal unbundling in Republika Srpska is more advanced due to the unbundled generation and supply activities, but still insufficient when it comes to unbundling of the distribution system. In Republika Srpska, a differentiation was made between the fully-regulated tariffs for households and small and medium enterprises and prices for medium and low voltage customers which are supplied by the public supplier at prices proposed by them and approved by RERS. However, these improvements do not change the fact that all except one customer is still supplied by their incumbent provider.

The Law on Electricity in Republika Srpska sets the eligibility threshold at an annual consumption of 10 GWh but grants RERS the right to alter the threshold. RERS ensured compliance in 2011 by adopting Rules on the Eligible Customer which grants eligibility to all customers except households
starting 1 January 2008 and to all customers including house-
holds starting 1 January 2015. Eligible customers can contact
their supplier from among all licensed suppliers in Bosnia and
Herzegovina.

According to SERC’s Decision on Electricity Supply to Eligible
Customers in Brčko District of 2012 all customers in Brčko
District are considered eligible except households, which will
acquire this status as of 1 January 2015.

5. Price regulation is a common feature applied to all activi-
ties categorized as being of public interest in each jurisdiction.
This includes the costs of generation (in the Federation only)
of the generators tasked to supply captive customers, and the
supply activities for all captive customers. All three regulatory
authorities have adopted methodologies and approved pric-
es for the regulated (i.e. public) supply, as well as regulated
prices for the electricity produced by the incumbent genera-
tion companies. With this there are no incentives for supplier
switching.

In the Federation of Bosnia and Herzegovina, eligible custom-
ers who fail to switch may be supplied by a public supplier –
the respective incumbent utility – under an annual sup-
ply contract and prices approved by FERC. After 2015, only
households and “small customers” (enterprises with less than
50 employees and annual revenues of less than BAM 2 mil-
lion) shall retain the right to be supplied by the public supplier
at regulated prices without any time limitation in the context
of universal service. In addition, in the case of failure of the
contracted supplier all eligible customers will have the option
of a last-resort supply by a reserve supplier for a period no
longer than 60 days. The price of such service shall be de-
termined on the basis of incurred costs and verified by FERC.

Republika Srpska is also establishing a public supplier to
supply those eligible customers who failed to switch before 2015.
Until then, the incumbent suppliers, the subsidiaries of EP RS, have
been appointed public suppliers. After 2015, the public supplier will have the obligation to supply, without
time limitation, those households and “small customers” (en-
terprises with less than 50 employees and annual revenues not
exceeding EUR 10 million) that are not willing to contact
their supplier individually, as well as – for a period of 60 days
and at 20% higher prices – those eligible customers whose
supplier fails to perform. The costs for services provided by
the public supplier are approved by RERS.

In Brčko District, an “allocated supplier” – available for a peri-
od of 90 days to eligible customers who failed to switch – and
a “reserve supplier” – in charge of providing 30 days of sup-
ply to those customers whose supplier of choice has failed to
perform – was established in 2012. The prices for both func-
tions are regulated by SERC. Both functions are attributed to
the incumbent utility Komunalno Brčko.

The price regulation conditions in all three jurisdictions are
not fully compliant with the definition of public service ac-
cording to Article 3 of Directive 2003/54/EC. Notwithstanding
the applicability of switching support mechanisms (such as
public suppliers or reserve suppliers), such services should be
available to restricted categories of customers rather than
applied under the umbrella of public interest which is inter-
greted in a broad and general manner. The prices of such
exceptional services should support the economic interest of
customers for switching (back) to regular, independent sup-
pliers in the market.

Even though FERC and RERS have applied phasing out peri-
ods before 2015, they should provide a periodical review on
whether or not the end-users’ price regulation has become
asymmetrical with no adequate protection of customers
outside the public service. Provisions on mandatory contrac-
tual data are still missing.

The Energy Law of Republika Srpska also suffers from a some-
what disproportional treatment of public interest, which is
generally not in compliance. The eligible customers remain
less protected. No provisions for universal service are specifi-
cally addressed in the Law. Customer protection is well ad-
dressed in the provisions for conditions of electricity supply
and network access. According to the Law on Electricity in Brčko District the public
service relates only to the supply of captive customers (house-
holds), with no compliant provisions for customer support.
SERC rules on General Conditions for Electricity Supply and
the Distribution Code of Brčko District provide transparency
and protection of customers’ right to connection.

(continued on next page)
Implementation of the Third Energy Package

The implementation of the Third Package in Bosnia and Herzegovina has commenced through the ongoing EU Project for legal compliance. The process will require a new approach to several structural elements in the electricity sector and the corresponding laws and regulations, mainly related to unbundling, protection of vulnerable customers and the tasks, competences and independence of the regulatory authorities.

UNBUNDLING

The corporate structure of all operators and dominant incumbent companies in Bosnia and Herzegovina needs reconsideration. The current structure for transmission operation applied at state-level, the State enterprise NOC BH and the entity owned company Elektroprivreda, still does not comply with the acquis and requires restructuring in line with one of the options provided by Directive 2009/72/EC.

REGULATORY AUTHORITY

The independence, scope of competences and mutual relations of SERC, FERC and RERS needs to be reconsidered and re-defined along the requirements of Directive 2009/72/EC. New powers are required in all jurisdictions including provisions for independent appeal. The objective of SERC to promote and support the development of a country-wide competitive market needs to be enforced, along with its increased powers to investigate, request information and impose penalties. The delineation of competences between SERC and the entity regulators remains a challenge.

CUSTOMER PROTECTION

The notion of vulnerable customers is currently not adequately treated in any jurisdiction, in particular with respect to the conditions required by Article 3(7) of Directive 2009/72/EC. Once defined, these customers should be protected against disconnection in critical conditions and be supported by schemes outside the regulated pricing system.

3.1.4 CROATIA

Electricity

<table>
<thead>
<tr>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricity Production (GWh)</td>
<td>9,999</td>
</tr>
<tr>
<td>Net Imports (GWh)</td>
<td>14,012</td>
</tr>
<tr>
<td>Net Exports (GWh)</td>
<td>6,308</td>
</tr>
<tr>
<td>Total Electricity supplied (GWh)</td>
<td>17,703</td>
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<tr>
<td>Gross Electricity Consumption (GWh)</td>
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</tr>
<tr>
<td>Losses in Transmission (GWh)</td>
<td>514</td>
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<tr>
<td>Losses in Transmission (%)</td>
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</tr>
<tr>
<td>Losses in Distribution (GWh)</td>
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<tr>
<td>Losses in Distribution (%)</td>
<td>8.37%</td>
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<tr>
<td>Consumption of energy sector (GWh)</td>
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<tr>
<td>Final consumption of electricity (GWh)</td>
<td>15,602</td>
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<tr>
<td>Consumption Structure (GWh)</td>
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<tr>
<td>Industrial, transport, services and other non-residential sectors</td>
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<tr>
<td>Households (Residential Customers)</td>
<td>6,540.10</td>
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<tr>
<td>Net maximum electrical capacity of power plants (MW)</td>
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</tr>
<tr>
<td>Net maximum electrical capacity of power plants (MW)</td>
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</tr>
<tr>
<td>Coal-fired</td>
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</tr>
<tr>
<td>out of which: multi-fired</td>
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<tr>
<td>Gas-fired</td>
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</tr>
<tr>
<td>out of which: multi-fired</td>
<td>892</td>
</tr>
<tr>
<td>Oil-fired</td>
<td>303</td>
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<tr>
<td>Nuclear</td>
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<tr>
<td>Hydro</td>
<td>2,138</td>
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<td>out of which: Small hydro</td>
<td>32</td>
</tr>
<tr>
<td>Pumped storage</td>
<td>276</td>
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<tr>
<td>Other Renewables</td>
<td>139.04</td>
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<tr>
<td>out of which: Wind</td>
<td>125</td>
</tr>
<tr>
<td>380 kV or more (km)</td>
<td>1,247</td>
</tr>
<tr>
<td>220 kV (km)</td>
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</tr>
<tr>
<td>110 kV (km)</td>
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</tr>
<tr>
<td>HVDC (km)</td>
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<tr>
<td>Substation Capacity (MVA)</td>
<td>111,30</td>
</tr>
<tr>
<td>Total</td>
<td>2,327,647</td>
</tr>
<tr>
<td>Domestic market</td>
<td>2,327,647</td>
</tr>
<tr>
<td>Net exports (GWh)</td>
<td>124,442</td>
</tr>
<tr>
<td>Eligible customers under national legislation</td>
<td>215,427</td>
</tr>
</tbody>
</table>
| Source: HENA

a. The electricity sector in Croatia

The electricity sector in Croatia is governed by a set of laws that have been updated during the last 12 months. The laws have been adjusted with the aim of full implementation of the Third Package. The newly developed legal framework initiated a process of reforms, starting from updating secondary legislation, to structural and functional changes. The Ministry of Economy of Croatia is the authority bearing the responsibility for legislative and policy matter in the domain of energy.

The key legislation relevant for the electricity sector consists of the Energy Act, the Act on Regulation of Energy Activities and the Electricity Market Act.

The Energy Act, adopted in October 2012, defines the core
Electricity distribution and public supply is performed by the distribution system operator HEP-operator Distribucionog Sustava (HEP-DOS). HEP-OOS also provides the public service of supply electricity to customers in the system of public service.

HEP-Qpskrba holds the license for supply of electricity only to eligible final customers.

Electricity generation is concentrated in a separate company, HEP-Proizvodnja, and wholesale electricity trade is executed by HEP-Trgovnja, also part of HEP Group.

HERA has so far issued 24 licenses for generation of electricity, the most significant two being HEP-Proizvodnja and the independent producer (TPP) Plomin. The annual production and consumption in Croatia are declining, but peak demand remains at high levels.

In accordance with the Allocation Rules, approved by HERA, HOPS as a transmission system operator and a cross-border capacity allocation auction office carries allocation of the Croatian part of the available transmission capacity (ATC) on the border with Bosnia and Herzegovina and with Serbia. Yearly, monthly and daily auctions and intraday allocation of the Croatian part of ATC on the border with Bosnia and Herzegovina are carried out, and yearly, monthly and daily auctions of the Croatian part of ATC on the border with Serbia. As regards the border with Slovenia, the Slovenian ELES auction office carries out intra-day allocation for both directions. In addition, the Central European Electricity Co-ordinated Auction Office (CEE-CAO) carries out yearly, monthly and daily co-ordinated auctions on the borders with Hungary and Slovenia.

Activities in the electricity market include trade with electricity and supply of electricity to final customers. Licenses are issued by HERA and currently 11 entities hold a trading license and 14 entities hold a supply license.

HEP Group sold 15.4 TWh to customers in Croatia. HEP-Qpskrba as a supplier of eligible customers is exposed to competition. The share of HEP-Qpskrba electricity sales to eligible customers in 2012 was 7.3 TWh, out of a total 7.5 TWh supplied to eligible customers, making HEP-Qpskrba the single strongest supplier in the competitive market in 2012.

HEP-OOS as a default supplier in 2012 sold 7.9 TWh or 51% of the final consumption of electricity to final customers in the public service system, whereas 42% of the total final consumption in Croatia was supplied to households under regulated tariffs.

In the reporting period HERA developed new methodologies for setting tariffs for transmission of electricity, for distribution of electricity, as well as for setting tariffs for supply of electricity as a universal service and for supply of electricity as a “default service”. These documents are in the process of public consultation.

The updated procedure for unbundled accounting in integrated or related undertakings is under development and should have been adopted 6 months after the adoption of the Energy Act, i.e. in April 2013. Instead, a public hearing was concluded in June 2013 and adoption is expected in the course of 2013.

Croatian legislation opted for the Independent Transmission Operator (ITO) model for the transmission system. The new undertaking has a separate legal identity from HEP Group, including a distinguished visual identity. The transmission network operator HOPS was registered under its new name instead of HEP-OOS as the owner of transmission assets and functionally unbundled from the rest of HEP Group. Documents for certification should have been submitted to HERA by 1 July 2013, but activities are progressing at a slower pace than planned.

In June 2013 the electricity market in Croatia experienced a significant change, when two new entrants in the retail sector operations: HEP-Gen and HEP-DOS. HEP-Gen was renamed Croatian Transmission System Operator Ltd (Hrvatski operator prijenosnog sustava HOPS). At the same time, the equity capital of HOPS was increased and founding acts amended to ensure functional unbundling from the rest of HEP Group, including a different visual identity.

Electricity generation and transmission are performed by the Transmission System Operator (TSO) as required by Croatian legislation.

The Croatian Energy Regulatory Agency “Hrvatska Energetska Regulatorna Agencija” (HERA) was established in 2004 and operates in accordance with the Act on the Regulation of Energy Activities. HERA is authorized, among other things, to issue licenses for generation, transmission, distribution, trade and supply of electricity, to monitor and supervise operation of licensed undertakings, including cross border trading, as well as to bring methodologies for setting tariffs and to set tariffs for regulated activities.

The Croatian energy market operator HROTE was established in 2005 as a limited liability company. HROTE performs the activities of organising the electricity and gas market as a public service under the supervision of HERA. In addition, HROTE plays a key role in the support mechanisms for incentivising the production of electricity from renewable sources and cogeneration, and the production of bio-fuels for transport.

The concern HEP Group is a national electricity company engaged in electricity production, transmission and distribution, electricity supply and trade as well as in many other support activities, including energy services, but also in other energy sectors such as heat and natural gas. HEP is the sole holder of the assets and parent company of several energy utilities with horizontally and vertically integrated activities in the energy sector. HEP Group includes a company that performs transmission system operation. The new Electricity Market Act imposed the obligation of further unbundling of the TSO from the vertically integrated utility as required by Directive 2009/72/EC. In July 2013 HEP-Operator Prinjenosnog Sustava (HEP-OOP) was renamed Croatian Transmission System Operator Ltd (Hrvatski operator prijenosnog sustava HOPS). At the same time, the equity capital of HOPS was increased and founding acts amended to ensure functional unbundling from the rest of HEP Group, including a different visual identity.

Electricity, the most significant two being HEP-Proizvodnja and the independent producer (TPP) Plomin. The annual production and consumption in Croatia are declining, but peak demand remains at high levels.

The main legislative framework for the electricity sector in Croatia has been subject to significant changes during the last 12 months. This was a fine tuning of the legislation to meet the requirements of the EU acquis including the Third Package, for the accession of Croatia to the EU on 1 July 2013.

Three relevant system laws were adopted during the reporting period, namely the Energy Act and Energy Activities Regulation Act in October 2012 with a 6 months period for implementation, and the Energy Market Act in 2013, with an implementation period of 12 months. Full implementation of the Third Package, including secondary legislation and practical application of the new rules should be accomplished by April 2014.

During the transitory period the rules and regulations developed under the previous laws will be applied.

In the regulatory area, HERA is in the process of developing updated General Conditions for Supply that will re-define the terms and conditions for use of the distribution network and for supply of electricity, a new methodology to determine connection charges and updated supplier switching rules. These acts were planned for adoption in July 2013, but finalisation is still pending.
market offering electricity to customers connected to the distribution network. The response of small customers and households at first seemed surprisingly high, although for the time being the actual switching rate is not yet determined. The outcome of such entry of competition into the formerly extremely concentrated market, forcing the incumbent utility to find its new place in the competitive environment, is yet to be seen.

This development is even more significant having in mind that the price for household customers remained fully regulated, including generation price, until the implementation of the new set of energy laws. The transitory period for implementation of the Energy Act and Energy Regulation Act is 6 months, meaning that the framework to implement these two laws should have been completed by April 2013, which obviously has not been the case. The deadline for implementation of the Energy Market Act is April 2014.

With the new legislation in place and with the deadline provided for its implementation the energy market in Croatia in the reporting period is functioning in a transitory mode. It is relying on the secondary legislation that was developed under the previous laws, and with continuous changes and adaptations, as the supply conditions and the market environment evolve.

1. According to the (new) Energy Market Act, the Ministry of Economy is responsible for issuing authorisations for the construction of new generation capacities including renewable energy and high efficient cogeneration capacities. The authorisation procedure has been developed by the Ministry and approved by the Croatian Government.

   The tendering procedure that is also envisaged in the new Energy Act does not deviate from the previous practice in this respect and the whole setup is compliant with the acquis.

2. The Energy Market Act imposes strict requirements for unbundling. Practical implementation is yet to be accomplished. Having in mind the ownership structure of HEP Group, unbundling of the transmission operation is envisaged in the form of an ITO model and certification procedure is under preparation.

   Croatia has previously legally unbundled all market-related activities from network operation in its electricity sector. That is, with the exception of the distribution system operator who also acts as a supplier of electricity for the households and small customers that do not switch their supplier and can be supplied at regulated and published prices, so called “public supplier for tariff customers”.

   HEP Group published a compliance programme to ensure that its activities are conducted on a non-discriminatory, objective and transparent basis for all market participants. There is no information about HERA’s oversight during 2010 and 2011 related to monitoring the compliance with the non-discriminatory conduct of the network companies.

   The Decision on the manner and procedure for the unbundling of accounts of energy undertakings is envisaged to further strengthen non-discrimination and the prevention of cross-subsidies within integrated or related undertakings. The public consultations are concluded and adoption is expected soon.

3. Third party access is well addressed in the laws, including the access to interconnection capacities. Monitoring of third party access by the regulator still has to be enforced. HEP-OPS signed an agreement with HROTE and the Slovenian counterparts ELES and BSP to implement price market coupling with the establishment of a Croatian power exchange. All these arrangements have been resumed and are now carried out by HOPS.

4. Eligibility is well transposed. According to the law, all customers are eligible and free to choose their supplier. Currently, universal service is provided under the terms and conditions, prescribed by the Government. The supplier in charge is the incumbent supplier of tariff customers, until the appointment of a supplier with a public service obligation. Supplier(s) with a public service obligation shall provide universal service to household customers who did not choose a competitive supplier, or, in the case defined in the Energy Market Act, assume the role of default supplier. The Government decision in this respect is still pending.

   In practice, supplier switching rules are yet to be developed and the deadline of April 2013 has already expired. HERA is in the process of preparing a rule which should ensure simple procedure – targeting it to take no longer than 3 weeks for a customer to change its supplier.

5. Currently price regulation extends to the price of the generation of electricity for supply of tariff customers, transmission of electricity, distribution of electricity and supply of tariff customers. The Government adopted decisions related to prices of generation, transmission, distribution and supply with the exception of eligible customers. The Government also fixed charges for the functioning of the market operator.

   According to the new energy laws, only the price of electricity supplied under public service obligation is to be regulated and set by HERA.

   HERA is developing new methodologies for transmission and distribution and for other regulated activities. Only after these methodologies are adopted, will HERA be able to fully assume its competences to fix tariffs, as defined in the laws and the acquis.

   Activities of transmission, distribution and organisation of the electricity market are defined as public services. Energy activities generation, supply and trade are defined as market activities, except when supply is performed as public source obligation.

   The scope of supply as public service obligation extends to providing universal service to households and supply of electricity as a default service. The Government, upon the proposal of the Ministry of Economy and after consultation with HERA, determines which undertakings will have public service obligations, supplying electricity as a guaranteed (default) service. The prices of electricity supplied as a universal service will remain regulated. Electricity supplied as a default service to eligible customers, except households, whose selected supplier failed to provide the service will also be defined by HERA.

   The Act on Regulation of Energy Activities requires HERA to develop new methodologies for setting regulated tariffs for the provider of public services in a transparent manner.

   The general framework related to price regulation is compliant with the acquis, but the implementation is lagging behind the law and HERA has not taken over price regulation as required. Effective tariff rates are determined by the Government. Price regulation is still comprehensive and exceeds the objective needs to ensure non-discriminatory treatment and the provision of public service.

6. Interconnection capacities allocation is applied in accordance with the rules approved by HERA and are in compliance with the Regulation and the Guidelines. HEP-OPS is working on improving the ways of further integration with neighbouring electricity systems, including models for market coupling.

   In practice interconnection capacities with Bosnia and Herzegovina and Serbia are allocated with a 50:50 split. At the border between Croatia and Slovenia for both directions intra-day allocation of cross-border transmission capacities of total ATC will be held by ELES.

   The Croatian TSO participates in the Coordinated Auction Offices from SEE and CEE. HPS continues its active participation in ENTSOE-E activities (as stipulated in Regulation (EC) 714/2009).

7. Balancing Rules have been issued by HEP-OPS in 2008 and amended several times since, in order to improve alignment with the electricity legal framework of Croatia. The latest update was made in 2011.

   HOPS performs balancing in accordance with the existing balancing rules. HEP-OPS is responsible for procuring ancillary services. New legislation requires HROTE to procure balancing energy and to develop new Balancing Rules. The deadline is April 2014, however the activities have already been started by HERA in consultation with HROTE and HOPS.

   Part of the challenge is to define the methods for calculation of imbalances for balance responsible parties which is currently being re-designed by HROTE and network operators under the guidance of HERA. HERA developed methodology to determine prices for the calculation of balancing energy to parties responsible for imbalances. The process of public consultations will be concluded in August 2013 with the current process of building a framework for the calculation and settlement of imbalances.

   HOPS publishes extensive information for access to the networks including interconnections. However, transparency needs to be further completed to be in compliance with the acquis requirements.

Ten-Year Development Plans of Network Operators, both transmission and distribution, approved by HERA, are publicly available.
Network operators have made information available relating to the terms and conditions for connection to the network as well as terms and conditions for access and use of network, including respective charges and tariffs.

Public service providers, performing supply activities during the transitional period, until full implementation of the legislative framework developed in accordance with the Third Package, have also made terms and conditions available, including applicable tariffs for their services. However, all these terms and conditions, including prices and tariffs, were defined before the adoption of the new set of laws.

9. Protection of customers is strengthened with the new laws, particularly in terms of ensuring quality of service and protection of vulnerable customers. The Energy Act defines two categories of customers under the special protection scheme: protected customer and vulnerable customer. The protected customer is entitled to be supplied with electricity by the default supplier in the case of a crisis. In such a case, the default supplier has a priority to purchase from the domestic generators.

Vulnerable customer is a residential customer entitled to enjoy a supply of electricity under special conditions because of his social status and/or health conditions. As elaborated above, the Energy Market Act defines the scope of public service obligations imposed on undertakings and the universal service provided to household customers.

Currently HEP – QDS holds a license for the supply of tariff customers which falls within the obligation to provide public service, the service that should have been abolished so far and replaced with the imposition of public source obligations to provide universal service. The appointment of a default supplier is also still pending.

### Implementation of the Third Energy Package

The primary legislation in Croatia introduced in 2012 and 2013 adequately transposed key provisions of the Third Package. However, the practical implementation has not followed at the pace defined in the laws. Therefore the market infrastructure is still in the process of development.

#### UNBUNDLING

Unbundling requirements are fully transposed, allowing HERA to fulfil its competences, from certification to effective unbundling and enforcement. It is yet to be implemented. The most critical issue will be to perform and ensure regulatory oversight on unbundling in accordance with the law.

#### REGULATORY AUTHORITY

HERA is equipped with the appropriate regulatory powers according to the Third Energy Package, including sufficient level of independence from the Government. The key issue remains practical implementation.

#### CUSTOMER PROTECTION

Customer protection in the primary legislation is also properly defined. Implementation is critical though, particularly as regards development of necessary secondary legislation, such as procedures and methodologies.

### d. Conclusions and Priorities

Croatian institutions have only one priority – to implement the Energy Act, the Act on Regulation of Energy Activities and the Energy Market Act without further procrastination.

Several deadlines from these acts have already expired, so HERA, HROTE and HOPS should make up for the lost time.

### 3.1.5 Kosovo*

#### Electricity

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
<th>Domestic</th>
<th>Other</th>
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<tbody>
<tr>
<td>2011</td>
<td>5,340</td>
<td>11,204</td>
<td>68,009</td>
</tr>
<tr>
<td>2012</td>
<td>5,480</td>
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#### Conclusions

The legal framework for the electricity sector of Kosovo consists of a set of three Laws from 2010, the Law on Energy, the Law on Electricity and the Law on the Energy Regulator. The authority responsible for energy legislation and policy is the Ministry of Economic Development. The Energy Regulatory Office (ERO) is responsible for electricity, gas and district heating.

Electricity production in Kosovo is mainly based on lignite thermal power plants which represent 97% of installed capacities and are operated by the public utility Kosovo Energy Corporation (KEK) as a dominant producer. The remaining 3% of electricity production is based on hydro capacities, hydro power plant Ujmani and 4 independent power producers.

Until 2012, the incumbent vertically integrated utility KEK
was licensed for production, distribution system operation and public electricity supply, as well as for import/export of electricity, including wholesale trade and transit. The distribution and supply activities of KEK were privatized in 2013. On 8 May 2013, the licences and assets for distribution system operation and public supply were transferred from KEK to the joint-stock company Kosovo* Electricity Distribution and Supply (KEDS). Since that date, following the signature of the share-purchase agreement between the Government and the company Kosovo* Calki Limak Energy, the latter owns and controls KEDS.

Investments in strengthening the distribution network and substations, installing new meters and the procurement and controls KEDS.

According to the Law on Electricity, all customers except households are eligible to purchase electricity from the supplier of their choice. Starting from 1 January 2015, all customers will be eligible.

The public supplier, KEDS, supplies electricity at regulated tariffs to all eligible customers. Additionally, the public supplier is supplying electricity at regulated tariffs to all eligible customers, based on ERO’s decision that regulated tariffs will apply to all customers in Kosovo*, following the assessment that there is no efficient competition in the electricity market. ERO issued four licences for import/export of electricity.

Kosovo*’s Electricity Market Scheme

An electricity tariff review was initiated by ERO in 2012. For the first time, it sets the maximum allowed revenues for regulated companies for a multi-year regulatory period. In the course of the electricity tariff review, applications of KOSTT, KEK-Production, KEK-Distribution and KEK-Public supply were evaluated on the basis of the Pricing Rules. Accordingly, ERO issued decisions on approval of the maximum allowed revenue determined for the transmission system operator/ market operator and distribution system operator for the period 2013 - 2017, for the production companies Kosovo A and Kosovo B for the period 2013 - 2016, and for public supply for a one year period starting from 1 April 2013.

Based on the transmission and distribution pricing rules and charging principles ERO approved the methodologies for the regulated tariffs for transmission, system operation, market operation and distribution, as well as charges to be applied as of 1 April 2013. Retail electricity tariffs for regulated customers and regulated prices for production from thermal power plants Kosovo A and Kosovo B were approved by ERO and applied as of 1 April 2013.

As a result of the Government Decision on asset transfer between KOSTT and KEK and changes made in the energy sector laws, KOSTT has reviewed the Transmission Connection Charging Methodology. This document has been sent for comments to KEDS and ERO and now is in the final stage of approval from ERO.

In 2012, ERO completed the harmonization of all issued licenses with the secondary legislation that was adopted in the wake of the 2010 laws.

Following the provisions of the Energy Law, ERO approved a methodology for preparation of the energy balance, based on the proposal made by KOSTT. The methodology increases transparency and accuracy of demand forecast, and should be implemented by the transmission and distribution system operators. A Ten-Year Transmission Development Plan for the period 2013 - 2022 was developed by KOSTT and was approved by ERO in the beginning of 2013. Recently, KOSTT has made considerable investments into the transmission network, resulting in the reduction of bottlenecks and transmission losses which decreased from 1.37% to 1.32% in 2012.

KOSTT, as the market operator, completed the work on the new market design in early 2013. The document was harmonized with legislation, the Energy Strategy and the Energy Community acquis and finally approved by ERO in March 2013. The Market Design describes the market structure and sets out basic principles of the day-ahead and trading day system operations, namely planning, scheduling, balancing mechanism, ancillary services, imbalance calculation and settlement, billing and disputes, as well as governance. Based on the Market Design, amendments of market rules and market rules procedure are being prepared by KOSTT, in line with the Electricity Law.

An electricity tariff review was initiated by ERO in 2012. For the first time, it sets the maximum allowed revenues for regulated companies for a multi-year regulatory period. In the course of the electricity tariff review, applications of KOSTT, KEK-Production, KEK-Distribution and KEK-Public supply were evaluated on the basis of the Pricing Rules. Accordingly, ERO issued decisions on approval of the maximum allowed revenue determined for the transmission system operator/ market operator and distribution system operator for the period 2013 - 2017, for the production companies Kosovo A and Kosovo B for the period 2013 - 2016, and for public supply for a one year period starting from 1 April 2013.

3. The requirement for non-discriminatory third party access is transposed in the legislation in line with the acquis. Transmission and distribution use of system charges entered into force as of 1 April 2013, upon the approval of the ERO
issued on 2 May 2013. However, in violation of the acquis, tariffs and methodologies have not been published prior to their entry into force.

4. Eligibility is defined by the Electricity Law in accordance with the acquis, stipulating that all customers, except household customers, are eligible. Households will become eligible on 1 January 2015.

According to the Electricity Law, ERO is responsible to ensure that effective arrangements are in place to allow eligible customers to switch their supplier as simple and as possible and with no more than three weeks after notifying their incumbent supplier. Switching procedures need to be free of charge and for large non-household customers they have the right to contract simultaneously with several suppliers. Supplier switching rules, however, have not yet been defined, resulting in a major obstacle for retail market opening and issue of concern with regard to eligibility in real terms.

5. As regards market opening, every household customer has the right to universal service. Going far beyond this, currently all customers in Kosovo* are supplied under regulated tariffs. The public supplier is obliged to supply electricity at regulated tariffs to non-eligible customers as a public service. The public supplier is also entitled to supply eligible customers, both at regulated and non-regulated tariffs. Whether eligible customers are to be supplied at (low) regulated tariffs is to be decided by ERO based on the regulator’s assessment of the lack of market power. Such an evaluation has been undertaken by ERO during the tariff review in 2012; consequently all customers in Kosovo* are currently supplied at regulated tariffs by the public supplier. The regulator’s legal competence to decide on supply at regulated prices based on the level of competition in fact intends to foster market opening by enabling ERO to reduce regulated supply to the necessary limits rather than to prolong price regulation. It has to be acknowledged, however, that the regulator will execute its responsibilities prudently and pro-competitively. Additionally, ERO shall regularly assess the possible effects of public service obligations on national and international competition in the electricity market and consider whether or not such obligations should be revised. While this approach tries to balance price regulation, a public service obligation, with the potential evolution of competition, it failed to further liberalize the market in Kosovo* as price de-regulation and competition were not possible.

A major obstacle for the establishment of a competitive market structure is the Electricity Law’s requirement for all power plants of an installed capacity exceeding 5 MW, that were operational at the date the Law came into force, to provide their generated electricity to the public supplier at regulated tariffs to the extent needed by the public supplier in order to fulfill its functions. It needs to be carefully monitored whether there is and remains justification for such a far-reaching public service obligation.

6. The Electricity Law defines the obligation of the transmission system operator to identify available cross-border transmission capacity and provide congestion management for all transactions on the interconnectors with neighbouring systems. The capacity terms need to be defined on the basis of rules and mechanisms. In practical terms, the Serbian system operator EMS allocates capacities on the interconnectors adjacent to the network operated by KOSTT. This is subject to a long-running dispute settlement procedure with the Secretariat (case ECS-3:2008).

7. The development of balancing rules and balancing the system, as well as ensuring the availability of all necessary ancillary services, are the responsibilities of the transmission system operator KOSTT according to the Electricity Law. The applicable grid code from 2010, approved by ERO, includes balancing rules that cover real time operation, processes and procedures used for balancing the system. Rules for balancing the market, including rules for charging the system users for imbalances have not been developed yet. The Electricity Market Design was adopted by ERO in 2013. It describes the procedures of the balancing mechanism, energy imbalance calculation, imbalance price calculation and settlement. The market rules will have to make these binding.

8. Transparency requirements stipulated in the legal framework are adequately transposed and implemented with respect to tariff methodologies and charges for use of the transmission and the distribution system.

9. Customer protection service provisions are transposed by the Law in line with the acquis, giving broad competences to the regulatory authority.

ERO may review and approve proposals for customer protection measures and establish standards of service to be met by licensees, define the procedures to be taken relating to the disconnecting of customers. ERO is also responsible for safeguarding the interests of customers, resolving disputes between customers and energy enterprises, system operators and energy enterprises, and between two energy enterprises. Following that, customer protection and non-discriminatory treatment with respect to disconnection and resolution of complaint and disputes is ensured through the set of rules issued by ERO. Rules on Disconnection and Reconnection are setting criteria, standards and principles to be applied with this respect. Rules on the Resolution of Complaints and Disputes in the Energy Sector are prescribing procedure of submission, review and resolution of customer complaints and dispute settlement between licensees as well as offering an alternative dispute resolution mechanism in line with the acquis.

Implementation of the Third Energy Package

The present legal framework is to a large extent in compliance with the Second Package and represents a good basis for transposing the Third Package requirements into primary legislation. Amendments should be mainly focused on unbundling and the further strengthening of the tasks, competences and independence of ERO. The ongoing transposition process is envisaged to be finalised in 2014. As an initial activity, concept documents for energy laws were drafted and approved by the Government in 2013.

UNBUNDLING

In the electricity sector in Kosovo* the joint-stock company KEDS, responsible for electricity distribution and supply, has been privatized. The public utility KER and transmission system operator KOSTT are 100% state-owned companies. Both companies are controlled by the Ministry of Economic Development, which is not in line with the Third Package requirement on TSO unbundling. Still, requirements of the Second Package related to unbundling need to be fully transposed and implemented.

REGULATORY AUTHORITY

Duties and powers of ERO given by the current legal framework provide a good basis for the further strengthening of ERO’s authorities in order to comply with the Third Energy Package requirements. The regulatory authority shall have rights to carry out investigations and impose penalties in cases of non-compliance. The regulatory authority shall be empowered to perform its role in the process of certification of the transmission system operator.

CUSTOMER PROTECTION

Kosovo* has already established a substantial framework for electricity customer protection in conformity with the Third Package provisions regarding vulnerable customers, contractual terms and conditions and transparency of information. Customer rights for good service standards, complaint handling and dispute settlement are guaranteed by the set of rules adopted by ERO. However, a major obstacle to exercising eligibility is the lack of supplier switching rules. Their adoption and implementation in line with the Third Energy Package is essential for retail market opening.

Conclusions and Priorities

In Kosovo*, practical implementation is lagging far behind the legal framework which is largely compliant with the Second Package. In addition, adapting the legislation to the requirements of the Third Energy Package should be started.

As a priority, the unbundling of accounts for supply of eligible customers at contracted tariffs, supply of eligible customers at regulated tariffs (as long as applied) and supply of non-eligible customers needs to be implemented. Legal unbundling between distribution and supply in KEDS must be prepared to be implemented by 2015.

On the operational side, improving technical performance, reduction of losses in particular in the distribution network, and enforcement and improvement of quality of service standards are key next steps. At the same time, a link between the quality of services and costs of these services should be established to ensure the principle of cost-reflectivity.

Secondary legislation needed for competitive market opening should be adopted. Following the adoption of the Electricity Market Design, new market rules should be developed aimed at defining detailed provisions for a balancing mechanism, energy imbalance calculation, imbalance price calculation and settlement. In order to allow for retail market opening, effective supplier switching arrangements should be established. Excessive public service obligations on the generation company in order to meet the full demand of the public supplier should be abolished. Also, the right of ERO to regulate energy prices for all customers in case of insufficient competition should be replaced by a timeframe for phasing-out regulated prices, with large non-household customers becoming the first category.
3.1.6 Former Yugoslav Republic of Macedonia

Electricity

The energy sector, including electricity, in the former Yugoslav Republic of Macedonia is governed by the Energy Law of 2011, amended in 2011 and 2013. The Energy Law establishes full market opening following the introduction of the necessary legislative framework and the establishment of key market infrastructure, such as transparent network tariffs, provision of balancing services, market rules, supply rules and supplier switching procedures. The Law defines a set of secondary legislation to be developed within specified timeframes. The authority responsible for legislative matters and energy policies is the Ministry of Economy.

The Energy Regulatory Commission (ERC) has been operation since 2003 and according to the Energy Law is equipped with the core competencies required by the acquis.

The transmission network is operated by Makedonski Elektroprivredni Saobraćajni Operator (MEPSO), a state-owned company responsible for electricity transmission, power system control and balancing. MEPSO also performs the functions of a market operator.

Key players in the electricity market are the state-owned incumbent utility Elektrani na Makedonija (ELEM) and EVN Makedonija. ELEM owns the majority of generation plants, namely two TIPs and eight HPPs, with a total installed capacity of 1380 MW. A new hydro power plant “Sieta Peña” of 36 MW owned by ELEM was commissioned in 2012. ELEM also operates the CHIP TEC Energetika with 40 MW of installed capacity and a small distribution network through which it supplies 73 industrial customers with some 80 GWh.

In addition there are independent power producers: the oil-fired TPP Negotino with 210 MW installed capacity, and two gas-fired CHPs, TE-TO Skopje commissioned in 2012 with an installed capacity of 227 MW and KOS. Sever with 30 MW of installed capacity.

The Austrian utility EVN holds 90% of shares in EVN Makedonija, the owner of most of the distribution assets and supplier of 98% of all sales to so-called “tariff customers”. All household customers in the country and more than 99.9% of all non-household customers are connected to the distribution system of EVN Makedonija.

The category of “tariff customers” includes household customers until 31 December 2014 when they become eligible. During the same transitional period small customers are entitled to opt for being supplied as tariff customers or to purchase from a supplier of their choice. The incumbent suppliers, EVN Makedonija and ELEM supply tariff customers at regulated prices. Suppliers also should buy electricity according to competitive procedures.

Incumbent suppliers of tariff customers are designated by the Energy Law to perform the task of a supplier of last resort as a public service obligation. As a general rule households and small customers, i.e. undertakings with less than 50 employees and an annual turnover not exceeding EUR 10 million are entitled to be supplied by a supplier of last resort.

Currently, there are 44 registered traders with valid licenses issued by ERC. EVN Makedonija and ELEM hold supply licences, allowing them to supply tariff customers. In July 2013 ERC issued the first license for supply of electricity to a new entity (GEM Prodazba).

Former Yugoslav Republic of Macedonia has been for several years the only Contracting Party where big customers were obliged to procure electricity from the competitive market: since 2009, final customers connected to the transmission network are obliged and have been purchasing electricity outside the regulated supply on the competitive market. In addition, in accordance with the Energy Law, following a dispute settlement with procedure with the Secretariat, the transmission and distribution system operators procure electricity to cover their network losses in the competitive market. In terms of volume nearly 40% of electricity supplied in 2012 was purchased on the non-regulated market.

Former Yugoslav Republic of Macedonia’s Electricity Market Scheme

The energy sector, including electricity, in the former Yugoslav Republic of Macedonia is governed by the Energy Law of 2011, amended in 2011 and 2013. The Energy Law establishes full market opening following the introduction of the necessary legislative framework and the establishment of key market infrastructure, such as transparent network tariffs, provision of balancing services, market rules, supply rules and supplier switching procedures. The Law defines a set of secondary legislation to be developed within specified timeframes. The authority responsible for legislative matters and energy policies is the Ministry of Economy.
During the reporting period a number of activities took place but significant progress in actual market opening was not achieved.

The year 2012 marked a breakthrough in legislative terms, when the ERC adopted new Market Rules, obliging all customers, except small enterprises and households, to purchase electricity on the competitive market starting from 1 January 2013.

The new rules for small enterprises, which remain available for small enterprises, are eligible to purchase electricity on the competitive market. Households remain captive until 31 December 2014.

In July 2012 the ERC adopted several documents in the competitive market. ERC provided the rules for Procurement of Electricity, the purpose of which was to ensure transparency and safeguard customers’ interests in the procurement of electricity.

The adoption of the rules defined in the Law as precursors for mandatory market opening for all customers except household and had the following points:

1. The Rules for Supply of Electricity, the Rules for Supply of Electricity by a Supplier of Last Resort, the Rulebook of the Supplier of Last Resort, Electricity Market Operator charges and price lists for connection, network tariffs for transmission and distribution tariffs, and for Services of the Market Operator. 

2. The government extended the implementation of the protection program for vulnerable customers throughout 2013, and the Ministry of Economy was working on improving the enforcement regime related to combating the theft of electricity.

3. The Criminal Code was amended in 2013 so that the theft of electricity is now rendered as a criminal act and prosecuted in accordance with the Criminal Code.

4. The monitoring and enforcement of the Energy Law and to keep in line with the Energy Law.

5. The adoption of new tariff systems for the transmission and distribution network and for switching to the open market.

The energy consumption of households which receive social welfare assistance are subsidised in the amount of roughly EUR 11 per month and the scheme is financed from the State budget.

MEPSO in its capacity as market operator published the list of eligible customers (146 final customers connected to the distribution network) which were supposed to switch from a regulated to a competitive supply. Intensive education and training programs on the market rules, balance responsibility and financial effects of imbalances were provided by MEPSO for the market participants who were obliged to switch.

The 146 final customers should have registered with the market operator and assumed their balance responsibility, either individually or organised into balance responsible groups. Unfortunately, the establishment of balance responsibility did not follow as planned and in December 2012 ERC postponed the implementation of Market Rules.

MEPSO failed to develop standardised load curves for the calculation of the load of customers connected to their network until the deadline of May 2013 defined in the Market Rule. In addition, MEPSO did not complete the procurement of new software for the metering and calculation of imbalances in accordance with the Market rules. For these reasons in June 2013 ERC decided to postpone the implementation of the Market Rules again, amending the Market Rules with an obligation for ERC to develop an Action Plan for the Liberalization of the Electricity Market by 30 September 2013 at the latest. It is evident that market operation in the former Yugoslav Republic of Macedonia is not implemented at the pace envisaged in the Energy Law and the Market Rules.

Whereas MEPSO and ELEM had earlier adjusted their Grid Codes to the requirements of the Energy Law, EVN only in 2012 submitted its Grid Code to ERC; the new rules came into effect July 2012. These rules define conditions for connection to the network, third party access, long term planning, system operation, system security and stability, procedures in case of disruption, access to information and other matters defined in the Energy Law.

Aiming to support the reduction of losses, the Ministry of Economy was working on improving the enforcement regime related to combating the theft of electricity, tampering with meters and illegal access to network equipment. The Criminal Code was amended in 2013 so that the theft of electricity is now rendered as a criminal act and prosecuted in accordance with the Criminal Code.

The Government extended the implementation of the protection program for vulnerable customers throughout 2013, providing support for household customers who are recipients of the welfare subsistence program. Within the program, the energy consumption of households which receive social welfare assistance are subsidised in the amount of roughly EUR 11 per month and the scheme is financed from the State budget.

MEPSO is working on improving its Grid Code from 2006 in order to comply with the Energy Law and to keep in line with ENTSO-E regulation. Part of this process is the development of a set of procedures for the procurement of electricity for network losses, for ensuring system security in case of disruption of supply or significant imbalances in demand.

Non-discriminatory access is implemented in the grid codes for transmission and distribution, developed by network operators and approved by ERC.

Connection charges are also regulated and approved by ERC. The charges and price lists for connection are being reviewed by ERC and a decision is pending.

Network tariffs for transmission and distribution network operators are set by ERC for a three year period, subject to annual review. Network tariffs are published on ERC’s web page, but MEPSO and distribution network operators do not publish charges for the use of their network on their respective web pages. The transparency of applicable network tariffs is not properly enforced.

According to the Energy Law, the adoption of the secondary legislation by ERC, all customers except households shall become eligible. Eligible customers are small enterprises and more than EUR 10 million annual turnover do not have the right to be supplied by the supplier of last resort. The Law allows that small customers and households remain supplied at regulated prices by a supplier of last resort even after full market opening, without time limitations.

Household customers remain captive until 31 December 2014 and, after that time, will be able to switch to the open market or to be supplied by the supplier of last resort under regulated prices. The Law defines that small customers can choose between the liberalised electricity market and regulated electricity market until 31 December 2014.

From the moment small customers become eligible, and from 1 January 2014, these two categories shall have the right to be supplied by the last resort under regulated prices and conditions defined by ERC.

According to the Energy Law, all customers are eligible to switch supplier. However, the market for non-household customers is still not fully open as required by Article 21 of Directive 2003/54/EC. Currently only the customers who are connected to the transmission network are supplied from the open market and may not be supplied at regulated prices. The remaining eligible customers, namely the customers connected to the distribution network with more than 50 employees and an annual turnover exceeding EUR 10 million are still supplied at regulated prices by the incumbent supplier of tariff customers.

The switching rules are defined by ERC as a part of the Rules for the Supply of Electricity. Final customers with outstanding debts to the previous supplier, network operator or market operator are not permitted to switch supplier; these exemptions are certainly not in favour of market opening and should rather be solved via civil law. Small customers and households, even when eligible, will be entitled to be supplied by a “supplier of last resort”, if they do not choose their supplier.

In practice, preconditions for the implementation of the above rules have been in place as of 1 January 2012, but the implementation was delayed because provisions of the Market Rules were not complied with. The most recent postponement from 2013 introduced an Action Plan for Liberalization of the Electricity Market as a new document which will set the date for market opening required by the Energy Law.

5. Public services are provided at regulated prices, as a rule. Public services include generation to meet demand of supplier...
of last resort, as well as demand of tariff customers until 31 December 2014. The price at which the incumbent generator (EVN) sells electricity to its own customers and to the supplier of tariff customers (ELEM) as a public service obligation, is set by ERC, as a transitional measure, provided by in the Energy Law. In addition to the delays in adopting the secondary legislation and its implementation as explained above, obstacles to market opening include excessive price regulation, particularly in the wholesale market.

The price of electricity purchased from generators with public service obligations shall remain regulated until 31 December 2014. Even though the supplier of tariff customers is allowed to buy electricity in the open market, it has no incentive to do so if the regulated domestic generation is available at lower regulated prices. Moreover, the Methodology for Setting Prices of Tariff Elements for the Sale of Electricity by the Generator to the Supplier of Tariff Customers and the Supplier of Last Resort, which was planned to come into effect from 1 July 2013, but has now been postponed until the implementa-

tion of the Market Rules, explicitly defines the procedure by which ERC sets the tariffs for the sale of electricity in the wholesale market.

Excessive regulation with extensive scope of public services raised concerns regarding the objective need and detrimental effects on market opening and competition. It is also against the Energy Law, which prohibits approved or controlled prices to prevent efficient competition and market functioning.

6. The allocation of cross-border capacity is conducted through yearly, monthly, weekly and intra-day auctions. The auction rules, compliant with Regulation (EC) 1228/2003, are approved by ERC and publicly available. Capacities are split 50:50 with neighbouring systems.

The agreement of MEPSO with the Serbian EMS to apply joint auctions developed in 2011 but, although approved by ERC, could not be implemented due to the problem of double taxation and open issues on value added tax (VAT) application which were not resolved. Namely, revenues from congestions according to local VAT legislation are subject to VAT. This issue would need a regional solution.

The results of auctions are published, allocated capacities, congestions and marginal prices for each border and time slot in congestion.

7. The Market Rules define the principles of balancing and procurement of ancillary services, the costs of providing balancing services, balancing responsibility and charging for imbalances.

Ancillary services are currently provided by ELEM under its public service obligation. This practise distorts price signals for the balance responsibility of market participants. The implementation of the approved new Market Rules is expected to prevent this practise. Currently balancing responsibility is applicable only to customers connected to the transmission network and imbalances are settled weekly. Distribution system operators are not charged for imbalances.

According to the most recent amendments of the Market Rules, until liberalisation of the electricity market, the market operator is obliged to calculate hourly imbalances of all final customers except households, without financial settlement.

8. As regards access to information and transparency, the institutions and responsible market players have made some effort. Nevertheless, improvement is needed, particularly in terms of easy access to information in the public domain. Network tariffs are published in Official Gazette and on ERC’s web page, but not on network operators’ web pages.

As regards MEPSO, the key information for the system users is publicly available, including terms and conditions for connection, a Ten-Year Network Development Plan and Maintenance Plans for interconnectors. However, the published Ten-Year Network Development Plans of MEPSO (2010 – 2020) need an update.

Interconnection capacities are effectively allocated in annual, monthly and weekly auctions. Capacities can be allocated intra-day as well. Results of all auctions are timely published on MEPSO’s web page.

ELEM Macedonia, as a distribution network operator has published terms and conditions, including charges for connection and use of network, as well as end use prices for tariff customers.

Easy access to information also includes the access of system users to demand-related information provided by network operators. System users should have access to such information in the most appropriate format. This is especially important for the following months when full market opening is expected and customers will need simple and easy access to all relevant information about prices charged to them.

9. The aspects of customer protection are only partially implemented. The Energy Law defines the objectives of energy policy to ensure the protection of citizens from energy poverty. The Government is obliged by law to develop an annual programme for the reduction of energy poverty, including subsidies on consumed energy.

Currently, the social protection programme of subsidising monthly bills for consumed energy is being applied. New social protection measures are being developed within the respective institutions, aiming to pay due care to the protection of vulnerable customers and prevention of energy poverty.

Implementation of the Third Energy Package

Revision of the legislation is necessary not only to reflect requirements of the Third Energy Package, but to ensure the implementation of the current acquis in all its key aspects, namely market opening, efficient regulation and unbundling.

UNBUNDLING

Ownership unbundling is an issue because of the State’s stake in transmission and generation companies. Primary legislation needs to be amended in that respect. In addition, the requirements from the Second Package in relation to functional and accounting unbundling within vertically integrated undertakings have not been properly enforced.

REGULATORY AUTHORITY

The position of ERC must be strengthened, particularly in terms of power to enforce its decisions. In addition, comprehensive price regulation by ERC currently carried out in the form of setting all prices for public services should be abolished. As regards additional competencies required to comply with the new acquis, ERC needs power to perform its role in the certification process, to issue mandatory orders, to conduct investigations and impose penalties for non-compliance and explicit powers regarding cross border cooperation.

CUSTOMER PROTECTION

A definition of a vulnerable customer should be introduced, along with a guaranteed scope of service and information provided by licensed undertaking. Although some elements of the customer protection measures are transposed, particularly in the rules for supply introduced by ERC in 2012, the scope of public service should be reconsidered to allow for efficient customer protection measures without excessive regulation leading to discrimination between customer groups or an impediment to market competition.

II. Conclusions and Priorities

The first and foremost task is to implement the Market Rules and finally open the market as defined in the Energy Law. The Action Plan for Liberalisation must not be used as a means for further procrastination. ERC should use all its powers to enforce implementation.

The position of ERC should be strengthened, particularly in terms of power to enforce its decisions and obligations of undertakings to comply with the laws and by-laws.

Easy access to information also includes access for system users to demand-related information provided by network operators. System users should have access to such information in the most appropriate format. This is especially important for the following months when full market opening is expected and customers will need simple and easy access to all relevant information about prices charged to them.

Overall the customer protection scheme is too comprehensive, allowing for extensive definition of public service and price regulation detrimental to competition. Closing the gap between regulated wholesale prices and real market prices of electricity as a result of market opening will require an adequate social protection network capable of absorbing the effects of price changes on socially sensitive groups of customers. This is one of the key tasks ahead for domestic institutions responsible for different aspects of this matter.
Moldova is almost entirely dependent on imports of natural gas for the production of electricity, or electricity imports from Ukraine. The local electricity production relies on a dominant electricity producer, the gas/oil fired thermal power plant Kuchurgan (2,520 MW installed capacity) which covers as much as 80% of the overall demand. Kuchurgan is owned and operated by the Russian company INTER RAO UES, located in the Moldovan region of Transnistria. The remaining 20% of the demand is provided by several gas-fired combined heat and power generation capacities and one hydropower plant (with an overall installed capacity of 396 MW), or is covered by imports. The TPP Kuchurgan is dispatched internally by the system operator Moldelectrica and the interconnection capacities with Ukraine are sufficient for the electricity systems to operate with no congestion on this interconnection.

The electricity sector of Moldova still operates under the Electricity Law of 2009; the adoption of the amendments that have been prepared since 2011 - 2013 are delayed. Other relevant legislation includes the Law on Conducting Licensed Activities, the Law on Public Service, the Law on Customer Protection, the Law on Basic Principles for Regulating Entrepreneurial Activity and the Concession Law.

The Electricity Law sets the principles for energy governance like unbundling requirements, third party access and deadlines for market opening. The responsible authority for the legal and policy matter in the electricity sector is the Ministry of Economy.

Energy market regulation is performed by the Energy Regulatory Agency (ANRE). There have been no changes in the corporate structure of the electricity sector during the reporting period. The transmission system is not synchronized with the ENTSO-E network and operates as a part of the UPS electricity system along with neighbouring Ukraine. The Moldovan transmission system operator Moldelectrica performs transmission and dispatch activities, including basic market administration.

There are three distribution system operators and public suppliers active in Moldova – RED Nord, RED Nord-Vest and RED Union Fenosa. The latter covers 70% of the overall electricity demand and emerged after the privatisation and merger of Union Fenosa, RED Sud and RED Centru and RED Chisinau. It is now owned by the Spanish utility Gas Natural Fenosa. The other two utilities, RED Nord and RED Nord-Vest are state-owned.

The wholesale market model described by the Electricity Law of 2009 is based on bilateral contracts between producers and suppliers or between suppliers with an import portfolio in the electricity market. Legally, all suppliers are entitled to import or export electricity. However, a state-owned company, Energocom, acts as a single buyer for the entire volume of electricity imported from Ukraine. This is a condition requested by the Ukrainian trade counterpart, and is not required by the laws or regulations of Moldova. Being licensed for supply of electricity at non-regulated tariffs, Energocom is entitled to supply electricity to eligible customers. It is currently supplying the only active eligible customer which switched from the incumbent supplier.

Electricity Market Scheme

Moldova’s Electricity Market Scheme
b. Progress made in 2012/2013

Draft amendments to the Electricity Law had been prepared in the previous period, with a view to transposing the requirements of Security of Electricity Supply Directive 2005/89/EC, Regulation (EC) 1228/2003 and to improve compliance with Directive 2003/54/EC. Contrary to the expectations, they have not yet been adopted.

The Energy Strategy for 2030 was adopted in early 2013 and envisages the liberalisation of the electricity market, while reducing dependency on imported energy and improving the energy intensity of the economy. The objective of synchronising the Moldovan electricity network with the system of ENTSO-E is envisaged to be accomplished either together with the Ukrainian system, or through unilateral synchronisation with the Romanian system.

A new methodology for determining the distribution tariffs has been enforced in 2013. However, the new distribution tariffs have not yet been approved. Their missing adoption is one reason for the delay in the practical implementation of electricity market opening for non-household customers.

ANRE did not change the regulated electricity prices during 2013, neither for domestic electricity production nor for end-user customers’ supply. Nevertheless, at the current exchange rate, it trims down the Euro values at about 9.5 euros/kWh compared with an average of 10.5 euros/kWh in 2012. In January 2013, ANRE approved tariffs for electricity supplied by RED Nord to customers connected to high voltage networks (35 kV, 110 kV) at similar values for the same customer class as for RED Nord-Vest.

A procedure for customer switching has been drafted and is pending adoption.

In its 2012 Annual Report, ANRE, as one of the most advanced regulatory authorities in the Energy Community, continues to present benchmarking of the quality of supply indicators for three distribution companies.

c. State of compliance

The Electricity Law of 2009 transposes most of the basic requirements of Directive 2003/54/EC. However, the amendments to the 2009 Electricity Law meant to transpose the Security of Electricity Supply Directive 2005/89/EC and several provisions of Regulation (EC) 1228/2003 have not been adopted. This also delays progress with market opening for eligible customers connected to the distribution network, and the implementation of rules for capacity allocation on interconnections to the borders. Moreover, not all tariff principles have been implemented in line with the acquis: in particular, network charges based on individual transactions for the declared transit of electricity have to be eliminated and the transmission tariffs should be designed as exit-exit tariffs, providing efficient locational signals.

The methodology for setting distribution charges has been adopted by the regulatory authority in 2013. The adoption of distribution network access charges separate from costs of supply is still pending, impeding the market opening for non-household customers connected to the distribution network. ANRE also approved technical rules for connection to and operation of transmission and distribution networks.

Supplier switching procedures are being developed by ANRE and are estimated to be adopted in autumn 2013.

4. The eligibility requirements have been properly transposed into the Electricity Law. Of 2009, all non-household customers became eligible as of 1 January 2013 in accordance with the deadlines established for Moldova in the Accession Protocol. Nevertheless, the delay in the approval of distribution tariffs renders this provision in the law practically not applicable to the eligible customers connected to distribution networks. This constitutes a breach of Article 20 of Directive 2003/54/EC. In practice, the four large industry customers connected to the high-voltage transmission grid are currently eligible.

Households will be eligible customers as of 1 January 2015. This is in line with the deadline under the Treaty.

5. In terms of practical market opening, only one eligible customer, a cement factory, Lafarge Ciment, is supplied under the Electricity Law. The remainder of eligible customers connected to the high-voltage transmission grid are still pending, impeding the market opening for non-household customers.

The electricity transmission tariff methodology, as modified in 2013, recognises the cost of electricity to cover the network losses as part of the network tariff. The transmission system operator is obliged to purchase electricity to cover losses in the transmission network at market price according to the draft amendments to the Electricity Law. However, the methodology and the calculation of transmission charges still needs to consider appropriately the cost of capital for the system operator. Moreover, not all tariff principles have been implemented in line with the acquis: in particular, network charges based on individual transactions for the declared transit of electricity have to be eliminated and the transmission tariffs should be designed as exit-exit tariffs, providing efficient locational signals.

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ANRE also regulates the generation price for the following generators: CET-1, CET-2, CET-Nord and the HPP Costesti.

6. Rules for the allocation of interconnection capacities have been drafted but not yet adopted by ANRE, due to the delayed adoption of the amendments to the Electricity Law. The lack of these rules, however, does not prevent impediments to the cross-border trade given that the existing interconnections to the Romanian system are not congested. However, existing barriers for Ukrainian suppliers in accessing electricity transmission mode, and in cooperation with the respective distribution companies at the borders.

Coordination, market-based capacity allocation procedures for interconnection on all borders synchronously connected still need to be developed and implemented.

The interconnection capacities between the Moldovan and the Romanian (non-synchronously connected) systems are allocated based on market procedures and performed by the Romanian system operator. The electricity import/export between the two systems is made in passive island consumption mode, and in cooperation with the respective distribution companies at the borders.

7. Because Moldova is balancing its system mostly through imports from Ukraine, the 2013 ECRA study on imbalance settlement advises Moldova and Ukraine to consider developing a sub-regional scheme. This should start based on a TSO-TSO model without a merit order list, implementing the ten possible all the steps required and described in the study. Balancing rules and the introduction of balancing responsible parties are being included in the amendments to the Electricity Law. Balancing Rules and the regulation of ENTSO-E members have not yet been adopted and implemented. Supply companies are currently required to contract balancing energy with a view to satisfying the demand of their customers and cover imbalances, which is certainly not
in line with the imbalance settlement principles implemented in ENTSO-E.

8. The transparency requirements of the acquis are still largely not implemented. Information relating to connection to the grid, transmission contracts, network tariffs or inter-connection capacities is not available either in the local language or in English. ANRE fails to monitor and enforce rules on transparency for the system operators.

9. The provisions on customer protection are transposed and implemented for final electricity customers only. A vulnerable customer category is currently defined in a Governmental Decree. It is made from a social point of view and not specifically addresses vulnerability in relation to electricity consumption. The category needs to be clearly defined in relation to electricity consumption in the Electricity Law.

Implementation of the Third Energy Package

To ensure compliance with the Third Package, several amendments need to be considered in order to transpose the principles of Directive 2009/72/EC related to unbundling, tasks, competences and independence of the regulatory authority, and the protection of vulnerable customers.

UNBUNDLING

The system operator is legally unbundled from the generation and supply activities according to the Second Package. However, compliance with the Third Package related to the unbundling requires further amendments to the Law and its implementation.

REGULATORY AUTHORITY

Clear and unambiguous articles related to the legal and functional independence of ANRE from any public or private entity, being able to take autonomous decisions independent from any political body must be enshrined in the Energy Law. Moreover, the extended duties and powers of the national regulators provided for in Article 37 and 38 of Directive 2009/72/EC need transposition and enforcement.

CUSTOMER PROTECTION

A vulnerable customer category in relation to electricity consumption needs to be introduced and adequate policies implemented. Measures to protect final customers and in particular ensure that there are adequate safeguards to protect vulnerable customers from electricity disconnection in critical times, transparency regarding contractual terms and conditions and general information and dispute settlement mechanisms for this customer category all need to be clearly defined in the Law.

Conclusions and Priorities

The reforms made in the electricity sector towards the implementation of the acquis have been steady in the last years, however the consistent and proper implementation of Directives 2003/54/EC, 2005/89/EC and Regulation (EC) 1228/2003/EC remain to be achieved.

The highest priority by the end of 2013 is the adoption of the revised draft Electricity Law which will improve compliance with the current electricity acquis. As 2015 is now only one and a half years away, these activities will have to go hand in hand with the transposition of the Third Energy Package into the legal framework of Moldova.

A revision of the methodology for determination and calculation of the transmission tariffs to introduce entry-exit types of transmission network charges and to eliminate the transmission tariffs based on commercial transactions, thus complying with Regulation (EC) 1228/2003, is still pending, and needs prompt attention.

Rules for capacity allocation and transparency requirements need to be implemented urgently by Moldelectrica, as close to the acquis as possible. ANRE has to enhance the monitoring of network operations including the transparency of information for efficient third party access to the networks.

The Ministry of Economy as the sole shareholder of Moldelectrica needs to strengthen the institutional capacity needed for the transmission system operator to live up to its role in a liberalised electricity market. This could be contemplated in the context of the structural reforms of the transmission system as required by the Third Energy Package.

ANRE has to boost cooperation with the Ukrainian Regulator in order to remove the trade barriers for electricity exports applied to Ukrainian electricity producers, therefore allowing the Moldovan suppliers to have access to competitive electricity supplies, and through non-discriminatory access to interconnections.

The existing framework for imbalance settlement is not compliant with the European model and needs to be modified and adjusted towards a market-based platform. In this process, Moldelectrica and ANRE, in cooperation with their Ukrainian counterparts, need to play key and very active roles.
3.1.8 MONTENEGRO

Electricity

<table>
<thead>
<tr>
<th>2011</th>
<th>2012</th>
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<tbody>
<tr>
<td>Electricity Production (GWh)</td>
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<tr>
<td>Net Imports (GWh)</td>
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<td>Gross Electricity Consumption (GWh)</td>
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<td>Losses in Transmission (GWh)</td>
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<td>Losses in Transmission (%)</td>
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<td>Losses in Distribution (GWh)</td>
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<td>Losses in Distribution (%)</td>
<td>19.20%</td>
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<td>Consumption of energy sector (GWh)</td>
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<tr>
<td>Final consumption of electricity (GWh)</td>
<td>3,650</td>
</tr>
</tbody>
</table>

Consumption Structure (GWh)
- Industrial, transport, services and other non-residential sectors: 1,224, 1,222
- Households: 2,336, 2,012

Net maximum electrical capacity of power plants (MW)
- Coal-fired: 210, 200
- Gas-fired: 312, 312
- Oil-fired: 95, 95
- Hydro: 635, 635
- Other Renewables: 8, 8
- Pumped storage: 635, 635
- Wind: 312, 312

Horizontal Transmission Network (km)
- 380 kV or more: 284, 284
- 220 kV: 340, 376
- 110 kV: 604, 613
- 33 kV: 3,088, 3,151

Electricity Customers
- Total: 363,147, 369,956
- Households: 31,912, 32,457
- Non-households: 341,235, 337,499

Domestic market
- Electricity supplied to active eligible customers (kWh): 0, 0
- Share of total consumption (%): 0%, 0%

Source: RAE

a. The electricity sector in Montenegro

The Energy Law of 2010 is the main legal act governing the electricity sector in Montenegro. Legal and policy matters in the domain of electricity fall within the competences of the Ministry of Economy. The regulatory tasks and duties are performed by the Regulatory Agency for Energy of Montenegro (RAE).

The main structure of the electricity market of Montenegro is built around three companies - the transmission system operator Crnogorski Elektroprenosni Sistem (CGES), the vertically integrated Elektroprivreda Crne Gore (EPCG), and the electricity market operator of Montenegro Crnogorski Operater Trazi Elektrinice Energije (COTEE). Apart from the fully state-owned COTEE established by the Government in 2010, the other two companies are corporatized and quoted at the stock exchange of Montenegro.

The State holds 55% of equity capital in CGES, and the Italian transmission system operator TERNA acquired nearly 22% in 2010 investing in new shares as a part of the deal to construct an underwater cable between Italy and Montenegro. Most of the remaining shares in CGES belong to investment funds and other minority shareholders.

In EPCG, an undertaking that performs electricity generation, distribution and supply activities, the Italian utility A2A owns 43.7% of the shares, while the State retained 55% and the rest belongs to minority shareholders. The incumbent supplier EPCG was appointed by the Government, in accordance with the Law, to perform the tasks of a “public supplier”.

With regard to the electricity market, the Energy Law envisages that all household customers will become eligible in 2015. All non-household customers are already eligible to switch their suppliers. The Market Rules adopted in 2012 include an obligation for all customers connected to the transmission network to switch to non-regulated supply as of 1 January 2013. Customers connected to the distribution network remain the right to be supplied by the public supplier EPCG at regulated prices even after acquiring eligibility status.

Unlike other Contracting Parties, Montenegro does not require domestic licenses for wholesale operations. Several companies, some of them significant regional market players, registered as market participants at COTEE. In addition to the incumbent EPCG, starting from October 2012 another retail supplier, the state-owned MontenegroGorilous, has been licensed and began operation by supplying the largest customer in the country, the aluminium smelter complex Kombinat Aluminijuma Podgorica (KAP). KAP’s share in electricity taken from the transmission network amounted to 31% in 2012, significantly influencing the average level of transmission charges per unit.

Two companies are licensed for the generation of electricity, EPCG being the dominant producer with 2.7 TWh of annual production in 2012, in the TPP Pijedija and two HPPs, Pua and Perucica. There are seven small HPPs operated by EPCG, two of them owned by the company Zeta Energy holding a separate license for generation.

Montenegro’s Electricity Market Scheme

According to the Energy Policy from 2011, covering the period until 2030, a major reform is planned in the electricity sector. As the current energy strategy covers the period until 2025, the Ministry of Economy has drafted a new Energy Strategy for the period until 2030 and published it for a public hearing. The Strategy aims at reflecting new circumstances with the finalisation of investment agreement as well as assumptions to achieve objectives in terms of security of supply, market opening and sustainable development in terms of energy efficiency, and share of renewable energy sources.

Eight construction permits for new small hydropower plants were issued by the Government. The Ministry of Economy also launched public consultations on the document defining terms and conditions for granting concessions for the construction of 10 new hydropower plants.
The implementation of the Energy Law of 2010 required the adoption of substantial new secondary legislation. The responsible institutions have adopted most of the required by-laws, more or less within the deadlines set by the Law. RAЕ has fulfilled almost all of its tasks stipulated in the Energy Law as regards the legislative framework for a competitive market, mostly in 2012 and 2013. Implementation of these rules and their strict enforcement are crucial for a market to develop. RAЕ approved the Rules for Functioning of Electricity Distribution System in September 2012 (adopted by EPCG) as well as the Methodology for Setting Charges, Terms and Conditions for Connection to the Distribution Network (adopted by EPCG in March 2013). In May 2013 RAЕ adopted the Rules for Charging Tariffs, defining the procedures for setting provisional tariffs and the procedures for changing approved revenues and tariff rates during the tariff period. Remaining tasks are creating rules for defining quality of services, which are currently in preparation.

During 2012, COTEE defined standard forms and documents for the registration of market participants and balance groups as well as operational rules and procedures relating to communication, complaint handling and other similar issues. On 15 December 2012 COTEE published a notification to the participants defining continuity of supply, voltage quality and time needed for transmission or distribution. This situation posed a serious threat to compromise the whole concept of Balance responsibility in Montenegro. Namely, the consumption of KAP without a purchase contract put the Montenegrin power system in imbalance with respect to the whole synchronous system, at substantial costs to CGES. In July 2013 requesting CGES to set up a program for compensating the affected network operators which provided energy for balancing its system. Further prolongation of this status only increased the accumulated costs without any collateral for the system operator to settle its position.

In the meantime, the problem was solved in a manner that Montenegrobonus took over the commitment to return the energy, in agreement with EPCG and KAP. A compensation program has been agreed, with the deadline for returning the energy until 1 October 2013.

Taking note of the activities of Montenegro to comply with the compensation program, at the general meeting of ENT-SO-E held on 27 June 2013, it was decided not to initiate proceedings against CGES.

KAP is under receivership, its future operation uncertain. In the case that KAP closes its operation, transmission costs borne by KAP should be redistributed to the remaining customers imposing an increase in average transmission price.

To turn back to actual progress made in Montenegro during the reporting period, the implementation of the Methodology for Setting Prices and Conditions for Provision of Ancillary and System Services and Balancing Services began promptly after its adoption, when CGES as system operator and EPCG as a provider of ancillary services, agreed the contract on providing ancillary services in 2012. The contract was probationary and calculations were made only as a dry run, without financial settlement. Balancing services were not included, as the whole system at the time functioned as a single balance group. However, the contract for ancillary services in 2013 was not concluded because of the problem with KAP relying on COTEE that its services would not be paid for. Draft Minimum Standards of Quality of Supply, intended to define continuity of supply, voltage quality and time needed for TSO and DSO to repair and connect, are finalised and ready for consideration by RAЕ. Definitions of these standards require establishing a system of quality related data collection by the network operators and submission of this data to RAЕ. The regulation will be in a trial run from 1 August 2013 to the end of the regulatory period 31 July 2015 when its mandatory application is envisaged, including penalties for non-compliance.

RAЕ developed a draft rule on regulatory accounting, planned for adoption in 2013. The purpose of this document is to strengthen regulatory scrutiny over accounting systems, enforce accounting unbundling, facilitate tariff proceedings and improve the transparency of accounts of regulated undertakings.

The Energy Law requires Ten-Year Network Development Plans and annual investment plans of network operators. Consequently, CGES submitted its Ten-Year Network Development Plan for the period 2011 - 2020 to RAЕ. RAЕ only approved Three-Year Development Plans for the purpose of tariff setting because the plan was not in full conformity with the Energy Strategy of Montenegro until 2025 and did not contain a cost estimation for its implementation. CGES was requested to adjust its plan to the Energy Strategy, notably indicating the updated Energy Strategy until 2030, once adopted.

EPCG submitted only a Three-Year Development Plan for the period 2012 - 2015. RAЕ instructed EPCG to prepare and submit for approval its Ten-Year Network Development Plan. For the purpose of approving regulated revenues for the tariff period 2012 - 2015 RAЕ used the three-year investment plans. In addition, the distribution system operator in EPCG is obliged to conduct a study on the losses in the distribution network that will serve as a basis for assessment of reasonableness of related costs to be recovered from network tariffs, in accordance with the applicable tariff methodology.

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3. The Energy Law requires the network operators to ensure non-discriminatory third party access for all system users unless it endangers the provision of public services. When access is denied, the affected party is entitled to complain to RAE. Construction of a direct current line may be exempted from third party access with the decision of RAE, under the conditions laid down in the Law. The Montenegrin transmission system operator so far has not requested exemption from third party access for the planned construction of the new direct current undersea interconnector with Italy. The Law requires RAE to determine terms and conditions for the construction of direct lines. This rule is in early preparatory phases in RAE.

The review of tariffs for use of transmission and distribution systems scheduled after the first year of the regulatory period was performed in June 2013 and RAE published new tariffs applicable for the second year of the regulatory period, i.e. from 1 August 2013. Reflecting all aftermaths of the new position of KAP, RAE is reconsidering the effective tariff methodology for setting transmission network charges. In June 2013, the Secretariat closed a case concerning interalia, the lack of cost-reflectivity of distribution tariffs after RAE corrected the Methodology in 2012.

4. Eligibility is addressed in the Energy Law. The electricity market is formally open to competition for all non-household customers, and customers connected to the transmission network are not allowed to purchase at regulated prices from the public supplier. Customers connected to the distribution network are free to switch to competitive supply, but they are not obliged to do so.

The supplier switching procedure is defined in a Rule on Conditions and Procedure for Supplier Switching approved by RAE in 2010, compliant with the acquis.

Currently, there are only two licensed suppliers of final customers in Montenegro. As described above, effectively only two customers assumed rights and liabilities of active market participants and switched to competitive supply. The biggest consumer KAP did not register as a market participant and did not negotiate any supply contract, as required in the Market Rules and procedures defined by COTEE.

5. The Energy Law defines that supply under regulated prices is provided as a public service. Public services, in addition to transmission and distribution, include services provided by the supplier of last resort, the supplier of tariff customers until full market opening and the supplier of vulnerable customers, under the title of public supply. EPGC is designated by the Government as a public supplier. To assume its task of the supplier of last resort, EPGC was supposed to submit to RAE for approval a methodology for tariffs for supply of last resort. This obligation has not yet been fulfilled.

From 1 January 2013 end-user prices are not regulated for customers connected to the transmission network. They are thus forced to contract their supply in the competitive market. Generation is not subject to explicit price regulation. Namely, the Energy Law does not determine the price at which domestic generators should sell electricity to the public supplier. Instead, the price of electricity in the tariffs for final customers is determined on the basis of actual negotiated price in the previous period in the case of import. For domestic generation it is set applying the previously regulated prices and a factor of harmonising this price with the referent market price.

6. Starting from 1 January 2012, CGES applies the rules for allocation of interconnection capacity approved by RAE in 2011. The rules define annual, monthly, weekly and daily auctions on interconnection capacities, split 50:50 with the neighbouring systems. Congestion income is used for the reduction of tariffs, as a deductive item in determining regulated revenues. The Allocations Rules were brought in compliance with the acquis upon the Secretariat’s intervention.

7. RAE regulates the provision of balancing services in line with the Methodology for Setting Prices and Conditions for the Provision of Ancillary and System Services and Balancing Services in the Transmission System. In July 2012, RAE set prices for ancillary and system services, effective from 1 August 2012.

Calculation of imbalances and allocation of respective costs is applicable only for customers connected to the transmission network, each customer being responsible for its imbalances. The distribution network operator is balanced as a single party and the incurred costs of imbalance to be transferred to the distribution tariffs.

8. Despite RAE’s instructions, there is still no evidence that the network operators comply with all transparency requirements, such as publishing their financial statements or allowing for easy access to information for system users. Even when information is made publicly available, it is not always easily accessible to the users.

9. With regard to customer protection, the Energy Law regulates the supply of electricity to vulnerable customers. The public supplier is designated to act as a supplier of vulnerable customers. The Law defines vulnerable customers as households entitled to a social protection scheme if their life or health may be threatened if electricity supply is disrupted. These customers cannot be disconnected and the Government has an obligation to provide financial support to these customers. RAE adopted tariffs for vulnerable customers for the year 2012 published by the Montenegrin Commission of Securities within statutory deadline, but network operators still have not published their most recent financial reports on their respective web pages.

Rules for allocation of interconnection capacities and results of auctions are published on CGES’ web page.

The public companies have their financial statements for the year 2012 published by the Montenegrin Commission of Securities within statutory deadline, but network operators still have not published their most recent financial reports on their respective web pages.

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Implementation of the Third Energy Package

Montenegro has already taken action to assess the conformity of its legislation with the Third Energy Package. The assessment and a gap analysis were prepared for consultation among key stakeholders.

UNBUNDLING

Unbundling requirements need to be introduced in the primary legislation. Ownership unbundling is not implemented because the State is the majority shareholder in CGES as a transmission operator, and vertically integrated generation, distribution and supply in EPCG, as well as single owner of the market operator.

REGULATORY AUTHORITY

The key shortcomings are related to strengthening the position of RAE, particularly in terms of power to enforce its decisions. So far the regulatory rulings did not achieve the desired outcome. Apart from additional competences, new legislation should ensure that the regulatory authority has the powers enabling it to carry out its duties, including investigating and penalty imposing powers.

Regulatory independence, including financial independence, must be assured in primary legislation. The conditions for dismissal of regulatory authority must not be abused.

CUSTOMER PROTECTION

Under the current Law, the concept of the vulnerable consumer is clearly defined, but the Law is not applied properly. The regulator is responsible to determine tariffs for vulnerable customers, and the Ministry in charge of social welfare is responsible to define the rights of vulnerable customers.

Conclusions and Priorities

Despite the efforts of many responsible authorities, implementation of the rules and regulations was the key challenge for the electricity market in Montenegro. Therefore, enforcing powers must be ensured in the system. The initiated legislative reform can bring the desired improvement.
The energy law of 2011 is the main primary legal act for electricity distribution and system operation. In addition to this function, EMS is responsible for the organisation and administration of balancing market according to the Energy Law. EMS will also act as the electricity market operator until the Government issues an act regulating the organisation and operation of the electricity market in more detail. Activities of the Ministry and EMS on defining basic principles for the establishment of an organised electricity market are in the final phase.

In addition to the production companies within EPS’ holding structure, licences for electricity production were issued to five independent generation companies. The 59 undertakings were holding licenses for electricity supply in Serbia in 2012. 27 of them were active in wholesale trading, mainly cross-border, while the rest of them were not performing activities under this licence. The number of licensed suppliers in Serbia has increased to 65 by July 2013. All customers in Serbia are eligible, except for households which will become eligible as of 1 January 2015. However, all customers were using the possibility to be supplied at regulated prices until 31 December 2012. As of 1 January 2013, the 26 customers connected to the transmission system – representing 9.5% of the total electricity consumption were forced to choose their supplier on the free market. 25 of them have chosen to be supplied by EPS at non-regulated conditions, while the industrial customer Messer Tehnogas switched to the other licensed supplier on the free market, GENV.

According to the Energy Law all customers connected to the distribution system remain entitled to public supply, i.e. supply under regulated prices. Starting from 1 January 2014, only households and small customers will be entitled to public supply. Small customers are defined in line with Directive 2003/54/EC.

EPS was appointed as a temporary supplier of last resort starting from 1 February 2013, until a public tender for supplier of last resort is conducted in accordance with the Energy Law. A final deadline for this designation has, however, not been defined by the Government yet. The right to be supplied by the supplier of last resort is given to customers not entitled to public supply during a transitional period until 1 January 2015 for a maximum of 60 days in cases when their new supplier goes bankrupt, its license expires or is revoked, or if the customer fails to contract a new supplier. The price for the supply of last resort is 70 EUR/MWh.

Serbia’s Electricity Market Scheme
The Energy Law was amended twice in 2012. The amendments mainly focused on energy efficiency, energy permits and renewable energy. The Ministry also started drafting the amendments necessary for implementing the Third Package. The new Energy Law is envisaged to be adopted by the end of 2013.

The Electricity Market Code was issued by EMS in December 2012 upon approval from AERS, and entered into force in January 2013. In line with the Energy Law, the Market Code regulates the principles, rules and procedures applied in the wholesale market in Serbia and the contractual framework for rights and obligations of market players – rules for balance responsibility, balancing market, calculation of imbalances and imbalance price, as well as imbalance settlement mechanism for financial settlement of balance responsible parties.

In line with the Market Code, EMS registered 29 balance responsible parties. Financial settlement of imbalances is done based on the calculated imbalance of a balance group. The imbalance price is derived from prices of activated balancing energy in the balancing market for each imbalance settlement period of 1 hour. The prices of activated balancing energy and imbalance prices for each imbalance settlement period are published on a daily basis on EMS’ website.

Since 1 January 2013, the balancing market operates on market-based rules based on bids for balancing energy. Since no other market participants are able to offer balancing services, EMS remains the only participant in the balancing market for the time being. The rules for the balancing market to some extent prohibit exercising of market power by EPS by limiting the bidding price spread for aggregated explicit bids to the maximum of 30 EUR/MWh between 100 MWh for downward and 100 MWh for upward regulation. Additionally the balancing market operates at 0.1 and 500 EUR/MWh. The implemented balancing market is in compliance with the best EU practices; priority should be given to mitigation of high concentration of the balancing market through prompt implementation of the Network Code on Electricity Balancing, once adopted in the Energy Community.

AERS adopted Rules on Supplier Switching which entered into force in 2012. The Rules regulate the conditions and procedures for switching for final customers on the basis of a “full supply” contract i.e. an all-inclusive, continuous service with out quantity limits, as well as the rights and obligations of the suppliers and the system operator. The Rules cover cases of switching upon the customer’s request, switching to the public supplier or supplier of last resort, as well as switching in the case of a terminate of a supply contract following non-payment. The Rules define a simple, efficient and free of charge procedure for switching supplier within a period of 21 days.

New annual Rules on Allocation of Cross-Border Transmission Capacities for 2013 were adopted by EMS and approved by AERS. In addition to split auctions and joint auctions with Hungarian system operator MAVIR that were already in place, joint auctions with Romanian system operator Transelectrica have been adopted for the first time. Joint auctions take place on a yearly, daily and intra-day basis, whereas split auctions are being organized on a yearly, monthly, weekly and intra-day basis (except with Croatia).

In line with the Energy Law, new methodologies for setting prices for use of the electricity transmission and distribution systems, as well as new methodology for calculation of connection charges for transmission and distribution networks, were adopted by AERS in 2012. Methodology for Setting Regulated Electricity Prices for Public Supply was adopted and prices were approved in July 2013. The methodologies set maximum allowed revenues of the regulated energy companies, and set the criteria and rules for the allocation of revenues, the elements for calculation and methods of invoicing. The revenues cover justified costs of operation, as well as an adequate return on assets and investments. New transmission and distribution tariffs in line with new methodologies were proposed by system operators and approved by AERS in 2013. AERS also determined the prices for the procurement of ancillary services in 2013.

Legal and accounting unbundling of distribution companies within EPS was accomplished in July 2013, following the establishment of the new legal entity EPS Supply. Licences for the supply of tariff customers issued to the distribution companies by the 2004 Energy Law, ceased to be valid when the licence for the performance of public supply of electricity was issued to EPS Supply on the 1 July 2013.

Recent progress has been made in completing secondary legislation that was lagging far behind deadlines given by the Energy Law. The Ministry adopted the new Energy Law in April 2013 and the Rules Prescribing Conditions and a Procedure for the Application and Issuing of Energy Permits in July 2013. A Decree on the Protection of a Vulnerable Customer was adopted by the Government in March 2013 and entered into force as of 1 April 2013. Additionally, a Decree Prescribing Detailed Conditions for Electricity Delivery and Supply and Measures to Be Undertaken in Case of a Threat to the Security of Supply prepared by the Ministry was adopted by the Government in July 2013.

Amendments to the transmission grid code are under preparation by EMS. The amendments are mainly aimed at harmonising the grid code with the new Market Code.

In 2012, EMS prepared a first draft of the Ten-Year Network Development Plan and submitted it to AERS for review. The approval process has not been finalised yet.
The Third Energy Package will require transposition of several new elements in Serbian law, mainly related to unbundling and the tasks, competences and independence of AERS. The present legal framework provides a good point of departure for this endeavour, and Serbia set itself the ambitious goal to transpose the Third Energy Package by the end of 2013.

The electricity sector in Serbia has not been corporatised and the transmission system operator EMS, and the incumbent vertically integrated company EPS are established as public enterprises, with their assets being 100% in State ownership. Both companies are in the competence of the Ministry of Energy, Development and Environmental Protection, which is not in compliance with the ownership unbundling requirements stemming from the Third Package.

Serbia has a good legal framework for the protection of electricity customers in conformity with the Third Package provisions regarding vulnerable customers, contractual terms and conditions, transparency of information and switching suppliers. Customers’ rights to a good standard of service and complaint handling must be guaranteed by establishing an independent mechanism for complaint handling and out-of-court dispute settlement in line with the Third Package. Active participation of customers in the electricity market should be supported by the implementation of intelligent meters systems following requirements and deadlines given in the Third Energy Package.

The first concrete steps for an amicable settlement of the dispute with the authorities and companies of Kosovo* must be taken in order to bring to an end the infringement actions launched by the Secretariat. Setting this dispute is also a prerequisite for further regional integration in the electricity sector and thus must be given highest priority. The Secretariat has expressed its preference for a comprehensive inter-TSO agreement between EMS and KosEPP which would identify the service to be provided and the compensation to be paid in the bilateral relations in accordance with the acquis.

Activities for bringing the primary legislation in compliance with the Third Energy Package are expected to proceed according to the schedule of the Ministry. EMS should finalise preparation of its Ten-Year Network Development Plan. The DSOs should continue their activities on reducing network losses and improving quality of supply.

The principal authority responsible for legislative and policy issues in the domain of energy in Ukraine is the Ministry of Energy and Coal Industry. The main legal act governing the electricity sector of Ukraine is the Electricity Law of 1998, as amended almost on a yearly basis until 2010. The Law provides the basic framework for State control over the electricity industry and the principles of management of the public infrastructure and operations in electricity generation, transmission, wholesale trading, and end-user supply. Another legal act applicable to the electricity sector is the Law on Combined Generation of Heat and Power and Use of Waste Energy Potential.

<table>
<thead>
<tr>
<th>Electricity Production [GWh]</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Imports [GWh]</td>
<td>176,530</td>
<td>180,513</td>
</tr>
<tr>
<td>Net Exports [GWh]</td>
<td>21</td>
<td>91</td>
</tr>
<tr>
<td>Total Electricity supplied [GWh]</td>
<td>170,158</td>
<td>170,551</td>
</tr>
<tr>
<td>Gross Electricity Consumption [GWh]</td>
<td>169,950</td>
<td>170,838</td>
</tr>
<tr>
<td>Losses in Transmission [GWh]</td>
<td>6,315</td>
<td>4,460</td>
</tr>
<tr>
<td>Losses in Transmission [%]</td>
<td>2.44%</td>
<td>2.47%</td>
</tr>
<tr>
<td>Losses in Distribution [GWh]</td>
<td>17,306</td>
<td>17,523</td>
</tr>
<tr>
<td>Losses in Distribution [%]</td>
<td>10.63%</td>
<td>10.54%</td>
</tr>
</tbody>
</table>

* data for 2011
** EAEU states based on list of UCP
Source: NER
The National Commission for State Regulation in Energy (NERC), already operational since 1994, is gradually developing its competences and independence. It has been re-established by a Decree of the President of Ukraine of November 2011, and is subordinate and accountable to the President and the “Verkhovna Rada” (Parliament) of Ukraine. NERC's Commission consists of a Chairman appointed by the President of Ukraine, and six Members appointed on proposal of the Chairman. Besides the fact that its powers and appointments are given and made by the President, NERC reports on the Russian level to the Government. In 2012, a Public Council was established within NERC to assure transparency and publicity, prevent corruption and support public interests in the application of the regulatory rules, as well as to submit comments and proposals to the draft acts and decisions of NERC. The operation of NERC is financed from the State budget and from fees for licensed activities, upon approval by the Cabinet of Ministers.

The activities of NERC include electricity, gas, oil and heat supply. Its powers and competences are further outlined by the Law on Natural Monopolies of 2000, as amended, and several supporting acts such as the Law on Licensing of Certain Types of Economic Activities of 2000, as amended, the Law on Principles of Regulatory Policy in Economic Activity of 2004, as amended, and the Law on Principles of State Supervision (Control) in Economic Activity of 2007, as amended. All these acts are also applicable in the energy sector.

According to the Electricity Law of 1998 and the other relevant legislation the competences on NERC in the electricity sector are related to licensing the activities of generation, transmission, distribution, and supply at regulated tariffs, non-regulated and wholesale supply of electricity and combined heat and power generation. NERC is also competent for the promotion of competition in electricity generation and supply, setting the transmission and distribution network tariffs and the regulated wholesale and retail prices. This includes approving the rules and monitoring cross-border capacity allocation, quality and safety of supply services, connection of new generation, performance of the licensed transmission and distribution operators, conditions for access to the market, agreements for activities in the market, settlements and monitoring of possible distortions of the market including the operation of the National Commission for State Regulation in Energy (ENSCO-E), with the systems synchronised with the Russian system might change this practice. Interconnection capacities are allocated on the borders with Belarus for export and with Moldova for export and for transit to the Ukraine region of Odessa. The interconnections of the Burstin Island (synchronised with ENSCO-E) with the systems of Slovakia, Hungary and Romania dispose of a maximum total capacity of 650 MW and are used for export from Ukraine only. The capacity auctions are performed by Ukrenergo, based on Auction Rules approved by NERC in 2009. They are subject to a dispute initiated by the Secretariat.

The wholesale market operator Energorynok is a State enterprise established in 2000. It functions as a single buyer of electricity from generators or traders (not excluding eventual imports), and a wholesale supplier to the public and independent suppliers and traders (including exports). Energorynok is also responsible for day-ahead generation schedules, merit-order lists for balancing and financial settlement.

The nuclear and large hydro generators (along with the incentivised production from CHP and renewable sources) sell the electricity to Energorynok at regulated prices, while thermal power plants sell through a competitive bidding platform, with the marginal system price determined on the basis of the “average wholesale price from producers”, established on a daily basis.

Electricity supplied by Energorynok is sold on the basis of an “average wholesale price for suppliers”, calculated after adjustment (increase) by the amount required to cover the (regulated) transmission tariffs and costs of services, as well as the regulated charges required to cover the incentives for renewables (“feed-in tariffs”). The resulting price is further adjusted for the costs of cross-subsidies (amounts required to cover losses) for the electricity provided to public suppliers, which in turn depends on regulated discounts that are negotiated and approved for each public supplier separately (based on the social profile of its customers). All increases of the cost are compensated through raising the price of energy offered to independent suppliers or traders which contract freely with final customers. All regulated costs are established by NERC.

A fundamental reform of the Ukrainian wholesale market is currently under discussion, the draft new Electricity Law, currently pending before Parliament.

The distribution and supply of electricity on the territory of Ukraine is provided by 27 utilities “Oblenergo”. They supply electricity to all captive customers, i.e. non-industrial final customers and households, at regulated prices. Some “Oblenergos” operate distributed generation units, mainly gas-fired CHP or small hydro power plants.

The Energy Strategy of Ukraine until 2030 was subject to public debate in the second half of 2012. The document was supposed to include, among others, a demand forecast for the period of time covered, criteria for possible investment priorities, and an outline of reform activities for the liberalisation of the electricity market and cost-reflectivity of regulated prices. The Secretariat was not informed about the outcome of the process.

Within the activities for consolidation of its internal operations in the reporting period NERC adopted, among other things, rules on its internal procedures, rules on the procedure for participation in amending the legislative acts of the Cabinet of Ministers, and rules on the establishment and operation of the Public Council. During the reporting period, NERC published a number of amendments and resolutions in the domain of electricity and regular updates of the regulated supply prices for each distribution utility, and of the end-user prices.

The legislative framework for the electricity sector of Ukraine is currently changing, the draft new Electricity Law, currently pending in Parliament for the second reading.
The legal framework does not address authorisation and ten-
of electricity generation in the domain of operation of new
projects. However, no specific criteria or procedure have been
adopted by the Ministry. The Electricity Law does not provide
any obligation to the Ministry or to NERC for publishing the
conditions or setting a transparent procedure in this context.
There are no specific provisions in the Law for the treatment
of refusals of authorisations. Responsibility for the licensing
of electricity generation in the domain of operation of new
facilities lies with the NERC.

The legal framework does not address authorisation and ten-
dering in a compliant manner.

1. The Electricity Law does not directly provide for any ob-
ligation for non-discriminatory and objective procedures for
authorisation or tendering of new generation capacity, or
the appointment of independent authorities to perform
such functions. In the context of construction of new infra-
structure the Law calls upon provisions from the legislation
on construction, referring both to authorisation and tender-
ing, defining the conditions for construction, expansion and
retrofit of electricity facilities.

According to the Electricity Law, the Ministry of Energy and
Coal Industry is in charge of the authorisation of new genera-
tion capacity construction, as well as for the tendering of such
projects. However, no specific criteria or procedure have been
adopted by the Ministry. The Electricity Law does not provide
any obligation to the Ministry or to NERC for publishing the
conditions or setting a transparent procedure in this context.
There are no specific provisions in the Law for the treatment
of refusals of authorisations. Responsibility for the licensing
of electricity generation in the domain of operation of new
facilities lies with the NERC.

The legal framework does not address authorisation and ten-
dering in a compliant manner.

2. The transmission system operator Ukrenenergo and the
wholesale market operator Energorynok are legally unbun-
dled companies, under full State ownership and control.

At the distribution level, the unbundling is not completed. The distribution utilities “Oblenenergo” are licensed to operate
the networks and to supply electricity, and no legal unbun-
dling of these activities is implemented or even imposed by
the Law. No specific criteria for independent day-to-day op-
eration, management or decision making are applied either.

The Law does not impose account unbundling within an inte-
grated utility. However, for the purpose of monitoring the ac-
counts, the utilities are legally obliged to submit information
to NERC on their assets and liabilities for each licensed activity
separately. This includes accounting information for any CHP
operated within the distribution company, if any.

There is no further compliance with the obligation for estab-
lishing audited or dual accounts for each licensed activity, and
there is no unbundled accounting between the supply of eli-
gible and non-eligible customers either. Furthermore, there is
still no obligation to publish the annual audit reports.

Cross-subsidisation between different activities in distribu-
tion is not treated by the Electricity Law but is prohibited by
NERC’s rules, and rigorously checked on. Cross-subsidisation
between different classes of customers is not prohibited.
Overall, Ukraine currently does not implement the unbund-
lings rules of Directive 2003/54/EC.

3. Regulated third party access to the transmission network is
granted to registered companies licensed for supply – in-
cluding the distribution and supply utilities “Oblenenergo”,
and companies licensed for export or supply under market condi-
tions. Access for eligible customers is not envisaged which
constitutes a substantial incompliance with Article 20 of Di-
rective 2003/54/EC.

At distribution level, the Electricity Law provides for network
access under equal conditions for all registered companies
licensed for supply with active supply contracts. The refusal
of access is treated in the context of network connection for
generation from alternative (renewable) energy sources and
requests for the establishment of a customer supply contract.
The access cannot be refused by the local distribution util-
ity (network operator) except in case of insufficient network
capacity and with a consequent report to NERC. Customers
are allowed to financially assist the necessary upgrade of the
infrastructure and claim reimbursement.

According to the Electricity Law and the other applicable leg-
islation NERC is responsible for tariff regulation in the elec-
tricity sector. In particular NERC is in charge of setting the
transmission and distribution tariffs. These obligations are ac-
complished and the transmission tariffs have been approved
and published by NERC.

4. In the Protocol for Accession of Ukraine to the Energy
Community of 2010, eligibility of non-household custom-
ers is required from 1 January 2012 and for households as
of 1 January 2015. The Electricity Law of Ukraine, however,
falls short of compliance in this respect and does not provide
any explicit definition of eligible customers or a timetable for
market opening.

Switching as such is not prohibited but no switching rules or
conditions are in place, and no incentive measures or support
mechanisms for switching are applied.

5. As regards market opening, the single buyer and seller
system prevents effective supplier switching, and thus violates
Directive 2003/54/EC. Moreover, the generation prices and
electricity wholesale prices of Energorynok are established by
NERC. End-user prices of electricity are also regulated by
NERC namely for the regulated distribution companies which
purchase their electricity from Energorynok and from local
regulated generators, and supply their (captive) customers
under regulated prices. Non-regulated suppliers, on the other
hand, purchase electricity from Energorynok and sell it to
non-regulated customers in Ukraine at negotiated prices, or
for export. In this environment the captive customers are by
default supplied by the local distribution utility (supplier) at
regulated prices. Non-household customers connected to the
distribution network are theoretically allowed to switch their
supplier, however only if they manage to obtain a license from
NERC for non-regulated supply, in which case they can
only purchase electricity from Energorynok.

The Law does not explicitly distinguish between network tar-
iffs and regulated costs of supply. However, NERC has ap-
plied a methodology for the structure of published tariffs for
distribution (and transmission) in separation from the costs of
supply. The suppliers of regulated customers have the right
to be compensated for non-collected revenues from the na-
tional or local budget which may exceed what is permitted
under State aid rules.

6. With regard to cross-border capacity allocation Ukraine
also falls to comply with the requirements of the acquis.

The capacity allocation on the borders with EU Member
States and Moldova is performed by Ukrenergo based on the
Procedure for Auctions Relating to the Transmission Capacity
of Ukraine's International Power Grids for Purpose of Electric
Power Export adopted by NERC in 2009. The procedure ap-
plies only to the export of electricity, while imports depend on
prior approval by the Ministry thereby failing to comply with
several provisions of Energy Community Law.

Access is limited by the requirement for existence and ap-
proval of purchase/supply contracts both with Energorynok and
foreign entities as requirements for participation in cross-
border capacity allocation procedures. The Procedure defines
the auctions as “a form of sale ... of the system operator’s services...” thus imposing the requirement for payment of a
sale price even if there is no congestion.

No justification of eventual refusal or any kind of compensa-
tion for curtailment is anticipated. The provisions for alloca-
tion of the congestion revenue provided in the Law clearly
address the network development, but include “repayment of
restructured indebtedness” of the wholesale supplier to
generators and exporters, which is not compliant.

Furthermore, the information on the use of interconnections
and available capacity is updated on a monthly basis. The auc-
tioning platform still does not apply the electronic exchange
of information on the bidding. Auctions take place on an
annual and monthly bases; daily auctions are not foreseen
in the Procedure. There is no adequate electronic bidding plat-
form, which is a significant hurdle for the implementation of
a compliant allocation procedure. It imposes limitations on
the liquidity of cross-border trade. The application of the
“use-it-or-lose-it” principle obliges the use of at least 70% of
the allocated capacity in any two consecutive months. The
unused or reclaimed capacity is to be allocated in a monthly
auction, which is not always the case in practice. Secondary
capacity market and the transfer of capacity between market
participants are not allowed.

These and other breaches of the acquis provoked the Secre-
tariat to open up an infringement case in 2013.

7. Balancing is regulated and the costs of imbalance of the
suppliers are calculated by Energorynok and netted-out with the
imbales of the generation units, before transferring them into the regulated cost of supply. Imbalance settlement
is provided by Energorynok.

Scheduling is performed by Energorynok on a daily basis
upon the planned schedules submitted by the regulated gen-
eration units and the bids of the non-regulated generators.
The imbalances are compensated according to the merit or-
der of listed generation units made in advance by Ukrenenergo,
according to economic and technical criteria.

This mechanism does not provide for any price signals for
the balancing energy or allocation of balance responsibility.
It does not constitute market-based balancing as required by the acquis.

8. The access to information and transparency provisions are inherently problematic in the Ukrainian electricity sector due to the insufficient legal enforcement and underdeveloped infrastructure. Monitoring by NERGC of the transparency in the electricity sector needs to be further legally supported and implemented.

The information provided by the operators to the market participants is often incomplete or missing on account of the legal provisions on confidentiality. The provisions for enforcement of conditions for access to information, in particular with respect to transmission capacity allocation, need to be brought in compliance with the requirements in the Regulation (EC) 1228/2003 and the related Congestion Management Guidelines.

9. Customer protection is inadequately treated and insufficient. The Energy Law does not envisage an obligation to the suppliers for the provision of sufficient information to customers as required by the acquis. A number of consumer rights are missing, at least in terms of information on the quality of service, on the access to updated tariffs, contractual arrangements and related information including termination, available compensations and access to available dispute settlement mechanisms.

One significant improvement with regard to the protection of public interests by NERGC is the establishment of the Public Council. Such a structural measure improves public visibility and transparency in the interest of final customers. Nevertheless, it is also prone to possible abuse of its administrative capacity provided by its constitutional acts and eventual undermining of the independent decision-making powers of NERGC.

There is no appropriate definition of vulnerability and no adequate support mechanism is established. The legislation on social welfare enforces the right for direct subsidies from the State Budget for a certain percentage of the electricity bills of certain categories of customers. Regulation of the end-user supply prices is not selective. The use of subsidies from the generation and cross-subsidies between classes of customers to compensate the costs of supply to households is not transparent, not sustainable and detrimental to the competitive environment due to the distortion of prices.

**Implementation of the Third Energy Package**

Ukraine is apparently still in the process of “ratifying” the Third Energy Package in its domestic legal order. This makes it likely that the country will not meet the general transposition deadline of 1 January 2015.

**UNBUNDLING**

The transmission system operator (Ukrenergo) and the market operator (Energoynak) as well as their assets are in State ownership and controlled by the Government. The same is the case for the nuclear production facilities, with no option for privatisation. The assets of the remaining dominant generators and the majority of distribution and supply utilities in Ukraine with dominantly state-owned assets are aggregated in a holding. The current ownership structure does not comply with any unbundling option provided by the Third Energy Package and its implementation needs to envisage legal provisions for structural reforms in the domain of transmission system operation.

**REGULATORY AUTHORITY**

The independence of NERGC has been significantly improved after the President’s Decree from 2011. However, its independence from the Government or from any other public body in Ukraine and its impartiality must be further defined, including provisions for independent appeal. The objective of NERGC to promote and support the development of a competitive market needs to be clearly enforced along with its increased powers to investigate, request information and impose penalties.

**CUSTOMER PROTECTION**

The vulnerable customers are not treated in the Electricity Law of Ukraine or in the social welfare system in an adequate manner as required by Article 3(7) of Directive 2009/72/EC. The rules and criteria for identification still need to be established and enforced in the Law. Once identified, such customers should be protected against disconnection in critical conditions and be supported by schemes outside the regulated pricing system.

**d. Conclusions and Priorities**

Tangible results in developing the electricity sector in Ukraine are evident mainly in the regulatory domain in developing the electricity sector in Ukraine. The primary legislation is outdated and widely non-compliant. Currently the obsolete transmission and generation infrastructure calling for urgent investments, and the access to open markets required by local industry are the main drivers behind the ongoing reforms of the electricity sector.

The adoption of the Law on the Main Aspects of Functioning of the Electricity Market remains the main priority for the next period. The Law would represent significant progress in the compliance of Ukraine. The open issues aside, the Law will make a crucial contribution to a more liquid, transparent and competitive electricity market in Ukraine. At the same time, approximation with the Third Energy Package should be completed in a timely manner.

The new Law would require adjustments to the key secondary legislation, in particular new market rules. Other regulatory rules of NERGC, such as the grid code, need adjustments in any event or even need to be developed from scratch, such as the switching rules and balancing rules.

An adjustment of the Auction Rules is urgently needed to rectify the issues of non-compliance identified by the Secretariat’s Opening Letter. This needs to be completed in time for the forthcoming annual auctions due before the end of 2013. On the level of practical implementation, structural measures are needed in the domain of unbundling of distribution from supply and unbundling of the accounts, following the implementation of legal unbundling. New operators and facilities imposed by the new market model must be established and made operational. The current practice for regulation of the production needs to be abandoned for the benefit of open competitive relations.

A tariff reform is required along with improved customer protection mechanisms, aimed to eliminate cross-subsidies and introduce sustainable tariffs. Mechanisms for the support of supplier switching also need to be introduced, enforced and applied.
3.2 Competition
3.2 COMPETITION – A Regional Overview

Energy sectors in the Contracting Parties are characterized by natural monopolies, a high degree of concentration and intense state intervention. Markets remain effectively foreclosed. Given the limited impact of legislation and the activities of national regulatory authorities, further steps towards market liberalization depend on the effective enforcement of State aid rules. Based on cases of anti-competitive practices by the incumbents, public or private, and being equipped with a toolbox including fines and behavioural or structural remedies, competition authorities can make the difference in opening up markets and enabling market access to new entrants and investors. The practice by the European Commission, as well as several EU Member States, in cases concerning cartels, abuses of dominant positions and long-term contracts guides the way in this respect. State aid, on the other hand, constitutes an intrinsic feature of energy market governance and individual transactions in the Contracting Parties. This was confirmed by a study commissioned by the Secretariat and published in 2011. Practices such as price regulation below market prices need to come under scrutiny by domestic authorities tasked with the enforcement of the State aid prohibition. The system of State aid control established in essentially all Contracting Parties falls short of delivering on the objectives pursued by the Treaty in relation to protecting markets from distortions.

The treaty in relation to protecting markets from distortions.

Parties falls short of delivering on the objectives pursued by

need to come under scrutiny by domestic authorities tasked

2011. Practices such as price regulation below market prices

dominant positions and long-term contracts guides the way

Eu member states, in cases concerning cartels, abuses of

domestic institutions, is evidently not apt for effective enforcement. In the absence of any investigation or decision-making rights, the Secretariat is essentially confined to monitor transposition of the acquis communautaire and enforce the absence of legislation, as it has done so far in several cases concerning State aid. Its contribution to implementing the rules by applying them to individual cases remains very limited. This should be reconsidered in the context of discussing possible amendments to the Treaty.

Under the constraints imposed by the existing legal framework, the Secretariat initiated the launch of an Energy Community Competition Network. On 23 November 2012, a Joint Declaration on cooperation between the Competition Authorities and the Energy Community Secretariat on the establishment of an Energy Community Competition Network was signed in Vienna by all Contracting Parties, as well as Armenia, Austria and Georgia. The network establishes a platform for promoting cooperation and discussion on competition law enforcement in the energy sectors. It also serves the purpose of exchanging experience and developing the best practices with respect to competition policy, legislation and enforcement of the EU competition acquis within the Energy Community. The members of the Network will meet regularly, and the most recent meeting in June 2013 in Athens was followed by a joint meeting with the ECRB.

During this reporting period no major changes in the legislative framework governing competition law occurred.

The exception is Moldova, which in July 2012 adopted a new Competition Law which entered into force in September 2012. The newly adopted legislation contains prohibitions of anti-competitive agreements and concerted practices, as well as abuses of a dominant position. It is also applicable to public undertakings and entities providing services of general economic interest.

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a view to detecting any anticompetitive behaviour restricting competition. The review consists of analysing the entire legal framework governing the electricity sector in Albania and a review of the implementation of the ACA’s recommendations to ERNE and the Government. The ACA is collecting information from all market players and has requested ERNE’s cooperation in investigating the relevant market model and the reasons for termination of operation of CEZ – the former DSO and retail public supplier in the country.

Besides advocacy activities, the Croatian Competition Authority (CCA) dealt with a few cases concerning application of competition law to the energy sectors. In March 2015 it approved a merger between two traders of oil and gas, Crodux Derivati and OMV Hrvatska. On 30 November 2012, the CCA decided not to open proceedings against IA4 for an alleged abuse of a dominant position due to the lack of evidence. Finally, the CCA informed that there is also an ongoing investigation in the sector of natural gas. However, it is in the early stages of preliminary investigation in the relevant market and it relates to the Croatian Gas Market Act from 2007, that was repealed with the entry into force of the new Gas Market Act from March 2013. The complaint concerned the market position of Prirodn Plin, which according to the Act from 2007 was the only wholesale supplier of natural gas to meet the demand of the tariff customers. In addition, Prirodn plin was the only undertaking that provided balancing energy and underground gas storage in Croatia. In the reporting period, the CCA also has been active in issuing opinions on draft principles of competition in the energy sector, in particular on the legislation adopted in Croatia in 2012/2013 for the transposition of the Third Package.

The Moldovan Competition Council (CCC) is one of the few authorities in the region that has taken action against abuses of dominant positions in the electricity markets. One of the two cases against the distribution system operator and supplier, initiated upon a complaint by a customer. In its decision, adopted on 29 October 2012, the CCC established an abuse of dominant position due to the fact that the complainant was required to install the infrastructure necessary to be connected to the network by itself, whilst the CCC established an abuse of dominant position due to the fact that the complainant was required to install the infrastructure necessary to be connected to the network by itself, whilst the CCC was launched in 2010. So far, two reports have been published, in October 2011 and February 2013, with conclusions and recommendations. The sector inquiry resulted in finding that the dominant oil company Nafta Industria Srbije (NIS), as of 2013, is an独家 oil derivative, lowered the retail prices to the maximum levels allowed. However, the Commission held that such effects could not be clearly identified as an abuse and, instead of opening an investigation against NIS, decided to continue monitoring the behaviour of the undertakings active on the petrol market. In addition, it recommended that the Government and the relevant institutions and ministries initiate monthly and annual reporting on the wholesale and retail petrol market.

Besides the Moldovan ANCP, the Ukrainian AMCU was the other competition authority active in enforcing competition law in the energy sectors. One case, initiated on 10 January 2013, concerns the possible abuse of a dominant position by Cherkasyazs on the market of distribution of natural gas in the Cherkasy region. The alleged abuse is related to access to the market supply of natural gas to industrial customers within the Cherkasy region where Cherkasyazs operates. The second case was initiated on 30 April 2013 and concerns a possible abuse of its dominant position by the distribution system operator ZEM on the market for distribution of electricity transport infrastructure which is of general geographical significance. The third case concerns an abuse of a dominant position by Mykolaivoblenergo on the electricity supply market. The abuse consists of imposing unreasonable charges to the consumers for reconnection to the network after sealing their meters and disabling access to those meters installed on the facades of houses in the Mykolaiv region. The AMCU also performed a sector inquiry in March 2013 related to the procedure for connection of construction projects, including housing projects to the energy networks (electricity, gas, heat) and reviewed the provision of public services.

The Serbian Competition Protection of Competition (CCP) of the former Yugoslav Republic of Macedonia informed that it is still at an early stage of investigation of a case concerning a price fixing cartel in the electricity sector between four electricity traders. The main problems faced in the investigation are the lack of qualified staff in the CCP to deal with competition enforcement in the energy sector and to perform inspections. Moreover, since most of the traders are present in the markets in Serbia, coordination of activities with other competition authorities is needed to obtain more concrete information. No other cases in the energy sector have been assessed or decided on by the CCP in the last year.

The ACP in Montenegro only reported the approval of one concentration between AWE Ininy GmbH from Germany and mixed holding Elektroprivreda Republike Srbije from Trebinje with the purpose of building four hydropower plants in the upper basin of the River Drina.

The Serbian Competition Protection of Competition continued with its activities of conducting a sector inquiry in the oil and oil derivatives market in Serbia, which was launched in 2010. So far, two reports have been published, in October 2011 and February 2013, with conclusions and recommendations. The sector inquiry resulted in finding that the dominant oil company Nafta Industria Srbije (NIS), as of 2013, is a独家 importer of oil derivatives to be paid by other undertakings at the maximum levels allowed. However, the Commission held that such effects could not be clearly identified as an abuse and, instead of opening an investigation against NIS, decided to continue monitoring the behaviour of the undertakings active on the petrol market. In addition, it recommended that the Government and the relevant institutions and ministries initiate monthly and annual reporting on the wholesale and retail petrol market.
Secretariat, no Contracting Party has ever taken a decision to prohibit the granting of aid to an energy undertaking or ordered its recovery in the energy sector.

Only three Contracting Parties reported activities in enforcement of State aid legislation in the energy sectors. However, the decisions adopted in Albania, in and to a certain extent in Montenegro, are too superficial to be considered correct implementation of the acquis. The State Aid Commission (SAC) in Albania adopted one decision assessing State aid in the amount of ALL 4.5 billion (approx. EUR 45,000) given to the state-owned electricity generation company and wholesale public supplier KESH, in order to facilitate the payment of imported electricity. The SAC reached a conclusion that such financial aid does not constitute State aid since KESH is the only entity in the country that is in charge of buying electricity from domestic sources and from import, in order to supply the retail public supplier. This decision is evidently in breach of EU State aid rules and the case law of the European Commission. For instance, in a case concerning subsidies to the transmission system operator of Poland for the construction of interconnecting lines on the border with Lithuania, the Commission decided that aid granted for projects of general interest constituted aid. This was without prejudice to the fact that there was no competition and there was only one licensed company for providing transmission services in the country. In January 2013, the Ministry of Economy of Montenegro notified the State Aid Control Commission (SACC) of a guarantee issued for the loan taken by the electricity transmission company (CGES) for the construction of the undersea cable connecting the Montenegrin and Italian electricity system. The SACC found that the guarantee fulfills the constitutive criteria of the State aid definition. However, it found the aid to be compatible, since without it the project could not be financed by the company itself at market conditions. This is based on provisions of the State aid Law, which in itself is not compliant with the acquis. In practical terms, the aid given to the construction of the submarine cable was permitted without any detailed analysis and against Article 107 TFEU.

The CCA in Croatia is currently reviewing the Ministry of Economy’s plan for a new system of feed-in tariffs for renewable energy sources. This is the only notification submitted to the CCA for State aid in the energy sector in the reporting period. The CCA requested additional information from the Ministry but, since it has not received such information yet, the notification will be dismissed.

3. State of compliance and priorities

Full implementation beyond transposition requires the establishment of adequate institutions and a more rigorous enforcement.

Bosnia and Herzegovina is now the only Contracting Party that has not pursued cases applying Articles 18(a) and (b) of the Treaty to the energy sectors. However, that certainly is not to say that the other Contracting Parties are active enough. Besides the oil sector inquiry in Serbia, and the Albanian monitoring of the electricity market, no Contracting Party has performed a sector inquiry or specific monitoring of the electricity and/or gas markets. Only the Moldovan and the Ukrainian competition authorities have taken effective enforcement actions in the reporting period, resulting in imposition of penalties against dominant companies. The competition authority in the former Yugoslav Republic of Macedonia faced problems in effectively applying competition law to the electricity sector related to the lack of qualified staff. This was reported as a reason for extending the investigation in the electricity sector, which started already in the last reporting period. The Secretariat invites the competition authorities of all Contracting Parties to become more active in enforcing competition law to the energy sector, outside mere competition advocacy. The Secretariat will also continue monitoring the development and the performance of the newly established ACP in Montenegro.

With regard to State aid, Ukraine is the only Contracting Party that lags behind the others, with no primary legislation implementing the State aid acquis in place. The first and main priority for this Contracting Party should be to complete the process of adopting a State aid Law as quick as possible, to establish the appropriate institutions and to start enforcing it in the energy sectors. Moreover, the Secretariat recommends that the Contracting Parties in which State aid enforcement is in the hands of the ministries or governmental bodies, transfer competences to the competition authorities. The independence of the State aid enforcement system in those Contracting Parties is lacking, as both the decision-making body and the administrative unit are closely linked to the respective Governments in terms of nomination, organization, financing and interests. In most of the Contracting Parties the awareness of the public institutions about State aid rules is low. Raising awareness and more enforcement activities is what the Secretariat would expect to see is all Contracting Parties in future. Bosnia and Herzegovina and Kosovo* are expected to establish functioning enforcement authorities as soon as possible in order to complete the implementation of the State aid acquis. In Albania and Montenegro, the application of the State aid rules was done in a way breaching Article 107 TFEU.

Only a few of the priorities identified by the Secretariat in the last year’s Implementation Report have been addressed by the Contracting Parties. Namely, Moldova adopted new Competition and State aid Laws by which it remedies the incompliance with the acquis. In addition, the fact that Moldova entrusted the Competition Council with enforcement of State aid rules is to be welcomed. Montenegro also established the ACP as an independent institution enforcing Competition Law and made it operational in the reporting period.

For the rest, all the recommendations from the Secretariat for the competition and State aid authorities to become more active in enforcing competition and State aid Law to the energy sectors were not addressed. Besides Moldova and Ukraine, no other country adopted substantive decisions applying Competition Law to the electricity and gas sectors, and only three decisions in the field of State aid were taken, two of which were in compliance with the acquis and the case law of the Court of Justice. Furthermore, none of the Contracting Parties that have entrusted governmental bodies and ministries with State aid enforcement amended their legislation to entrust the competition authorities. The most serious incompliance remained with Ukraine, which failed to adopt State aid Law, as well as Bosnia and Herzegovina and Kosovo*, which both failed to establish effective institutions to enforce the prohibition of State aid even though their newly adopted legislation provides a legal basis for it.
3.3 Gas

3.3.1 Regional Overview
3.3.2 Albania
3.3.3 Bosnia and Herzegovina
3.3.4 Croatia
3.3.5 Kosovo*
3.3.6 Former Yugoslav Republic of Macedonia
3.3.7 Moldova
3.3.8 Montenegro
3.3.9 Serbia
3.3.10 Ukraine
3.3.1 GAS – A Regional Overview

The Treaty requires the Contracting Parties to implement the following legislative documents:

1. Directive 2003/55/EC concerning Common Rules for the Internal Market of Natural Gas establishes the main principles of gas market liberalisation. This includes market opening, unbundling, third-party access to gas infrastructure, public service obligations, customer protection, the criteria and procedures for granting authorisations and licenses for transmission, distribution, supply and storage, as well as requirements for system operation and development. The Directive further specifies the functions, competences and administrative powers of regulatory authorities.

The deadline for the implementation of Directive 2003/55/EC expired on 1 July 2007 for the original Contracting Parties. For Moldova and Ukraine, the deadlines are 31 December 2009 and 1 January 2012, respectively, according to the Accession Protocols.

According to Annex I to the Energy Community Treaty, the gas markets of the original Contracting Parties had to be open for all non-household customers as of 1 January 2008, and for all households as of 1 January 2015. According to the Accession Protocols of Moldova and Ukraine, those deadlines have been extended to 1 January 2013 and 1 January 2012, respectively, for all non-household customers. For household customers, the deadline for both Contracting Parties remains 1 January 2015.

2. Regulation (EC) 1775/2003 on Conditions for Access to the Natural Gas Transmission Networks has been incorporated into the acquis by a Ministerial Council Decision of 18 December 2007, with an implementation deadline of 31 December 2008 for the original Contracting Parties. The Regulation builds on Directive 2003/55/EC and lays down more detailed rules for access to the natural gas transmission network, such as tariff principles, third-party access services, transparency requirements, balancing rules and imbalance charges, principles on capacity allocation and congestion management including secondary market trading of capacities. According to the Accession Protocols of Moldova and Ukraine, the deadlines for implementing this Regulation expired on 31 December 2010 and 1 January 2012, respectively.

3. Directive 2004/17/EC concerning Measures to Safeguard Security of the Natural Gas Supply has also been included in the binding set of acquis by the Decision of the Ministerial Council of 18 December 2007, with an implementation deadline of 31 December 2009 for the original Contracting Parties. The Directive establishes measures to safeguard an adequate level of security of supply, with a special focus on specific customers and a so-called community mechanism. It requires the Contracting Parties to define general, transparent and non-discriminatory security of supply policies, compatible with the requirements of the competitive market, together with the definition of the roles and responsibilities of the decision-makers and the implementation of procedures to safeguard security of supply. According to the Accession Protocols of Moldova and Ukraine, the deadlines for implementing this Regulation were 31 December 2010 and 1 January 2012, respectively.

4. Within the European Union both Directive 2003/55/EC and the acquis (EC) 1775/2003 have been replaced by new acquis in the framework of the so-called “Third Energy Package”. On 6 October 2011, the Ministerial Council in Chisinau adopted Decision 2011/102/MC-EnC on the implementation of Directive 2009/73/EC and Regulation (EC) 715/2009, with the general implementation deadline fixed for 1 January 2015. Despite the fact that the Contracting Parties’ implementation commitments currently still relate to the “Second Energy Package”, preparation for the legal and practical amendments necessary to implement the Third Energy Package should have already started in all Contracting Parties to meet the implementation deadline.

5. Additionally, Article 29 of the Treaty calls on the Contracting Parties to adopt security of supply statements starting one year after the entry into force of the Treaty. These statements describe in particular the diversity of supply, technological security and geographic origin of imported fuels. For Moldova and Ukraine, according to the Accession Protocols, the first statements should have been sent to the Secretariat by 1 May 2011 and 1 February 2012, respectively. The statements must be updated every two years; the next update is required by 1 July 2013.

b. The Energy Community gas sector

1. Implementation

The progress of Treaty implementation in the area of gas during the reporting period was moderate. Whereas a few high-light can be reported from individual Contracting Parties, the most prominent example being the exemption procedure for the IAP project in Albania, with the Secretariat giving its first Opinion under the Third Energy Package – there has been little or no progress in other Contracting Parties. The most notorious example in this respect is the deadlock in the gas sector in Bosnia and Herzegovina, which triggered enforcement action by the Secretariat.

In recent years, the focus within the Contracting Parties has been shifting from the adoption of primary legislation to secondary legislation development such as grid codes, tariff systems and market rules. These points need to be understood, as they lay the foundations for functioning gas sectors, and in some cases even rudimentary markets. In the course of transposing the Third Energy Package, however, primary laws will have to be amended again. With the exception of Montenegro, the drafting has not yet really started; the bulk of work is to be expected in 2014.

In Bosnia and Herzegovina, however, brought no concrete outcomes; the situation is more encouraging in Ukraine, where at least legal unbundling seems to be fully implemented by Ukrtransgaz. The required compliance programs do not exist in other Contracting Party.

In Croatia, the TSQ is unbundled in line with the Second Package. Unbundling of the TSQ in the former Yugoslav Republic of Macedonia has still not been achieved in practice which is to be seen in the context of a case pending at the local court.

2. Unbundling: The transmission system operators in the Energy Community, although designated and vested with typical tasks set by the acquis, often fail to adopt rules for balancing. They do not procure the energy they use for carrying out their functions, as they should, according to transparent market procedures. The actual status of unbundling, so close to the deadline for transposing the Third Package still remains critical. Some Contracting Parties (Bosnia and Herzegovina, Serbia) achieved no progress in this respect. In Moldova, unbundling has been done pro forma but the TSO is not functionally independent from the mother company. The situation is more encouraging in Ukraine, where at least legal unbundling seems to be fully implemented by Ukrtransgaz. The required compliance programs do not exist in either Contracting Party.

3. Third party access: In principle, third party access is regulated and applied without discrimination for all system users. The most notable exception is Bosnia and Herzegovina where both entities fail to impose transmission tariffs. Serbia’s regulator introduced an entry-orientated transmission system and abolished different treatment of national and cross border flow. In Moldova and former Yugoslav Republic of Macedonia, the disputes between the TSQs and the regulators on cost-effectiveness of the tariffs are ongoing. A similar case was successfully closed in Croatia, where a newly established operator challenged the distribution tariff model.

Cross border flow in Ukraine and Moldova is not subject to regulation. Cross border (transit) and national transmission flows are also treated differently by law in Montenegro. This represents a breach of the acquis. Beyond the borders of the Contracting Parties, Hungary applies different fees at the exit points from its neighbouring countries’ systems which puts cross-border transports to Serbia at a disadvantage. It should be recalled that any preferential or discriminatory treatment in existing gas transit contracts needs to be eliminated. Discrimination between Contracting Parties and Member States is prohibited by the Treaty also for the latter.

Furthermore, the development of network codes is not at satisfactory level. Network codes are still missing in Moldova and in one of Bosnia and Herzegovina’s entities. Third party access services are well defined only in Croatia and in the former Yugoslav Republic of Macedonia.
4. Market opening and eligibility: A gradual opening of the wholesale markets to competition is the main positive development in the Energy Community (in Serbia, Ukraine, Croatia). This is however, tarnished by preferential access to transit pipelines in Moldova and Ukraine which enables the emergence of new entrants. At wholesale level, long term supply contracts – which on the one hand contribute to security of supply – must be brought in line with the competition rules. Some Contracting Parties, such as Serbia, continue to maintain destination clauses and other anti-competitive elements. The existence of only one single supply route and one supplier makes re-negotiation evidently very difficult. Another problem is the dominance of state-owned companies in the local retail markets.

5. Balancing rules: Regulatory authorities in most of the Contracting Parties approve, at least indirectly, balancing rules by approving network code or other document defining rules on balancing; however balancing rules are still not defined in the majority of cases or only to a certain extent i.e. explaining how balancing is performed but not including provisions on balancing gas-balancing services procurement. With the exception of Croatia – which is still only theoretical - market based procurement of balancing energy is not practiced in the Contracting Parties. This means that the procurement of balancing gas services is mainly facilitated by long-term contracts but also by using domestic flexibility (e.g. storage).

TSOs in Moldova and Ukraine remunerate the provision of balancing services by socializing balancing related costs, i.e. including them into the transmission tariff. Imbalance charges are defined in Croatia, the former Yugoslav Republic of Macedonia and Serbia, while penalty charges are implemented in one entity in Bosnia and Herzegovina, Croatia and Serbia for imbalances outside the predefined tolerance levels. If available at all, imbalance charges in the Contracting Parties are defined as administrative fixed charges, determined by the TSO or regulator.

6. Security of supply: The Western Balkan region of the Energy Community today consumes less than 6 billion cubic meters per year (bcm/y). Ukraine’s and Moldova’s aggregated demand is almost 10 times higher, namely at 57 bcm/y.

Nevertheless, the Energy Community “Study on the Implementation of the new Regulation (EU) 994/2010 concerning measures to safeguard security of gas supply” forecasts that by 2020 the Western Balkan regional gas demand will rise to 10 bcm/y, whereas in the long-term it may be as high as 19 bcm/y in 2030, thus making gas demand growth more than threefold within the next 17 years. Conversely, the aggregated demand in Moldova and Ukraine is expected to remain steady or could even decline.

Besides consumption by industry, gas is expected to play an increased role for meeting a growing electricity demand in the long term. Obviously, security of gas supply depends on timely investments in infrastructure.

There were many activities in the area of security of supply during the reporting period. The above-mentioned study revealed the importance of a regional approach. The results and recommendations of the study will constitute a guideline for the Contracting Parties in the following period for drafting their security of supply statements. That said the crucial provisions of Directive 2004/67/EC, such as the definition of protected customers and supply standards, still have to be implemented by most of the Contracting Parties.

In 2012, the Security of Supply Coordination Group was reactivated. A subgroup was established to focus on gas-related issues. The subgroup produced an update of the list of emergency contacts, the format for an emergency questionnaire template, and updated guidelines for drafting annual security of supply statements, which it will regularly assess.

The Secretariat continued its active participation in the EU Gas Coordination Group, thus acting as a link between the EU and the Energy Community at operational level. During the reporting period, it twice presented the situation in the Energy Community in the Group’s sessions on this subject.
2. Regional gas market

The creation of a coherent and convergent regional gas market follows the European developments.

The entry into force of the Third Package together with the target of completing the internal energy market by 2014 also shapes the framework for gas market development in the Energy Community. This includes the adoption of the Network Codes in the Energy Community. In this context, the Secretariat organised Workshops with the European Networks of Transmission System Operators for Gas (ENTSO-G) for the Energy Community TSOs. After Plinacro, GAMA of former Yugoslav Republic of Macedonia has also been granted an observer status in ENTSO-G. Ukraine’s and Serbia’s TSOs signalled their intention to proceed likewise. ENTSO-G has become an increasingly important stakeholder in the Energy Community.

The lack of a developed gas infrastructure across the region remains an obstacle in creating a regional gas market. In particular, this concerns the lack of interconnections between the Contracting Parties. On these grounds, the work on the Gas Ring concept and the Gas-to-Power Initiative, has been intensified. The Ring concept would allow gas-to-gas competition and boost security of supply. The selection of TAP as a project to transport Shah Deniz II gas to Europe through the Southern Corridor and through the territory of one Contracting Party will have significant positive consequences on the Energy Community Gas Ring and the region as a whole.

The TAP pipeline may also be expected to interlink with the planned Ionian Adriatic Pipeline (IAP), which will further connect three Contracting Parties.

In the end, the market fundamentals have yet to materialise to allow customers to reap the potential benefits of regional markets. In order to achieve real progress, more intense work by all Contracting Parties is required to enable the creation of liquid national gas markets, under harmonised rules, which would be able to be integrated at regional level.
3.3.2 ALBANIA

Gas

a. The gas sector in Albania

There is still no gas market in Albania. However, some production is still taking place on a small scale. In 2011, natural gas production was as low as 16 mmcm, which was consumed by Albanian industry sectors such as for technological purposes (oil production and refining). The share of natural gas in total final energy consumption was 0.05% in 2011. The existing but outdated pipeline network has a length of 498 km. These pipelines were used in the past, when Albania enjoyed a relatively high level of gas production, mainly for connecting the gas fields with industrial consumers located in Fier, Vlorca, Elbasan, and Durrës. Today, the pipelines are out of operation and need rehabilitation. Parts of the network need to be totally substituted. Nevertheless, the pipeline corridors might be used for future gas transmission and distribution network development options.

Albania’s long lasting strategic commitment towards gasification became more concrete during the reporting period, both related to the Trans Adriatic Pipeline (TAP) and the Ionian Adriatic Pipeline (IAP) project which will link Albania to more developed gas markets (Italy, Greece, and Croatia). Other possible new sources of gas supply are an LNG terminal on the Albanian coast and potential new domestic wells. Albania also has several suitable gas storage sites including a salt dome in Durnea and the depleted Djakva gas field.

The 2013 Energy Community “Study on the Implementation of Directive 2009/73/EC concerning measures to ensure a certain minimum level of demand and a network capable of taking over the gas quantities. Furthermore, TAP committed to provide assistance to the Albanian Government by creating a national Gas Master Plan. During the reporting period, Albania has also been deeply involved in work on the on-going feasibility study for IAP. The study produced various reports of relevance to Albania: market analysis report, draft technical study, route investigation and pipeline dimensioning. However, the selection of an IAP route in Albania and the IAP interconnection point with Montenegro is still under discussion.

b. Progress made in 2012/2013

The Albanian institutions were particularly committed in the reporting period to promoting the realisation of new pipeline projects bringing gas to Albania. In this context, the Albanian regulator’s (ERE) successful cooperation with the regulatory authorities of Italy and Greece as well as with the Secretariat and the European Commission was a milestone for the Energy Community. In March 2013, ERE adopted a decision to grant exemptions to the TAP project from certain requirements of the gas acquis, such as unbundling, third-party access and tariff regulation. The decision was jointly developed with the regulators of Italy, and Greece. The Secretariat gave its Opinion on ERE’s decision on 14 May 2013. Despite the fact that Albania (unlike Italy and Greece) is not yet bound by the provisions of the Third Package, the Secretariat considered an assessment based on Article 36 of Directive 2009/73/EC legally justified. The Secretariat’s Opinion in particular calls for the construction of exit points in Albania and additional measures ensuring non-discriminatory treatment and increasing transparency, as well as measures preventing the monopolization of the future gas market in Albania. The overall impact of TAP on competition and security of supply in the country was considered to be very positive: With an exit point expected to be built in Albania, customers can be supplied with both gas and electricity generated from gas, which at present is not the case.

In the reporting period ERE issued a gas transmission and a gas distribution licence to the Albanian oil and gas company, Albpetrol, which is responsible for limited production of gas in Albania as depicted before, is licenced as a TSO and a DSO. To the Secretariat’s knowledge, this company has not been unbundled.

1. Authorisation procedures: The Albanian legislation does not provide concrete procedures for authorizing the construction of natural gas facilities other than that they should be non-discriminatory and transparent. Despite this legislative shortcoming, a licensing act, developed in cooperation with the Secretariat, is in place. Direct lines need to be approved by the Government, which violates the transparency, objective and non-discriminatory criteria from Article 24 of Directive 2003/55/EC, as the criteria for such approval are not defined.

2. Unbundling: The Law stipulates that TSO shall be unbundled. However, in order to ensure independence of the TSO, the minimum criteria stipulated in Article 9 of Directive 2003/55/EC were not transposed. The requirements for accountability and eligibility criteria have not yet been established. The accounts for tariff and eligible customers supply are not separated and auditing provisions are missing. Albpetrol, which is responsible for limited production of gas in Albania as depicted before, is licenced as a TSO and a DSO. To the Secretariat’s knowledge, this company has not been unbundled.

2. Authorisation and unbundling: the majority of the provisions of Regulation (EC) 1775/2005 are transposed and the Albanian law defers market opening by several years. The Secretariat’s Opinion in particular calls for the construction of exit points in Albania and additional measures ensuring non-discriminatory treatment and increasing transparency, as well as measures preventing the monopolization of the future gas market in Albania. The overall impact of TAP on competition and security of supply in the country was considered to be very positive: With an exit point expected to be built in Albania, customers can be supplied with both gas and electricity generated from gas, which at present is not the case.

In the reporting period ERE issued a gas transmission and a gas distribution licence to the Albanian oil and gas company, Albpetrol, which has yet to fulfil all legal requirements for operating as a TSO. The Secretariat is not aware that any related activities have already been initiated. Other interested companies, if any, may also apply for a gas transmission license.

The Ministry of Economy, Trade and Energy, on behalf of the Albanian Government, signed two Memoranda of Understanding with two TAP shareholders - AXPO and E.ON/ Ruhrgas – on gas deliveries to the Albanian market. Under a separate Gas Market Development Commitment Agreement, TAP will also invest in necessary technical facilities at a single agreed upon exit point, but subject to conditions such as the existence of a certain minimum level of demand and a network capable of taking over the gas quantities. Furthermore, TAP committed to provide assistance to the Albanian Government by creating a national Gas Master Plan.

During the reporting period, Albania has also been deeply involved in work on the on-going feasibility study for IAP. The study produced various reports of relevance to Albania: market analysis report, draft technical study, route investigation and pipeline dimensioning. However, the selection of an IAP route in Albania and the IAP interconnection point with Montenegro is still under discussion.

3. Third party access: Access to upstream pipelines is not addressed in legislation. The Law stipulates only the right of suppliers (to supply one or more eligible customers), but does not impose on them the obligation to provide access to third parties (Article 20 of Directive 2003/55/EC). ERE ceased to work on drafting tariff methodologies due to a shift in priorities in 2011 and 2012. The exemption provisions are compliant with Directive 2003/55/EC. However, the most serious shortcoming of the Law is the different treatment of national and cross-border (transit) gas transmission, which is contrary to Directive 2003/55/EC. More, Albanian authorities as well as the Secretariat consider that the provisions of Regulation relating to third party access services are compliant with Directive 2003/55/EC. However, the most serious shortcoming of the Law is the different treatment of national and cross-border (transit) gas transmission, which is contrary to Directive 2003/55/EC.

4. Market opening and eligibility: Deadlines for market opening have not yet been established. Instead of granting the eligibility status to all non-household customers as required by the acquis, eligibility is in non-compliance with Directive 2003/55/EC, because it defers market opening by reference to additional criteria, i.e. limiting it to (i) final customers that consume during a year more than an amount of natural gas as defined by the acquis or (ii) plants consuming natural gas for generation of electricity, (iii) plants consuming natural gas for the combined production of electricity and heat.

Eligible customers still enjoy the status of tariff customers without any exception. Although without any practical effect at the moment, this situation needs to be remedied. Furthermore, the roles of public suppliers and suppliers of last resort are not clearly distinct.

5. Third party access services, capacity allocation mechanisms, congestion management procedures and balancing rules: the majority of the provisions of Regulation (EC) 1775/2005 have been transposed into primary legislation, including those related to third party access services, balancing, congestion management, capacity allocation, and some transparency requirements in principal terms. The missing provisions relate to specific third party access services. However, this transposition only provides a general legal basis upon which more detailed secondary rules need to be developed and adopted in the future. As regards the transmission system operation tasks, the procurement of energy needed to carry out the operator’s functions according to transparent, market-based procedures is not ensured.

6. Security of supply: The Energy Law defines standards and measures for security of gas supply along with the key institutions and market players. ERE is responsible for monitoring security of gas supply while the Ministry of Economy, Trade and Energy is responsible for monitoring and elaborating future estimations between supply and demand on the gas market, planning of gas system development and proposing and imposing measures in case of crisis to the gas market participants. The Government is in charge of approving a Regulation on Security of Natural Gas Supply that should define measures for securing a reliable and efficient gas supply. Although required by law, such Regulation is currently not in place. The following requirements of Directive 2004/67/EC are transposed: reporting; national emergency measures; mechanisms in case of major disruption which surpasses national level. On the other hand, definition of minimum security of supply standards and protected customers as well as a list of instruments for security of gas supply is missing.

Despite the lack of a gas market in real terms, the Natural Gas Sector Law in force since June 2008 – already transposes the main principles of Directive 2003/55/EC and Regulation (EC) 1775/2005 and represents a solid basis for Albania’s gasification plans. Missing provisions are highlighted below.

The state of compliance with the Energy Community gas acquis has not changed since the last reporting period. Further progress in the implementation of the acquis is, however, required on several shortcomings as outlined hereinafter.
Implementation of the Third Energy Package

Up to now, Albania has neither performed a gap analysis between the present legal framework and the requirements of the Third Package nor drafted an action plan for the latter’s implementation in the area of gas. In the case of Albania, the full and timely transposition of the Third Package in gas is of particular importance, as it is a precondition for the exemption granted to the TAP pipeline project.

UNBUNDLING

According to Directive 2009/73/EC, as adapted by the Ministerial Council, new transmission systems, in particular where transmission system operation did not belong to an existing vertically integrated undertaking on 6 October 2011, will have to transpose and apply the ownership unbundling regime. The country’s only gas transmission system operator, Albpetrol, which holds licences for electricity trade and performs the production of gas, has not been unbundled under the ownership option.

REGULATORY AUTHORITY

Although Albania’s regulator has had already the opportunity to execute some of the tasks stipulated in the Third Energy Package, the present status and competences of EnEG are not in line with the majority provisions on the regulators in the Third Energy Package.

CUSTOMER PROTECTION

A notion of vulnerable customer does not exist in the gas sector. Procedures for customer switching have not been adopted. Customer protection is not implemented in line with the Third Package requirements.

3.3.3 Bosnia and Herzegovina

Gas

<table>
<thead>
<tr>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural Gas Production [Bcm]</td>
<td>0</td>
</tr>
<tr>
<td>Imports Flows [Bcm]</td>
<td>0.277</td>
</tr>
<tr>
<td>Export Flows [Bcm]</td>
<td>0</td>
</tr>
<tr>
<td>Interconnections’capacity [Bcm]</td>
<td>0.75</td>
</tr>
<tr>
<td>Storage working capacity [Bcm]</td>
<td>0</td>
</tr>
<tr>
<td>Length of Transmission Network [km]</td>
<td>200</td>
</tr>
<tr>
<td>Length of Distribution Network [km]</td>
<td>1,510</td>
</tr>
</tbody>
</table>

**Natural Gas Customers**

| | Total | Non-households | Eligible according to national legislation |
| | 69,596 | 69,787 |
| out of which: | | RS: 376 | RS: 407 |
| Active eligible customers | RS: 376 | RS: 407 |
| Households | RS: 3,362 | RS: 3,483 |

**Natural Gas Consumption [Bcm]**

| | 2011 | 2012 |
| | Energy transformation | 0 | 0 |
| | Industry and Commercial Customers | 10.84 | 17.39 |
| | Households | 26.30 | 21.81 |

**Consumption Structure [%]**

| | 2011 | 2012 |
| | 0.2828 | 0.2597 |

Sources: Ministry of Energy, Mining and Industry of Federation of Bosnia and Herzegovina and Ministry of Economy, Energy and Development, Republika Srpska

4. Conclusions and Priorities

It is important for Albania now to keep the momentum after the selection of the TAP project by the Shah Deniz II consortium in June 2013 and to intensify the efforts required for smart gasification. This would require a strategic approach to market development and infrastructure-building, which is currently missing.

In legislative terms, Albania should transpose the missing provisions of the acquis into the legal and regulatory framework and increase the institutional capacities of EnEG. Together with this, transposition of the Third Package should start in Albania with high priority through amendments to the Gas Law.

Finally, EnEG should restart developing procedures on tariff methodologies development as soon as possible in order to further foster gas market development. A market model defining the roles and responsibilities of the different market players should be developed in support.

a. The gas sector in Bosnia and Herzegovina

Bosnia and Herzegovina does not have its own sources of natural gas. Supply is exclusively based on import. For the time being, gas only arrives from one source (Russia) passing through Ukraine, Hungary and Serbia, entering in Zvornik, transported via Kladanj to Sarajevo and ending in Zenica.

The role of natural gas in the economy is still limited due to an insufficient network. Bosnia and Herzegovina’s total gas demand added up to 280 mcm in 2011. According to the Energy Community study on the implementation of the new Regulation (EU) 994/2010, gas demand can reach 902 mcm in 2020, growing to 1,585 bcm in 2030.

The gas market involves several key companies: In the Federation of Bosnia and Herzegovina, BH Gas, a fully bundled company, exclusively performs both supply and transmission system operation.

Gas Promet a.d. Istočno Sarajevo-Pale was designated by Government Decree in 2007 as Republika Srpska’s transmission system operator. Gas Promet also holds a trading and supply license (without, however, currently supplying gas) and is owner of the smaller part of the existing transmission grid. SarajevoGas a.d.-Istočno Sarajevo is the owner of a bigger part of the existing transmission network in Republika Srpska and has been licensed as an operator ("gas transporter"), retail supplier and distribution system operator. Gas supply in Republika Srpska is carried out in practice by three companies, two of which are licensed for trading and supply as well as supply of tariff customers within Republika Srpska only, namely Sarajevo-gas a.d. Istočno Sarajevo and A.D. Zvornik Stan, Zvornik. The third and biggest supplier of natural gas (also) in Republika Srpska is BH Gas, accounting for more than 90% of the market.

Republika Srpska has developed an ambitious gasification strategy: the Government established Gas RES. Banja Luka in 2012 with the aim of developing a branch pipeline of the South Stream project in Republika Srpska, connecting to the trunk pipeline in Serbia. The company Bijeljina gas a.d. Bijelija holds a concession for construction of the transport line Segov – Bijeljina.

In the absence of state-level legislation on gas in the country, a regulatory authority in charge of gas has not been established at state-level. It is also missing in the Federation of Bosnia and Herzegovina. In Republika Srpska, the Regulatory Commission for Energy has jurisdiction over the gas sector, while in the Federation of Bosnia and Herzegovina the regulatory duties are exercised by the responsible Ministry.
a Reasoned Opinion to Bosnia and Herzegovina and subse- quently a Reasoned Request to the Ministerial Council. The Reasoned Request identifies several non-compliance issues of Bosnia and Herzegovina with the Treaty such as the lack of regulatory authorities for gas in the Federation of Bosnia and Herzegovina and at state-level; the lack of proper legal, functional and account unbundling in both entities, the lack of properly set and published network tariffs, issues related to exemptions for new infrastructure in the Federation, the lack of market opening the Federation in line with the deadlines set in Directive 2003/55/EC as well as different treatment of national and cross border transmission. The case as well as the following analysis is based on the entity’s legislation in force.

1. Authorisation procedures: In Republika Srpska, licenses are issued by RERS according to this entity’s Law on Gas and the Rulebook on Licensing. The procedure for receiving a con- cession to perform distribution activity is described by the Law on Concession. For the development of new transmission networks in Republika Srpska by a company other than the existing operator, a concession of 30 years may be issued. The Law on transportation of Gaseous and Liquid Carbohydrates and Distribution of Gaseous Carbohydrates stipulates a number of necessary technical conditions for the purpose of constructing and operating a gas facility safely. The Law re- quires the Ministry to adopt a set of secondary acts, which has not been yet done, to the Secretariat’s knowledge. At pres- ent, the Law’s provisions on technical safety criteria (Article 6) and on authorisation for construction and operation of natural gas facilities authorisation procedures (Article 4) of Directive 2003/55/EC are objective, non-discriminatory and in compliance with the acquis.

In the Federation of Bosnia and Herzegovina, the decree on Ongarisation and Regulation of the Gas Sector defines the required licenses only generally and without criteria and pro- cedures, which is not in compliance with Directive 2003/55/EC. The relevant competences are exercised by the Federal Ministry of Energy, Mining and Industry. The Decree provides that third party access exemptions de- cisions shall be issued by the ministry, thus failing to involve a regulatory authority which is mandatory in such a decision. Furthermore, it does not provide for a reasoning and publica- tion of such a decision, as required by Directive 2003/55/EC.

2. The legal and functional unbundling requirements are not fulfilled by Bosnia and Herzegovina. In Republika Srpska: the 2013 amendments to the Law on Gas transposed provi- sions for legal and functional unbundling, though these have not been implemented in practice. Both Gas Promet and Sarajevo-gas a.d. have ceased to operate as gas transmission services as required by Article 4 of the Directive. The Decree provides that third party access exemption deci- sions shall be issued by the ministry, thus failing to involve a regulatory authority which is mandatory in such a decision. Furthermore, it does not provide for a reasoning and publica- tion of such a decision, as required by Directive 2003/55/EC.

In the Federation of Bosnia and Herzegovina, the Decree on Ongarisation and Regulation of the Gas Sector defines the required licenses only generally and without criteria and pro- cedures, which is not in compliance with Directive 2003/55/EC. The relevant competences are exercised by the Federal Ministry of Energy, Mining and Industry. The Decree also re- quires a concession for distribution.

In the Federation of Bosnia and Herzegovina: the gas De- cree requires legal unbundling from supply for all system operators; an exception stipulated by the Decree expired in November 2012 but was prolonged through a loan agree- ment between BH Gas and EBRD until 31 December 2014. This deadline is not in line with the Treaty’s. As regards func- tional unbundling, ‘BH Gas’ company structure allows for all its activities to be performed in a unified organisational and management format.

3. Third party access tariffs and exemptions are also not properly implemented in Bosnia and Herzegovina. In Repub- lika Srpska, systems operators are obliged to enable non- discriminatory and transparent access to the system. The amended Law on Gas vests the regulator with the compe- tence to develop methodologies for calculation of grid fees. Based on this tariff system, charges are to be determined by the respective operators. The tariffs are published. However, so far only distribution tariffs and prices for supply of tariff customers have been put into force, whereas transmission tariffs are far from being applied. That being said, in April 2013 the introduction of a transmission tariff for a spur pipe- line Karakaj Zvornik was adopted. The amended Law trans- posed provisions on third party access exemptions for new infrastructure in line with Directive 2003/55/EC.

In the Federation of Bosnia and Herzegovina system opera- tors are obliged to ensure efficient and non-discriminatory access to the grid. However, the Federal Ministry of Energy, Mining and Industry (in the absence of a regulatory author- ity) decides on a case-by-case basis whether access should be provided in a regulated or negotiated manner, which is a severe violation of both Directive 2003/55/EC and Regulation (EC) 1775/2005. The draft Law does not remedy the situation as it leaves it for the jurisdiction of a future State regulatory authority, on which there is no consensus among the entities.

In practice, the “bundled” prices for transmission and supply are set by that entity’s Ministry, for the vertically integrated BH Gas, and the cantonal Ministry sets prices for distribution and supply, in both cases upon the companies’ proposals. At this point in time, neither separate network tariffs for gas transmission and distribution nor the methodology for their calculation have been adopted, published or applied in the Federation of Bosnia and Herzegovina.

The Decree provides that third party access exemption deci- sions shall be issued by the Ministry, thus failing to involve a regulatory authority which is mandatory in such a decision. Furthermore, it does not provide for a reasoning and publica- tion of such a decision, as required by Directive 2003/55/EC.

4. In terms of market opening and eligibility, Republika Srpska has transposed the Treaty’s requirements within the deadlines. However, rules on supplier switching are not in place nor has any customer ever switched gas supplier.
In the Federation of Bosnia and Herzegovina, the gas market is entirely captive. As well as not exercising the eligibility right in practice, the Federation did not even properly transpose it. The Decree on Gas of the Federation of Bosnia and Herzegovina is in non-compliance with Directive 2003/55/EC on market opening. It defers market opening and links it to uncertain events in the future, namely the setting up of a regulatory authority and the adoption of secondary legislation by the latter. It also defines eligibility status by reference to additional criteria, i.e. limiting it to “a customer that uses gas for generation of electricity, regardless of quantity of yearly consumption and within the limits for gas quantities intended for such use” or (ii) an “end customer that used more than 150 million m3 of gas in the past calendar year”. Finally, the extension of the reciprocity requirement for eligibility to transactions with a foreign supplier, as well as to inner-Bosnian situations violates the reciprocity option in the Directive 2003/55/EC in the Secretariat’s view.

5. Third party access services, capacity allocation mechanisms, congestion management procedures and balancing rules: In Republika Srpska, a Rulebook on the Operation of Natural Gas Transmission was adopted by Gas Promet Pale and approved by RERS in 2010. It mainly covers technical rules and some basic principles of capacity allocation and balancing. Third party access services are offered only as firm services and only for a year ahead. Capacity allocation has been defined for each entry and exit point, using the principle of “first come, first serve”. Bosnia and Herzegovina, besides Linepack, does not have flexible sources of gas for balancing. The practice in Republika Srpska also fails to make any calculation methodology for imbalances charges as well as the final tariffs public. Transparency provisions required are only implemented to a limited extent. Gas Promet publishes capacities and access rules for the next year. None of the provisions of Regulation (EC) 1775/2005 have been transposed, let alone implemented, in the Federation of Bosnia and Herzegovina.

6. Security of gas supply: In Republika Srpska, a Decree on Security of Supply and Delivery of Natural Gas (2011) transposed key elements of Directive 2004/17/EC such as the definition of protected customers, the definition of roles and responsibilities of different gas market players, a list of measures and responsibilities in case of emergency as well as the scope of reporting and cooperation with the neighbours. However, relevant definitions of supply standards and major supply disruption are missing.

In the Federation of Bosnia and Herzegovina: the Gas Decree provides a definition of protected customers and of the roles and responsibilities of different gas market players. However, a list of measures and responsibilities in case of emergency, the scope of reporting and cooperation with the neighbours as well as definitions of supply standards and major supply disruption are missing.

As is the case for all Contracting Parties, timely transposition of the Third Energy Package provisions must be a key priority for Bosnia and Herzegovina. This requires a state-level Gas Law on which political consensus needs to be found within the immediate future. Otherwise the deadline of 1 January 2015 will clearly be missed.

Implementation of the Third Energy Package

Upon Bosnia and Herzegovina’s request, the Secretariat made a gap analysis between the current situation and the Third Package requirements in the gas sector. The Third Energy Package has factually not been transposed at all. Its implementation will face severe obstacles in all relevant aspects of the gas market regulations.

UNBUNDLING

Bosnia and Herzegovina’s TSOs are not unbundled in the sense of the Third Energy Package. Namely, Gas Promet, BH Gas and Sarajevo-gas a.d. Istočno Sarajevo continue to hold licenses for transmission system operation as well as for trading and supply. These undertakings’ structure allows for all their activities to be performed in a unified organizational and management format.

REGULATORY AUTHORITY

Bosnia and Herzegovina failed to establish regulatory authorities mandated with powers in the gas sector on the entire territory of the country. In the absence of a regulator at state-level at present, it will be impossible for Bosnia to designate a single regulatory authority at this level, as required by Directive 2009/73/EC.

CUSTOMER PROTECTION

There is no single definition of vulnerable customers at the national level. However, there are customer categories protected with respect to energy usage in the Canton of Sarajevo. This is too broad to comply with the notion of vulnerability. Customer protection has not been ensured within the meaning of the Third Energy Package.

6. Conclusions and Priorities

Bosnia and Herzegovina is lagging behind all the other Contracting Parties, including the newcomers. It has proved impossible for the authorities to agree on an approach capable of achieving effective implementation. Investments, the opening of markets, and infrastructure developments suffer from this lack of an appropriate legal framework. The non-compliance issues as addressed in the Reasoned Request need to be taken seriously by the country. The absolute priority is to remedy the situation in the gas market in Bosnia and Herzegovina without any delay. The Secretariat is willing to continue its assistance to Bosnia and Herzegovina and its entities in this process.
3.3.4 CROATIA

Gas

<table>
<thead>
<tr>
<th>Natural Gas Production [Bcm]*</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Imports Flow [Bcm]</td>
<td>0.874</td>
<td>1.129</td>
</tr>
<tr>
<td>Exports Flow [Bcm]</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Interconnection/capacity [Bcm]</td>
<td>5.343/0</td>
<td>5.343/0</td>
</tr>
<tr>
<td>Storage working capacity [Bcm]</td>
<td>0.933</td>
<td>0.933</td>
</tr>
<tr>
<td>Length of Transmission Network [km]</td>
<td>2,511</td>
<td>2,511</td>
</tr>
<tr>
<td>Length of Distribution Network [km]</td>
<td>10,123</td>
<td>10,368</td>
</tr>
</tbody>
</table>

Natural Gas Customers

<table>
<thead>
<tr>
<th>Consumption Structure [%]</th>
<th>Energy transformation</th>
<th>Industry and Commercial Customers**</th>
<th>Household</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>not available</td>
<td>not available</td>
<td>24</td>
</tr>
<tr>
<td></td>
<td>not available</td>
<td>not available</td>
<td>24</td>
</tr>
</tbody>
</table>

* Includes natural gas quantities being supplied at the market
** Includes customers who are currently being supplied under market conditions (current switching rates are minimal)
*** determined by deducting percentages of other categories from 100

Source: HERA

a. The gas sector in Croatia

Croatia has a long-lasting tradition of gas production and a relatively low import dependency ratio in European comparison. Croatia’s demand totalled 3.090 bcm in 2011. The share of domestic production was 70.7%, imports from Italy accounted for 27.7% and the rest was supplied from various sources. According to the Energy Community study on the implementation of Regulation (EU) 994/2010, consumption is likely to increase to 4.670 bcm in 2020 and to 5.958 bcm in 2030.

The main natural gas producer in Croatia is Industrija nafte (INA). Natural gas is produced on 17 on-shore and nine offshore gas fields in the Adriatic. The latter account for more than half of total gas production.

Plinacro is the state-owned transmission system operator, which owns and operates the whole transmission system in Croatia. The natural gas transmission system comprises 2,511 km of pipelines. The transmission system has ten entry points - eight from the production sites and two entries at the interconnections with Slovenia and Hungary - as well as 193 exit points.

Podzemna skladišta plina (PSP) is a storage system operator and owns the underground gas storage Okoli with a capacity of 553 mmcm. PSP is owned by Plinacro at 100%.

Croatia’s gas market comprises a relatively large number of active participants, namely 54 suppliers and one trader. Distribution of gas is performed by 36 DSOs. 13 DSOs have unbundled their supply and distribution operations. They perform distribution activity in a separate legal entity. The other 23 DSOs are vertically integrated undertakings (perform both supply and distribution activities), having less than 100,000 customers. Established by the Gas Market Law, Hrvatski Operator Trzista Energije (HROTE) is responsible for the gas market organisation as a public service.

At present, a procurement entity Plinodri Pin, purchases both domestically produced gas (from INA) and imports gas from various sources. Plinodri Pin is a 100% subsidiary of INA and is thus controlled by the incumbent gas supplier dominating the wholesale market. In turn, the suppliers in Croatia purchase gas from Plinodri Pin. This company signed a contract on gas imports with Italy’s ENI for the period 1 January 2011 - 31 December 2013. According to the new Gas Market Law, Plinodri Pin has been transformed from a procurement entity to a “supplier of public suppliers” and will cease to exist on 31 March 2014 in its capacity as a procurement entity.

Besides a new package of primary legislation as will be described below, the gas sector in Croatia is regulated by the secondary legislation which requires updating. This comprises the Rulebook on the Organization of the Natural Gas Market, the Network Code for the Transmission System, the Network Code for the Distribution System, the Rules for Gas Storage, the general terms and conditions for natural gas supply, the regulation on security of Natural Gas Supply, the Tariff System for Distribution of Natural Gas, the Tariff System for Natural Gas Supply with the Exception of Eligible Customers, the Tariff System for Natural Gas Storage and the Tariff System for Natural Gas Transport.

b. Progress made in 2012/2013

During the reporting period, Croatia adopted a package of new energy legislation, including the Energy Law, the Law on the Regulation of Energy Activities in 2012, as well as the Gas Market Law in February 2013. The latter is intended to transpose Directive 2009/73/EC. The Secretariat was involved in the drafting of the Gas Market Law. The Law abolished some barriers to market opening and endorsed competition, for example, it removed the price cap for gas supplies to eligible customers. This was originally intended to favour domestic industry but became regular Government practice. As a consequence all public suppliers used to purchase gas at prices regulated by the Government from the procurement entity Plinodri Pin, thus making the opening of the gas market pure fiction. By abandoning this model, Croatia created a level playing field for all participants. Regulations (EC) 715/2009 and (EC) 994/2010 (on security of gas supply) will now be transposed in Croatia on account of their direct effect under EU law.

Plinacro also submitted to HERA its next Ten-Year Network Development Plan (2013 - 2022) for approval. During the reporting period, Plinacro finalised the implementation of its previous Ten-Year Network Development Plan by putting into operation the transmission pipeline Benkovac-Split, which alleviates the gasification of the three regions Zadarski, Sibeniski and Splitsko-dalmatinski.

Following a complaint by a new entrant to the Secretariat in 2012 alleging that the distribution tariff methodology fails to properly take into account the costs of greenfield projects, HERA made significant efforts to remedy the situation. In particular, HERA finalized the new distribution system gas tariff methodology which will rectify the shortcomings of the previous one and enable greenfield investments in the gas distribution sector to be economically viable.

c. State of compliance

Despite Croatia’s overall satisfactory compliance with the acquis, including the Third Package, some barriers to competition and the entry of new market players remain even after entry into force of the legislative package adopted in 2012/13.
The practical implementation and efficient functioning of the gas market remains to be seen in its full potential.

1. The rules on authorisation and tendering have been transposed in line with Directive 2003/55/EC (and 2009/73/EC). What remains critical in this context is that the TSO is charged, as part of the Ten-Year Network Development Plan, with the tasks such as performing feasibility studies for the facilities which are not part of its transmission system and thus beyond its responsibility, namely production of gas and LNG.

2. As for the unbundling requirements, Plinacro has been legally and functionally unbundled in line with Directive 2003/55/EC since 2002. Gospita Plinara Zagred, a DSO serving more than 100,000 customers, is legally unbundled, as well as the other 12 DSOs who serve less than 100,000 customers.

3. Third-party access is a legal right developed and supported by secondary regulation. The Secretariat supported the adoption of investment- and greenfield-project-friendly distribution tariffs. HERA announced that new tariffs will be applied from 1 January 2014 based on the new Gas Law.

4. Market opening, eligibility and supplier switching: The Gas Law stipulates that all customers are eligible to switch suppliers. The practical level of supplier switching, however, remained close to zero.

Several concerns remain. Firstly, INA has been placed under an obligation to offer its domestic production primarily to suppliers licenced to supply Croatia’s customers. This proviso is a discriminatory restriction of the free movement of goods. As the price of the gas quantities offered will not be regulated, it is also unclear what priority this rule fulfils. In order to justify this provision as for legitimate reasons the public service obligations in question must be clearly defined and fulfilled the criteria of Article 106(2) TFEU, including proportionality.

Secondly, the Gas Law stipulates that the Government will appoint suppliers with public service obligations and suppliers of last resorts upon HERA’s opinion, without tendering procedure. However, Government acceptance of HERA’s opinion, based on its view on the functioning of the market, is not mandatory nor is this appointment procedure performed according to transparent, non-discriminatory and verifiable criteria.

5. Capacity allocation and congestion management procedures, as well as the balancing rules, have been implemented already under the previous Law. The relevant codes and acts of secondary legislation are in line with the gas acquisition of the Second Package. In practice, Plinacro offers both short and long-term capacities as well as both firm and interruptible capacities on all its entry and exit points. Capacity is allocated pro rata. However, at present, only one shipper, Plinadri Plin, has contracted 100% of the capacities at the entry points. Interruptible use-it-or-lose-it principle and the secondary market are used as congestion management methods.

The balancing regime is currently not market-based, which is in compliance with the Second Package, but not with the Third Energy Package. This is expected to change after 30 March 2014. Until then, balancing groups do not pay for balancing energy but only overrun charges (penalties) for the quantities exceeding a certain tolerance level. As regards transparency, Plinacro is publishing detailed information regarding its services offered and the relevant conditions and technical information necessary to access the network. It also publishes information on technical, contracted and available capacities for all relevant points on a regular basis.

6. Security of supply: Directive 2004/47/EC has been implemented by the Government’s Regulation on Security of Natural Gas Supply, which defines measures to ensure safe and efficient supply of natural gas, standards and ways of determining sufficient quantities of natural gas for secure supply to protected customers, emergency measures, and reporting of gas suppliers on security of natural gas supplies. The only missing element is a community mechanism in case of major international supply disruption.
3.3.5 KOSOVO*

Gas

a. The gas sector in Kosovo*

A natural gas market does currently not exist in Kosovo*. A gas pipeline, interconnecting Kosovo* and (today’s) territory of former Yugoslav Republic of Macedonia was in operation until 1986, supplying cement factories and district heating in Pristina as well as a steel plant in Skopje, with town gas produced in Obilic. The pipeline was designed for 25 bar operational pressure and a yearly capacity of 100-200 mcm. Given that the pipeline has been out of operation for more than 20 years, re-use of the pipeline would require thorough inspections along the entire route.

A general framework for the energy sector, including the role and competences of the regulatory authority, has been defined by the Law on Energy and the Law on the Energy Regulator since 2010. Among other issues, these laws aim at facilitating large scale energy investment projects and enable smoother implementation of the gasification plans, including connections with existing and new regional pipelines. Directive 2003/55/EC was transposed by the Law on Natural Gas in 2009 which created the basis for gas market development as well as for the development of relevant secondary legislation.

According to the Energy Community’s study on the implementation of Regulation (EU) 944/2010, gas demand in Kosovo* might be at 67 mcm in 2020 and grow to 581 mcm in 2030.

b. Progress made in 2012/2013

Since the Law on Natural Gas entered into force in 2009, there has been no further development on the legislative side or of any capacity building of relevant institutions. But Kosovo* expressed its general willingness to participate in regional projects, such as the Gas Ring and the related Gas-to-Power initiative, which was demonstrated through participation by the representatives of the responsible Ministry in the relevant meetings and by data submitted when requested.

c. State of compliance

The state of compliance with the Energy Community gas acquis has not changed during the last three years. Directive 2003/55/EC was transposed fairly well into national legislation in 2009. Transposition of Directive 2004/67/EC and Regulation (EC) 1775/2005 is, however, still pending. This lack of implementation has to be considered in the context of the absence of a gas market in Kosovo*. In principle, the existing basic legal framework for gas enables Kosovo* to participate in the development of the regional gas network and develop a domestic gas market. However, the successful creation of competitive market structures will require full compliance with the acquis at a later stage.

1. Authorisation criteria: construction and operation of new gas transmission and distribution networks, and direct pipelines for supply of wholesale customers require an authorisation procedure by the regulator. Energy undertakings performing the activities of transmission, distribution, storage and supply of natural gas are obliged to have a license. The conditions and procedure for licensing have been defined in compliance with Directive 2003/55/EC by the Law on the Energy Regulator.

2. Unbundling: the Law on Natural Gas prescribes unbundling criteria in line with Directive 2003/55/EC for all system operators, without exemption for distribution with less than 100,000 customers.

3. Third party access: to networks and storage is regulated pursuant to rules and tariffs approved by the regulatory authority. In the absence of a gas market, tariff systems have not yet been developed.

The possibility for exemption from third party access to new infrastructure has been defined in line with Directive 2003/55/EC, including communication of the exemption decision of the national regulator Energy Regulatory Office (ERO) to the European Commission. However, procedures for official communication with the Energy Community Secretariat in the exemption process are not stipulated. Having in mind that the competences of the European Commission are limited to European Union Member States, the approach chosen by Kosovo*, even if formally compliant, will not function in case of cross-border exemption decisions involving EU Member States and Contracting Parties. The procedure needs to be reviewed in the context of implementing the Third Energy Package.

4. Market opening, eligibility and supplier switching: The market model is legally defined in line with Directive 2003/55/EC. It allows for non-discriminatory and unlimited market access of entrants once an infrastructure is constructed. Eligibility is defined according to the Treaty: all non-households have been eligible since 1 January 2008, and households will be eligible from 1 January 2015. The prices for the public service obligations licensees will be regulated in line with Directive 2003/55/EC. Still, all these provisions remain theoretical so far.

5. Third party access services, capacity allocation mechanisms, congestion management procedures and balancing rules: The Law on Gas defines general provisions with regard to capacity allocation, balancing and transparency for transmission system operators according to Directive 2003/55/EC. Regulation (EC) 1775/2005 has not yet been transposed so far and it needs to be addressed before future development of a gas infrastructure.

6. Security of gas supply: The provisions of Directive 2003/55/EC relevant for security of supply - i.e. roles and responsibilities of different market players, monitoring and safeguarding measures - have been transposed adequately. Directive 2004/67/EC which has not yet been transposed needs to be addressed before gas market development.

Implementation of the Third Energy Package

The time schedule for implementation of the Third Energy Package submitted by Kosovo* foresees development of a first draft of amendments to the Law on Natural Gas in the third quarter of 2013, a one year consultation period and submission to the Parliament in the third quarter of 2014.

UNBUNDLING

Kosovo* is among the Contracting Parties without a gas market, and consequently no gas transmission system operator existed on 6 October 2011. Under Directive 2009/73/EC, as adapted by the Ministerial Council, it will have to follow the ownership unbundling regime.

REGULATORY AUTHORITY

The establishment, tasks and responsibilities of the Energy Regulatory Office have been defined by the Law on Energy, the Law on Energy Regulator and by the Law on Natural Gas respectively for gas sector, imposing basic tasks and responsibilities defined by Directive 2003/55/EC, within the scope of the gas market development, i.e. non-existing gas market. In that context, implementing Directive 2009/73/EC would be an additional challenge.

CUSTOMER PROTECTION

A vulnerable customer is defined by the Law on Energy Regulator as a household consumer whose low level of income, ill-health or disability qualifies him/her for protection or assistance. This is according to rules set by the regulator on the basis of guidance established by the Ministry of Labour and Social Welfare, and where a need for support was identified by the Government. The Law on Energy Regulator requires further that any support has to be provided in a transparent manner, may not distort supply competition beyond what is necessary, and that subsidies are subject to State aid control. Those basic principles can be further developed for the gas sector.

d. Conclusions and Priorities

The existing basic legal framework for natural gas enables Kosovo* to participate in the development of the regional gas network and consequently, to develop its domestic gas market.

Nevertheless, further efforts will be required, relating mostly to capacity building for the gas sector, in both the Energy Regulatory Office and the Ministry. In the context of implementing the Third Package, a focus must be put on the tasks and competences of the regulator, as well as on its effective independence. The provisions of Directive 2004/67/EC and Regulation (EC) 715/2009, as well as certification procedures for future transmission system operators should be developed well in advance of the first gas flowing in and through Kosovo*.
The country is fully dependent on gas imports from Russia. It has no domestic production or proven reserves, and no underground storage facility. The entire gas system includes 98 km of transmission pipeline, one entry point, six main exit points with 41 delivery stations and more than 30 km of distribution network, developed recently.

The gas market involves the transmission operator GAMA - a joint venture between the private company Makpetrol and the State, the exclusive wholesale supplier Makpetrol and a licensed retail supplier for tariff customers, Prom gas, Makpetrol’s daughter company. Several other licensees for natural gas trading exist, but are not actually active on the market.

Energy resources, applied for the transmission system operator license based on the Law of 2011. According to the Law, issuing the new license entails transfer of the governance over parts of the transmission system necessary for system operation to the new transmission system operator by the previous one. It seems as if the same result may be achieved through the Law on Expropriations adopted in early 2012, on which the Secretariat expressed its concerns. In any event, the unresolved dispute paralyzes the gas sector, has triggered delays in the implementation of the new Energy Law and challenged further infrastructure development.

G. Progress made in 2012/2013

The Energy Law of 2011 requires certain by-laws as a preconditio for full implementation, including gas market opening. The deadline set by the Energy Law for their adoption, February 2012 was not met, even though the Energy Regulatory Commission (ERC) made significant efforts.

Having adopted the Gas Supply Rules in May 2012 and amending the Tariff System, Methodology for the Sale of Gas to Tariff Customers in July 2012, Rules on Gas Supply of Last Resort were adopted by ERC in September 2012. The latter were accompanied by a Rulebook on Prices of Gas by the Supplier of Last Resort and a related Methodology, both adopted in January 2013. The Rulebook on the Method and Conditions for Regulating Prices for Transport, Distribution and Supply of Gas was amended in 2011 and 2012 and the Rulebook on the Method and Conditions for Regulating Tariffs for Transmission, Transmission System Operation and Distribution of Natural Gas was adopted in October 2011. On these grounds, the Tariff System for Gas Transmission was amended, and the first Tariff System for Gas Distribution was adopted in January 2013. ERC is currently developing Natural Gas Market Rules.

Energy resources, applied for the transmission system operator license based on the Law of 2011. According to the Law, issuing the new license entails transfer of the governance over parts of the transmission system necessary for system operation to the new transmission system operator by the previous one. It seems as if the same result may be achieved through the Law on Expropriations adopted in early 2012, on which the Secretariat expressed its concerns. In any event, the unresolved dispute paralyzes the gas sector, has triggered delays in the implementation of the new Energy Law and challenged further infrastructure development.

Some steps towards the further implementation of Directive 2004/67/EC have been made by the Ministry of Economy. In the reported period last year a Decree on Gas Crisis was developed in close cooperation with the Secretariat. The Decree is currently under public consultation before adoption.

The development of the gas market and infrastructure has continued during the last year. The Government signed a cooperation agreement on the construction of a South Stream branch and delivery of gas with the Government of the Russian Federation in July 2013. Some steps were taken at the level of distribution: in the city of Strumica in the South of the country, a local company has continued to develop a distribution network. In the absence of interconnection to the transmission grid, supply takes place by CNG trucks from Bulgaria. The distribution network has also been further developed in the city of Kumanovo. GAMA continued to connect new customers in Skopje to the transmission network.

Furthermore, all the three DSOs developed Distribution Grid Codes and submitted them to ERC for approval. The Transmission Network Code of 2009 still needs to be adjusted in accordance with the responsibilities for system operation as defined by the Energy Law of 2011.

During the reporting period, the transmission operator GAMA continued to challenge the transmission tariff, set by ERC for the next five years. The tariffs are determined on a rolling...
basis, including a correction factor for revenue losses collect-
ed in the last year. However, planned significant increases of
consumption for electricity production (taken into account for
tariff calculations) did not happen and instead of being recov-
ered on a year-by-year rolling basis as foreseen by the meth-
ology, the revenue losses cumulated over several years due
to big discrepancies between forecast and actual capacity use
which remains very low. Without prejudice to a final analysis
by the Secretariat, the principle of cost-reflectivity needs to
be respected and implemented by ERC, as a precondition for
the functional system operation and necessary investments in
system development.

C. State of compliance

The Energy Law transposes the majority of the provisions of
Directive 2003/55/EC. However, there are still shortcomings
in regard to all required details on data confidentiality, refusal
of access, customer protection and safeguarding measures.

1. Authorisation criteria: The construction of a new trans-
mision and distribution network requires authorisation by
the Government and local authorities. The amendments to
the Energy Law in May 2013, introduced Public Private Part-
nership (PPP) as a general model for constructing gas distribu-
tion grids. The Secretariat is concerned that this discriminates
against other forms of investment, namely without State in-
volvement.

2. Unbundling is in line with the acquis, including an exemp-
tion from unbundling for distribution companies with less
than 100,000 customers. As explained above, a transmission
owner licensee cannot hold a license for transmission system
operation, and control over the transmission infrastructure
has been divided between system and network operators. The ensuing conflicts should be resolved in the course of im-
plementing the Third Energy Package.

3. The provisions on third party access are transposed in line
with the acquis. The regulatory authority approves both the
methodology and the tariffs for access to the transmission system.
However, the Rulebook on the Method and Condi-
tions for Regulating Tariffs for Transmission, Transmission System Operation and Distribution of Natural Gas defines
different levels of return for different transported quantities,
i.e. the level of return is directly dependent on transported
quantities and usage of capacity. This provision might lead
to discrimination in the future for new network operators
which may have low capacity usage in the first years. Furth-
more, the implementation of the cost-reflectivity principle is
the subject of a complaint submitted to the Secretariat, as
described above.

The conditions for the exemption of new infrastructure from
third party access have been defined in line with Directive
2003/55/EC.

4. Market opening, eligibility and supplier switching:
According to the Energy Law, all customers have been
granted eligibility status. It will be functional only after the
approval of relevant secondary legislation which is still not
fully accomplished. For the time being, market opening only
exists according to the rules established before the energy
Law of 2011, i.e. according to the Rulebook on the Status of
Eligible Gas Customers. In practical terms, only four custom-
ers have the status of eligible customers. Furthermore, only
one customer, a new electricity producer, exercised eligibility
and changed the supplier. Rules on switching suppliers have
yet to be developed, as a part of the Market Rules currently
under preparation. To conclude, eligibility and market open-
ing are not in compliance with Directive 2003/55/EC.

5. Third party access services, capacity allocation mecha-
nisms, congestion management procedures and balanc-
ing rules: the requirements on capacity allocation, balancing
and transparency have already been transposed by the Trans-
misison Grid Code in 2009, in compliance with Regulation
(EC) 1775/2003 and according to the level of market develop-
ment. Only provisions on interruptible capacity and secondary
market have not been implemented.

6. Security of supply: The Energy Law does not fully trans-
pose Directive 2004/67/EC. The missing elements include
measures for specific customers, definition of supply stand-
ards and reporting obligations, list of instruments for secu-
rity of gas supply, national emergency measures and commu-

nity measures. These shortcomings will be rectified by a draft
Decree, which still has to be adopted.

Implementation of the Third Energy Package

The Energy Law is expected to be amended starting in the second half of 2013. This will include also amendments to the
existing technical rules, market rules, tariff methodologies and relevant by-laws.

UNBUNDLING

On 6 October 2011, the transmission system was operated by GAMA, controlled by Makpetrol. At the same time, Makpetrol
has a licence for gas trade, being the biggest importer of Russian gas, and owns a daughter company Promgas which supplies
to tariff customers and has public service obligations. In other words, a vertically integrated company is currently involved in
supply and system operation. This is not in line with Directive 2009/73/EC.

REGULATORY AUTHORITY

For the time being, the role of the regulatory authority has been defined in line with Directive 2003/55/EC. To ensure a com-
pance with Directive 2009/73/EC, additional tasks have to be given to ERC and some existing competences – in regards to
customer protection and regional cooperation – have to be strengthened.

CUSTOMER PROTECTION

General measures for customer protection have been described by the Energy Law as of 2011, and elaborated further by the
Supply Rules in 2012. Vulnerable customers, as required by the Third Package, have not yet been defined.

C. Conclusions and Priorities

The most important priority for former Yugoslav Republic
of Macedonia must be the resolution of the longstanding
dispute between Makpetrol and the State through fair and
transparent procedures, and without jeopardizing security of
supply. This will unblock many of the current shortcomings
and compliance problems. Only after clear responsibilities are
allocated, can the Law and relevant secondary legislation be
properly and effectively implemented.

Besides the non-solved issues on transmission system opera-
tion, the dual responsibility in national administration – split
between the Ministry of Economy and the Ministry of Trans-
port and Communications - for infrastructure development
also impedes the country’s interconnection developments
with its neighbours. Moreover, the Government should over-
come its reluctance to support improvements in the southern
part of the Gas Ring; in particular it should support a feasibil-
ity study for an interconnector with the neighbouring Con-
tracting Parties within the Western Balkan Investment Frame-
work. Former Yugoslav Republic of Macedonia is also the only
Contracting Party with an existing gas market which did not
submit any gas project for the Projects of Common Interest of
the Energy Community.

As is the case for all Contracting Parties, transposition of the
Third Package provisions is a key priority for former Yugoslav
Republic of Macedonia.
3.3.7 MOLDOVA

Gas

<table>
<thead>
<tr>
<th>Natural Gas Production [Bcm]</th>
<th>2011</th>
<th>2012</th>
</tr>
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<tbody>
<tr>
<td>Imports Flows [Bcm]</td>
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<td>0.000107</td>
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<td>Interconnection's capacity [Bcm]</td>
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<tr>
<td>Storage working capacity [Bcm]</td>
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<td>Length of Transmission Network [km]</td>
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<td>1190</td>
</tr>
<tr>
<td>Length of Distribution Network [km]</td>
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<td>22,126</td>
</tr>
<tr>
<td>Natural Gas Customers [number]</td>
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<td></td>
</tr>
<tr>
<td>Total</td>
<td>630,306</td>
<td>661,171</td>
</tr>
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<td>out of which:</td>
<td></td>
<td></td>
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<tr>
<td>Non-households</td>
<td>10,088</td>
<td>12,016</td>
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<tr>
<td>Eligible according to national legislation</td>
<td>630,306</td>
<td>661,171</td>
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<tr>
<td>Active eligible customers</td>
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</tr>
<tr>
<td>Households</td>
<td>620,218</td>
<td>642,155</td>
</tr>
</tbody>
</table>

Consumption Structure [%]

| Energy consumption | 42.9 | 43.3 |
| Industry and Commercial Consumers | 26.9 | 26.5 |
| Households | 30.3 | 30.2 |

Source: ANRE

a. The gas sector in Moldova

Moldova is an important transit country for Russian gas, being on the route from Ukraine to Romania, Bulgaria and Turkey, including branches to Greece and former Yugoslav Republic of Macedonia. The total length of Moldova’s three transit pipelines is 246.9 km with a total capacity of 34.6 bcmry. Another pipeline interconnection with Ukraine in the north of the country traverses through Moldova to connect two parts of the Ukrainian network. This pipeline, with a capacity of 9.1 bcmry, has an important role in security of supply for Moldova, as it connects to the storage facilities Bogorodchany in Ukraine. Moldova itself does not have storage facilities.

In practice, the capacity utilization rate of all cross-border pipelines is only about 45-55%, i.e. ca. 20 bcmry of natural gas is transited through the Southern route and 1.3-2 bcmry through the Northern route. The national network is only partly used as well. The internal transmission network stretches over 1550 km.

After a significant drop in the 1990s, gas consumption in Moldova began recovering since 2008, and nowadays amounts to 3 bcmry, out of which approximately 1 bcmry is consumed on the right bank of the Dniester river. Consumption is concentrated in the capital Chisinau, which consumes approximately 60%. Natural gas consumed on the left bank of the Dniester is mainly used for electricity production. Consumption is almost 100% covered by imports from Russia. Moldova has a very high share of natural gas used in total primary energy consumption (58.7%) and is among the countries with the highest share of natural gas in electricity and heat production (accounting for 96.1%).

Besides imports from Russia, one domestic producer ensures a low level of domestic production. It is directly connected to the distribution network.

Most of the activities in the gas market – import, supply, cross-border and national transmission, distribution, retail supply are performed by one vertically integrated company, Moldovagaz. Moldovagaz is the dominant supplier of natural gas in Moldova. It signed an import contract with Gazprom and an agreement for the use of storage in Ukraine. Moldovagaz’s shares are divided between the State (36.6%), authorities in Transnistria (13.4%) and Gazprom (50%).

The mother company Moldovagaz operates as supplier but also has two daughter companies operating transmission systems: Moldovatransgaz and Tiraspotransgaz. Another 12 daughter companies of Moldovagaz act as distribution companies. In addition to those 12, another 11 distribution companies exist. However, their total market share is rather negligible, with less than 2%.

The Natural Gas Law, adopted in December 2009, established the basic legislative framework for the gas market in line with Directive 2003/55/EC. Several acts of secondary legislation – namely the Regulation on Natural Gas Supply and Use, the Technical Rules for Networks and the Regulations on Quality of Natural Gas Transportation and Distribution Services - define technical rules in the gas sector.

After having initiated the process of transposing Directive 2004/67/EC and the missing elements of Directive 2003/55/EC and Regulation (EC) 1775/2005 by drafting amendments to the Natural Gas Law during 2011 and 2012, the Government has slowed down its reform activities during 2013. The updated Technical Norms for Natural Gas Transmission Networks and the Decision on Approving the Regulations on the Quality of Natural Gas Transportation and Distribution Services remain limited to technical rules (which are important), and fail to transpose the requirements of Regulation (EC) 1775/2005. The National Energy Regulatory Agency (ANRE) already drafted a Regulation on Conditions for Access to Natural Gas Transmission Networks during the previous reporting period. Approval of this act is still pending due to the deadlock regarding the amendments to the Natural Gas Law.

In late 2011, the board of Moldovagaz decided on the company’s reorganization in line with the Natural Gas Law. Accordingly, Moldovagaz should have been transformed into a holding company with separate daughter companies for supply and transmission as well as four distribution companies. However, the actual implementation of the decision has not been further fostered and according to the Secretariat’s knowledge, little progress – if any – has been achieved.

During the reporting period the Secretariat was engaged in resolving several disputes related to the implementation of transmission and distribution tariffs, and in particular the treatment of grid losses. Moldovagaz challenged several of ANRE’s decisions relating to the actual transmission tariff as well as the level of recognized losses in the distribution tariff methodology.

With regard to the transmission tariffs, the current methodology uses a uniform method for calculation of both national and cross-border flows, i.e. taking into account all transmitted quantities through the entire system. ANRE’s methodology is based on equal treatment of internal transmission and transit under the acquis. In practical terms, this means that much larger quantities (cca 95% of the overall volume) pass through a much smaller part of the grid (cca 14% of the overall network), while the remaining 5% of the gas passes through a much larger part of the grid. The approved transmission tariff, applied for entire transmission network, is transferred to the supply price for distribution companies/ final customers, but collects its full amount only for much smaller amounts of gas transmitted and consumed in the country (i.e. for only 5% of total quantities). The disproportion causes financial problems to Moldovagaz as a supplier. It must pay a higher transmission tariff to the operator Moldovatransgaz for the total gas quantities while receiving a lower price from Gazprom for transited quantities (i.e. for 95% of overall quantities).

Different treatment of transit and transmission has been abolished within the Energy Community, with the provisions of the Second Energy Package. From this point of view, the ANRE’s approach to the methodology is appropriate to the extent that it would also take into account the need for system integrity and its improvement. A final solution has so far not been reached.

As regards the distribution tariffs, the dispute has been related to the level of accepted losses, both, technical and commercial. In this respect, ANRE and Moldovagaz, under mediation by the Secretariat, came close to a final solution at the last meeting in April 2013. Namely, it has been agreed that...
the level of commercial losses has to be decreased in the fol-
lowing 3 years, by installing certain additional equipment for
which costs will be recognized by the tariff methodology. For
the technical losses, Moldovagaz should have come up with
elaborated details on maintenance and investment costs re-
lated to decrease of technical losses to ANRE. The Secretariat
was not informed if the latter had happened.

As concerns infrastructure development, construction works
on the interconnector with Romania (Iasi–Ungheni) started
on 27 August this year. The Ministry of Economy decided to
extend the pipeline for 130 km on the Moldavian side from
Ungheni to Chisinau. With this extension, the new source of
supply from Romania will be connected with the biggest con-
sumption area, Chisinau. The Ministry started with prelimi-
nary talks with International Financial Institutions (IFIs), seek-
ing at first support for the feasibility study and environmental
and social impact assessment. An appropriate business model
for this project still needs to be defined. It will either be the
establishment of a new transmission system operator or the
confirmation of a service contract with the existing operator.

The level of technical losses has to be decreased, in line with Article 13 of Directive 2003/55/EC, suppliers with
less than 100,000 customers can operate bundled with distri-
bution system operation functions.

3. Third party access is defined in line with Directive
2003/55/EC. However, secondary legislation on access to the
network as defined by Regulation (EC) 1775/2005 is lacking.

Grid tariffs are approved by ANRE according to the method-
ology in force. The grid tariffs differentiate according to the
pressure level of the network to which users are connected.
Even though ANRE approves transmission and distribution
network tariffs, the grid component is not explicitly shown on
the bill for the final consumers.

Rules on exemption from third party access have not been
included in the Gas Law. This violates Directive 2003/55/EC.
Potential investors in infrastructure thus lack an important in-
centive to engage in Moldova.

4. Market opening, eligibility and supplier switching: A
clear definition of eligibility is missing in the Natural Gas Law,
even as deadlines for market opening. All customers are
supplied under regulated prices. Moldova is thus in breach of
Article 23 of Directive 2003/55/EC read together with its Ac-
cession Protocol. In practice, Moldovagaz is the only supplier
in operation in the country.

5. A contractual tolerance level, some transparency require-
ments, as well as procedures for access to the network and
for monitoring of gas quality are included in the Technical
Norms for Natural Gas Transmission Networks, but capac-
ity allocation and congestion management procedures are
not implemented, as well as the balancing in compliance with Regulation (EC) 1775/2005 have not been put in place.

6. General responsibilities for security of supply policy as
well as monitoring and reporting on security of supply are
allocated to the Ministry of Economy by the Natural Gas Act.
However, the following elements of Directive 2004/67/EC
have been transposed nor implemented: minimum of se-
curity of supply standards, definition of protected customers,
national emergency measures and full list of instruments for
security of gas supply.

Moldova has not communicated its Security of Supply State-
ment to the Secretariat since the deadline passed in 2011. It
is thus also in breach of Article 29 of the Treaty.

Implementation of the Third Energy Package

According to its implementation plan, the transposition of Directive 2009/73/EC by the Ministry of Economy should take
place between the second quarter of 2014 and the second quarter of 2015. The regulatory authority was charged with the
transposition of Regulation (EC) 715/2009, which should be finalised by the end of 2014.

UNBUNDLING

Currently, Moldova’s TSOs are not unbundled in the contest of the Third Energy Package. Both Moldovatransgaz and Ti-
 raspoltransgaz, have been set up as daughter companies in a vertically integrated company – Moldovagaz, but a practical
functional unbundling of TSOs has not been achieved. Moldovatransgaz is not independent in decision-making; whereas,
Tiraspoltransgaz is more independent from the mother company but is involved in both transmission and trade activities in
the region of Transnistria.

The Ministerial Council in December 2012 granted Moldova a derogation from Article 9(1) of Directive 2009/73/EC until 1

REGULATORY AUTHORITY

As explained, tasks and responsibilities have been defined by the Gas Law in line with Directive 2003/55/EC, with a few miss-
ing tasks, eg. the right to order the TSO to modify third party access terms and conditions, involvement in cross border dis-
putes and the right to impose penalties. Thus, to be compliant with Directive 2009/73/EC, these tasks have to be introduced.

CUSTOMER PROTECTION

A definition of a vulnerable consumer exists in a Government Decision. Procedures for customer switching have not been
adopted. Customer protection is not implemented in line with the Third Package requirements.

d. Conclusions and Priorities

Given that no development can be reported over the last
year, the situation and priorities remain the same as noted in
last year’s Implementation Report:

Moldova should finally adopt the amendments to the Gas
Law and of the Regulation on Conditions for Access to the
Natural Gas Transmission Networks.

Moldovagaz needs to be restructured in line with the require-
ments of Directive 2003/55/EC (not yet the Third Package!),

The parties involved should settle the dispute between ANRE
and Moldovagaz.
3.3.8 Montenegro

a. The gas sector in Montenegro


The country is currently developing its national energy strategy for 2030, which includes various scenarios for gasification.

One supply option for a future gas market is the Ionian Adriatic Pipeline (IAP) project, a part of the Energy Community Gas Ring. The costs of the IAP over Montenegro territory have been estimated at EUR 60 million. Another possibility is offshore gas resources in the South Adriatic. This option is uncertain, in any event it is not likely to be available before 2025.

No gas company has been licensed so far.

b. Progress made in 2012/2013

During the reporting period, Montenegro has been involved in the work related to the on-going IAP feasibility study. The study spun off various reports of relevance for Montenegro, namely a market analysis report, a draft technical study, a route investigation and pipeline dimensioning study. The Ministry of Economy agreed that the IAP route will run along the Montenegrin coast.

In addition, the consultant engaged in the IAP feasibility study drafted Terms of Reference for a gas development and project identification (master gasification) plan. Montenegro will apply in September 2013 to the relevant EU grant funds for the execution of this study.

No activities have been reported to upgrade the regulator’s capacity to draft secondary legislation.

c. State of compliance


1. Authorisation procedures: The authorisation procedure is in compliance, except the fact that the reasons for any refusal to grant an authorisation are not objective and non-discriminatory or given to the applicant.

2. Unbundling: requirements have been transposed in line with Directive 2003/55/EC.

3. The provisions for third party access have been transposed generally in line with the acquis, except for the obligation on network operators to purchase the energy needed for system operation based on transparent, market-based procedures. However, the most serious shortcoming of the Law is the different treatment of national and cross-border (transit) gas transmission, which is contrary to Directive 2003/55/EC.

Finally, the missing obligation (of the regulator) to reason exemption decisions and to publish them with all the relevant details is in conflict with the rules on exemption procedures for new infrastructure.

4. Market opening, eligibility: The Law grants eligibility to all customers with the exception of households which will be eligible as of 1 January 2015. Bearing in mind the current lack of gas market development in Montenegro, more detailed switching rules are not required yet.

5. Third party access services, capacity allocation mechanisms, congestion management procedures and balancing rules: The provisions for capacity allocation, balancing and transparency have been transposed in accordance with the acquis at a rudimentary level in the Law. The definitions according to the Regulation (EC) 1775/2005 are missing. The Gas Transmission System Code will have to be yet developed. Until then, the Regulation (EC) 1775/2005 has not been implemented.

6. Security of supply: Although Montenegro does not have any gas infrastructure, the Energy Law defines standards and measures for security of gas supply. It defines the role of key institutions and market players. The Energy Law requires the development of emergency plans by the gas system operator in case of an emergency. All requirements of Directive 2004/67/EC are transposed. Montenegro announced it would bring its legal framework for security of gas supply in line with Regulation (EC) 994/2010 during the process of implementing the Third Package.

Implementation of the Third Energy Package

Montenegro has started drafting the new Energy Law aiming to transpose the Third Energy Package. Its intention is to have a Law adopted by end of this year. The Montenegrin authorities and their consultant are collaborating closely with the Secretariat.

UNBUNDLING

Montenegro is among the Contracting Parties without a gas market, and consequently no gas transmission system operator existed on 6 October 2011. Under Directive 2009/73/EC, as adapted by the Ministerial Council, it will have to follow the ownership unbundling regime.

REGULATORY AUTHORITY

The legal framework set a high degree of autonomy of the regulator. According to the Law, the regulator’s decisions must be independent of the Government or any other public or private entity. Decisions are immediately binding and directly applicable and are not subject to review, suspension or veto by the Government, the Ministry or by any entity controlled by those. However, the tasks and competences of the regulatory authority are not in line with the Third Package yet.

CUSTOMER PROTECTION

The Law envisaged different customer protection measures attributable to suppliers as well as to the supply of vulnerable customers. The amendments should define a single point of contact for all customers to receive information on their rights. In addition, supplier switching rules needs to be defined.

d. Conclusions and Priorities

The legal framework is currently considered appropriate and sufficient for the initial development of a gas market. The next activities should focus on capacity-building in the regulatory authority capacity related to the gas sector (staff training), as well as the development of secondary legislation, tariff methodologies and a grid code.

As is the case for all Contracting Parties, transposition of the Third Energy Package provisions is a key priority for Montenegro.
a. The gas sector in Serbia

Serbia has a relatively well-developed gas market and a long tradition in the transmission and cross-border transport of gas. The country’s gasification followed the discovery of domestic gas fields as well as the import routes. Consequently, Northern Serbia is fully gasified, Western and Central Serbia are partly gasified, while the Southern region has limited access to gas.

Natural gas is not widely represented in the energy sector of Serbia: the share in final energy consumption amounts to 10%, and gas contributes only 8.6% to heat and electricity production. Total gas consumption in Serbia amounted to 118 mcm, and another one with Bosnia and Herzegovina.

The incumbent Srbijagas is a vertically integrated utility owned by the Government. Srbijagas holds licenses and is active in the business of natural gas transmission, distribution and supply.

b. Progress made in 2012/2013

The Energy Law of 2011 was amended twice during 2012 but without relevance for the gas sector.

A Transmission Network Code was adopted by the system operator Srbijagas and approved by the regulatory authority in August 2013. The Secretariat commented on the draft Network Code in the course of the public consultation procedure. The Network Code constitutes a major step forward in implementation of the Energy Law.

During the reporting period, the regulatory authority AERS, in complying with the deadlines from the Law, adopted in September 2012 a Rulebook on Supplier Switching, a Methodology on the Price for Access to the Transmission System and a Methodology for the Price for Public Supply of Natural Gas. AERS also adopted the Methodology for the Price for Access to the Distribution System in December 2012. Finally, AERS adopted a new Methodology on Connection Costs to Natural Gas Transportation and Distribution System in 2012.

Distribution Network Codes and Rules on Underground Gas Storage are still missing, as well as a network code by Yugorosgaz Transport.

The Rulebook on Conditions for Issuing, Changing and Withdrawal of Energy Activity Licenses was adopted by the Ministry of Energy, Development and Environmental Protection in the course of harmonisation of secondary legislation with the Energy Law in 2013.

Serbia continued supporting regional gas projects with the main motivation to gasify its regions without access to gas and to diversify supply routes. For the Serbia-Bulgaria interconnector a feasibility study and an environmental impact assessment have been finalised. A joint statement between Serbia’s and Bulgaria’s Prime Ministers was signed on 14 December 2012 committing to the construction of this gas interconnector. Furthermore, interconnectors with all the neighbouring Contracting Parties and Participants have been unilaterally announced during the preparation of the Regional Energy Strategy, i.e. with Romania, former Yugoslav Republic of Macedonia, Kosovo*, Montenegro, as well as with Bosnia and Herzegovina, Croatia and Bulgaria.

Serbia is also committed to the South Stream project, formalized in the Law on Public Interest Determination and Special Procedures of Expropriation and Documents Issuing in Realisation of Natural Gas Transmission System South Stream adopted in 2013. The Secretariat already raised in 2010 serious concerns about compliance of certain provisions in the inter-governmental agreement between Serbia and Russia on the South Stream project, for, inter alia, excluding third party access per se.

In October 2012, the Serbian Government signed another inter-governmental agreement with Russia as a framework for

3.3.9 Serbia

Gas

<table>
<thead>
<tr>
<th></th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural Gas Production [Bcm]</td>
<td>0.462</td>
<td>0.464</td>
</tr>
<tr>
<td>Imports Flows [Bcm]</td>
<td>2.314</td>
<td>2.122</td>
</tr>
<tr>
<td>Exports Flows [Bcm]</td>
<td>0.283</td>
<td>0.261</td>
</tr>
<tr>
<td>Interconnection's capacity cca</td>
<td>(17×2) mcmb/d</td>
<td>(13×2) mcmb/d</td>
</tr>
<tr>
<td>Storage working capacity [Bcm]</td>
<td>0.490</td>
<td>0.490</td>
</tr>
<tr>
<td>Length of Transmission Network [km]</td>
<td>2,321</td>
<td>2,391</td>
</tr>
<tr>
<td>Length of Distribution Network [km]</td>
<td>14,620</td>
<td>15,346</td>
</tr>
<tr>
<td>Natural Gas Customers [number]</td>
<td>257,145</td>
<td>256,971</td>
</tr>
<tr>
<td>of which:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-households</td>
<td>12,864</td>
<td>11,584</td>
</tr>
<tr>
<td>Eligible according to national legislation</td>
<td>12,864</td>
<td>11,584</td>
</tr>
<tr>
<td>Active eligible customers</td>
<td>10</td>
<td>7</td>
</tr>
<tr>
<td>Households</td>
<td>244,281</td>
<td>247,397</td>
</tr>
<tr>
<td>Natural Gas Consumption [Bcm]</td>
<td>2.312</td>
<td>2.004</td>
</tr>
</tbody>
</table>

Consumption Structure [%]

- Energy transformation: 6
- Industry and Commercial Customers: 59
- Households: 12

Source: AERS

Yugorosgaz Transport has been established as a subsidiary company of Yugorosgaz and obtained a transmission license on 28 August 2013.

Serbia’s gas market consists of 33 public suppliers and 23 suppliers.

1. Authorisation criteria: the Energy Law requires both a license for performing an energy activity (issued by the regulatory authority), and an energy permit for construction (issued by the Ministry of Energy, Development and Environment). More details have been prescribed by the Rulebook on Conditions for Issuing, Changing and Withdrawal of Energy Activity Licenses, amended in the first half of 2013.

2. Unbundling provisions in the Law are in line with Directive 2003/55/EC, requiring legal and functional unbundling between supply and system operation and allowing exemptions for distribution with less than 100,000 customers. In practice, however, unbundling is not implemented. Srbijagas is not legally or functionally unbundled. Plans by the Government to unbundled Srbijagas have not been implemented.

At present, Srbijagas is not unbundled legally or in terms of management from wholesale and retail supply, which represents a severe non-compliance with the acquis. The Secretariat is currently preparing enforcement action to rectify this failure.

As Yugorosgaz Transport obtained a transmission license only on 28 August 2013, the Secretariat could not assess whether this undertaking has fulfilled all the unbundling requirements from the acquis.

3. Third party access: the Law defines non-discriminatory network access as a principle rule.

Rules on access to the transmission network have been implemented. Srbijagas’ Network Code Drafting of a similar network code of Yugorosgaz is underway. On the other hand, Banatski Dvor, a storage operator, has not started drafting a storage code, as stipulated by the Law. Possibilities to exempt new gas infrastructure from third party access are defined in line with Directive 2003/55/EC.

The regulatory agency approves network tariffs and energy prices for energy deliveries provided by the public suppliers, based on methodologies defined and published in advance. The Methodology for Determination of the Price for Access to Natural Gas Transportation System introduced an entry-exit tariff system, transposing the relevant third Energy Package requirements.

4. Market opening, eligibility and supplier switching: The right to freely choose a supplier in the market can be exercised by all customers, except households, which will be eligible as of 1 January 2015. The legal set up is in line with the Treaty.

In 2012, seven eligible customers accounting for a market share of 16.2% purchased gas under market conditions from a newly active supplier, Russian Sberbank Trading Corporation and Srbijagas (acting as licensed supplier trader on the free market). The third company active in the wholesale market is Yugorosgaz.

Since 1 January 2013, final customers connected to the gas transmission network (representing 34% of the market) lost the right to be supplied by the public supplier and started purchasing gas under market conditions. Small customers, as defined by the Energy Law, i.e. legal entities with less than 50 employees, a yearly income of less than EUR 10 million and which are connected to the distribution system have the right to be supplied by the public supplier.

5. Third Party Access services, capacity allocation mechanisms, congestion management procedures and balancing rules: the Energy Law stipulates provisions on capacity allocation, balancing and transparency as general obligations of transmission system operators.

The Network Code of Srbijagas elaborates more in detail on capacity allocations, congestion management and balancing. The main incompatibility with Regulation 1775/2005 (EC) is that the company has to agree on the transfer of capacity rights on monthly and daily basis.

The code also envisages flexible contracts with suppliers and interruptible ones with customers. The balancing regime is in compliance with the Second Package and includes a tolerance level and an indexed imbalance fee.

The Code defines necessary information which needs to be published, in line with transparency requirements, but on-line implementation of those is still pending.

6. Security of supply: the requirements of the acquis relating to security of supply are partially transposed. Some provisions on monitoring and reporting, as required by Directive 2003/55/EC, have been included in the Energy Law. Other provisions have been transposed by the Decree on Conditions for Natural Gas Delivery which lays down the roles and responsibilities of market players in the event of disruption and shortages of natural gas supplies concerning, for example, protected customers who cannot be disconnected from supply. However Directive 2004/67/EC has still not been fully transposed. The Law still needs to define a major supply disruption, minimum supply standards and relevant community mechanisms. The reporting obligations have to include the competitive impact of the measures on all market players and more instruments to ensure security of gas supply, such as the levels of storage capacity, the extent of long-term supply contracts and the regulatory framework related to incentives for investments in gas transport capacities.

Implementation of the Third Energy Package

So far, a gap analysis between the current legal framework and the requirements of the Third Energy Package has been carried out by the Secretariat and Serbia submitted a plan on its implementation to the Secretariat.

UNBUNDLING

Serbia’s TSOs are not unbundled in the sense of the Third Energy Package. Srbijagas is 100% owned by the Government and is a vertically integrated undertaking, performing trade, supply, transmission and distribution activities in natural gas. Yugorosgaz-Transport has been established as a subsidiary of Yugorosgaz and is thus only legally unbundled.

REGULATORY AUTHORITY

The Serbian legal framework set a high degree of autonomy of the regulator. It is independent from other stakeholders, be it industry or a public body. However, Serbia must enlarge the competences of the regulator, especially in the domain of certification, monitoring the TSOs independence and regional cooperation in order to comply with the Third Energy Package.

CUSTOMER PROTECTION

Customer protection is mostly ensured. The vulnerable customers have been defined. Supply-switching procedures are in place. However, a single point of contact for all customers to receive information on their rights needs to be introduced in the course of drafting amendments.

Conclusions and Priorities

Despite a relatively high degree of transposition, the practical implementation of the Energy Community acquis in the Serbian gas sector is insufficient and has been raising concerns for quite some time.

The priority tasks for Serbia, remaining to be done since 2007, should be full unbundling of the transmission system operators Srbijagas and Yugorosgaz-Transport. Given the timeline, this should be done immediately in accordance with the Third Package. Furthermore, the secondary legislation required for full and practical implementation of the Energy Law (such as storage code, grid code of Yugorosgaz-Transport should be finalized as soon as possible. Moreover, the noncompliant inter-governmental agreements with Russia need to be brought in compliance with the Treaty. The relevant plans and reports on security of supply should be implemented and stronger cooperation with the ENTSO-G is suggested. As is the case for all Contracting Parties, transposition of the Third Package provisions is a key priority for Serbia.

State of compliance

The Energy Community Secretariat elaborates more in detail on the network code of Yugorosgaz and the responsibilities of market players in the event of disruption and shortages of natural gas supplies concerning, for example, protected customers who cannot be disconnected from supply.
3.3.10 Ukraine

<table>
<thead>
<tr>
<th>Natural Gas Production [bcm]</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Imports Flows [bcm]</td>
<td>42*</td>
<td>24.9*</td>
</tr>
<tr>
<td>Exports Flows [bcm]</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Interconnector's capacity [bcm]</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Storage working capacity [bcm]</td>
<td>9.0</td>
<td>3.2</td>
</tr>
<tr>
<td>Length of Transmission Network [km]</td>
<td>39,800</td>
<td>39,800</td>
</tr>
<tr>
<td>Length of Distribution Network [km]</td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>

### Natural Gas Customers [number]

<table>
<thead>
<tr>
<th></th>
<th>Total</th>
<th>Non-households</th>
<th>Eligible according to national legislation</th>
<th>Active eligible customers</th>
<th>Households</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Energy transformation</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Industry and Commercial Customers</td>
<td>15.94</td>
<td>16.60</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Households</td>
<td>50.10</td>
<td>47.48</td>
<td>n/a</td>
<td>n/a</td>
<td>3.32</td>
</tr>
</tbody>
</table>

### Natural Gas Consumption [bcm]

<table>
<thead>
<tr>
<th></th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy transformation</td>
<td>53.95</td>
<td>50.80</td>
</tr>
<tr>
<td>Industry and Commercial Customers</td>
<td>15.94</td>
<td>16.60</td>
</tr>
<tr>
<td>Households</td>
<td>32.25</td>
<td>34.10</td>
</tr>
</tbody>
</table>

* (transit is not included)

**Source:** NERC

#### 3. The gas sector in Ukraine

Ukraine is one of the countries with the highest share of nat- ural gas in total primary energy consumption in the world, namely 42.1% in 2011 according to the Energy Community Security of Gas Supply Study. The share of natural gas in elec- tricity and heat production accumulated to 25.8%. In abso- lute figures, natural gas consumption in Ukraine in 2011 to- talled 53.95 bcm. Production of natural gas in the same year amounted to 20.6 bcm, which represents a significant 38.2% of total natural gas consumption.

Ukraine’s gas demand is supplied by imports and domestic production. The latter is performed by companies in the own- ership of NAK Naftogaz (100% owned by the Government), and other independent producers. Independent producers account for 10% of Ukraine’s total annual gas output.

Ukrtransgaz, the country’s largest gas production company, was founded as a public joint stock company in 2012, and is 100% owned by Naftogaz. 50%+1 of the shares of Ukrmfta, another large gas production company, are also owned by Naftogaz. Chornomornaftogaz is a vertically inte- grated company operating in Crimea. It is also 100% owned by Naftogaz. Exploration of unconventional gas reserves has attracted in- ternational majors such as Shell and Chevron which are con- sidering Production Sharing Agreements with the Govern- ment. Ukrtransgaz is the gas transmission system operator in Ukraine. In that capacity, it is in charge of the operation and maintenance of the system. Ukrtransgaz’s license also in- cludes cross-border transmission (i.e. transit) through Ukraine. The Ukrainian Gas Transit System requires comprehensive modernisation and rehabilitation to increase its reliability and capacity to be able to transport the huge quantities of gas needed for both Ukraine and the European Union without disruption. This is especially the case for the main Urengoy – Pomey – Uzhgorod pipeline which is in urgent need of repair. An EBRD/EIB loan is envisaged to partly finance these repairs. This loan is intended to be the first step in an over- all programme to reform the operation of the Ukrainian gas system. As a precondition for approval of the loan, EBRD set a number of conditions which amount, in a nutshell, to fulfilling Ukraine’s obligations under the Energy Community. The transected volume of gas dropped to 84.2 bcm in 2012 (from 104.2 bcm in 2011), as a consequence of declining de- mand in Europe and the fact that transit volumes have been partly shifted to the Nord Stream pipeline.

Ukrtransgaz is also separately licensed as a gas storage op- erator. It was founded as a public joint stock company in 2012, and is 100% owned by Naftogaz. Ukraine has 13 un- derground gas storage facilities: Ukrtansgaz operates 12 of them with more than 31 bcm capacity; one underground storage is operated by Chornomornaftogaz in Crimea with cca 1 bcm capacity. Underground storage geologic character- istics could allow an increase of 4 bcm in additional capacity.

52 licensed suppliers, so-called ‘guaranteed’ suppliers, sell gas at a regulated tariff. The number of independent suppli- ers, selling gas at non-regulated tariffs, fluctuates consider- ably with the current number being over 600, roughly half of them active. The number of DSOs overlaps with the number of guaranteed suppliers.

Ukraine applies a post stamp tariff. As a result, every final customer in Ukraine connected to the distribution grid pays the same grid tariff, irrelevant of the geographical region or any other characteristic. The aggregated grid tariff – a sum of the transmission and distribution part - remains constant, whereas the transmission and distribution components vary for different regions (“oblasts”). This could be interpreted as the introduction of some elements of an entry-exit system.

During the reporting period, the basic market structure has experienced important changes. The main characteristics of this transformation are diversification of supplies in terms of both routes and suppliers, increase of independent traders’ shares on the market, intensifying efforts to release captive domestic gas reserves, both conventional and unconvention- al.

Firstly, the Government abolished the monopoly of Naftogaz on gas imports, allowing other suppliers and eligible customers to contract imported gas for their needs. The emergence of the Ostchem holding - a company that controls Ukraine’s fertilizer sector - as the biggest single eligible customer, buying 14.9% of Ukraine’s total annual gas consumption in 2012 from a foreign supplier different than Naftogaz, reduced the Naftogaz share of the market to 80.8%. Out of this, 46.7% was imported gas and 34.1% was produced by Naftogaz. Do- mestic independent suppliers (suppliers who are not under the control of Naftogaz) represented 4.4% of the market.

Secondly, Naftogaz and the other suppliers are diversifying their portfolios by purchasing gas from sources other than Gazprom, namely, from European undertakings such as RWE, via Hungary and Poland. The precondition for the two men- tioned cases was that the interconnectors allow for physical reverse flow, and agreements were signed between Uktrans- gaz, and Poland and Hungary’s transmission system opera- tors on 1 November 2012 and 1 April 2013 respectively. The third potential route is from Slovakia – this interconnection point at Vel’ke Kapushany has a transmission capacity of 92 bcm/y. However, reverse flow from Slovakia to Ukraine has not started yet and is subject to further discussions between the two national TSOs.

This market opening will be challenging for Naftogaz as it may be progressively losing its dominant position on the gas wholesale market, being constrained to supply gas to the public sector. As the regulated prices for supply to house- holds and public institutions are several times lower than the price of imported gas, this will lead to permanent generation of losses in Naftogaz. In addition, the problem of take-or-pay contract clauses with Gazprom remains unsolved. Take-or-pay provisions of the 2009 Naftogaz-Gazprom supply contract set relatively high minimum annual gas quantities that Ukraine obliged itself to take from Russia. As Ukraine has reduced its annual demand and started to import gas from sources other than Russia...
than Gazprom, this might create a situation where Ukraine receives quantities from Russia which are significantly under contracted levels and could be obliged to pay the difference between the said minimum and the realized annual imports.

On the consumption side, domestic producers (predominantly state-owned) are obliged to offer their whole annual production for the supply of Ukraine’s households ("population") in Ukrainian legal terms) under regulated prices. Regulated gas tariffs represent a major impediment to investments into gas production, especially keeping in mind Ukraine’s ambitious plan to reach 90% of its needs from domestic sources by 2030. Prices determined by or under the influence of public authorities often do not reflect market fundamentals and are motivated by social or political aspects. Typically, they are between 5-6 times lower than the price of imported Russian gas.

b. Progress made in 2012/2013

Some progress has been made during the reporting period, though significantly less than what has been announced by the authorities.

Ukraine further improved the legal, fiscal and contractual framework for gas exploration and production. New Subsoil and Land Codes have been drafted. The regulatory authority, National Electricity Regulatory Commission (NERC), has adopted harmonized contracts on connection and access to the transmission system.

A Government Resolution in October 2012 abolished the monopoly of Naftogaz for gas imports.

The President’s National Action Plan for 2013 to implement the Program of Economic Reforms 2010 - 2014, focuses, inter alia, on launching the reform programme for Naftogaz and fulfilling the obligations of the Energy Community related to unbundling. A reorganisation plan is being prepared by Ernst&Young and Rothschild Group.

The Pipeline Transport Law already amended in May 2012, which allows for the restructuring of Naftogaz but still bans the privatization of grid assets, has been submitted to Parliament for another round of amendments this year. Now the aim is to allow for the privatization of core assets, subject to the Government’s approval. It is uncertain if these amendments will ever be adopted, or rather withdrawn from the procedure. This example shows that the reform process is erratic and nontransparent, rather than being structured by a strategy with clear objectives and actions. The adoption of a strategy has already been pending for two years. In this way, the transparency of the process is at stake.

One of the major obstacles in relations with the Secretariat is the lack of communication with Ukraine authorities. Almost none of the draft acts are being communicated to the Secretariat for assessment. In addition, Ukraine fails to use available donor assistance to its full scale.

1. State of compliance

Ukraine’s gas legislation is characterized by a high degree of inconsistencies, overlaps and even contradictions between the different legislative acts. Even though the 2010 Law on the Principles of Functioning of the Natural Gas Market – the Gas Law upon which Ukraine joined to the Energy Community – addresses gas market organization and reflects the acquis’ provisions in a rather systematic way, it does not derogate previous legislative acts and is contradicted by the preceding laws.

1. Authorisation criteria: the Gas Law does not lay down non-discriminatory criteria to obtain a license. Authorisation (construction) procedures are not described either.

2. The unbundling provisions of Directive 2003/55/EC are transposed by the Gas Law.

Ukrtransgaz went through reorganization last year, when it was transformed into a public joint stock company still 100% owned by Naftogaz. Functional unbundling has not been fully implemented. The company’s Board of Directors is appointed by the Government upon the proposal of Naftogaz. The supervisory council is comprised of representatives of the Government, Ukrtransgaz, and heads of departments of Naftogaz, including its deputy chairman. As goes for all subsidiaries and affiliates, Ukrtransgaz mainly carries out day-to-day operations, whereas the making of general operational and financial decisions as well as the functions of asset management is entrusted mainly to the holding company, Naftogaz. Finally, a compliance program is not in place.

The other vertically integrated utility, Chornomornaftogaz, has not yet started legal unbundling to the Secretariat’s knowledge.

The Government’s Resolution on Approval of the Procedure for Identification of the Guaranteed Suppliers of Natural Gas introduced the requirement of unbundling distribution activities from supply at a regulated tariff (as this act obviously treats only guaranteed supply, that is to say supply of last resort) by 1 January 2015 at the latest. This act gave NERC’s responsibility to monitor this process. Finally, the resolution abolished ownership of the distribution network as a precondition for a supply licence.

3. Third Party Access: to the gas transport system is granted by law to all natural gas suppliers and consumers under regulated and non-discriminatory conditions. Ukrtransgaz provides third party access services to the system users. Access can be contracted for a calendar year and is governed by NERC’s Procedure for Accessing the Unified Gas Transit System of Ukraine, adopted and already amended in 2012. This document does not fully transpose the requirements of Directive 2003/55/EC or Regulation (EC) 1775/2005. In particular, priority access to the transmission grid for suppliers with public service obligations (who supply households, institutions and organizations funded from the State and local budgets, business entities that generate heat and) natural gas market entities which contracted services with TSO on long-term basis, violates the principle of non-discrimination. It also does not abolish the distinction between transmission and cross-border flow (transit) thus denying NERC’s competence to regulate the transit as contracted between Naftogaz and Gazprom. Ukrtransgaz however only receives a part of the “transit” revenues (the percentage is unknown), whereas the main revenue goes to Naftogaz. Moreover, certain elements relevant for third party access are still missing, such as access to linepack, ancillary services and upstream pipeline networks.

The Procedure was apparently revised and improved by NERC, related namely to distinguishing between supply and distribution activities. However, the updated version has not been communicated to the Secretariat and could therefore not be assessed.

New customers submitting a request for connection to the transmission grid are granted the connection under regulated tariffs, set by NERC based on a cost-plus methodology.

Access to the storage system is regulated. It is governed by NERC’s Procedure for Accessing the Unified Gas Transit System of Ukraine. However, the operator claims that the tariff for storage operation is not cost-reflective, which results in a part of the storage capacity being mothballed. The Secretariat was not able to verify this.

The status of the ownership of gas distribution networks remains unclear. The Government is yet to decide which of the options will be implemented in the future: long-term lease or concession agreements, or privatization of the distribution grids.

4. Market opening and eligibility: according to NERC’s Resolution on the Opening of the Gas Market, a timetable was introduced to authorize different clusters of customers to freely choose their gas supplier: industrial customers from 1 March 2012; Government organisations from 1 January 2013; district heating companies supplying heat to households as of 1 January 2014, and residential consumers from 1 January 2015. This timetable fails to fully meet the terms of the Accession Protocol, which set a deadline for all non-household customers to become eligible by 1 January 2012.

In practice, however, some eligible customers switched their supplier.

The wholesale gas market price has been capped by NERC. As the cap price is set at comparable with the gas import price, the reasons for this practice are not clear.

At present, household consumers are exclusively supplied with domestic gas at a tariff set by NERC. There continues to be a lack of metering devices available for households. According to the Gas Metering Law, 100% gas meter coverage only has to be in place by 2018, yet the current situation will impede practical market opening beyond the envisaged deadline.

Regulated gas prices below cost-recovery violate the acquis. They also have severe impacts on the financial viability of Naftogaz and affiliated companies. According to the International Monetary Fund’s estimations, Naftogaz suffered deficits of 1.7% and 1.5% of GDP in 2010 and 2011 as a result of such regulation, which may have risen towards 2% in 2012. For more than three years, there has been no gas price increase to the public sector, making the prospect of gas market reform dim.
The Government's Resolution on Approval of the Procedure for Identification of the Guaranteed Suppliers of Natural Gas fails to specify the role of guaranteed suppliers after full market opening. It also introduces a territorial principle which permits only one guaranteed supplier per administrative territorial unit. This principle has been introduced as such, without any detailed reasoning and cannot be considered anything other than discriminatory. The Resolution specifies that the guaranteed supplier shall purchase gas at regulated prices, from an entity to be appointed by the Government. This provision is likely to establish a barrier for new entrants. Guaranteed suppliers should purchase gas at the market. This provision thus introduces de facto a single buyer model and will lead to the foreclosure of the gas market.

The Government proclaimed Naftogaz as a guaranteed supplier for big consumers.

5. Third Party Access services, capacity allocation mechanisms, congestion management procedures and balancing rules: Principles for capacity allocation and congestion management, transparency requirements and rules on secondary market trading are not in place. At present, Ukrtransgaz offers firm capacity only on an annual basis. It does not provide services on a shorter (or longer) basis, or interruptible services. Capacity allocation has not been performed under market procedures at different time horizons (no electronic platform in place and consequently majority of transparency provisions could not have been developed). The balancing regime is indirectly approved by NERC in the Procedure for Accessing the Unified Gas Transit System of Ukraine. However, this cannot be considered sufficient as there is no methodology for the calculation of imbalance charges or final tariffs on balancing - the balancing costs are socialised over the network users. Consequently, Regulation (EC) 1775/2006 has not yet been implemented.

6. Security of supply: Definitions of the roles and responsibilities of different gas market players and of minimum security of supply standards are only generally in place, but should be clarified further. The Law on Supplying Customers with Natural Gas stipulates that natural gas suppliers have to ensure a security gas reserve of 10% of quarterly contracted supply volumes to customers. In this context, the Government approved Decrees on the obligations of the undertakings to ensure natural gas reserves and on forecasting the annual balance for supply/demand in Ukraine. The terms “long term gas supply contract” and “major supply disruption” still need to be defined in accordance with Directive 2004/67/EC. Furthermore, supply standards, protected customers, up-to-date national emergency measures and list of instruments for security of gas supply have to be defined, together with regional mechanisms in case of major international disruptions. There are no adequate provisions for reporting and monitoring supply security within the existing law. Ukraine has still not fully transposed Directive 2004/67/EC.

Implementation of the Third Energy Package

The Accession Protocol stipulates that Ukraine will fulfil all obligations imposed on the Contracting Parties by the Treaty and by “all Decisions and Procedural Acts adopted in application of the Treaty”. Nevertheless, Ukraine stated in October 2011 that it would consider the Third Package decision binding only after completion of all necessary internal procedures. Ukraine was urged to accelerate the adoption and implementation of the Third Energy Package at the Ministerial Council meeting in 2012. It is worth mentioning that the adaptation of the Ukrainian legislation to the Third Package is envisaged by the draft Energy Strategy for 2030.

UNBUNDLING

Ukraine’s TSOs are not unbundled in the context of the Third Energy Package. Ukrtransgaz is 100% owned by Naftogaz, but the functional unbundling, let alone the requirements of the Third Energy Package, have not been implemented. The other TSO, Chornomornaftogaz, is a vertically integrated undertaking.

REGULATORY AUTHORITY

The legal framework specifies that the regulators are subordinated to the President - NERC is “a collegial government body subordinated to the President of Ukraine and reporting to the Verkhovna Rada of Ukraine”. The laws governing the functioning of the regulator need to secure a higher degree of independence. The current legal framework regarding the role of the regulator is not in line with the Third Energy Package requirements.

CUSTOMER PROTECTION

The notion of vulnerable customer has not been defined in the energy sector, but in Ukraine’s general social protection schemes. Aspects that would need to be reinforced in the course of implementing the Third Energy Package include a minimum content for suppliers’ contracts with the consumer and a provision that consumers will not be charged for charging.

Ukraine has the potential to transform its gas sector into a modern gas market which would increase the efficiency of the economy, trigger investment cycles, boost employment and improve the quality of life of its citizens. By creating a functioning gas market, Ukraine would also improve its security of supply substantially and sustain and increase its domestic output. This process is a difficult one, including some inevitable difficulties to be surmounted. In this respect, Ukraine will have to accelerate the speed of its reforms. The faster Ukraine implements the Energy Community gas acquis, the more certain and favourable an outcome could be achieved.

In particular, Ukraine should consider introducing a new and comprehensive law regulating the gas sector. Experience shows that the various existing laws overlap and do not establish clear primary. Moreover, NERC should be granted with additional competences, such as jurisdiction on international interconnections, and competence for cross-border disputes and conflicts concerning access or use of the system. Regulated prices need to be adjusted as Naftogaz is incurring high debts. Regulation of prices of domestic gas production (which is state-owned) must be abandoned. On the other hand, gas commodity prices should not be capped at the wholesale level. Prices should be created from demand and supply fundamentals as a result of competition between domestically produced natural gas, imported gas and alternate fuels.

Restructuring Naftogaz and reforming the gas market requires that Naftogaz be able to sell gas to the public sector (comprising of, inter alia, households, institutions and organizations funded from the State and local budgets) at a more cost reflective price, as is the case with the industrial sector. The State subsidies are being gradually removed.

Ukraine should also finalise the unbundling of companies operating in the gas sector (such as Naftogaz and the distribution companies). Ukrtransgaz in particular needs to be turned into a profitable company that could ultimately finance on its own much of the investments required to ensure the most effective operation of Ukraine’s transmission system. Differences between transit (cross border) and transmission activities should be abolished. As a first step, the current income for transit should be transferred to Ukrtransgaz. Capacity allocation, balancing and transparency rules for TSOs should be developed. Finally, the status of the Third Energy Package in Ukraine should be clarified.
3.4 Oil

A Regional Overview
3.4 Oil – A Regional Overview

1. The oil sector in the Energy Community

Oil is an international commodity, and the markets in the Energy Community are closely intertwined with developments on a global level. Due to a high import dependency with a limited number of domestic producers, security of oil supply is of special concern to the Energy Community Contracting Parties. The dependency is aggravated by the lack of interconnections to facilitate oil flows, as well as insufficient storage capacities.

1. Crude oil production and trade

Domestic oil production in all Contracting Parties in 2012 was around 6 million tonnes, 1.8% higher than in 2011. This is the result of an increase in oil production by 15% in Albania, and 9.4% in Serbia. Albania is the only Contracting Party that continues to export crude oil. In 2012, Albanian exports were at 936,900 tons compared to 696,800 tons in 2011. The total imports of crude oil to all Contracting Parties in 2012 was around 6 million tons. It thus declined by around 46.8% compared to 2011, mainly due to the decline in crude oil imports to Ukraine (73%) and to the former Yugoslav Republic of Macedonia (61%). The main source of oil imports is Russia.

In Albania, crude oil production was around 1.03 million tonnes/year in 2012. Production is mainly in the hands of foreign investors. Alpetrol, the state-owned oil company, was supposed to be privatized as well. However, the Government invalidated the winning bid by Vetro Energy for Alpetrol after the company failed to make a down payment as agreed. A new tender is expected for the second half of 2013. During the reporting period, the Canadian oil company Bankers Petroleum continued and will continue to explore for hydrocarbons and to invest in Albania after the unsuccessful drilling at the first well in Block F. At the end of July 2013, Baners Petroleum also suspended drilling at the second well as it did not encounter any hydrocarbon-bearing zones that would merit testing. Another Canadian oil company, Petromanas, started drilling in December 2012 at the Jabun-1 well located on Block A in Northern Albania, and is continuing drilling of the Shpirag-2 well.

The exploration activities in Bosnia and Herzegovina (Republika Srpska) are scheduled to begin at the end of 2013 by Jadran-Naftagas, Banja Luka, owned by Naftra Industrija Srpske (NIS) and Russian company Neftegazpromnik.

In Croatia, crude production declined in 2012 by 17% due to the natural depletion of the oilfields. Production in 2012 was around 549,000 tonnes. It focused mainly on two (re-entry) exploration drilling during the reporting period. By contrast, the exploration drillings at wells Zalta-1 East and Antunovac-1 were considered unsuccessful.

In Montenegro, the announced tender for the award of the offshore hydrocarbons production concession contract was approved by the Government in July 2013. The deadline for bids’ submission will be the end of February 2014.

In Serbia, the domestic oil production during 2012 was around 1.13 million tonnes, an increase by 9.4% compared to 2011. Serbia has some oil reserves, however, these are not sufficient to satisfy domestic consumption. Production of oil in Serbia takes place in 20 oil deposits (plus 7 oil and gas fields). They are mostly located in the territory of Vojvodina. The only company in Serbia engaged in exploration and production of oil is Naftna Industrija Srpske (NIS), 56.15% owned by the Russian company Gazprom. NIS holds the license for geological explorations of oil in the exploration area of Serbia south of the Sava and Danube, as well as in the territory of Vojvodina.

Ukraine in 2012 conducted three tenders for production sharing agreements on the Zuyivska (Kharkiv and Donetsk regions), Deske (Luh and Iano-Frankivs regions) and Skyfske fields (the Black Sea shelf). Furthermore, Naftogaz successfully conducted tests at the exploratory well Runovychynska #10 in the Budyszhansko-Chutovsky acreage, already the second discovery in the Poltava region.

2. Refinery activities and trade in oil products

As regards the domestic production of petroleum products, i.e. refinery activities in the Contracting Parties, the volume of 10.7 million tons of petroleum products processed in 2012 constitutes a decline by 40% compared to 2011. This is to be attributed to the decrease in refinery activities in Ukraine (-62%) and in the former Yugoslav Republic of Macedonia (-65%).

In Croatia, the introduction of an isomerisation unit at the Split refinery in 2012 has significantly improved the octane pool in gasoline blending. As a large scale refinery development program was already completed in 2011, the overall investment in 2012 was lower than in the previous year. In Serbia, NIS opened the modernised Pančevo Oil refinery in November 2012. The next phase of investments in its modernization has already started and will be implemented within two to three years. NIS will also continue with the modernization of the basic oils refinery in Novi Sad. Modernization of the Crude Oil Refinery Brod in Bosnia and Herzegovina has continued in 2012. No investments during the reporting period took place in Albania, former Yugoslav Republic of Macedonia and Ukraine.

The export of petroleum products from the Contracting Parties in 2012 declined by 38% to 3.9 million tonnes. Again, this is to be attributed mainly to a decline of some 60% in Ukrainian exports. The same goes for the import of petroleum products which declined by 26% to a level of around 10.1 million tons in 2012. The overall consumption of petroleum products in the Contracting Parties in 2012 was 22.3 million tons (a decline of 5.6% compared to 2011).

3. Oil infrastructure

With regard to the oil infrastructure, there have been no significant changes. No additional storage capacities or oil terminals were built. The existing regional oil network infrastructure remains limited. Some envisaged new oil pipelines like PEC and AMBO remain uncertain.

Storage capacities in the Contracting Parties amount to 8.8 mcm. Most of them are in use by refineries for their daily operations. The existing storage capacity is a long way short of the additional 12.5 mcm required to comply with Directive 2009/119/EC.

4. Domestic oil markets

Markets for oil and petroleum products:
In Bosnia and Herzegovina the prices of petroleum products have been fully liberalised since 2000 and are formed by the oil companies without Government intervention.

In Croatia, a price cap for petroleum products is determined in accordance with the Ordinance on Determining the Maximal Price of Petroleum. According to this Ordinance, the maximum prices are adapted every two weeks and are published on the website of the Ministry of Economy one working day prior to the price change. Prices of petroleum products are to follow changes in their prices on the Mediterranean market and changes in the USD exchange rate, limited to a margin of 3% upwards and 6% downwards.

In the former Yugoslav Republic of Macedonia the establishment of petroleum products prices falls under the competence of the Energy Regulatory Commission (ERC). According to the Law on Energy, the ERC adopts acts and methodologies for oil derivatives and fuels for transport, stipulates the manner of setting, approves and controls refinery and retail prices for petrol, diesel fuels, light fuel oil and mazut, as well as retail prices for blends of fossil fuels and biofuels for transport. Prices of oil derivatives are determined every two weeks.

In Kosovo, the market sets the price of petroleum products apart from in cases of disturbances which may not last longer than 90 days according to the applicable legislation. For reasons of consumer protection, elimination of market distortions or other reasons in the country’s interests, the Government can define maximum/minimum prices for wholesale and retail sales, define maximum trade margins for wholesale and retail sales, and take other actions.

In Montenegro, the prices for petroleum products are set by the State, according to the Decree on the Method of Setting Maximum Retail Prices of Petroleum Products. In addition to that, the Ministry of Economy has the right to suspend the application of maximum retail prices, or change the price formula in emergency cases or force majeure.

In Serbia, the liberalisation of the oil product market in January 2007 prices concrete results. Prices of petroleum products, the storage of crude oil and petroleum products, and wholesale trade are set by the market. In accordance with the Law on Trade, however, the Government may take short-term measures if there is a disturbance in the market. Also, in accordance with Energy Law, the Government could prescribe the maximum level of prices to prevent disruptions in the oil market. In August 2012, the Government increased the excises for both gasoline and diesel fuels. Prices for oil pipeline transport and oil derivative pipeline transport are regulated. Pipelines are considered natural monopolies but third-party access to the pipelines is possible.

In Ukraine the crude oil and petroleum products market is liberalised.

b. The acquies on oil

Based on the Ministerial Council’s Decision 2008/03/EC-EnC in December 2008, the Treaty – which hitherto only applied to electricity and gas – was extended to include oil as well. Moreover, an Oil Forum as a regional consultation platform was created.

In October 2012, the Ministerial Council went one decisive step further by adopting the oil stocks Directive 2009/119/EC imposing an obligation on Contracting Parties to maintain minimum stocks of crude oil and/or petroleum products. The Contracting Parties are now under a legally binding obligation to fully implement this Directive by 1 January 2023.

The main objective of Directive 2009/119/EC is to maintain a high level of security for oil supply in the participating countries through reliable and transparent mechanisms based on solidary. In more concrete terms, the Directive requires stockholding for 90 days of net imports or 61 days of inland consumption in the preceding year, whichever is greater. It also requires enabling the competent authorities to release quickly, effectively and transparently some or all of their stocks in the event of a major supply disruption.

By the incorporation of Directive 2009/119/EC into the Energy Community, the Ministerial Council acknowledged that the availability of oil stocks and the safeguarding of energy supply are essential elements of public security for the Energy Community and each Contracting Party. Currently, the oil quantities held by the Contracting Parties do not satisfy the stockholding obligation under the Directive. Taking into account the forecasted increase of consumption over the next ten years, the Contracting Parties should increase their stockholding capacities by about 12.5 bcm. To meet the requirements of building new storage capacity and modernisation of the existing stocks have been estimated at EUR 2.9 billion. The investment for the purchase of crude oil and petroleum products for storage may amount to EUR 4.7 billion according to the Secretariat’s study on emergency oil stocks conducted in 2011.

Full and timely implementation of the Directive will determine the agenda of the Oil Forum for the upcoming years. In order to implement Directive 2009/119/EC on time, the Fourth Forum called for a speedy preparation of (updated) roadmaps and setting out concrete implementation steps for each Contracting Party with a view to transpose the Directive by December 2014 at the latest. Contracting Parties were invited to submit their drafts to the Secretariat in early 2013.

In discussing the state of implementation, the present report will focus on the steps undertaken by the Contracting Parties to transpose and implement Directive 2009/119/EC. It will also briefly summarize problems with customs duties levied on the import of oil products prohibited by Article 41 of the Treaty. Other issues pertaining to the oil sectors, such as the implementation of the Sulphur in Fuels Directive 1999/32/EC, are discussed in the chapter on environment.

1. The state of implementation of Directive 2009/119/EC

In order to be in compliance with Directive 2009/119/EC Contracting Parties need to change their domestic legal framework, they need to implement specific measures related to oil (crude oil and products) stockholding, they need to decide about or review the stockholding structure, and they need to improve the response systems in case of an emergency.

The legal framework needs to change in particular for the method of calculating the obligatory oil stocks, the rights of the agencies/companies to delegate their stockholding obligations, procedures in case of oil supply disruptions, and the obligation to submit monthly statistical summaries of the level of commercial stocks.

The stockholding structure differs from Contracting Party to Contracting Party, reflecting different political and oil supply structures. Some of the Contracting Parties direct companies to hold minimum levels of stocks as part of their commercial stocks, others by setting up a non-profit public body (e.g. agency or directorate).

The procedures for supply disruptions need to be amended so as to include the Secretariat and the International Energy Agency (IEA) in the process. The Contracting Parties must ensure that the procedures and structures in place enable their competent authorities to release quickly, effectively and transparently some or all of their emergency stocks and specific stocks in the event of a major supply disruption, and to impose general or specific restrictions on consumption. Moreover, the Contracting Parties need to have contingency plans implemented for the event of a major supply disruption.

While the Contracting Parties are requested to become compliant with the Directive by 2023 through a phased programme of changes and investment, it is also important to note that some currently have no legislation on compulsory stocks of oil at all. It is important for Contracting Parties to start transposing the Directive in laws, regulations and administrative provisions, and continue to build institutions with the capacity to effectively deal with the workload stemming from implementing Directive 2009/119/EC. The current state of play regarding the stockholding policy of each Contracting Party is as follows:

In Albania, the Government has established an inter-institutional working group which reviewed the existing legal and institutional framework for security of oil supply. The group will present to the Government a proposal for an oil stockholding policy during 2013.

Bosnia and Herzegovina currently has no legislation on compulsory stocks of oil and petroleum products in place. However, both entities adopted/amended their oil and petroleum laws in October 2012. The Commodity Reserves will be in charge of the oil stockholding policy in both entities.

In Croatia, HANDA (the Oil Stocks Agency) has established oil stocks for 90 days of consumption. 480,000 mcm of additional storage facilities for crude oil and 200,000 mcm for petroleum products are under construction. In December 2012, Croatia adopted amendments to the Oil and Petroleum Products Market Law by which the fee for oil stocks previously collected by HANDA became part of the excise duty. HANDA is now financed from the State budget.

In the former Yugoslav Republic of Macedonia the compulsory oil stocks are regulated by the Law on Compulsory Reserves of Oil and Oil Derivatives of 2008, as well as by a Decree on the Method for Determining, Calculating, and the Payment of the Fee for the Compulsory Reserves. A new draft Law, meant to align national legislation with Directive 2009/119/EC, is expected to be proposed to the Government by the Ministry of Finance.

In Kosovo, a Division for Obligatory Oil Stocks within the Department of State Commodity Reserves is not yet established. This Division is supposed to deal with emergency oil stocks as a temporary solution and to prepare the necessary steps to form a central stockholding entity at a later stage. A draft Law on Petroleum and Petroleum Products Market was prepared by the Ministry of Trade and Industry. The draft sets out the basic conditions for developments and maintenance of obligatory reserves of petroleum products and regulates wholesale and retail trade, import, storage and processing of petroleum products. A strategy for creating and maintaining the obligatory oil stocks will be drafted after the approval of this Law.

In Moldova no progress was reported regarding the legislative framework on oil stocks. The envisaged Decree on Strategic Reserves of Oil Products, which would include a requirement of storage covering 90 days and the manner of formation, maintenance and management of strategic stocks of oil and oil products, has not been adopted by the Government.

In Montenegro no progress can be reported concerning emergency oil stocks. The real situation still does not correspond to the requirements of the Energy Law. In accordance with its Article 174 and the Government’s Work Program for 2010, a Decree on Mandatory Strategic Stocks of Oil and Pe-
The Draft Law envisages the establishment of a more complex organisational structure. A separate sector within the Ministry of Energy, Development and Environmental Protection will manage the establishment, maintenance, investment and reporting of oil stocks. The Directorate for Commodity will remain responsible for procurement, storage, and managing the construction of new and reconstruction of existing storage capacity. The draft also foresees that the investments related to construction of new and reconstruction of existing storage capacity. The draft also foresees that the investments related to maintenance compulsory stocks as well as the necessary oil and oil products will be secured from a compensation fund to which producers and importers of oil and oil products will contribute.

In Serbia, the oil stockholding policy is regulated by the Commodity Reserves Law and by the Energy Law. In accordance with the Commodity Reserves Law, the Directorate for Commodity Reserves is in charge of all commodity reserves including oil stocks. A new Commodity Reserves Law in line with Directive 2009/119/EC is expected to be adopted by the end of 2013. The draft Law envisages the establishment of a more complex organisational structure. A separate sector within the Ministry of Energy, Development and Environmental Protection will manage the establishment, maintenance, investment and reporting of oil stocks. The Directorate for Commodity will remain responsible for procurement, storage, and managing the construction of new and reconstruction of existing storage capacity. The draft also foresees that the investments related to maintaining compulsory stocks as well as the necessary oil and oil products will be secured from a compensation fund to which producers and importers of oil and oil products will contribute.

In Ukraine, a Government Resolution from 2009 envisages the creation of emergency oil and petroleum product stocks by 2020. The country is apparently preparing a new draft Law to be in compliance with Directive 2009/119/EC. The Secretariat has no official information on this topic.

2. A regional approach to stockholding

As an alternative to implementing the stock-holding obligation on a national level, it should be possible for oil stocks to be held at any location across the Energy Community, provided that they are physically accessible and subject to cooperation in cases of emergency based on bilateral and regional agreements. A pragmatic reason for considering a regional approach to emergency oil stockholding is cost minimisation for building and operating storage facilities. To realise such an approach, the Secretariat suggests each Contracting Party establish a national emergency oil stocks entity. These entities will be responsible for national oil emergency stockholding measures and for liaison with the Secretariat on matters of regional response to an oil supply emergency. This requires the existence of an appropriate legal framework in each Contracting Party, which must allow for efficient emergency management on both a national and regional level. The Secretariat will continue to monitor the progress in building the required storage capacities.

On this basis the Secretariat planned for 2013 - 2014 coordinated assistance to the drafting of legislation transposing Directive 2009/119/EC, legislation dealing with emergency response systems, preparation of an oil stockholding strategy, the definition of an action plan or roadmap, the establishment of a central stockholding entity, (including the internal structure, procurement procedures, tender documentation, storage contracts, delegation contracts, financing), drafting by-laws and regulations on monitoring and reporting of oil stocks, drafting intergovernmental agreements on stockholding etc. The Contracting Parties were encouraged to raise additional topics they would like to be addressed, as well as the timing for the experts’ visit.

3. Customs duties on oil and oil products

Barriers to the free movement of energy between the Parties in the form of customs duties are still present in Albania, Bosnia and Herzegovina, Croatia, Kosovo* and Serbia which contravenes Article 41 of the Treaty. The Secretariat has discussed and reiterated this issue with all above mentioned Contracting Parties and intends to take enforcement action by the end of 2013 in cases where such violations are not being brought to an end.

4. Conclusions and Priorities

After the adoption of Directive 2009/119/EC, Contracting Parties are now expected to bring into force the laws, regulations and administrative provisions necessary for compliance within 2013 and 2014. The necessary institutional adaptations to the Directive, which have to be proposed by the European Commission, are urgently needed to accomplish this task successfully and in a meaningful manner. The Secretariat is ready to provide legal assistance on the existing/new legal, organisational and management framework. This includes support in outlining efficient and concrete cooperation schemes for a regional approach (e.g. joint stock holding among Contracting Parties and coordinated stock draw to maximize the economic benefits).

Furthermore, conceptualisation and coordination of activities related to the maintenance of oil reserves and a plan for their coordinated use (i.e. stock drawdown in case of market disruption) is already important at this stage. Finally, abolishing non-compliant customs duties by the end of 2013 should be another priority for Albania, Bosnia and Herzegovina, Croatia, Kosovo* and Serbia.
3.5 Renewable Energy

3.5.1 Regional Overview
3.5.2 Albania
3.5.3 Bosnia and Herzegovina
3.5.4 Croatia
3.5.5 Kosovo*
3.5.6 Former Yugoslav Republic of Macedonia
3.5.7 Moldova
3.5.8 Montenegro
3.5.9 Serbia
3.5.10 Ukraine
3.5.1 RENEWABLE ENERGY – A Regional Overview

Renewable energy represents one of the pillars of the energy acquis in the Treaty. It is one of the areas, along with energy efficiency and environmental protection, where the Contracting Parties have significant potential for further development that can contribute to security of supply, diversification of the energy mix and to climate change mitigation.

Initially, Directive 2001/77/EC on the Promotion of Electricity from Renewable Energy Sources and Directive 2003/30/EC on Biofuels Used in Transport were included in Article 20 of the Treaty and the adoption of plans for the implementation of the two Directives was the only obligation assumed by the Contracting Parties.


In 2009, with the exception of Ukraine, all Contracting Parties had significantly higher shares of energy from renewable sources in the gross final energy consumption compared with the 8.5% renewable energy share registered by the EU-27 in 2005. This is mostly due to hydro and biomass consumption which also represents the highest potential of all renewable energy sources in the Contracting Parties.

a. The acquis on renewable energy


The Directive lays down mandatory national targets to be achieved through promoting the use of renewable energy in the electricity, heating and cooling, and transport sectors.

When incorporating Directive 2009/28/EC into the Energy Community acquis, the Ministerial Council adapted the Directive. Most notably, the binding targets for the share of energy from renewable sources in the gross final consumption of energy in 2020 were determined for each Contracting Party, based on a similar methodology as for EU Member States. They are as follows:

<table>
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<tr>
<th>Contracting Party</th>
<th>RES Share 2009</th>
<th>2020 RES target</th>
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<tbody>
<tr>
<td>Albania</td>
<td>5.5%</td>
<td>3%</td>
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<tr>
<td>Bosnia and Herzegovina</td>
<td>13.2%</td>
<td>10%</td>
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<tr>
<td>Croatia</td>
<td>12.4%</td>
<td>15%</td>
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<td>FYR of Macedonia</td>
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<td>15%</td>
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<tr>
<td>Kosovo*</td>
<td>10%</td>
<td>15%</td>
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<tr>
<td>Moldova</td>
<td>7.5%</td>
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<td>Montenegro</td>
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<td>45%</td>
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<tr>
<td>Serbia</td>
<td>12.2%</td>
<td>15%</td>
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<tr>
<td>Ukraine</td>
<td>11.5%</td>
<td>15%</td>
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</table>

Source: Energy Community

The Directive also foresees that renewable energy, such as biofuels, electricity and hydrogen produced from renewable sources, accounts for at least 10% of the total fuel consumption in all forms of transport by 2020.

Furthermore, the adaptations also establish the framework for the cooperation mechanisms on renewable energy between EU Member States and Contracting Parties. With the acceptance of binding targets the Contracting Parties can participate in all cooperation mechanisms. Accordingly, statistical transfers for the purposes of target achievement will be possible independently from the physical flow of electricity. However, certain conditions need to be met to have the agreement of the Ministerial Council for statistical transfers or joint support schemes between EU Member States and Contracting Parties.

The development of joint projects between EU Member States and Contracting Parties will still require the physical transfer of electricity when the electricity is to count towards the EU Member State’s target. The Decision also requires energy audits to be performed every two years to ensure the reliability of statistical data provided by the energy statistics.

b. Progress made in 2012/2013

The Contracting Parties should have submitted National Renewable Action Plans (NREAP) to the Secretariat by 30 June 2013; however, only Serbia actually adopted the NREAP and submitted it to the Secretariat before the deadline. All other Contracting Parties have started to draft the NREAP, with the exception of Bosnia and Herzegovina. Kosovo*, the former Yugoslavia Republic of Macedonia, Moldova and Ukraine consulted with the Secretariat about the draft.

All other Contracting Parties have legal and regulatory frameworks in place to promote energy from renewable sources. Nevertheless, the transposition of Directive 2009/28/EC will have to be achieved through a comprehensive review of the existing legislation.

Despite widespread support schemes for electricity produced from renewable sources very few projects have become operational so far. Sketchy and unclear legal and regulatory frameworks contribute to this failure as well as cumbersome, non-harmonised authorisation, permitting and grid connection processes.

The existing caps on wind capacities imposed in former Yugoslav Republic of Macedonia (100 MW) and Serbia (500 MW) by 2020 should be gradually removed with the adoption of network development plans. These are designed to integrate more renewable energy into the grids with the implementation of a regional approach to balancing the electricity systems. Moreover, generation capacity limits for solar are sometimes in place to minimise the impact of electricity produced from renewable sources on the end-customers price (Croatia, former Yugoslav Republic of Macedonia, Serbia). The situation might change in the future due to a sharp decrease of the investment costs in solar PV technology in the last years.

Certification schemes for electricity produced from renewable energy sources remain to be implemented in almost all of the Contracting Parties. However, most of them have already assigned bodies to manage the system of guarantees of origin.

With regard to biofuels, the achievements are generally lagging behind the increase in electricity produced from renewable energy sources, and vary greatly among the Contracting Parties. There are Contracting Parties with well-developed legislation in place while in other cases, Contracting Parties have not even set indicative renewable targets for transport, as shown by the table below.

RES targets in the transport sector set up by the Contracting Parties

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<td>Kosovo*</td>
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* if values in later years are lower than in previous years, it means that they were re-defined with a later act

Source: Energy Community Secretariat

Energy Community Treaty
Even for Contracting Parties that set the targets, there is no monitoring of the actual achievement or assessment of the effectiveness of the measures in place.

5 out of 9 Contracting Parties (Albania, Bosnia and Herzegovina, Croatia, former Yugoslav Republic of Macedonia and Serbia) have national organizations, to produce biomass from vegetable and used cooking oil. Raw material is both domestically produced and imported. Furthermore, some production is exported, not contributing to the target of the Contracting Party. In Ukraine many companies export either raw material or bioethanol, and raw materials have been exported from Moldova.

8 Contracting Parties are in the very early stages of considering their approach to updating the framework for RES in the transport sector. Even those who are amending energy laws with respect to renewables (such as Albania) have not included relevant provisions on biofuels sustainability.

Furthermore, according to the draft action plans, many of the Contracting Parties count on imported biofuels, and only on liquid biofuels, and are not considering their domestic potential. Ukraine is a positive exception in that respect.

Only Croatia set up the complete legislative framework for renewable energy in transport, fully implementing Directive 2003/30/EC and Directive 2009/28/EC. This process was faster due to accession to EU on 1 July 2013.

C. Conclusions and Priorities

All Contracting Parties, except Serbia, will have to finalise and adopt the NR&EAP as soon as possible. The NR&EAP, as a strategic document that describes the policies and measures to achieve the 2020 RES targets, is providing the necessary transparency on the pathway and sets the policy framework to enable the Energy, Planning, Water and Environment, Agriculture, Transport, and Fiscal authorities responsible for energy, economy, planning, water and environment, agriculture, transport, and fiscal policies is required. Such cooperation has still not been adequately established in most of the Contracting Parties so far. The same approach to coordination and simplification of the rules has to be extended to other types of renewable energy in the transport sector, for example biogas and electricity.

For renewable energy in transport, the key issue is to introduce provisions establishing a sustainability regime for biofuels and bioliquids, including the necessary certification schemes and bodies. Without setting this framework properly, the Contracting Parties might import non-sustainable biofuels which cannot be counted towards the fulfilment of their target, and will prevent domestic producers from participating in the EU (and Energy Community) markets.

A key area for monitoring and reporting on the implementation of Directive 2009/28/EC is the determination of energy balances in accordance with Eurostat methodology. This requires the energy data to be compiled based on consumption surveys performed periodically. This aspect, most relevant for biomass consumption and solar heat needs the adequate attention of statistical offices and all institutions involved in the energy sector. Without proper consideration, the Contracting Parties might not be on track with the indicative trajectories and risk not meeting the 2020 targets.

The Contracting Parties have to ensure compliance with the requirements of Article 16 of Directive 2009/28/EC which requires reforms of electricity infrastructure related to the operation and development of the grid, as well as the rules for grid access and cost sharing, with a view to increasing the contribution of electricity from renewable energy sources. Special attention must be paid to the access to and operation of the networks for electricity from renewable sources. Progress is urgently required in the area of transparency, consistency of network rules and grid connection issues.

Furthermore the authorisation and permitting processes have to be coordinated and streamlined. Enhanced and timely cooperation between different stakeholders, especially authorities responsible for energy, economy, planning, water and environment, agriculture, transport and fiscal policies is required. Such cooperation has still not been adequately established in most of the Contracting Parties so far. The same approach to coordination and simplification of the rules has to be extended to other types of renewable energy in the transport sector, for example biogas and electricity.

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2. As regards biofuels, the Law for the Production, Transport and Trade of Biofuels and other Renewable Fuels in Transport of 2008 deals with the functional and organizational aspects of production, transportation and trade in biofuels. Albania set annual targets for biofuels and other renewable fuel in the market at 5%, starting in 2010. From 2015 onward, this share must increase to 15%. The final energy consumption in the transport sector in 2009 (the base year for the targets set by the Ministerial Council in adapting Directive 2009/28/EC) was 438 ktoe. However, the actual share of biofuels placed at the Albanian market is not known. The Law also gives some incentives for supporting biofuels and renewable fuels such as tax advantages for machineries, equipments and materials necessary for the construction and commissioning of biofuels plants etc.

However, the secondary legislation needed for the full application of the Law has not yet been developed or adopted. Moreover, it is difficult to assess its implementation in practice, since concrete achievements with regard to meeting the biofuels target have never been monitored or reported in compliance with the Law.

Other than setting the 10%-target, the new Law on Renewable Energy does not apply to renewable energy in transport.

An Italian-Albanian joint-venture has operated a biodiesel production plant located in Porto Romano since 2011. This biodiesel plant, with a production capacity of 100,000 tons per year, represents one of the first steps towards the production of biofuels in Albania.

b. Progress made in 2012/2013


The Law for the Production, Transport and Trade of Biofuels and other Renewable Fuels in Transport is currently under review. New legislation is expected to implement the requirements of Directive 2009/28/EC with regard to sustainability criteria and the certification system, as well as introducing adequate incentive measures.

c. State of compliance

Albania did not submit the National Renewable Electricity Action Plan (NREAP) by 30 June 2013 as required by the Ministerial Council’s Decision.

As regards the implementation of Directive 2009/28/EC, only parts of it were transposed by the Renewable Energy Law. The secondary legislation related to feed-in tariffs, requirements for access and operation of the grids and guarantees of origin remain to be developed in the next period to complete the implementation of Directive 2009/28/EC as adapted by the Ministerial Council in 2012. The provisions related to possible cooperation mechanisms between Albania and Contracting Parties or EU Member States and the requirements for biannual audits are not yet transposed.

Proper feed-in tariffs for all renewable energy sources are still to be developed by ERE and submitted for approval to the Government to ensure that Albania is on track to reach the interim trajectory.

The transmission system operator and distribution system operator have to improve compliance and transparency relating to the setting and publishing of the standard rules on costs of connection to the grid or grid reinforcements, which are necessary to integrate new renewable energy producers.

As regards administrative procedures, the deadlines, reception and treatment of applications between different institutions involved will be coordinated and made available to applicants by the National Centre for Energy Applications, acting as a one-stop-shop for renewable energy projects. The forthcoming period is a key to prove the proper implementation of this integrated approach for the benefit of investors.

2. The requirements of Directive 2009/28/EC related to the transport sector have not been included by the new Renewable Energy Law, thus the existing Law of 2008 on Biofuels will have to be amended to transpose the requirements for the sustainability regime as well as the mandatory target for renewable energy in transport in 2020.

d. Conclusions and Priorities

With the adoption of the Renewable Energy Law, Albania increased compliance with the renewable energy acquis as adopted by the Ministerial Council in 2012 and also proves that it has decided to act further to foster the development of new renewable energy generation capacities. This is key for a country that intends to reduce its energy dependence mostly by tapping its significant renewable energy potential through investments.

The immediate adoption and submission of the NREAP should be the first priority of the Ministry. Continuing the implementation of all the requirements arising from Directive 2009/28/EC as amended by the Ministerial Council Decision, like adoption of feed-in tariffs, access and operation of the grids, guarantees of origin, should be the main priority of Albania in the coming period.

Proper feed-in tariffs for all the renewable energy sources mentioned in the Law will have to be proposed by ERE to secure investors’ confidence. ERE must also implement the system for certifying energy produced from renewable sources based on guarantees of origin. The network operators have to increase compliance in relation to access and operation of the grids as well as transparency of grid connection procedures for new RES producers.

A full review of the Law for the Production, Transport and Trade of Biofuels and other Renewable Fuels in Transport and its implementation is needed before the deadline for the implementation of Directive 2009/28/EC expires at the end of 2013. Unfortunately, the technical assistance provided to Albania under IPA comes too late to keep this deadline. Most urgently, the missing certification system needs to be introduced as there is already biodiesel production in the country.
Bosnia and Herzegovina has not submitted the NREAP on the implementation or the forecast document as required by Directive 2009/28/EC. The complexity of the organisational structure and decision-making system hinders the effective harmonisation of the promotion of renewable energy at state-level. The two Laws recently adopted by the entities have not been assessed for compliance by the Secretariat. However, it is clear that a certification system based on guarantees of origin has yet to be established at national level.

The main provisions of Directive 2003/30/EC have been transposed at the entity levels. The Federation set up the indicative targets in line with Directive 2003/30/EC, while Republika Srpska elaborated a bit more on the incentive measures, taking additional elements and the timeframe of Directive 2009/28/EC into account. However, there is no information on the realisation of targets in both entities for the period 2008 – 2010, and further in 2011 and 2012 in Republika Srpska. Sustainability criteria for liquid biofuels and a certification scheme, as required by Directive 2009/28/EC, have not been implemented and defined.

c. State of compliance

Bosnia and Herzegovina is at risk of failing to implement the acquis on renewable energy. The implementation of a harmonised framework for the promotion of renewable energy in both entities is key for the use of renewable energy sources on a relevant scale for the significant resource potential of the country.

The priority in the area of biofuels is to implement sustainability criteria and to set up an adequate certification system.

d. Conclusions and Priorities

The existing framework for the promotion of energy from renewable sources remains split at entity level without any State legislation that would deal with the obligations to adopt a NREAP or the possibility to enter into cooperation mechanisms to reach the targets in the most cost-effective way.

It is of utmost importance to start coordinating the drafting of the NREAP and to adopt national 2020 targets which can be further split at entity level.

The current revision of the state-level legislation to comply with the Third Energy Package is an opportunity to integrate the requirements for access and operation of the grids from TSO perspective and unifying the two separate regimes currently designed at entity level.

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3.5.4 CROATIA

Renewable Energy

4. Renewable energy in Croatia

1. Currently, more than half of the electricity production in Croatia comes from hydropower, with an installed capacity of 2,129 MW in HPPs. By 2020, 1,200 MW in wind power, 100 MW in small HPPs and 85 MW electricity produced from biomass is envisaged.

During 2012, the operational capacities of renewable energy projects except hydropower increased with 58 MW reaching 193 MW, out of which 175 MW are capacities of wind farms. Several renewable energy projects are already operational: 6.7 MW based on biomass, 7.1 MW in biogas power plants and solar PV capacities reached 3.9 MW. Out of more than 6,000 MW in authorised renewable energy projects, more than 5,500 MW are wind parks.

Determined by its EU accession in 2013, Croatia agreed to a mandatory national target for renewable energy of 20% of gross final energy consumption by 2020 even before the adoption of Directive 2009/28/EC in the Energy Community.

The Energy Development Strategy adopted in 2009 includes the strategic objective of a 35% share of total electricity generation from renewable energy (including large HPPs) by 2020. The share of renewable energy in total electricity consumption is monitored annually by the Ministry of Economy.

A draft NREP was submitted for review to the European Commission. So far the final version has not been adopted by the Government.

Among all Contracting Parties, Croatia took the most consistent approach to the promotion of renewable energy and has developed a coherent legislative and regulatory framework to support the development of renewable energy projects.


The Government adopted a revised tariff system for promoting power generation from renewable sources and cogeneration in May 2013. The support schemes take the form of feed-in tariffs. Different levels of support based on capacity and/or technology are adopted for various renewable energy sources, including cogeneration, production of biogas or biofuels. The feed-in tariff for wind farm projects rose to 95.2 EUR/MWh from previously 84.6 EUR/MWh. An annual adjustment of the price based on the consumer price index is envisaged. The tariffs paid to solar projects have been cut by about 30% for projects below and over 30 kV to reflect the market trends for photovoltaic technology. Preference is given to rooftop installations rather than ground-mounted solar panels. A 15% increase in incentives is made if the projects use locally produced equipment. Another important change is an extension from 12 to 14 years of the contractual period for the application of the feed-in tariff.

The Croatian Energy Regulatory Agency (HERA) is mandated to adopt methodologies for defining the cost of connection to the networks for all types of network users, including RES producers, and to take decisions on the eligibility status for renewable energy power plants guaranteeing dispatch priority and allowing participation in the feed-in scheme. HERA also issues licenses for renewable energy power plants with a capacity of over 1 MW and high efficient CHP.

The Croatian Energy Market Operator HROTE is obliged to buy the electricity produced from eligible producers. HROTE collects the incentive fees paid by final customers for the promotion of renewable energy, and distributes them to renewable energy producers. HROTE has also been appointed as the issuing body for guarantees of origin for electricity produced from renewable sources.

There are factual limitations on the total capacity of wind farms that can be connected to the grid due to environmental concerns and risks for the operation of the electricity system. In order to overcome the security concerns, the transmission system operator adopted Additional Technical Conditions for the Connection and Operation of Wind Power Plants in 2008. The transmission system operator is also taking the balance responsibility for the electricity produced from renewable sources.

2. As regards biofuels, several biodiesel production plants in Croatia contribute to the fulfilment of the 10% target.

The primary legislation consists of the Act on Biofuels for Transport (in force since 2009, amended in 2010, 2011 and 2012). The Biofuels Act defines a general framework for production, trade, storage and use of biofuels, including the tasks and responsibilities of various institutions. The Decree on Biofuel Quality (in force since 2005), the Ordinance on Measures for Promotion of Production and Use of Biofuels (in force since 2009), the National Action Plan 2010-2020 and a Rulebook on the Sustainability Criteria in Production and Use of Biofuels (of 2013) completes the legislative framework.

Starting in 2011, targets have been defined by the National Action Plan. The 2020 target equals the share of 10% in line with Directive 2009/28/EC, in which electricity in transport will have a small contribution of 0.83%.

D. Progress made in 2012/2013

The Electricity Market Act adopted in February 2013, the Energy Act adopted in October 2012, the Heat Law of 2013, and the Biofuels Act from 2009 are milestones for the implementation of Directive 2009/28/EC.

During the reporting period, some steps have also been taken to enhance the administrative and institutional capacity in renewable energy, in particular in the Ministry of Economy and the other public institutions involved in authorisation, permitting and certification for new RES power plants. Some of the burdensome administrative procedures for small renewable energy capacities like the number of applications requested, the authorisations involved and the timeline for processing the applications have been streamlined to become more suitable for these kinds of projects. This concerns mostly wind and solar panels. However, the by-laws will have to be amended further to reduce the number of applications, documents and phases required, as well as the time for the authorisation of renewable energy projects.

The Ministry of Economy during the reporting period developed the Rulebook on the Sustainability Criteria in Production and Usage of Biofuels. Under this Rulebook, independent auditors have the responsibility to certify the fulfilment of sustainability criteria, and domestic producers and importers are obliged to ensure certification of their products according to the voluntary schemes recognised by the European Commission, as allowed by Directive 2009/28/EC.

In 2013, a new biodiesel plant opened in Osijek with a production capacity of 20,000 l/day. Plastic waste will be used as raw material.

d. Conclusions and Priorities

The finalisation and adoption of the NREP are among the main priorities for Croatia for the near future. Despite the advances taken in finalisation of renewable energy framework, Croatia is at risk of not being on track to reach the 20% target in 2020 due to slow progress in investments in renewable energy capacities that became operational until the end of 2012. Croatia has to carefully monitor being on track according to indicative RES trajectory and to take corrective measures accordingly.

The next step relating to the use of renewable energy in the transport sector should be the practical implementation of the legislative framework, as well as monitoring its effectiveness.
The overall 25% target and the separate 10% target in transport in 2020 were transposed through the Ministry of Economic Development’s Administrative Instruction in January 2013. Going beyond its binding target, Kosovo* envisages even meeting a voluntary target of 29.47% in 2020 according to the Administrative Instruction and the draft National Renewable Energy Action Plan.

Otherwise, Kosovo* intends to transpose the entire Directive 2009/28/EC through amendments to the existing legal and regulatory framework in 2014, along with the transposition of the Third Energy Package. A separate Law on Renewable Energy is not envisaged. A gap analysis was prepared for the primary legislation together with a roadmap for implementation of legislative changes.

Pursuant to the powers given to the Energy Regulatory Office (ERO) in the Law on the Energy Regulator of 2010 and the provisions relating to renewable energy in the Energy and Electricity Laws of the same year, ERO is to set feed-in tariffs. Currently feed-in tariffs have been adopted for small HPPs with a capacity of less than 10 MW, wind, biomass and biogas power plants. The feed-in tariffs for other types of renewable energy sources are missing. There is no support scheme for solar, despite the existing potential. A Government Decision provides for a five year buy-out contract with the public supplier for electricity produced from renewable sources and cogeneration, with the possibility of extension. ERO is also mandated by the Law on the Energy Regulator to issue guarantees of origin for electricity or heat produced from renewable energy sources. There is no support scheme for solar, despite the existing potential. A Government Decision provides for a five year buy-out contract with the public supplier for electricity produced from renewable sources and cogeneration, with the possibility of extension.

The existing legal and regulatory framework for the promotion of electricity generated from renewable energy is not sufficient to transpose all the requirements of Directive 2009/28/EC. The legal framework will be completed through the amendments to the energy laws mainly in relation to access and operation of the grids, authorisation, permitting and licensing procedures for RES projects. Other administrative decrees are planned to be adopted to transpose requirements for technical standards of RES equipment, certification of installers, information and training, the use of biofuels in transport and renewable energy in buildings.

1. With the adoption of the Ministerial Council Decision in 2012 on the implementation of Directive 2009/28/EC, Kosovo* committed to a binding 25% target of energy from renewable sources in gross final energy consumption in 2020 compared with 18.9% in 2009.

2. As regards renewable energy in transport, Kosovo* intends to achieve the 10% target with liquid biofuels exclusively. More concretely, it is envisaged to rely fully on biofuel imports until the end of 2017, after which domestic production should contribute to fulfilling the 10% target. The Ministry of Trade and Industry is responsible for the transport sector.

The NREEAP has been finalised and is pending adoption. Kosovo* submitted the forecast document that plans exceeding the binding 25% RES target in 2020 to a level of 29.74%. For biofuels, there has been no further activity in the adoption of the plan to implement Directive 2003/30/EC from years ago. The Ministry of Economic Development has carried out a study on the development of energy production from biofuels which was finalised by the end of 2012.

A Law on Petroleum and Petroleum Products was drafted during 2012, the adaptation of which is expected soon. However, the draft Law only allows for the usage of blended and pure biofuels, and it is far from transposing the requirements of Directive 2009/28/EC with regard to renewable energy in the transport sector. The Administrative Instruction setting out the 25% RES target in 2020 was adopted in January 2013. Another Administrative Instruction concerning sustainability criteria and a certification system is envisaged for adoption in the second half of 2014. As long as there is no domestic biofuel production, foreign certification of biofuels, recognized by the EU, will be used.

The draft NREEAP was adopted to comply with the previous Directives 2001/77/EC and 2003/30/EC. Kosovo* has produced no tangible results in that respect.

The adoption of the NREEAP must be the main priority for the next months. Moreover, a revision of the entire legal framework must be finalized soon in order to transpose Directive 2009/28/EC on time. In this context, monitoring the achievement of the targets needs to be enforced and barriers in administrative procedures for authorisation and permitting of renewable energy projects have to be removed. In practical terms, achievement of the binding 25% RES target in 2020 will constitute a significant challenge. If the capacity of the planned power plants 2thor does not enter into operation in 2017, achievement of the target is at risk.

As regards the transport sector, a certification scheme and a certification body should be put in place even if the target of 10% may be fulfilled by imported biofuels. Otherwise biofuels cannot be calculated towards the target. It is also recommended to re-consider possibilities for domestic production and also/and considering new modalities for public transport (including e-mobility).
1. The policy on renewable energy sources is set out in the Government’s Strategy for the Exploitation of Renewable Energy Resources and the Strategy for Energy Development until 2030. Both were adopted in 2010. These documents have not been revised in accordance with the Decision of the Ministerial Council of October 2012, under which the country committed to achieve a 28% target for 2020, starting from a share of 21.9% in 2009.

Renewable energy is already covered by the Energy Law. The market operator established within the transmission system operator (ENPSO) is tasked with providing the electricity produced from renewable sources, and to cover the cost of imbalances of RES producers according to the Market Code adopted in 2012. The power purchase framework agreement was adopted by the Energy Regulatory Commission (ERC) in July 2012.

According to the Energy Law, ERC issues licenses for producing electricity from renewable energy sources and decides on the status of preferential renewable energy producers. Under the Energy Law, the Government also adopts feed-in tariffs for electricity sold by preferential producers of electricity and producers of electricity from high-efficiency cogeneration facilities. Feed-in tariffs for wind, small hydro, biomass/biogas, and photovoltaic installations are set as well as a certification system based on guarantees of origin. Power purchase agreements are offered for 20 years for hydro and wind, and 15 years for solar PV, biomass, and biogas.

The Energy Agency has been appointed as the institution in charge of the implementation of the certification system for energy from renewable sources, based on guarantees of origin and as the issuing body for these types of certificates. The national program for subsidisation of households to invest in solar thermal collectors, launched in 2007, continued in 2013.

The total installed capacity of hydro power plants represents 31% of the total generating capacity and consists of eight large HPPs and several small HPPs, with a combined capacity of 639 MW, out of which 36 MW is from small HPPs.

The potential for development of new large and small hydro-power plants is estimated at 1.8 GW. Wood is primarily used for household heating. In 2009, the biomass consumption based on consumption surveys was 319 ktoe. Other significant renewable energy sources are geothermal and solar power. A study for the integration of wind power into the transmission system was finalised, and a project to create a map of wind potential and a database based on the measurement of wind intensity is ongoing.

In August 2012, HPP St. Perka, with an installed capacity of 36.4 MW, entered into operation. Currently, there are 12.58 MW installed capacity in 22 small HPPs (each of them a preferential producer). 52 MW in 45 small HPPs are in the process of construction and expected to enter into operation in the period 2013 - 2015. About 7 MW is installed in solar PV (28 preferential producers). The capacity installed in PV is expected to rise to about 18 MW by September 2014. There are no wind power plants yet in operation, however, a wind park of 36.8 MW is expected to become operational in the first half of 2014.

2. The responsible Ministry for RES in transport is the Ministry of Economy. To reach 10% in 2020, biofuels and bioliquids from import and from domestic production are planned to be used. The transposition of the Directives’ sustainability requirements for biofuels and bioliquids is expected to start in the coming period.

In the draft NREAP, the target is proposed to be 10.3% in 2020, which would require consumption of ca. 58 ktoe of renewable energy in transport. The share achieved in 2009 was 0.7%, falling short of the targeted 5.75% by 2010. The legislative framework for biofuels was strengthened by the Energy Law of 2011 which, amongst other things, provides the basis for determination of the mandatory targets and relevant obligations of undertakings and mandates the ERC to determine biofuel prices.

Although a small number of facilities exist in the country for the production of biofuels, some of the production is exported. Thus imported biofuels play a more significant role in the 10% biofuels share. In accordance with the Rulebook for the Quality of Liquid Fuels, Diesel and Motor Fuels may contain 5% biofuels and more if suitable for the market. Currently diesel fuels mixed with 8% biodiesel is sold on the market. ERC also defines a methodology for the determination of biofuel prices.

b. Progress made in 2012/2013

The preparation of the NREAP is ongoing in the Ministry of Economy. The Secretariat has been consulted regarding the draft NREAP. However, the quality has to be improved significantly.

In April 2013, the Government adopted new feed-in tariffs for electricity produced from biomass, increasing it to 150 EUR/MWh and for biogas to 180 EUR/MWh. The capacity limit for preferential generators eligible to apply for feed-in tariffs has been revised, photovoltaic installations are now capped at 18 MW (from previously 10 MW). The feed-in tariff has decreased to 160 EUR/MWh for capacity lower than 50 kW and 120 EUR/MWh for capacity higher than 50 kW. The feed-in tariff for wind of 89 EUR/MWh is applied only to projects below 50 MW and for 20 years. The support scheme for RES producers is financed through a component of the market operator fee applied to all electricity suppliers.

Subsidisation (up to 30%, but not more than EUR 300) of solar thermal collectors in households has also continued in 2013 with an overall budget of around EUR 100,000. The program aims to reduce the consumption of electricity used for water heating and also envisages significant financial savings for households. So far, about 1900 households have been subsidised since the start of the program in 2007. Moreover, soft credit lines for investments in projects promoting renewable energy and energy efficiency are available at several banks for households and businesses.

The draft NREAP contains certain considerations on the certification of sustainable biofuels. However, it is without a full understanding of the sustainability criteria and does not envisage more concrete planned activities to implement Articles 17-21 of Directive 2009/28/EC.

A Decree on Liquid Fuels Quality has been under preparation during the reporting period. Its provisions on determining and monitoring the liquid fuel quality, rights and obligations of market participants and State authorities and replacing fuel reserves will apply to biofuels as well.

c. State of compliance

The National Renewable Energy Action Plan describing the policies and measures aiming to achieve 28% RES target in 2020 has not been adopted and notified to the Secretariat by the deadline of 30 June 2013.

1. The binding 28% RES target in 2020 has not yet been transposed, the same goes for the provisions related to cooperation mechanisms among Contracting Parties or with EU Member States.

In relation to grid connection and in accordance with the provisions of Article 16 of Directive 2009/28/EC, ENPSO and EVM, as network operators, have to become more transparent towards the RES producers regarding information on the estimated costs of connection, time for processing the application and for making the connection.

In the last year steps have been taken to remove some of the barriers related to authorisation and permitting procedures for RES projects, however compliance with the provisions of Article 13 has not been achieved. A more coordinated approach of all institutions or the creation of a one-stop-shop for all RES applications should create a more conducive investment climate in the country.

2. The Energy Law of 2011 constitutes a general basis for the further transposition of Directive 2003/30/EC. However, for full compliance different secondary acts - on annual targets, incentives, and promotion measures – are missing. The Rulebook on the Quality of Liquid Fuels defines the characteristics of liquid fuels which may be put on the market including biodiesel (biodiesel, bioethanol, and ethyl alcohol) and blended fossil fuels. However, sustainable criteria for liquid biofuels production and import, as defined by Directive 2009/28/EC, have not been implemented. Consequently, a certification scheme and body have also not been determined.

d. Conclusions and Priorities

In the last years significant steps forward have been made to improve the legal and regulatory framework for the promotion of energy from renewable sources.

Finalisation and adoption of the NREAP in line with the commitments taken to reach a 28% RES target in 2020 has to be the first priority in the upcoming period. A key aspect in this respect is to review the energy statistics on biomass consumption and to start compiling energy data based on consumption surveys in accordance with the EUROSTAT methodology. The revision of the Energy Law to transpose the provisions of Directive 2009/28/EC is required by the end of 2013 to meet the implementation deadline.

Simplification and streamlining the processes for authorisation, permitting, connection to the grids and licensing is key for the further development of energy from renewable sources. The secondary legislation regarding renewable energy in the transport sector as envisaged by the Energy Law in 2011 and by the plan on the implementation of Directive 2003/30/EC, has to be developed as soon as possible. Furthermore, the implementation of sustainability criteria and the establishment of a certification system in line with Directive 2009/28/EC is a high priority.
a. Renewable energy in Moldova

1. Moldova has relatively little potential for renewable energy sources. Hydro, solar, wind and other resources are estimated at about 2.7 mtoe. At the same time, using the available renewable energy sources could alleviate the high energy dependency of the country. In 2011, the two hydropower plants with a total installed capacity of 64 MW produced only 7 ktoe and contributed only marginally to the existing volumes of renewable energy consumption. The large majority of renewable energy consumed in the country is biomass used for heating.

With the adoption of Directive 2009/28/EC, Moldova committed to a binding 17% target of energy from renewable sources in gross final energy consumption in 2020 compared with 11.9% in 2009. Moreover, in the 2030 Energy Strategy of Moldova, the country foresees a RES contribution of 20% by 2020, which will be challenging to meet considering the little advancement made in the last years.

A draft Law on Renewable Energy is currently under preparation. It is supposed to replace the existing Law on Renewable Energy which has been in force since 2007. The draft transpose the binding 17% target and the 10% target of renewable energy in transport to be reached in 2020. Furthermore, the draft Law intends to comprehensively transpose requirements from Directive 2009/28/EC for the electricity, heating, cooling and transport sectors.

The NREAP is also being drafted and its adoption may be expected for autumn 2013. According to the draft NREAP, the 17% share of renewable energy by 2020 is broken down into a 10% share in electricity consumption, 10% in the transport sector and 27% in heating and cooling.

Furthermore, the draft Law introduces support schemes for energy from renewable sources, to be approved by the Ministry in charge of energy. This constitutes a paradigm shift in comparison to the existing cost-plus methodology. Support schemes for heating installations will be included in a separate Heat Law which is also under preparation.

The Law also foresees the simplification and streamlining of administrative, permitting and licensing procedures for renewable energy projects. The Law on Science and Technology Parks include tax incentives for businesses involved in manufacturing or trading equipment to be used in RES projects.

Electricity suppliers will be required to purchase the electricity produced from renewable sources from a single RES supplier that integrates the priority production of all RES generators and cogeneration plants. Guaranteed access to the grid and priority dispatch is provided for in the draft Law. The draft Law also established an energy efficiency fund to promote the full support, inter alia, renewable energy projects including biofuels.

2. As regards renewable energy in the transport sector, the Renewable Energy Law of 2007, as amended in 2010, provides for relatively high targets for biofuels, namely 6% of ethanol in the total gasoline consumption, 5% of biodiesel in the diesel mix by 2013, and 20% of biofuels in the total fuel mix by 2020. The draft Renewable Energy Law and the NREAP will revise and reduce these targets in line with Directive 2009/28/EC. The 10% share in the transport sector is foreseen to be fulfilled mostly by imports. Still, there are several active companies in Moldova producing ethanol and biodiesel. It is worth noting that the share of renewable energy in the transport sector is currently zero. The first consumption of biofuels is expected only in 2015, at a level of 1.12%.

The only form of support for biofuels, as defined by the Renewable Energy Law in place, consists of tariffs to be approved by the National Energy Regulatory Agency (ANRE) for different types of biofuels to cover investments, construction, extension, transport and distribution costs for a period of 15 years, provided that the rate of return is no higher than twice the rate of return for conventional fuels. Furthermore, the complete volume of biofuels produced locally must be acquired by local fuel suppliers. Whereas this might guarantee a market for biofuel producers at local level, it might also harm the full usage of the national production potential which might be available for export.

According to the draft NREAP, the Energy Efficiency Agency will be nominated as a certification body once the relevant framework is in place, including voluntary certification schemes.

b. State of Compliance

Moldova failed to adopt and submit the NREAP required under Directive 2009/28/EC on time, by 30 June 2013.

1. The current legal framework in force since 2007 is incomplete and proved to be unsuccessful for a significant contribution to RES development in the country. To become compliant with Directive 2009/28/EC a revised Renewable Energy Law is currently being drafted. A consistent and realistic approach for RES deployment based on potential assessment and least cost impact for electricity consumers must be considered to meet the commitments of 17% RES share in 2020.

2. As regards the transport sector, most of the provisions of Directive 2003/30/EC have been transposed by the existing legislation. Indicative targets, promotion and different kinds of incentives have been in place, while monitoring provisions are missing, in particular related to the effects of blending above 5%. The relevant provisions of Directive 2009/28/EC have yet to be transposed.

d. Conclusions and Priorities

The legal and regulatory framework for renewable energy has to undergo significant changes for an adequate compliance with the acquis. This is the first step to gain investors confidence and to ensure that 2020 RES objectives will be met.

The adoption of the NREAP must be the first priority of the country. Moreover, the draft Law on Renewable Energy should be adopted before the end of this year. With its adoption, Moldova will move closer to implementing Directive 2009/28/EC, and at the same time improving the framework needed to attract investment in renewable energy projects. Monitoring of the effectiveness of the measures in place will be key in the future.

The new Law should also introduce the concept of sustainability criteria and certification of biofuels. In general, the significant agricultural potential of the country should be tapped to develop domestic biofuel production as a new area of the economy, rather than relying on biofuel imports. A feasibility study on suitable land areas and crop types was developed in 2012 within EU/UNDP project “Energy and Biomass”.

After the adoption of the new Renewable Energy Law, the regulatory framework will have to be completed and updated.
1. In Montenegro, electricity is mainly generated from hydropower. Currently, 635 MW (76% of the installed generating capacity) are generated in HPPs, out of which 9 MW in small HPPs. As Montenegro depends on significant electricity imports, the contribution of domestic electricity from renewable sources to total final electricity consumption is around 30-35%, depending on the hydrology. Montenegro still has abundant resources in hydropower estimated at 2 GW, for both large and small HPPs. Wind (400 MW), solar (33 MW) and biomass (4.2 TWh/a) also have significant potential. In 2009, biomass consumption was at 62.5 ktoe.

With the adoption of Directive 2009/28/EC, Montenegro committed to a binding 33% target of energy from renewable sources in gross final energy consumption in 2020 compared with 26.3% in 2009.

At the same time, the Energy Development Strategy 2025 still sets a target of only 20% renewable energy in primary energy consumption to be achieved between 2020 and 2025.

Provisions related to electricity generated and, to a lesser extent, to heating from renewable sources are included in the existing Energy Law from 2010. They are further implemented through a set of Governmental Decrees of 2011, namely for privileged producers, feed-in tariffs, and guarantees of origin.

Under the Law, the Ministry of Economy is responsible for the setting of the methodology for feed-in-tariffs in Montenegro. The methodology is submitted to the regulatory authority for its opinion. Governmental Decrees on feed-in tariffs for small HPPs, wind and biomass as well as for co-generation and power plants that use solid waste, biogas and waste gases are in place for so-called privileged producers. The tariffs are revised annually based on the inflation index.

The Energy Regulatory Agency (IRA) is tasked to issue guarantees of origin for electricity generated from renewable energy sources and to maintain a register of issued guarantees. It also has powers to monitor the annual contribution of renewable energy sources in the gross generation and consumption of electricity and approves the status of privileged producers.

Draft amendments to the Energy Law with the intention to transpose Directive 2009/28/EC together with the Third Energy Package are under preparation. The proposed changes include inter alia, provisions related to access to and operation of the grids for electricity from renewable sources, administrative procedures, regulations and codes, the framework for the cooperation mechanisms, monitoring and reporting obligations.

2. Biofuels and bioliquids are currently dealt with by the national legislation at all.

b. Progress made in 2012/2013

The NREAP is still being drafted. Recent progress can be noted related to the opening of the third round of tendering for small HPP concessions on eight river streams in Montenegro. This follows the two previous successful rounds which were finalised with agreements signed for 36 small HPPs on 13 river streams, having a total installed capacity of about 100 MW and total estimated annual production of 300 GWh.

The Concession Act for the Construction of Small Hydro Power Plants in Montenegro was adopted in June 2013. In March 2013, the first small HPP out of a series of 36 small hydropower plants based on 13 previously awarded concession agreements was built and put into operation. Jezerstica HPP on river Bistrica has an installed power of 1 MW and an estimated annual production of 3 GWh. Moreover, the two wind farm projects located in Kovo (72 MW) and Mozura (46 MW) are advancing the construction phase.

c. State of compliance

Montenegro failed to adopt and submit the NREAP required under Directive 2009/28/EC on time, by 30 June 2013.

1. The legal and regulatory frameworks are in the process of completion as Montenegro envisages full compliance through transposition and implementation of Directive 2009/28/EC.

Significant progress has been made in the last years with the adoption of three Governmental Decrees: on feed-in tariffs (adopted for wind solar, biomass, small hydro, energy from biogas and waste as well as high-efficient cogeneration), on guarantees of origin and on privileged producers.

The requirements provided for in Article 16 of Directive 2009/28/EC related to access to and operation of the grids as well as rules for connection to grids for renewable energy producers are still not entirely implemented. More transparency is required from the network operators in relation to connection to the grids of the RES power plants.

2. As regards the implementation of the acquis related to renewable energy in the transport sector, the situation is characterised by a complete lack of compliance. Even the indicative targets required by Directive 2003/80/EC five years ago have not been set up, not to mention other measures such as promotion, incentives and monitoring of the effects. Directive 2009/28/EC defines even more complex requirements for biofuels like sustainability criteria and certification which have not been transposed yet.

d. Conclusions and Priorities

Montenegro has to step up its effort to fully implement Directive 2009/28/EC as adapted by the Ministerial Council. The progress made so far mostly related to electricity and heat produced from renewable sources has to be complemented by the proper attention given to renewable energy in transport. Moreover, the administrative capacity of the Ministry of Economy in the renewable energy sector has to be enhanced to be able to cope with the challenges of this important sector in Montenegro.
3.5.9 Serbia

Renewable Energy

a. Renewable energy in Serbia

Serbia currently operates 44 MW in small HPPs, 2 MW in biogas power plants, 0.5 MW installed in wind and 2.4 MW in solar PV. Four plants with a total annual capacity of 81,000 tons are currently in operation for biodiesel production, of which the Victoria Oil plant alone has a capacity of 75,000 tons per year. Eleven bioethanol producers dispose of capacities around 45,000 hl per year. One Serbian biodiesel producer is active on the market.

Serbia has a promising potential for renewable energy, including a largely untapped hydro potential, mainly for medium-sized and small HPPs, of about 4.6 GW, as well as 2.3 TWtWh for wind, 50 MW for geothermal and 33 MW for solar energy. Biomass from wood and agricultural waste has arguably the highest potential in Serbia among all renewable sources, at an estimated 19 TWtWh.

With the adoption of Directive 2009/28/EC, Serbia committed to a binding 27% target of energy from renewable sources in gross final energy consumption in 2020 compared with 21.2% RES share in 2009.

Article 52 of the Energy Law adopted in 2011 stipulates the adoption of the National Renewable Energy Action Plan (NREAP) by the Government including the national RES target committed in the Energy Community. The NREAP describes the policies and measures to achieve a 27% RES share in 2020. With the adoption of the Government Serbia has implicitly transposed the 27% RES target for 2020.

The Government adopted the NREAP in June 2013, together with a revised forecast document on the measures of cooperation between EU Member States and Energy Community Contracting Parties. The NREAP foresees achieving a 27.3% RES target in 2020. It envisages increases of renewable energy shares in electricity to 36.6% from 28.7%, for heating and cooling to 30% from 28.7% and for the transport sector to 10% from 0% in 2009. The renewable energy needed to meet the 27% target is estimated at 2,563.6 ktoe and should come from an additional 1,002 MW of renewable energy capacities in electricity, 149 ktoe of renewable energy consumption for heating and 246 ktoe of renewable energy in transport.

So far, Serbia is also the only Contracting Party that plans to enter into a cooperation mechanism and to transfer excessive renewable energy to an EU Member State. According to the forecast document, a joint agreement between Italy and Serbia for the development of 10 small hydropower plants was ratified by the Serbian Parliament. It is thus possible for the electricity produced in the newly built 10 SHPPs in Serbia estimated at 84 ktoe in the years 2016 - 2020 to be physically transferred and consumed in Italy and therefore count towards Italy’s target.

The legal framework for renewable energy is split among several laws and by-laws. There is no intention to adopt a separate, comprehensive renewable energy law to transpose all requirements of Directive 2009/28/EC.

The Energy Law of 2011 defines the legislative framework for renewable energy, including the transport sector. It has transposed to a great extent the main principles arising from Directive 2009/28/EC related to support measures for renewable energy producers of electricity, heat and for biofuels producers, the definition of preferential producers as being eligible for a support scheme, the introduction of guarantees of origin for the electricity and heat RES producers.

The Energy Law foresees that implementing acts are to be adopted by the Government or Ministry responsible for energy. Four Governmental Decrees deal with feed-in tariffs for RES technologies, acquiring the status of privilege producers, and the incentive fee for the promotion of electricity from RES applied to end customers. The Law defines biofuels production as an energy activity which requires a licence issued by the regulator. Furthermore, the Law stipulates a responsibility for the Government to define the mandatory RES targets in the transport sector, measures to target achievements, as well as criteria of sustainability and incentives for biofuels production.

2. Some particular elements relevant for biofuels are defined by the amended Regulation on the Energy Development Strategy Action Plan for the period of 2007 - 2012, which introduced a blending obligation and set up mandatory targets for biofuels shares in transport fuels for the years 2010 (0.76%), 2011 (1.52%) and 2012 (2.28%). The National Renewable Energy Action Plan sets up a target for the transport sector of 10% by 2020, in line with Directive 2009/28/EC. Expressed in terms of gross final energy consumption, renewable energy in the transport sector will have to reach 246 or 267 ktoe, depending on the chosen scenario.

b. Progress made in 2012/2013

Serbia was the only Contracting Party to submit the NREAP to the Secretariat by the deadline of 30 June 2013 and a forecast document envisaging reaching the 27.3% RES target in 2020.

In January 2013, four implementing regulations were adopted by the Government related to acquiring the status of privileged producers, feed-in tariffs for various renewable energy technologies, incentive fees applied to energy crops promoted for renewable energy, and allocation of the fees collected to promote renewable energy. By the same regulations, the previous capacity caps for wind and solar were raised to 500 MW and 10 MW respectively. The framework based on four Governmental Decrees for the support of renewable energy technologies has been finalised with the adoption of the framework contract for power purchase agreements between the EPS and the new RES producers.

A revision of the Energy Law is planned in the context of the amendments required to transpose the Third Energy Package by the end of 2013. It is also expected to transpose the remaining provisions of Directive 2009/28/EC, including the cooperation mechanisms.

During the revisions made to the Energy Law in 2012, provisions requiring the Ministry’s approval for the construction of small HPPs with a capacity lower than 1 MW were introduced.

The regulatory authority adopted a methodology for calculating the costs of connection to the transmission and distribution networks. A “shallow approach” (costs of connection excluding the reinforcement of the grids) is applied for medium-sized and small producers, including renewable energy.

A Law on Incentives in Agriculture and Rural Development defines the systems of incentives for small HPPs lower than 1 mW. The measure was intended only to limit the validity of the energy permits to three years, however, the amendments created unjustified administrative burdens for the small producers, now required to undergo an authorisation procedure like other large RES projects, as well as for the Ministry.

With the adoption of the four Governmental Decrees in January 2013, Serbia increases compliance with the requirements of the renewable energy acquis, however several issues like access to and operation of the grid, as well as the implementation of administrative procedures for RES plants and cooperation mechanisms remain to be transposed during the revision of 2011 Energy Law.

2. Serbia adopted obligatory blending targets for the period 2010 - 2012 by the amendments to the Regulation on the Energy Development Strategy Action Plan for the period of 2007 - 2012. However, this was not in compliance with Directive 2003/30/EC, since the targets have been set up as much lower shares than required by the Directive. Furthermore, the NREAP shows that even those lower targets have not been reached - the share of renewable energy in the transport sector is still 0%. Thus, by not transposing provisions on promotion, monitoring and reporting and zero level of biofuels consumption, the implementation of Directive 2003/30/EC completely failed, while the relevant requirements of Directive 2009/28/EC are only planned to be implemented in the course of 2013.

Feed-in tariffs for various renewable energy sources have been adopted.

Amendments in the Energy Law also have to be made to complete the renewable energy framework related to the regime of access to the grids for energy from renewable sources. Currently, the Law does not include guaranteed or priority access nor priority dispatch for the electricity or gas produced from renewable sources.

Furthermore, the procedures for authorisation, licensing and network connections need to be further simplified and coordinated by the various institutions involved. The existing procedures remain the greatest barriers to the development of renewable energy projects in the last five years, very few are advancing in the construction phase.

In 2012, the Energy Law was amended to include the approval of the Ministry responsible for energy for permits given for small HPPs lower than 1 MW. The measure was intended only to limit the validity of the energy permits to three years, however, the amendments created unjustified administrative burdens for the small producers, now required to undergo an authorisation procedure like other large RES projects, as well as for the Ministry.

With the adoption of the four Governmental Decrees in January 2013, Serbia increases compliance with the requirements of the renewable energy acquis, however several issues like access to and operation of the grid, as well as the implementation of administrative procedures for RES plants and cooperation mechanisms remain to be transposed during the revision of 2011 Energy Law.

c. State of compliance

The adopted NREAP has been notified to the Secretariat by the deadline of 30 June 2013. Serbia thus complied with the first binding obligation under the Ministerial Council’s Decision of 2012.

1. According to Directive 2009/28/EC, as adopted by the Ministerial Council, Serbia still has to notify the Secretariat of the ratified agreement between the Serbian Ministry of Energy, the Italian Ministry of Economic Development and the Italian Ministry of the Environment and the Protection of Natural Resources and the Sea, for the cooperation on joint RES projects. The agreement envisages cooperation for the development of 10 small SHPPs and the physical export of 84 ktoe of electricity in the period 2016 - 2020 to count towards the Italian RES target.
d. Conclusions and Priorities

In the reporting period, Serbia has made significant steps forward for completion of the renewable energy legislation and regulations to promote energy from renewable sources. However, several issues need immediate attention.

The timely revision of the Energy Law to ensure compliance with Directive 2009/28/EC should be the main focus for the upcoming months. The regulatory framework for renewable energy needs to be completed and new renewable energy projects to become operational to put Serbia on track to meet the interim trajectory before 2020.

The legal framework for renewable energy in the transport sector has still to be established, including measures already described by Directive 2003/30/EC such as monitoring, promotion and reporting requirements. The ultimate priority is the introduction of sustainability criteria and a certification system for liquid biofuels. This was recognised by the Government in the NREAP. This is of utmost importance not only to be able to fulfil the domestic target in the transport sector, but also to enable producers using Serbian stock to enter the EU biofuels market.

Renewable Energy

3.5.10 UKRAINE

1. With the adoption of Directive 2009/28/EC, Ukraine committed to a binding 11% target of energy from renewable sources in gross final energy consumption in 2020 compared with 5.5% in 2009.

The Energy Strategy 2030 is currently under revision; it should also set out policies and measures to reach the renewable energy target. As it currently stands, the draft envisages a fourfold increase in the share of electricity produced from renewable energy sources, mainly of biomass, wind and solar energy.

Several legislative and regulatory acts have been adopted in recent years to create the framework for the promotion of renewable energy sources. The legislative framework for renewable energy consists of the Law on Alternative Energy Sources and of the Law on Alternative Fuels. The main institution responsible for the implementation of renewable energy policy is the State Agency for Energy Efficiency and Energy Conservation (SAEESC), under the auspices of the Ministry of Economic Development and Trade of Ukraine.

The amendments to the Electricity Law of 2009 introduced a “green tariff” for electricity produced from renewable energy sources. The amounts of the green tariffs calculated by the Ukrainian Energy Regulatory Commission (NERC) are established individually for each business entity and each renewable energy technology until 1 January 2020. The green tariff is based on a coefficient applied to the retail electricity tariff. The current amounts were set at the end of 2012. The “green” coefficients, ranging currently from 1.2 for wind and small HPs to 4.8 for solar PV, will be cut and decreased gradually over the next 15 years to adjust to the trend of technologies cost reduction, mostly for solar PV. A revision of the support scheme for renewable energy taking the form of the Green Tariff Law entered into force in April 2013 and was extended to cover electricity generated from biogas and solid waste from households.

In June 2011, the Ukraine adopted the Law on State Guarantees to Promote the Use of Renewable Energy Sources. According to this Law, the State guarantees, for the duration of the green tariff application, that all electricity produced will be purchased at the established green tariff.

Other support schemes for renewable energy are tax incentives, namely exemptions from corporate tax, VAT exemptions on certain imports and a 75% reduction of property tax on the purchase of land for green energy projects.

A Law on Local Content Requirements was adopted in 2011. It requires the usage of locally produced raw materials, fixed assets and services in the development of renewable energy facility as a precondition for producers to receive the green tariff for the renewable electricity generated. The usage of local products must not be less than 30% starting from 1 January 2012 and growing to 50% as of 1 January 2014. This requirement also applies to the electricity produced from solar energy, where a minimum of 30% of Ukrainian raw materials has to be included in the production cost of the solar modules panels for the producer to qualify for the green tariff.

The policies and measures introduced over the last years have started to bear fruits. The installed RES capacities in 2012 almost doubled compared with the level at the end of 2011, reaching 571.6 MW, out of which 371.6 MW was solar PV and 193.8 MW was wind. The transport sector in Ukraine has been included in this development for more than a decade, mainly the export of raw materials for biofuel production in the EU. The exports of rapeseed, for example, increased 60 times over five years. The share of renewable energy in the domestic transport sector was at a level of 3.9% for the last seven years.

2. The framework for renewable energy in the transport sector consists of several acts, namely the Law on Energy Savings, the Law on Alternative Energy Sources, the Law on Alternative Types of Liquid and Gaseous Fuels, the Order Arranging Production and Use of Biogas, the Law on Amendments to Certain Legislative Acts of Ukraine Regarding Production and Use of Motor Fuels Containing Bio-Components, the Resolution on the Procedure for Granting Privileged Loans to Implement Investment Projects for Production of Alternative Sources of Fuel. There are also different resolutions and programs, such as the Target Economic Program for Energy Efficiency and Development of Energy Production from Renewable Energy Sources and Alternative Types of Fuel for the period of 2010-2015, and the Target Scientific and Technical Program for Development of Biological Fuel Types Production and Use. Renewable targets for the transport sector are defined only for one type of fuel, bioethanol. For 2013, it is still a voluntary 5% share of the total fuel volume in 2013, but becomes a mandatory 5% in 2014 and 2015, and a mandatory 7% starting form 2016. The draft NREAP envisages biodiesel production in the long term, as well as usage of renewable energy in the transport sector.
Electricity and biogas. They are supposed to contribute to the 10% target for the transport sector by 2020.

The main incentive instrument for biofuels is tax exemption. Pursuant to the Tax Code, there is a zero tax for 100% bioethanol, used for blending in the further production of biofuels. Furthermore, 80% of the profit is not taxed if it comes from sales within Ukraine of its own bioethanol production, as a measure to increase biofuels domestic production and national consumption share, but it might be discriminatory towards other traders.

NERC is also finalising the methodology on calculating the fees for connection. The mechanism of cutting the share of raw materials, materials, fixed assets, works and services of Ukrainian origin in the cost of construction of renewable power facilities has been approved by NERC in 2013. The mechanism of calculating the share of raw materials, materials, fixed assets, works and services of Ukrainian origin in the cost of constructing RES projects is providing the regulator with the tool for determination if a RES producer meets the threshold quota of 30% in 2013 and 50% starting 2014, for access to the support scheme.

In 2012, the wind generation capacities installed reached 193.8 MW, and solar capacity reached 380 MW. Energy from biomass remains underutilised in view of Ukraine’s significant potential.

The Law on Amendments to certain Legislative Acts of Ukraine regarding Production and Use of Motor Fuels Containing Bio-Components, setting up the targets for bioethanol, was approved during the reporting period. The Secretariat has no information as to whether the Law on Development of Production and Consumption of Biofuels, which is supposed to set up the proper framework for biofuels, has been approved since it was drafted in early 2012.

The cost and non-cost barriers identified by the Ukrainian Bioenergy Association’s experts to be hampering the development of bioenergy projects are partly removed with the adoption of green tariff rates for electricity from biogas. However, more remains to be done to streamline the administrative procedures, to ensure transparency of the public institutions to facilitate investments in bioenergy projects and to create a market for energy from renewables used for heating considering the great potential that Ukraine has.

The finalisation and the adoption of the draft NREAP describing the policies and measures on how to reach 11% RES target in 2020 and 10% RES target in transport must be the main priority for Ukraine in the upcoming period.

The local content requirement remains an issue of concern and should be modified in line with the Energy Community Treaty.

The targets for different types of biofuels must be defined so as to correspond harmoniously, ensuring the transparency of the overall target in the transport sector and the consequent monitoring of target fulfillment. Furthermore, setting up sustainability criteria and an adequate certification scheme in line with Directive 2009/28/EC is a key requirement for boosting sales of raw material and/or biofuel production and in particular their export to EU markets.
3.6 Environment

A Regional Overview
Energy and environment are two closely interlinked matters. The generation, transmission and consumption of energy raise a number of questions related to the protection of different environmental media. This can mean emissions into the air, water and soil, intensive land use, waste management, etc. By including pieces of the environmental acquis in the Energy Community Treaty, the link between energy policy and environmental policy is formalized in a legally binding form.

In the Contracting Parties, energy production is mainly based on fossil fuels (coal, oil and natural gas). This is mainly due to the availability of resources and related infrastructure as well as historical reasons. In most of the Contracting Parties (Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Ukraine), hydropower plays a significant role. Nuclear facilities are only operated in Ukraine.

According to Yale University’s 2012 Environmental Performance Ranking, the environmental situation in the Contracting Parties varies to a large extent and there is a difference between Contracting Parties both in terms of policy instruments and the current state of play regarding environmental issues (e.g. adverse effects of emissions from energy production on the air and living environment). The Environmental task force established by the Ministerial Council coordinates the preparation of the timely implementation of the Directive by the Contracting Parties. The main task to be accomplished relates to stock-taking of both the emission data and the legal framework in the Contracting Parties.

The main points of the four Directives on environment are as follows:

1. The Environmental Impact Assessment Directive aims at identifying and assessing environmental consequences of projects before a building or operation permit is granted. In terms of network energy, Annexes I and II to the Directive cover projects both in energy generation and transmission/distribution as well as storage of gas and petrochemical products. The key document within the environmental impact assessment procedure is the environmental impact study to be compiled and submitted by the developer to the competent authorities for review. The procedure itself can be divided into four main parts, namely (1) screening, i.e. the determination of whether an environmental impact assessment is required for a given project covered by Annex I (mandatory) or Annex II (non-mandatory); (2) scoping, i.e. the identification of the issues to be covered by the environmental impact study; (3) the elaboration and submission of the environmental impact study by the developer; (4) a review of the study by the competent authorities and the adoption of an authorization decision, before which (domestic) authorities likely to be concerned by the project, the public concerned and other countries likely to be significantly affected by projects with a transboundary impact are to be consulted. The notified version of the Environmental Impact Assessment Directive 2011/92/EU has not yet been incorporated into the Energy Community.

2. The key objective of the Sulphur in Fuels Directive is to ensure effective protection from the risks resulting from SO2 emissions, by imposing thresholds meant to prevent sulphur deposition exceeding critical loads and levels. In doing so, this Directive covers two kinds of fuel oil, i.e. refined oil used for combustion with the purpose of generating heat or power. The key element of the Directive consists in setting the maximum sulphur content for heavy fuel oil and gas oil. The sulphur content of heavy fuel oil must not exceed 1% by mass. The sulphur content of gas oil must not exceed 0.10% by mass. The Directive envisages certain derogations allowing for more lenient thresholds in case the Large Combustion Plant Directive is not implemented. Furthermore, the Sulphur Directive requires enforcement, namely by sampling and analysis, and determining penalties. The Directive also obliges the Contracting Parties to report each year on the sulphur content of the fuels oils covered by the Directive and used within their territory during the preceding year.

3. The overall aim of the Large Combustion Plants Directive is to reduce emissions of acidifying pollutants, particulates, and ozone precursors. Control of emissions of different pollutants (sulphur dioxide, nitrogen oxides and dust) from large combustion plants plays an important role in the European Union’s efforts to combat acidification, eutrophication and ground-level ozone. The Directive covers combustion plants which have a rated thermal input equal to or greater than 50 MW.

The Directive contains different emission limit values (for SO2, NOx and dust) for three categories of plants. Plants licensed after 26 November 2002 (the so-called “new plants”) have to comply with stricter emission limit values while plants licensed on or after 1 July 1987 and before 27 November 2002 (the so-called “old new plants”) have to comply with less strict ones. Significant emission reductions from the so-called “existing plants” (licensed before 1 July 1987) should be achieved either by compliance with the individual emission limit values of the Directive or by applying a national emission reduction plan that achieves an overall reduction of emissions calculated on the basis of those emission limit values, or by a combination of the two approaches. A national emission reduction plan must address all three pollutants for all plants covered by the plan.

In April 2013, the European Commission proposed to the Ministers of the Energy Community countries an adaptation of the Directive to allow the Community to achieve its climate and energy objectives, including its chapter III and annex V in the Energy Community. This is the main aim of the new Directive, which is the long-term conservation of naturally occurring wild birds in Europe.

The main findings

The Directive contains different emission limit values (for SO2, NOx and dust) for three categories of plants. Plants licensed after 26 November 2002 (the so-called “new plants”) have to comply with stricter emission limit values while plants licensed on or after 1 July 1987 and before 27 November 2002 (the so-called “old new plants”) have to comply with less strict ones. Significant emission reductions from the so-called “existing plants” (licensed before 1 July 1987) should be achieved either by compliance with the individual emission limit values of the Directive or by applying a national emission reduction plan that achieves an overall reduction of emissions calculated on the basis of those emission limit values, or by a combination of the two approaches. A national emission reduction plan must address all three pollutants for all plants covered by the plan.

In April 2013, the European Commission proposed to the Ministers of the Energy Community countries an adaptation of the Directive to allow the Community to achieve its climate and energy objectives, including its chapter III and annex V in the Energy Community.
Regarding the implementation of the Environmental Impact Assessment Directive, it should be noted that all Contracting Parties (with the exception of Kosovo*) ratified the Espoo Convention on Environmental Impact Assessment in a Transboundary Context as well as the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. Although motivation for swift implementation is high (given the strong linkages to investments in particular from public donors), intensified efforts to improve the legal framework are necessary in a number of Contracting Parties. Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Kosovo* have a high level of transposition whereas Albania, Bosnia and Herzegovina, Moldova and Ukraine still have to considerably improve their legal framework.

While full and complete transposition is a prerequisite for proper practical implementation of the environmental acquis of the Energy Community Treaty, it is not sufficient in itself to comply with the obligations arising from the Treaty. In particular, the Secretariat will carry out individual assessments on projects falling under the scope of the Directive wherever necessary, the secretariat will carry out individual assessments on projects falling under the scope of the Directive wherever necessary.

During the reporting period, seventy-seven environmental impact assessments were carried out in Albania in the energy sector, of which one concerns power generation; six electricity transmission; two gas transmission, thirteen gas storage, thirteen oil storage, five oil production, six wind farms and three photo-voltaic installations.

Overall, it can be stated that Albania reached a high level of transposition of the Environmental Impact Assessment Directive with the adoption and the recent entry into force of the new Law. It has to be pointed out, however, that enhanced efforts on the implementation of the Directive would be necessary as the regional authorities as well as the Ministry of Environment, Forests and Water Administration still lack financial and human resources.

In Bosnia and Herzegovina, legislation at state-level is still missing. In all entities, laws on environmental protection have been in place since 2003 (Federation of Bosnia and Herzegovina), 2004 (BiH District) and 2007 (Republika Srpska). The Federation of Bosnia and Herzegovina, transposition of the Directive is already well advanced as the 2003 Law sets out provisions for screening (called prior impact assessment) mandatory assessment (called EIS), the content of their documentation (including a non-technical summary), public participation and transboundary effects. It has to be pointed out, however, that certain details regarding public participation are missing as the 2003 Law only contains the requirement to organize a public hearing but no provisions on the content of the public notice. The Law only mentions that the public hearing should be organized through newspapers disseminated Federation-wide which is not up to current standards.

A new Law on Environmental Protection is currently being drafted which is supposed to further improve the level of compliance.

Altogether, twenty environmental impact assessment procedures have been finalized in the Federation of Bosnia and Herzegovina since September 2012. One of these procedures concerns the combined heat and power generation plant KTG Zenica, a candidate Project of Energy Community Interest. Another five requests for environmental impact assessments have been submitted to the competent authorities during the reporting period. Precise numbers on the exact amount of environmental impact assessments in the energy sector were not provided.

In Republika Srpska, a new Law on Environmental Protection was already adopted on 27 July 2012. It provides general rules on, amongst other things, environmental impact assessment (with the exception of transboundary effects and access to justice). Annex I and Annex II of the Environmental Impact Assessment Directive, listing the projects subject to an environmental impact assessment, are fully transposed. A Decrease on Projects requiring an Environmental Impact Assessment has been drafted which is supposed to further improve the level of transposition of the Directive.

During the year 2012, 149 requests for development consent were reviewed by the Ministry of Environment and Spatial Planning. By the end of March 2013, the Ministry received another thirty-six requests of which so far twenty-three have been granted the permit and six were refused. No information was provided on the number of environmental impact assessments concerning projects in the energy sector.

The Kosovo* Government plans to build the 2x300 MW Kosova e Re (New Kosova) plant to ensure security of supply and to replace the old Kosova A TPP which is running already beyond its planned operational lifetime. It would be worthwhile considering that the new plant meets the emission limit values of the Industrial Emissions Directive rather than the corresponding EU Directives.

From the legislative perspective, Kosovo* is in the position to effectively implement the provisions of the Environmental Impact Assessment Directive. However, efforts for the practical implementation must be intensified and the administrative capacities must be strengthened.

In the former Yugoslav Republic of Macedonia, environmental impact assessment is covered by the Environmental Law of 2005 as amended in 2010 and 2011. No legislative changes were reported since then.

The Ministry of Environment and Physical Planning organised ten public hearings in the framework of environmental impact assessment procedures, three of which concern projects in the energy domain, namely the dam at Rechani as part of the hydrological system of the Drin River, the transport system for wet disposal of ashes at the thermal power plant in Oslogre and a solar plant in the municipality of Novaci. Altogether, nine development consent procedures, three of which concern projects in the energy domain, namely the Rechani dam, the Oslogre thermal power plant and the hydropower plant Boshkovich Most.

The former Yugoslav Republic of Macedonia, through the amendments carried out in 2010 and 2011 to the Environmental Law and the related by-laws, essentially transposed the Environmental Impact Assessment Directive. It is therefore compliance with local spatial planning requirements.
in the position to effectively implement it, provided that the institutional capacities are strengthened.

In Moldova, a Law on Environmental Impact Assessment was submitted to Parliament in 2012. The Law is supposed to replace earlier legislation from 1996 which only partially reflects international requirements and current best practices. However, the draft is still being reviewed by the competent parliamen- 
tary committees and, therefore, no changes of the legislative framework have been carried out since last year’s report.

During the reporting period, Moldova participated in trans- 
boundary environmental impact assessment procedures as an affected party in two energy projects in the neighboring Ro- 
mania. In one of them, in Galati and the construction of the 400 KV power line in Balti-Suceava. The Ministry of Environment was also involved in the environmental impact assessment procedure for the construction of two nuclear power plant units in Khmelnitsky, Ukraine where it delivered a negative opinion on the environmental impact assessment. It was requested that consultations should be carried out be- 
tween the national authorities and that the documentation of the impact assessment should be completed. No information on follow-up steps has been reported.

The currently existing legislation on environmental impact assessment in the country fails to adequately transpose the Environmental Impact Assessment Directive as the scope of projects subject to the Directive is not harmonized, its man- 
dates are unclear and there are no effective mechanisms or provisions to ensure public participation. Even though the draft Law pending in Parliament could rectify the situation, Moldova currently fails to comply with the acquis in respect of environmental impact assessment and consequently, the Secretariat may have to follow up on this by taking enforce- 
ment action.

In Montenegro, as confirmed by last year’s implementation report, an adequate level of transposition of the Environ- 
mental Impact Assessment Directive into national law was reached by the Law on Environmental Impact Assessment (in force since 2008, amended in 2010). This Law was subject to further amendments in May 2013 in order to achieve a higher degree of compliance with the provisions of the Envi- onmental Impact Assessment Directive. Moreover, a Decree on Projects subject to an Environmental Impact Assessment is expected to be adopted by the Government by the end of 2013. Altogether, at state-level, 55 environmental impact assess- 
ments have been carried out in the course of 2012, while 171 environmental impact assessments have been carried out at local level. The information was provided, how- 
ever, on the amount of environmental impact assessments that concern projects from the energy sector.

Overall, Montenegro has reached a level of transposition that puts it into a position to effectively implement the provisions of the Environmental Impact Assessment Directive. Therefore, efforts should be focused on the practical implementation of the legislative measures in environmental impact assessment procedures.

In Serbia, a Law on Environmental Impact Assessment has been in place since 2004. Following the entry into force of the new Directive 2011/92/EAC in the European Union, Serbia, in late 2013 or early 2014, plans to revise the Decree on the Lists of Projects according to its Nature and Scope for Assessment as well as public participation. This situation fails to demonstrate com- 
pliance with Ukraine’s obligations arising from the Energy Community Treaty and should be rectified as quickly as poss- ible. Otherwise, the Secretariat may have to follow up on this by taking enforcement action.

3. Wild Birds

As regards the implementation of Article 4(2) of the Wilds 
Birds Directive, a coherent and comprehensive monitoring of all measures required to protect migratory birds is essentially not possible with the respect to the transport energy sectors alone. The Secretariat is not aware of sector-specific protection mea- 
sures in the Contracting Parties. Furthermore, the Secretariat has no access to information on the classification of Special Protection Areas (SPAs) as well as scientific and/or- 
disciplinary data related to migratory birds in each Contracting Party, necessary to assess the suitability of the classification (or non-classification) of SPAs by the Contracting Parties.

That being said, it can be concluded that in terms of compli- 
ance with the acquis, the level of transposition is generally satisfactory, whereas practical implementation, namely by designating special protection areas for migrating birds, is still to be achieved. There were a number of steps forward on this front during the last reporting period, especially in the field of designating new sites in the framework of the Convention on Wetlands of international Importance, especially as Water- 
fowl Habitat (the Ramsar Convention). Three wetlands in the Federation of Bosnia and Herzegovina and Herzegovina (Kulo Blace, Barda and Livansko polje), one site in Serbia (Koljoki-Petronji- adinski rit), one transboundary site covering territories in Ser- 
bia and in Romania (Iron Gate National Park) and one site in Montenegro (Tuzit Saline) were included on the list.

A preliminary list of SPAs in Serbia was elaborated based on 
the best available data. A total of 43 sites were selected in the framework of the “Strategic Planning Project “Strengthening Ad- 
misitive Capacities for Protected Areas in Serbia (NATURA 2000)”. A list with insufficiently covered species was drafted including 74 species and further work would be necessary to identify potential other species. The procedures, timetables and responsibilities were fixed to finalize the preliminary List of Special Protected Areas in Serbia, which will be made through amendments to the Decree on Ecological Network. This legislative work is currently in progress.

4. Sulphur in Fuels

The Secretariat’s assessment and the associated reviews of the available legislation demonstrated that the Contract- ing Parties have progressed with different pace towards the achievement of full transposition and implementation of the Sulphur in Fuels Directive. The EU’s Implementation Report last year, regardless of the efforts to encourage the Contracting Parties to implement the obliga- 
tions resulting from this Directive, the Secretariat was of the opinion that there are reasons for concern. Since these con- 
cerns could not be fully addressed with a number of Con- 
tacting Parties through bilateral dialogue, the Secretariat had to launch infringement proceedings against the Contracting Parties concerned (Albania, Bosnia and Herzegovina, the for- mer Yugoslav Republic of Macedonia, Serbia, Ukraine) in the course of early 2013. All these procedures are still ongoing at the time of the preparation of this report.

The cases against Bosnia and Herzegovina, the former Yu- 
goslav Republic of Macedonia and Serbia deal with improper transposition of the Directive’s provisions into national law.

In the case of Bosnia and Herzegovina, the Secretariat con- 
cluded that by maintaining and applying a derogation clause in the Government Decision setting out the rules regulating the sulphur content of liquid fuels, Bosnia and Herzegovina fails to implement the provisions of the Directive with regard to heavy fuel oils. Moreover, granting domestically produced petroleum products more favourable access to the market to the maximum sulphur content as compared to imported ones constitutes discrimination based on the origin of the fuel and thereby does not comply with Articles 7 and 41 of the Treaty. The Secretariat also concluded that the legislation in place in Bosnia and Herzegovina related to the sulphur con- 
tent of gas oil, on State and entity level, fails to transpose the provisions of the Directive dealing with gas oil because the legislative limit values have not been set at 0.10% by mass.

The former Yugoslav Republic of Macedonia received an opening letter due to the fact that there were no legally bind- 
ing requirements on the same matter. The Secretariat informed the Macedonian authorities that the rules concerning the sulphur content of petroleum products in place. Although certain standards setting out general requirements for the competence of testing and cali- 
bration for laboratories were in place, the standards referred to in the Directive sets out precise technical measures for the determination of the sulphur content of petroleum products. Therefore, the situation in the former Yugoslav Republic of Macedonia could have not been considered as achieving compliance with the requirements of the Directive.

In the case of Serbia, the Secretariat concluded that while the Rules Regulating the Technical and Other Requirements for Liquid Fuels contains a description of different types of heavy 
uel oil, it is not in line with the definition set out by the Direc- 
tive. Moreover, the maximum sulphur content of the catego- 
ries (according to the Serbian legislation) of HFO-5 and HFO-T
are 3.00% by mass and 4.00% by mass, respectively, which constitutes a breach of the requirements of the Directive. As regards sampling and analysis, the Secretariat concluded that the standards referred to by the Serbian legislation cannot be considered equivalent to the ones required by the Directive; therefore, the applicable Serbian legislation cannot be considered as correctly transposing the Directive.

The case against Albania addresses a breach by which Albania, via its national law, delayed the introduction of requirements in accordance with the Sulphur in Fuels Directive until end 2014 which is not acceptable.

Ukraine received an opening letter for not transposing the requirements of the Directive into national law by the deadline set out in the Energy Community Treaty.

The Contracting Parties provided their replies to the opening letters the analysis of which is underway at the time of the preparation of this report. Should the Contracting Parties concerned not be able to meet their obligations arising from the Treaty or provide a valid justification for the delays in transposition and implementation of the provisions of the Directive, the Secretariat may need to bring the cases to a further instance.

5. Large Combustion Plants

Implementing the provisions of the Large Combustion Plants Directive in the energy sector provides a significant challenge to all Contracting Parties of the Energy Community. Therefore, one of the main tasks of the Energy Community’s Environmental Task Force is stocktaking for Directive 2001/80/EC in order to prepare the Contracting Parties for the implementation deadline of the Directive which was set at 31 December 2017. Contracting Parties should adopt a legislative framework compliant to the Directive by that deadline and they should implement its provision from 1 January 2018 onwards.

It has to be pointed out that the general situation of existing plants in the Energy Community Contracting Parties is not good mainly due to the combined effects of three issues: the considerable average age of the plants (a number of which are already running beyond their planned operational lifetime), low level of maintenance and a lack of significant investment in the sector over the past two decades.

At the time of preparation of this report, the Secretariat is commissioning a study analyzing the need for modernization of large combustion plants in the Energy Community. The main purpose of this study is to support governments, decision-makers, privately and publicly owned energy companies and private and public investors in their efforts to make Contracting Parties capable to meet their commitments under the Treaty by the implementation deadline. This can be achieved either by the retrofitting of existing large combustion plants, by a change of fuels or by replacing non-compliant plants, which are close to or beyond their operational lifetime, with new capacities. The consultant is expected to develop a scenario for each option. One of the main goals of the study is to provide a realistic investment need scenario at plant and Contracting Party level, taking into account the different modernisation options explored as well as the alternative scenario of replacing capacity (by either fossil fired plants or renewable energy sources). The outcome and the final results of the study are expected to be published in the course of the fourth quarter of 2013.

Judging by the contributions of the Contracting Parties at different meetings of the Environmental Task Force as they are reflected in the respective conclusions, a large majority of Contracting Parties plan to opt for the use of a national emission reduction plan, an alternative method for compliance under Article 4(6) of the Large Combustion Plants Directive. The national emission reduction plan provides a possibility to cover all plants within a Contracting Party’s territory and to reach overall emission reductions in the sector. The provisions of the Large Combustion Plants Directive on the national emission reduction plan, however, cannot be implemented in a straightforward manner in the Contracting Parties as the deadlines included therein are already in the past. This was one of the driving motives of the European Commission, when it proposed, in April 2013, adaptations to the Directive. In its proposal, the European Commission suggested that the reference year for the calculation of the national emission reduction plans should be set at 2010 for the Contracting Parties and the deadline for submitting such a plan to the Secretariat (provided that the Contracting Party would opt for its use) should be 31 December 2015.

Meanwhile, the European Commission also suggested that Chapter III and Annex V of Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control) should also be included in the Energy Community environmental acquis as of 1 January 2018 for new plants and 1 January 2022 for existing plants. In the European Union, these provisions will replace those of the Large Combustion Plants Directive as of 1 January 2016 (for existing plants; for new plants, they are already in force since 7 January 2013).

At the time of the preparation of this report, negotiations on both proposals are still ongoing.
3.7 Energy Efficiency

3.7.1 Regional Overview
3.7.2 Albania
3.7.3 Bosnia and Herzegovina
3.7.4 Croatia
3.7.5 Kosovo*
3.7.6 Former Yugoslav Republic of Macedonia
3.7.7 Moldova
3.7.8 Montenegro
3.7.9 Serbia
3.7.10 Ukraine
3.7.1 Energy Efficiency – A Regional Overview

Energy efficiency is a win-win solution in Energy Community countries (including positive effects on competitiveness, environment, security of energy supply, economic development, etc.), if it is properly supported by a solid legal and institutional framework, and has well designed and implemented policy measures and programmes.

Nevertheless, Contracting Parties are facing more barriers to advancing energy efficiency than EU Member States. This is linked to the “energy efficiency gap”, i.e. the difference between the EU-27 average energy inefficiency in most production and consumption sectors, its economic structure with a higher share of intensive industry, lower income per capita, high public budget constraints also linked to the severe impact of the global economic crisis, the institutional framework, although under development remains weak, and the legal and regulatory framework is still in progress; but one of the most formidable remains the regulated, low electricity prices, especially in the residential sector, that do not incentivize efficiency measures.

The Energy Community on average, is approximately seven times more intensive in primary energy (0.83 toe/1000 USD) than average EU-27 (0.12 toe/1000 USD); respectively six times higher in final energy intensity (0.49 toe/1000 USD) than EU-27 with 0.08 toe/1000 USD, when calculated with the exchange rate parity. This is mainly due to the degraded state of the energy infrastructure, high transformation, transmission and distribution energy losses, and also low energy efficiency in the end-use sector, especially in buildings. On the other hand, the Energy Community consumed less energy per capita (1.38 toe/capita) than the EU-27 (2.38 toe/capita) in 2010, which is not an indication of efficiency, but development. Therefore, in the future we could and should expect that energy consumption will grow at a higher speed than in other regions, making energy efficiency even more relevant.

Although many existing barriers to energy efficiency are still slowing down the implementation of energy efficiency measures in Contracting Parties of the Energy Community, and the acquis is still under transposition and proper implementation, some very positive developments have been noticed in the Contracting Parties, in 2012 and 2013. In order to effectively tackle the common barriers and find common solutions and actions for the development and implementation of energy efficiency policy and programmes, the Secretariat is promoting and supporting integrated actions at regional level. Furthermore, the Secretariat is promoting and supporting extensive cooperation and coordination between countries themselves, and with other players of relevance for promotion of energy efficiency, such as the EU and pan-regional organizations, donors and International Financial Institutions, etc.

I. The acquis on energy efficiency

Based on the Ministerial Council's Decisions, adopted in December 2009, September 2010 and October 2011 respective-

1. Directive 2006/32/EC on Energy End-use Efficiency and Energy Services requires, among other things, the adoption of an indicative energy savings target of 9% for the ninth year of application of this Directive, and the development of National Energy Efficiency Action Plans (NEEAPs). It also promotes the exemplary role of the public sector, the setting-up of energy efficiency criteria in public procurement, energy audits, procedures for monitoring and verification of energy savings, and other measures to improve energy efficiency and related services.

2. Directive 2010/31/EU on the Energy Performance of Buildings provides the legal framework for setting minimum energy performance requirements for new and existing buildings, ensuring certification of buildings and requiring regular inspections of heating and air conditioning systems. This Directive also requires Contracting Parties to define plans to ensure that by 2021, all new buildings are “nearly zero-energy buildings”.

3. Directive 2010/30/EU on the Indication by Labelling and Standard Product Information of the Consumption of Energy and Other Resources by Energy-related Products, establishes the legal framework for labelling and consumer information regarding energy consumption for energy-related products, i.e. products which are likely to have a direct or indirect impact on energy consumption. The delegated regulations deal with the labelling of specific energy-related products in great detail, such as air conditioners, televisions, refrigerating appliances, washing machines etc.

The deadline for the transposition of Directives 2006/32/EC and 2010/30/EU was 31 December 2011, and 30 September 2012 for the transposition of Directive 2010/31/EU. The deadline for the 2nd National Energy Efficiency Action Plan (NEEAP) to be developed under Directive 2006/32/EC was 30 June 2013 for the “old” Contracting Parties. On the other hand, Moldova and Ukraine as “new Contracting Parties” were obliged to prepare the 1st NEEAP in 2012, and the 2nd NEEAP in 2015. The NEEAP is an important national strategic document that should propose concrete measures and report on actions to reach the energy savings targets, per economic sectors.

In October 2012, the European Union adopted the comprehensive Energy Efficiency Directive 2012/27/EU, with the aim to ensure the achievement of the Union’s 20% headline target on energy efficiency by 2020, and to pave the way for further energy efficiency improvements beyond that date. This Directive repeals Directive 2006/32/EC, as well as the so-called Cogeneration Directive 2004/8/EC. Following the discussions on the possible incorporation of this new Directive in the Energy Community, at the meetings of the Energy Efficiency Coordination Group and the Permanent High Level Group, the Secretariat prepared an Impact Assessment and drafted a Recommendation on the Implementation of Directive 2012/27/EU for adoption by the Ministerial Council in October 2013.

The Energy Efficiency Coordination Group and Donors’ support

The Energy Efficiency Task Force, established by the Ministerial Council in December 2007, played an important role in preparing the adoption of the energy efficiency acquis and its implementation. The Task Force most recently developed, inter alia, a template for the 2nd-NEEAP to be filled in and submitted by Contracting Parties. The Task Force is succeeded by the Energy Efficiency Coordination Group established by the Permanent High Level Group in March 2013. The Coordination Group provides not only a platform for sharing experience in the implementation of the current energy efficiency acquis, and discusses the incorporation of the Energy Efficiency Directive 2012/27/EU. It will also play an important role as implementation partner for the technical assistance and investment programmes set up by various donors for the Contracting Parties.

Donors’ support includes the Regional Energy Efficiency Programme for the Western Balkans (REEP). It is supported by the Western Balkans Investment Framework (WBIF) with a EUR 20 million grant from the EC and an additional EUR 3.35 million from bilateral donors through the European Western Balkans Joint Fund (REWIF). REEP is managed by EBRD, which allocated EUR 125 million of loans through its credit facilities (WebEFF IV and WebSEDF). REEP supports energy efficiency investments in both private and public sectors, and facilitates public sector investments to play a leading role as dispatcher in NEEAPs. REEP includes a very important technical assistance component, aimed at either developing or enhancing national regulatory frameworks. This will address market barriers, encourage investments in energy efficiency, support energy service companies (ESCO) and help markets to emerge.

In June 2013, the WBIF approved a study on biomass-based heating in the Western Balkans to be implemented by the World Bank in close cooperation with the Secretariat. The study will investigate the potential for energy efficient heating based on energy efficiency criteria, and promote the best opportunities and investment projects.

Most of Contracting Parties made progress in transposing and implementing energy efficiency acquis, as presented in the following chapters. The reform focus shifted from primary to secondary legislation, often assisted through various donor programmes. Nevertheless, the legal framework progress is not uniform, as is described in detail below.

However, when it comes to actions and investments the results are more visible, even in the absence of the fully functional legal and institutional framework. In this respect, the preliminary assessment of the achievement of the intermediary energy savings target of approximately 3% between 2010 and 2012, as set by the NEEAP, (on average) indicated an 80% rate, which is promising, taking into account the circumstances at national and European level. These figures will be confirmed in the 2nd NEEAP through the reporting requirement.

Although there are many possible models of implementation of energy efficiency measures especially for the public sector, in the Contracting Parties the preferred one is based on public borrowing from international financial institutions. That is not sustainable on longer term. Therefore the challenge is to set new financing models that rely less on public, and more on private funding. This approach will be further supported by most recent regional investment programmes (including EBRD/REEP, and the World Bank’s). For these, further cooperation and involvement of local authorities is necessary. The Secretariat will continue to work with regional organizations in the Energy Community, and promote the best opportunities and investment projects included in the implementation of the EU flagship initiative “Covenant of Mayors”, as well as in the implementation of concrete investment projects.
Directive. Bosnia and Herzegovina (republika srpska) moldo-transposing the framework Directive 2010/30/Eu and also, in the transposition deadline of 31 December 2011, the contracting directives for specific household appliances. Following Herzegovina and Serbia) had previously transposed the (old) Directive, but a drafted secondary legislation that implements the Directive is pending approval by the respective governments.

The same goes for Albania, the Federation of Bosnia and Herzegovina and Ukraine. These announced that they will transpose the main provisions of the Labelling Directive through specific laws on energy efficiency which are still at the drafting stage.

Six out of seven initial Contracting Parties have submitted the 1st NEEAPs as required by Article 14 of Directive 2006/32/EC, with the exception of Bosnia and Herzegovina. That country’s draft NEEAP has still not been approved by the responsible administration(s). The Contracting Parties are now developing the 2nd NEEAP which was due by 30 June 2013. Croatia adopted the 2nd NEEAP in February 2013, while Kosovo submitted a 2nd NEEAP to the Secretariat in May 2013, followed by Serbia in June 2013 and the former Yugoslav Republic of Macedonia in July 2013.

Due to their later accession to the Treaty, Moldova and Ukraine had received extended deadlines (2012) for the implementation of Directive 2006/32/EC. The 1st NEEAP of Moldova was adopted and submitted in January 2013. In Ukraine, a draft NEEAP was finalised. Its adoption by the Government is still pending.

2. Most of the Contracting Parties (excluding Bosnia and Herzegovina and Serbia) had previously transposed the (old) Labelling Directive 92/75/EC, as well as certain implementation directives for specific household appliances. Following the incorporation of the recast Directive 2010/30/EU and Delegated Acts in the Energy Community, with an overall implementation deadline of 31 December 2011, the Contracting Parties started to update or adopt (new) legislation in 2011 and 2012.

By the date of this report, Croatia, the former Yugoslav Republic of Macedonia and Kosovo have adopted legislation transposing the framework Directive 2010/30/EU and also, in some cases, the Delegated Regulations adopted under that Directive. Bosnia and Herzegovina (republika srpska) and Montenegro and Serbia have failed to transpose the Implementing Directives or the new Delegated Regulations.

They have adopted laws that transposed the framework Directive, but a drafted secondary legislation that implements the Delegated Regulations is pending approval by the respective governments.

3. Directive 2010/31/EU on the Energy Performance of Buildings is generally recognized as the most complex piece of energy efficiency legislation. Its implementation requires cooperation between various stakeholders and a broader spectrum of activities. In order to support the Contracting Parties in this exercise, a regional roadmap was developed as part of the Secretariat’s study on “Energy Efficiency in Buildings in the Contracting Parties of the Energy Community” (2012). Despite this, only some requirements of the Directive were transposed by the Contracting Parties, including the identification of the main responsible bodies and setting of some technical standards. Otherwise, the situation in the Energy Community is characterized by an incomplete and insufficient legal and institutional framework. The certification of buildings is one of the most advanced areas of transposition.

In this respect, progress was made by Bosnia and Herzegovina, Croatia, Moldova, Montenegro, Serbia and Ukraine. The most common problems with implementation include the development of a proper scheme for cost-optimal calculation, software for energy performance certification, preparation of national building stock inventories, the climatic database as well as training and education, and information campaigns. The Secretariat plans to address these issues in the Energy Efficiency Coordination Group, and prepare a “model” approach that could be used by all Contracting Parties, with the technical assistance of donors (REEP, GIZ O&G Energy Efficiency, USAID).

Albania’s Law on Energy Efficiency of 2005 is still in force. Despite the fact that this Law addresses many important issues (such as the development of national energy efficiency programmes, energy audits, the energy efficiency fund, etc.), it has never been properly implemented. Most of the implementing norms were not adopted, and the envisaged energy efficiency fund was never created.

Albania’s 1st National Energy Efficiency Action Plan (NEEAP) was adopted by the Government in September 2011. It envisages achieving 1.5% and 9% energy saving targets until 2012 and 2018 respectively. The NEEAP designates the Ministry of Economy, Trade and Energy (METE) and the Agency for Natural Resources (AKBN) as responsible bodies for the overall control and monitoring of its implementation. However, the lack of a supportive framework and dedicated public funding, especially in the public sector, combined with unclear definition of implementation responsibilities between AKBN and METE, make implementation of most of the planned energy efficiency measures unlikely.


b. Progress made in 2012/2013

No progress was achieved during the reporting period. A new and overdue Energy Efficiency Law has entered in draft form since 2011. The draft was developed in cooperation with the Secretariat. It has still not been adopted. In its last Implementation Report, the Secretariat has already identified adoption as a priority. The adoption of this framework Law is the basic precondition for the transposition of (Energy Service) Directive 2006/32/EC. The Public Procurement Law also needs to be amended for that purpose. Besides Directive 2006/32/EC, the draft Energy Efficiency Law is also needed to transpose the main provisions of the (Energy Performance of Buildings) Directive 2010/30/EU and the (Energy-Labeling) Directive 2010/30/EU. Furthermore, the Energy Building Code has not been amended, as recommended by the Secretariat, nor has implementation action been taken. The Secretariat is not aware of any institutional reinforcement, another precondition for successful implementation of the aquis.

The adoption of the 1st NEEAP in 2011 was not adequately followed-up and supported by the public sector, including timely adoption of the Energy Efficiency Law and development of secondary legislation, as well as allocation of financial sources for its implementation. Some small scale proj-
ects, training and pilot activities are taking place, including a programme for education and implementation of energy monitoring and management systems in municipalities. The existing barriers to the implementation of the 1st NEEAP have also been addressed under the umbrella of the Task Force and Coordination Group in 2012 and 2013 (thematic presentations and discussions, development of NEEAP template and organization of workshops on 2nd NEEAP, available financing mechanisms etc.). However, the process of preparation of the 2nd NEEAP (due by 30 June 2013) is very slow in Albania (the draft NEEAP is still not prepared), and there is a risk of serious delay in finalization and submission.

C. State of compliance

1. Due to the lack of transposition, Albania broadly fails to comply with the Directive 2006/32/EC relating to Energy End-use Efficiency and Energy Services. The Secretariat is currently preparing enforcement action against the country.

The 1st NEEAP was adopted by the Government in line with Articles 4 and 14 of Directive 2006/32/EC. It includes the calculation of the national overall and intermediate energy saving targets and the establishment of a comprehensive package of measures to achieve it, including horizontal measures and measures in each end-use sector. The submission of the 2nd NEEAP to the Energy Community Secretariat was due by 30 June 2013, but this deadline was not met by Albania, due to the slow process of preparation, and the perceived lack of commitment of the responsible institutions.

2. With regards to the Energy Community’s labelling requirements, the Law on the Indication by Labelling and Standard Product Information of the Consumption of Energy and Other Resources by Household Appliances of 2009 transposed the old Directive 92/75/EEC, but not the recent Directive 2010/30/EU. The adoption of relevant secondary legislation on energy labelling of household appliances is still pending upon the adoption of the Energy Efficiency Law.

3. With regard to energy efficiency in buildings, the draft Law on Energy Efficiency (when adopted) will transpose the main provisions of the Directive 2010/31/EU, to be followed up with relevant secondary legislation. The adoption of this Law is still pending, while the deadline for transposition of Directive expired on 30 September 2012.

4. Conclusions and Priorities

Albania’s performance in the area of implementing the energy efficiency acquis is one of the poorest in the region. For several reporting periods, no progress has been made with transposition or implementation of the acquis. The Secretariat will take action against this. It can only reiterate that the first priority of Albania in 2013 should be the adoption of the existing draft Energy Efficiency Law. The lack of its adoption constitutes the main bottleneck for the transposition of all three pieces of Energy Community acquis, as well as further implementation through implementing regulations. Furthermore, Albania immediately needs to adopt and submit the 2nd NEEAP, following requirements of the NEEAP template developed by the Energy Efficiency Coordination Group. Stronger promotion of the exemplary role of public sector is equally important for effective implementation of Directive 2006/32/EC, including the creation of proper legal, institutional and financial frameworks, incorporation of energy efficiency criteria in public procurement codes etc. Another priority should be the development of legislation and regulation dealing with energy efficiency in buildings and in order to comply with Directive 2010/31/EU, by adopting the Law and updating the existing Building Code.

In Bosnia and Herzegovina, the Energy Efficiency Act, adopted in 2013, is one of the poorest in the region. For the transposition of Directive 2006/32/EC, existing Energy Community Directive Law was adopted in June 2013, secondary legislation on methodology for calculation of energy performance of buildings, energy audits of buildings and energy certification of buildings has been adopted, and implementation started. A training scheme for energy certification of buildings is in place. Besides that, Bosnia and Herzegovina adopted a number of European Committee for Standardization (CEN) standards which support the implementation of Directive 2010/31/EU, including the calculation of the energy performance of buildings.

As regards the transposition of the Labelling Directive 2010/30/EU, the laws on energy efficiency and the corresponding technical regulations were drafted for both entities in 2012. However, the adoption of this package is still pending in the Federation and partially in Republika Srpska (the energy efficiency law was adopted in June 2013, secondary legislation yet to be).

On a local level, 14 cities (including Sarajevo) are signatories of the EU Covenant of Mayors initiative, and consequently are committed to implementing Energy Action Plans (EAPs).

b. Progress made in 2012/2013

Bosnia and Herzegovina achieved certain progress in transposition of the energy efficiency directives in the reporting period, especially in Republika Srpska. By the end of 2012, energy efficiency primary and secondary legislation was drafted in both entities, with the Secretariat’s active involvement: Energy Efficiency Laws, NEEAPs and other by-laws. This package of legal acts is intended to transpose all three key energy efficiency directives, when adopted. The drafts also foresee institutional strengthening.

The new Energy Efficiency Law and the Law on Spatial Planning and Construction were adopted in Republika Srpska in 2013. In the Federation of Bosnia and Herzegovina, the draft Law on Energy Efficiency was finalized and was submit-
tions about the impact of energy efficiency measures on the overall economy of the country. The local authorities are also responsible for the implementation of energy efficiency programs and monitoring their success. The National Energy Efficiency Action Plan (NEEAP) was adopted in 2007, as amended in 2008, determines energy efficiency laws by the remaining entity, as well as the accompanying secondary legislation.

The second priority is the adoption of the NEEAP, as well as regulation dealing with energy efficiency in buildings in the Federation of Bosnia and Herzegovina. Moreover, the coordination between authorities at entity and state-level needs to be improved as a precondition for progress in 2013 and beyond. State structures for monitoring the implementation must be established and adequate financial support be provided. This includes the setting up of energy efficiency agencies.

3. The degree of compliance with Directive 2010/31/EU on the energy efficiency in buildings differs between the entities. Overall, Bosnia and Herzegovina still fails to comply with that Directive.

In the Federation of Bosnia and Herzegovina the Directive’s requirements related to calculation methodology for minimum energy performance of buildings, energy audits and energy certification of buildings are already transposed through the existing Law on Physical Planning and Land Utilization, as well as respective by-laws. However, certain issues related to the Directive still need to be completed, i.e. cost-optimal calculations, definition and plans for achievement of nearly zero-energy buildings etc.

In Republika Srpska, the main requirements of Directive 2010/31/EU are transposed through the new Law on Physical Planning and Construction of April 2013, and will be further transposed through secondary legislation.

At the date of this report, Bosnia and Herzegovina is still lagging behind the other Contracting Parties in meeting the Energy Community’s requirements in the area of energy efficiency. The country has still not developed an appropriate legislative and institutional framework for energy efficiency in line with the acquis. Once again, the highest priorities for Bosnia and Herzegovina must be the immediate adoption of the energy efficiency laws by the remaining entity, as well as the accompanying secondary legislation.

The legal framework for energy efficiency in Croatia is well developed. The Act on Energy End-Use Efficiency of 2008 (amended in 2012) transposes most of the provisions of Directive 2006/32/EC. In addition, the Act on Public Procurement of 2007, as amended in 2008, determines energy efficiency as one of the possible criteria in public tenders. The Regulation dealing with public procurement still needs to be adopted to enable proper implementation.

Based on the National Energy Efficiency Programme of 2010, the 1st National Energy Efficiency Action Plan (NEEAP) was adopted in April 2010, and the 2nd NEEAP in February 2013. An energy saving target of 9% (472 ktoe) was set for 2016. The Ministry of Economy is responsible for the overall monitoring of energy efficiency policy implementation and reporting, in close cooperation with the Ministry of Construction and Physical Planning (in charge of buildings). An Environmental Protection and Energy Efficiency Fund provides financial support for the implementation of national energy efficiency policy measures, as well as the monitoring and verification of energy savings. Furthermore, a new Centre for Monitoring Business Activities in the Energy Sector and Investments was mandated to provide expertise in the process of implementing strategic projects and energy-efficiency programmes. This institution corresponds to the role of an agency for energy efficiency envisaged by Directive 2006/32/EC, and significantly strengthens the institutional framework for the implementation of the NEEAP.
Energy efficiency continues to play an important role in Croatian energy policy, and significant progress can be reported over the period covered by this report. Besides implementing various energy efficiency programmes, Croatia updated and strengthened its legislative, strategic and institutional framework to comply with the directives of 2010.

The new Law on Energy Efficiency of 2011 sets the legislative and institutional framework for energy efficiency in Kosovo*, as well as the legal basis for further development/amendment of secondary legislation. It provides for the development of energy efficiency plans, obligatory energy efficiency measures in the public sector, energy management, energy auditing and determines the role of different organisations dealing with energy efficiency, including the establishment of the Energy Efficiency Agency (KEEA) as the main implementing body. The goal of the new law is to leverage public and private investments, and investments by bodies and organisations at the local and national level, for energy efficiency and sustainability purposes.

In addition to making significant progress and a positive overall development in the area of energy efficiency at national level, Croatia played an exemplary role for other contracting Parties in the process of transposition and implementation of the energy efficiency acquis. It supported them with advice, on exchanged good and bad practices, in very concrete terms.

The priority for Croatia in the next period should be the finalisation of the remaining energy efficiency regulation(s) required under the Act on Energy End-Use Efficiency, with an emphasis on the transposition of the new law on construction adopted in July 2012, which focuses on buildings in general and leaves most of the requirements stemming from Directive 2010/31/EU to be transposed by secondary legislation. At the date of this report, this secondary legislation is still missing.

The new Law on Construction adopted in July 2012 focuses on constructions in general and leaves most of the requirements stemming from Directive 2010/31/EU to be transposed by secondary legislation. At the date of this report, this secondary legislation is still missing.

In the future, the development of an ESCO market depends on the adoption of proper regulation.

Among the information and education activities that have been systematically implemented since 2006, a toll-free information and energy efficiency info-points for citizens in several cities, as well as a comprehensive national media campaign, deserve to be mentioned.

b. Progress made in 2012/2013

Energy efficiency in Kosovo*

The Law on Energy Efficiency of 2011 sets the legislative and institutional framework for energy efficiency in Kosovo*, as well as the legal basis for future development/amendment of secondary legislation. It provides for the development of energy efficiency plans, obligatory energy efficiency measures in the public sector, energy management, energy auditing and determines the role of different organisations dealing with energy efficiency, including the establishment of the Energy Efficiency Agency (KEEA) as the main implementing body.

The Regulation on the Internal Organisation of KEEA was adopted in 2011. KEEA was established and its core staff appointed in April 2012. This was an important step forward in the building of strong institutions for the promotion of energy efficiency in Kosovo*.

Based on the requirements of Directive 2006/32/EC, the 1st NEAP was adopted in September 2011 and sets an indicative target of 9% to be achieved by 2018, and an intermediate indicative energy savings target of 3% by 2012. The focus was put on energy efficiency in the household sector, with various measures proposed, as well as the development of an appropriate legislative framework.

The Law on Public Procurement of 2010 introduced energy efficiency criteria in the public procurement of energy efficient equipment and vehicles, in line with Annex VI of Directive 2006/32/EC.

With the adoption of the Law on Energy Efficiency in June 2011, Kosovo* has made a significant step towards the creation of an appropriate legislative and institutional framework for energy efficiency. The Administrative Instruction for the Promotion of Energy Efficiency for Final Consumers and Energy Services was adopted in October 2012. However, one
of the remaining barriers for financing remains the insufficiency developed framework for innovative financial mechanisms on energy efficiency, including the setting up of the national energy efficiency fund stipulated in the Law and the development of an ESCO market.

Kosovo* was the first Contracting Party to have submitted the draft for the 2nd NEAP in May 2013, even before the expiry of the deadline. Preliminary estimates show that the 2012 target was achieved but, due to the lack of statistical data, not all energy savings could be properly assessed and reported. The draft NEAP is of very good quality and proposes a good package of energy efficiency measures in all sectors.

The implementation of Directive 2010/31/EU on the Energy Performance of Buildings remains one of the main challenges, since it is a joint obligation of both the Ministry of Economic Development and the Ministry of Environment and Special Planning. The amendments to the Law on Construction adopted in 2012 do not yet transpose the requirements of Directive 2010/31/EU, and as a result, Kosovo* decided to adopt a new Law on Buildings. An inter-ministerial coordinating committee was established for that purpose. The energy auditing of public buildings is ongoing since 2012.

The transposition of Directive 2010/30/EU and Delegated Acts is also work in progress. A new Administrative Instruction for Labelling and Regulation for Labelling was approved by the Government in June 2012.

3. Conclusions and Priorities

The highest priority for Kosovo* should be the adoption of the 2nd NEAP by the Government, as well as of the remaining secondary legislation due under the Energy Efficiency Law. This includes the development of new financing instruments and ESCOs, support of the NEAP implementation, the preparation of local plans and the strengthening of inter-institutional cooperation.

Another priority is the development of legislation on energy efficiency in buildings.

3.7.6 Former Yugoslav Republic of Macedonia

Energy Efficiency

a. Energy efficiency in the former Yugoslav Republic of Macedonia

The Energy Law of 2011 includes an extensive chapter on energy efficiency and establishes a good legal basis for the development of secondary legislation. Among others, it requires distribution system operators and suppliers to encourage promotion of energy efficiency by means of publishing information on energy efficiency services. The Energy Law also requires mandatory energy measures for buildings, building units, equipment and plants owned and occupied by public entities. This obligation includes: adoption of programmes on energy efficiency, monitoring system, obligatory energy audits for buildings and building units and certification of buildings. Energy audits are also required by the law, and further elaborated by the Rulebook on energy audits adopted in June 2013.

Key institutions responsible for the promotion of energy efficiency are the Ministry of Economy and the Energy Agency. The Energy Law also provides a legal basis for the establishment of financial support mechanisms, including an energy efficiency fund, which, however, has not been set up so far.

The 1st National Energy Efficiency Action Plan was adopted by the Government in April 2011, and represents one of the best and most ambitious NEAPs in the Energy Community. The Plan sets an indicative energy savings target of 12.2% of the final domestic energy consumption by 2018, and an intermediate target of 4% by 2012. It also includes a comprehensive package of energy efficiency measures in all end-use sectors. A draft for the 2nd NEAP was sent to the Secretariat for comments in July 2013.

The Rulebook on Labelling of Energy-Related Products, amended in November 2012, requires energy efficiency labels to be attached to a range of products corresponding to those addressed by the acquis, namely the Delegated Regulations. There are a significant number of energy efficiency projects supported by international donors. Several local banks provide favorable loans for energy efficiency measures in households and the private sector.

b. Progress made in 2012/2013

The Former Yugoslav Republic of Macedonia has made significant progress in the reporting period.

Amendments to the Energy Law were recently drafted and will, if adopted, introduce additional important provisions on energy efficiency, including issues related to energy audits and further transposition of Directive 2010/31/EU on Energy Efficiency in Buildings. The implementation of Directive 2010/30/EU was achieved by amendments to the Rulebook on Labelling of Energy-Related Products, adopted in November 2012. This Rulebook transposed Delegated Regulation on Energy Labelling of Air-Conditioners, and with this last one, all energy related products are covered, as required by the Ministerial Council Decision of 2011.

The Rulebook on energy audits was adopted in June 2013, and it further elaborates on the implementation of an energy...
audit scheme, assessment method for the baseline energy consumption, contents and template of energy audit reports, training programmes and certification for energy auditors, as well as on setting up a central registry of certified energy auditors. The Rulebook on Building Energy Performance was also adopted in June 2013, and governs the following issues: building energy performance calculation methodology, minimal energy performance requirements for new and existing buildings and building units, energy efficiency conditions set for project design of construction of new and major renovations of existing buildings and building units, manner and dynamics of inspection of building heating and air-conditioning systems, certification of buildings etc. Moreover, a number of necessary CEN standards have been adopted, and a national database of climatic parameters has been set up.

Several important projects support the NEeAP implementation. The Government has refurbished buildings of schools, kindergartens, hospitals, State and local administrative buildings, by using State budget and international funds. Based on the 1st NEeAP, the Ministry of Economy drafted a comprehensive National Programme for Energy Efficiency in Public Buildings until 2018. The Programme provides detailed planning of energy efficiency activities for public buildings, indicating a commitment from public authorities to lead by example in achieving the national energy savings target.

The preparation of the 2nd NEeAP is ongoing, as a joint activity of the Ministry of Economy, the Energy Agency and other stakeholders.

c. State of compliance

1. Those rules of Directive 2006/32/EC relating to Energy End-use Efficiency, Energy Services requirements and the exemplary role of the public sector have either been transposed with the adoption of the Energy Law in 2011, or by secondary legislation. In accordance with the Energy Law, public sector entities are obliged to apply measures aimed at energy efficiency improvement on their premises. Specific provisions for public procurement are included in the Energy Law and the guidelines for energy efficient procurement. The NEeAP and the draft National Programme for Energy Efficiency in Public Buildings put adequate focus on public sector measures. Compliance with the Energy Services Directive has been further advanced with the adoption of the regulation on energy audits, metering and informative billing of energy consumption, amendments of the procurement legislation, and the proposal for more sustainable funding dedicated to energy efficiency. The draft 2nd NEeAP was submitted to the Secretariat for comments in July 2013.

2. Directive 2010/30/EU and the Delegated Acts were fully transposed with the adoption of the Rulebook on Labelling of the Consumption of Energy and other Resources by Energy-Related Products, and its amendments of November 2012.

3. Some provisions of Directive 2010/31/EU were incorporated in the Energy Law of 2011, and especially in the amendments of this Law adopted in March 2013, as well as with the adoption of the Rulebook on energy performance of buildings. The 2nd NEeAP set further specific measures for the building sector.

d. Conclusions and Priorities

The former Yugoslav Republic of Macedonia made significant progress in 2012 and 2013, and the priority activities (from last reporting period) related to updating primary and secondary legislation were completed.

The priority for the former Yugoslav Republic of Macedonia in 2013 remains to quickly adopt the 2nd NEeAP and implement its measures.

### 3.7.7 MOLDOVA

#### Energy Efficiency

<table>
<thead>
<tr>
<th>National Energy Efficiency Action Plan (NEeAP)*</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Period covered by NEeAP</td>
<td>2013 – 2015</td>
</tr>
<tr>
<td>Overall energy savings target - Directive 2006/32/EC (ktoe / % / year)</td>
<td>428 / - / 2015</td>
</tr>
<tr>
<td>Key Institution(s) in charge</td>
<td>Ministry of Economy, Energy Efficiency Agency, Ministry of Regional Development and Construction</td>
</tr>
<tr>
<td>Main data and energy efficiency indicators**</td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>2010</td>
</tr>
<tr>
<td>Total primary energy supply (TPES) k toe</td>
<td>3,171</td>
</tr>
<tr>
<td>Energy Intensity (TPES/GDP) toe / 1,000 USD</td>
<td>0.97</td>
</tr>
<tr>
<td>TPES/Population (k toe/capita)</td>
<td>0.89</td>
</tr>
<tr>
<td>Total final energy consumption (TFC) k toe</td>
<td>2,074</td>
</tr>
<tr>
<td>Share of TFC by sector</td>
<td></td>
</tr>
<tr>
<td>Residential</td>
<td>45%</td>
</tr>
<tr>
<td>Services</td>
<td>6%</td>
</tr>
<tr>
<td>Industry</td>
<td>26%</td>
</tr>
<tr>
<td>Transport</td>
<td>14%</td>
</tr>
<tr>
<td>Others</td>
<td>8%</td>
</tr>
<tr>
<td>Non-energy use</td>
<td>1%</td>
</tr>
</tbody>
</table>

* Source: 1st NEeAP of Moldova, available under: http://www.energy-community.org/portal/page/portal/Enc_HomE/arEas_oF_WorK/EnErgy_EFFiciEncy/nEEaPs
** Source: International Energy Agency

The Energy Strategy of Moldova for 2030 (adopted in January 2013) acknowledges energy efficiency as one of the top priorities for the national economy and the energy sector. Furthermore, the National Energy Efficiency Program for the period 2011 - 2020, adopted in November 2011, sets up a long term energy savings target of up to 20% by 2020, as well as an intermediate target of 9% by 2016.

Moldova adopted the Energy Efficiency Law in 2010. The Law provides for the development of national and local energy efficiency programmes and action plans, as well as promoting energy audits, an energy management scheme, etc. The Law also establishes the Agency for Energy Efficiency, as the main implementing body, as well as an Energy Efficiency Fund. The Agency became operational in 2011 and drafted a set of secondary legislation based on the Energy Efficiency Law.

The Ministry of Economy, the Energy Efficiency Agency, as well as the Ministry of Construction and Regional Development are the key institutions dealing with transposition and implementation of energy efficiency acquis in Moldova.

The 1st National Energy Efficiency Action Plan for 2013 - 2015 (NEeAP) was developed by the Agency in collaboration with the central Government and local authorities, and adopted in February 2013. The NEeAP sets measures to complete the legal framework and to achieve energy savings of 428 ktoe, i.e. approximately 1.8% annually, until 2015.

The Energy Efficiency Fund was set up in June 2012, and it finances projects in the area of energy efficiency and renewable energy in accordance with the strategies and programs adopted by the Government. The Fund’s administration made a first call for projects in summer 2012 and the second call for projects in summer 2013. It is planned to have a budget of MDL 520 millions (around EUR 32 million) for the 1st NEeAP 2013 - 2015, in addition to financial support from donors.

Moldova made significant progress within the reporting period. The NEeAP was developed by the Agency and adopted by the Government in February 2013. It follows the requirements of the energy efficiency acquis, sets an energy savings target and breaks it down to energy-consuming sectors, including the energy sector, industry, transport, services and households.

Further progress in transposition of Directive 2006/32/EC was achieved by the adoption, during the second half of 2012, of a set of regulations dealing with energy audits, authorization of energy auditors and methodology for calculating the costs of the energy audit. Energy audits are mandatory for energy efficiency projects financed by the Energy Efficiency Fund, or by national or local authorities’ budgets.

Furthermore, a package of primary and secondary legislation to transpose Directive 2010/31/EU was drafted during 2011 and 2012. The Ministry of Construction and Regional Development drafted a Law on the Energy Performance of Build-
ings. The crisis in the Government in early 2013 delayed its adoption. The following package of by-laws was also drafted but not yet adopted: a Regulation on Energy Performance of Buildings, a Regulation on Regular Inspection of Heating and Air-Conditioning Systems, a Methodology for Calculation of Energy Performance of Buildings, a Model Report of Regular Inspection of Heating and Air-conditioning Systems, Guidelines for the Application of the Calculation Tool, and a Methodology and Guidelines for Drafting the Report on Regular Inspection of Boilers and Heating systems. CEN standards required for the implementation of the Directive are expected to be gradually adopted. A national investment programme for the building sector is being developed by the Ministry of Construction and Regional Development, which will set detailed measures and investment mechanisms for the building sector.

In the area of the labelling of energy-related products, a Law on the Labelling of Energy Related Products was drafted and submitted to the Government for approval in 2013.

c. State of compliance

1. The main provisions of the Energy Service Directive have been transposed by the Energy Efficiency Law, and the secondary legislation listed above. The NEEAP for 2013 - 2015 was adopted in a proper manner in February 2013. Yet, the Directive has not been fully transposed. In order to achieve that, a set of secondary legislation dealing with ESCOs and public procurement was drafted, needs to be adopted in by the Government.

2. As regards the labelling of energy related products, the deadline for transposing the Directive 2010/30/EU expired in December 2011. A Law transposing the Directive was drafted by the Ministry of Economy and was submitted to the Government for approval. So far, however, the Directive has not been transposed by Moldova.

3. The deadline for the implementation of Directive 2010/31/EU expired in September 2012. As long as the Law on Energy Performance of Buildings, and the secondary legislation required there under, is not adopted, Moldova fails to comply with requirements of Directive 2010/31/EU.

d. Conclusions and Priorities

The institutional framework for energy efficiency in Moldova has been well developed with the establishment of the Energy Efficiency Agency and the Energy Efficiency Fund. The 1st NEEAP was adopted as the main strategic implementation document.

The first priority for the future should be the adoption of the existing draft legislation (i.e. the Law on Energy Performance of Buildings) and the regulations required for the development of energy services, public procurement and Law on Energy Labelling. The Secretariat urges the responsible institutions to timely submit all future draft future documents to the Secretariat for a compliance check before it is sent to the domestic authorities for approval.

The second priority should be the implementation of the existing NEEAP and adoption of the drafted package of legislation transposing Directive 2010/31/EU.

### 3.7.8 Montenegro

**Energy Efficiency**

**National Energy Efficiency Action Plan (NEEAP)**

<table>
<thead>
<tr>
<th>Period covered by NEEAP</th>
<th>2010 - 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall energy savings target - Directive 2006/32/EC (ktoe / % / year)</td>
<td>58.9 / 9 / 2018</td>
</tr>
</tbody>
</table>

**Key Institution(s) in charge**

- Ministry of Economy, Ministry of Sustainable Development

**Main data and energy efficiency indicators**

<table>
<thead>
<tr>
<th>Year</th>
<th>Residential</th>
<th>Services</th>
<th>Industry</th>
<th>Transport</th>
<th>Others</th>
<th>Non-energy use</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>42%</td>
<td>0%</td>
<td>26%</td>
<td>26%</td>
<td>1%</td>
<td>5%</td>
</tr>
<tr>
<td>2010</td>
<td>42%</td>
<td>0%</td>
<td>24%</td>
<td>28%</td>
<td>1%</td>
<td>5%</td>
</tr>
<tr>
<td>2011</td>
<td>41%</td>
<td>0%</td>
<td>27%</td>
<td>30%</td>
<td>1%</td>
<td>5%</td>
</tr>
</tbody>
</table>

**Total primary energy supply (TPES)**

<table>
<thead>
<tr>
<th>Year</th>
<th>ktoe</th>
<th>2010</th>
<th>1,174</th>
<th>2011</th>
<th>1,179</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>594</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2011</td>
<td>1,164</td>
<td>1,174</td>
<td>1,179</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total final energy consumption (TFEC)**

<table>
<thead>
<tr>
<th>Sector</th>
<th>ktoe</th>
<th>2010</th>
<th>1,000 USD</th>
<th>2011</th>
<th>1,000 USD</th>
<th>2012</th>
<th>1,000 USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>752</td>
<td>806</td>
<td>816</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Services</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Industry</td>
<td>26%</td>
<td>24%</td>
<td>27%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transport</td>
<td>28%</td>
<td>28%</td>
<td>20%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Others</td>
<td>1%</td>
<td>1%</td>
<td>0%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-energy use</td>
<td>5%</td>
<td>5%</td>
<td>5%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Source**: International Energy Agency

### a. Energy efficiency in Montenegro

The Energy Efficiency Law was adopted in Montenegro in 2010. Subsequently, a large part of the package of by-laws was adopted in 2011 and 2012, including the Methodology for Calculating Indicative Energy Savings Target and Decision on Determining Indicative Energy Savings Target (2011), the Rulebook on the Information System of Energy Consumption and on the Manner of Submission of Data on Annual Consumption of Energy (2012), the Regulation on Determining Limits for Energy Consumption to Define Big Consumer, the Content of the Energy Efficiency Improvement Plan and the Report on the Plan Implementation (2012). A set of five rulebooks on buildings was adopted in May 2013.

Montenegro adopted the 1st NEEAP as required by Directive 2006/32/EC in 2010. The NEEAP focused on the period 2010 - 2012 and included no less than 34 implementing measures, to achieve an intermediate and overall indicative energy savings target of 2% and 9% in 2012 and 2018 respectively.

The Law on Spatial Planning and Construction of 2008 introduced provisions in two areas: energy efficiency requirements to be fulfilled during the development of spatial/urban plans and as a precondition for the building permit. They impose an obligation to include energy efficiency criteria when preparing the specific technical documentation ("elaborate") for new buildings, and to submit a certificate on the energy performance of the building.

The Public Procurement Law was amended in 2011 to introduce energy efficiency criteria, further elaborated by Procurement Guidelines.

The Energy Efficiency Law assigns responsibility for implementation to the Ministry of Economy and its Directorate for Energy Efficiency. Directive 2010/31/EU is being implemented in cooperation between the Ministry of Economy and the Ministry of Sustainable Development and Tourism which is responsible for buildings. No specialized Agency for Energy Efficiency exists in Montenegro. However, the Energy Efficiency Law introduced an inspectorate for energy efficiency that controls the work of energy auditors providing energy performance certification.

A Fund for Energy Efficiency was established in 2006, as an independent budget item within the State budget allocations to the Ministry of Economy. The Fund manages projects supported by the State budget, donations, loans and/or other financing mechanisms.

### b. Progress made in 2012/2013

Montenegro made significant progress in the reporting period. Following the adoption of the Law on Energy Efficiency, the adoption of relevant by-laws continued in 2013 with a set of rulebooks related to the building sector. They include the Rulebook on Energy Performance Requirements (including...
Despite significant progress made in the reporting period, the finalization of certain legislation and putting more efforts in implementation remain priorities for next period.

The priority for Montenegro in 2013 should be the immediate adoption of the missing secondary legislation accompanying the Energy Efficiency Law. In the framework of the Implementation Partnership signed with the Secretariat in June 2012, technical assistance is possible in this area.

Finally, the institutional setup should be further developed, either by strengthening the capacities within the Ministry of Economy and local authorities, or by establishing a specialised energy efficiency institution.

4. Conclusions and Priorities

Despite significant progress made in the reporting period, the finalization of certain legislation and putting more efforts in implementation remain priorities for next period.

The priority for Montenegro in 2013 should be the immediate adoption of the missing secondary legislation accompanying the Energy Efficiency Law. In the framework of the Implementation Partnership signed with the Secretariat in June 2012, technical assistance is possible in this area.

Finally, the institutional setup should be further developed, either by strengthening the capacities within the Ministry of Economy and local authorities, or by establishing a specialised energy efficiency institution.
Related Products, which is expected to transpose the Directive 2010/30/EU and the delegated regulations. The adoption of this Decree is expected in November 2013.

The 1st NEEAP was implemented only partially. One of the reasons was the delay in the implementation of the adequate legal framework. To strengthen the NEEAP implementation, a Decree on a Program for Financing of Energy Efficiency Projects was already adopted in 2012. However, a source of funding, the Fund for Environmental Protection, was terminated in September 2012, which slowed down the NEEAP’s funding, the Fund for Environmental Protection, was terminated in September 2012, which slowed down the NEEAP’s implementation in building sector. In April 2013, Serbia started the preparation of the 2nd NEEAP, and submitted the first draft for comments to the Secretariat in June 2013.

The target in the 1st NEEAP was determined not in compliance with Article 4 of the Directive (i.e. on the basis of average annual amount of consumption for the most recent five-year period), but on the basis of data on the final inland energy consumption in 2008, due to statistical data constraints. The 2nd NEEAP must correct this shortcoming, improve the monitoring and verification of the savings achieved, and describe energy efficiency improvement measures. Thus full transposition and compliance with Directive 2006/32/EC is still not achieved.

2. Until the adoption of the Decree on Labelling of Energy-Related Products, Serbia does not comply with Directive 2010/30/EU and the Delegated Regulations.

3. The Law on Construction and Planning, the Law on Efficient Use of Energy, the Rulebook on Energy Efficiency of Buildings and the Rulebook on the Conditions, Content and Manner of Issuance of Certificates of Energy Performance of Buildings partly transpose Directive 2010/31/EU. The Institute for Standardization adopted a set of relevant standards. Implementation is ongoing but certain provisions will be implemented with adoption of by-laws on the basis of the Law on Efficient Use of Energy, such as inspection of heating and air-conditioning systems, training and accreditation of experts, and energy audits.

With the adoption of the Law on Efficient Use of Energy, Serbia made a significant step towards the transposition of energy efficiency acquis. However, more needs to be done in the near future for full implementation.

The first priority for Serbia should be the adoption of the comprehensive set of secondary legislation based on the Law on Efficient Use of Energy, including also the Decree on Energy Labelling.

The second priority should be the timely finalization and adoption of the 2nd NEEAP (Serbia submitted a first draft in June 2013) correcting some of the shortcomings of the 1st NEEAP.

C. State of compliance

1. The Law on Efficient Use of Energy transposes the main provisions of Directive 2006/32/EC (definitions, NEEAP requirements, energy audits, minimum energy efficiency requirements in generation, transmission and distribution, new financing mechanisms and obligations of the public sector). The Ministry of Energy, Development and Environmental Protection is currently drafting a comprehensive package of secondary legislation, to support fully the implementation of Directive 2006/32/EC.

The Programme of Economic Reforms for 2010-2014 includes the promotion of energy efficiency as a key objective. The Energy Strategy, updated in 2012, puts strong emphasis on energy efficiency measures to tap into the large and unused energy efficiency potential in Ukraine.

An (outdated) Law on Energy Conservation of 1994 still applies in Ukraine. It stipulates only very general principles on energy efficiency. A new Law on Efficient Use of Energy Resources was drafted to transpose the energy efficiency acquis. Nevertheless, currently the Law was approved by the Council of Ministers, sent to the Parliament and discussed in the Parliament Commission for EU Integration on 18 September 2013. The Parliament approval is expected before the end of 2013.

In the absence of the new law, the most relevant document is the State Target Economic Programme on Energy Efficiency for the period 2010 - 2015, and the action plan for its implementation. They were approved by the Government in 2010 and are updated every year and adjusted to the available budget. These define actions for bringing the national legislation on energy efficiency and renewable energy in line with the acquis, of which the preparation of the Energy Efficiency Law is the key milestone. A very ambitious target for energy efficiency envisages reduction of energy intensity by 20% until 2015, as compared to 2008, which is very difficult to achieve in the absence of the appropriate legal and financial framework.

The State Agency for Energy Efficiency and Energy Saving (SAEE) is the main institution responsible for the promotion of energy efficiency and renewable energy in Ukraine. SAEE is coordinated by the Ministry of Economic Development and Trade of Ukraine, and is responsible for end-use efficiency, while the Ministry of Energy and Coal Industry is responsible for energy efficiency policies on the supply side. The Ministry of Regional Development, Construction, Housing and Communal Services is tasked with the implementation of Directive 2010/31/EU. This complex institutional set-up requires efficient coordination, which is currently not taking place in a satisfactory manner.

An Action Plan on Legal Support of the Energy Efficient Policy in Heat Consumption and Modernization of the Heat Supply was approved in July 2012. It envisages the update of standards for heating installations, the development of “model” technical solutions and the adoption of financial support instruments.

The financial support from the public budget to promote energy efficiency is provided within the framework of the State target economic program of energy efficiency. Besides that, international donors are very active in Ukraine and provide extensive technical and financial assistance.

b. Progress made in 2012/2013

Ukraine’s progress in the reporting period was limited mainly to drafting primary and secondary legislation, and the 1st National Energy Efficiency Action Plan (NEEAP). None of these were adopted by the date of this report.
The draft NEAP 2012-2020 was submitted to the Secretariat in February 2013. Subsequently, and taking into account the Secretariat’s comments, the first version was significantly improved. The updated draft provides a comprehensive analysis of the current situation, defines a national indicative energy savings target of 9%, and proposes a set of energy efficiency improvement measures in energy end-use sectors, as required by Directive 2006/32/EC.

A roadmap for the transposition of the energy efficiency acquis, required under the Taskforce’s Work Programme for 2012, was prepared by SAE and approved by the Governmental Decree on the Approval of the Action Plan on Implementation of certain EU Directives in the area of Energy Efficiency in May 2013.

The draft Law on Efficient Use of Energy Resources is being discussed in the Ukraine Parliament. It should, among other things, strengthen the role of the Agency in the monitoring of energy efficiency programmes and measures, extend State funding to SMEs and ESCOs, and introduce other innovative financing mechanisms as well as penalties for non-compliance. A draft Law on Energy Efficiency in Public and Residential Buildings was prepared by the Ministry of Regional Development, Construction, Housing and Communal Services and submitted to Parliament in December 2012, where the second reading is expected in 2013. In parallel, Ukraine is in the process of implementing relevant standards in this area, as well as a Handbook on Energy Certification of Buildings.

On 7 August 2013, the Government of Ukraine adopted the Decree of the Cabinet of Ministers on the Technical Regulation on Energy Labelling. This was developed by SAE, and among others, it empowers the Ministry of Economic Development and Trade, as well as the Ministry of Justice to review the issues concerning product market surveillance.

The Technical Regulation on Energy Labelling, also adopted by the above mentioned Decree transposes the recast EU Labelling Directive and some Delegated Regulations, as follows:

- Directive 2010/30/EU of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products;
- Delegated Regulation of EU of 28 September 2010, Nr.1061/2010 on energy labelling of household washing machines.

SAE also started developing Technical Regulation on Energy Labelling of televisions, household air-conditioners and household lamps on the basis of EU legislation.

SAE also developed a communication strategy aimed at increasing the public awareness in energy efficiency issues. Its implementation began in 2012. A separate information campaign for the agricultural sector also started in 2012.

c. State of compliance

1. The Law on the Efficient Use of Energy Resources is intended to transpose Directive 2006/32/EC. The Law adoption is pending. The 1st draft NEAP 2012-2020 was improved to ensure compliance with the acquis, especially with Directive 2006/32/EC. However, its adoption is still pending. Under these circumstances, Ukraine currently does not comply with Directive 2006/32/EC.

2. The draft Law on Energy Efficiency in Public and Residential Buildings is meant to transpose Directive 2010/31/EU. The draft was sent to Parliament in December 2012, but its adoption is still pending. As the Energy Community deadline for the implementation of the Directive expired in September 2012, Ukraine fails to comply with this Directive at the date of this report.

3. Conclusions and Priorities

At the date of this report, Ukraine has not yet complied with its obligations under the energy efficiency acquis. A significant number of acts of primary and secondary legislation remain to be adopted. The main priority for Ukraine should be the rapid adoption of the Law on Efficient Use of Energy Resources, the Law on Energy Efficiency in Public and Residential Buildings.

The second priority should be the development of the Regulation on Energy Efficiency in Buildings. Furthermore, the improvement of internal coordination between the authorities, as well as with the donors in Ukraine, is essential for further progress in 2013 and beyond.
3.8 Statistics

A Regional Overview
3.8 STATISTICS – A Regional Overview

Integration of energy markets within the Energy Community and with the EU market requires accurate information on market competition, concentration and monoplies, price structure and price levels, applicable fees and charges, subsidi¬ary agreements, and the electricity market for a level playing field for participants in these markets. The status and changes of supply and demand, fuel mix and emissions, stocks levels, import dependency, consumption patterns in different industrial, transport and commercial activities and residential sectoral short term information and long term trends and projection are of particular interest in this context. At the same time, the commitments of the Energy Community in the areas of energy efficiency, renewable energy sources and oil stocks require monitoring the effectiveness of energy policies, measures and reporting need to be based on sound and reliable data.

a. The acquis on statistics

In October 2012 the Ministerial Council adopted the Decision to implement the Rules of Energy Statistics in the Energy Community with a view to ensure the collection, compilation and dissemination of consistent, accurate and coherent energy related data. With this Decision, Regulation (EC) No 1099/2008 of 22 October 2008 on energy statistics, and Directive 2008/92 of 22 October 2008 concerning a Community Procedure to Improve the Transparency of Gas and Electricity Prices Chaged to Industrial End-users (recast), became a part of the acquis in the area of Energy Community. Energy statistics, as defined in the Regulation and Annexes to it, refers to statistical data concerning energy products and their aggregates, definitions, data sources, time reference and frequency of reporting, transmission and dissemination, quality assessment and quality reporting. The energy products and energy aggregates covered include solid fuels and manufactured gases, natural gas, heat and electricity, oil and petroleum products, renewable energy and energy from waste. Data collections are reported annually, monthly and short monthly. In terms of methodology, the IEA publication “Energy Statistics Manual”, developed in cooperation of IEA, EUROSTAT, UNECE, IEA, is a key textbook for energy statisticians and energy planners.

The deadline for implementation of the acquis on statistics is the end of 2013. The Ministerial Council Decision tasked the Secretariat to monitor implementation of the acquis in accordance with its mandate and to submit an annual progress report, the first of which is due in 2013.

b. Statistics in the Energy Community

From 1 January 2014 all Contracting Parties should establish a reporting system capable of producing the required data on fuels and energy and on electricity and gas prices, maintaining the format, frequency and timeliness defined in the acquis.

By now, all Contracting Parties nominated national coordina¬tors for the harmonisation of energy statistics and prepared revised action plans for energy statistics harmonisation or a common approach to technical assistance. Based on these plans, the Secretariat in cooperation with EUROSTAT and the national coordinators defined service specifications for the production of energy statistics. This will focus the quality of overall annual collections, renewable energy data and establishing a system for monthly statistics and price statistics.

In Albania the Law on Statistics of 2004 defines the respon¬sibilities of different stakeholders and a methodological concept of collection, compilation and dissemination via the Institute for Statistics (INSTITAT) as a national body for official statistics. However, the collection and compilation of energy statistics is assigned to the National Agency for Natural Resources (AKBN). AKBN is authorized to collect information about the use of natural resources, including energy supply and consumption. AKBN is also responsible for the collection and compilation of annual and monthly data on energy products.

INSTAT is responsible for the publication of statistical data and for price collections. The official statistical program for a five year period, defining the list of surveys to be conducted and responsible institutions has been adopted by the Parlia¬ment. The current program does not oblige INSTAT to con¬duct any surveys under the acquis on statistics.

The regulatory authority is responsible for the monitoring of energy markets and prices in the regulated electricity and gas activities, the generation of energy from renewable sources and cogeneration.

The Ministry responsible for the energy sector is authorised by several sector laws to monitor security of supply, including the collection of short-term data on production, import, export, consumption and stock changes, emissions of pollutants, energy efficiency and other indicators and provide inputs for projections and modeling of energy supply and demand.

The Law on Statistics of Bosnia and Herzegovina defines a legal set up for statistics, including energy statistics. The Law defines the Agency for Statistic of Bosnia and Herzegovina (BHAS) as the competent authority. Other sources of official statistics are statistical agencies in the entities and the Central Bank of Bosnia and Herzegovina.

The statistical program for the period 2009 - 2012 envisages the development of a methodology and surveys for annual data collections on supply and consumption of energy in ac¬cordance with international standards, with a focus on elec¬tricity, gas, coal and oil. Electricity and gas prices are not ex¬plicitly mentioned in this program. However, BHAS concluded a Memorandum of Understanding with the national regu¬latory authority ESE. This obliged the Commission to commu¬nicate information on electricity prices to BHAS.

The entities established their respective legal frameworks to collect and compile relevant data for planning energy balances and designing energy policies and measures within their competence.

Statistics in the Federation of Bosnia and Herzegovina are governed by the Law on Statistics from 2003. The Law de¬fines the vertical and horizontal lines of communication with the Institute for Statistics in charge of producing official statis¬tics. Part of the framework is a program of statistical surveys for a four year period and annual plans. The most recent pro¬gram covers the period 2009 - 2012, targeting the develop¬ment of surveys to produce annual balances for electricity, heat, coal, gas and oil in accordance with international (IEA and EUROSTAT) standards.

In the Republika Srpska, the Law on Statistics from 2003 de¬fines the organisation of statistical activities. The Institute for Statistics is responsible for its implementation. The produc¬tion of statistics is determined by the program of statistical surveys, the most recent for the period 2013 - 2017, and an annual Work Plan.

The Law on the state-level and corresponding entities’ Laws are currently being reconsidered.

The Law on Official Statistics of Kosovo from 2011 estab¬lishes a legal framework for the organisation, production and publication of official statistics. The Law defines the role of producers of official statistics, namely the Kosovo Agency for Statistics (KAS), the Central Bank and the Ministry of Finance.

The Energy Law defines the obligation of the Ministry of Energy and Mining to adopt and publish forecasts of long¬term and annual energy balances. In addition, the regulator is obliged to approve the methodology for the forecasting and data collection process to prepare an energy balance. The Program of Official Statistics defines the framework for the production of official statistics for a period of at least five years. Currently the Program is adopted for the period 2012 - 2017.

A memorandum of cooperation between KAS, the Ministry of economic development (MOE) and the regulatory authority KAS is envisaged in order to streamline reporting requirements of Regulation (EC) 1099/2008 and Directive 2008/92/EC.

Currently, energy data is collected, compiled and published by the MOE, within its Department for Energy and Mining. Reporting requirements for energy data from Regulation (EC) 1099/2008 are defined in the Rules on Energy Balances intro¬duced by an administrative order of MED. The order defines the reporting requirements, units, format and communication lines and responsible institutions.

A legislative framework for the collection of energy prices has not yet been established. It has been agreed that KAS shall take responsibility to implement Directive 2008/92/EC in re¬spect of electricity prices, starting from 2014 and the public supplier of electricity to report all data on electricity prices.

In the former Yugoslav Republic of Macedonia the Law on Statistics from 1997, amended in 2007 and 2011, de¬fines the organisation of statistical work in the country. Ac¬tivities on the collection, compilation and dissemination of official statistics, including energy statistics, are vested in the State Statistical Office (SSO).
The Law is supported by the program of statistical surveys covering a four year period and annual work plans. In accordance with the Law, the Government adopted the Program of statistical surveys for the period 2013 - 2017. Priorities are to intensify the work on quality reports and metadata, to improve the quality of monthly data and activities aiming to improve the data on energy consumption in households. SSO has already compiled the first short-term monthly datasets and started submitting them to EUROSTAT.

The Program also defines reporting requirements and obligations relating to price monitoring, entrusting the SSO to collect, compile and disseminate half-yearly price data, in accordance with Directive 2008/95/EC and the definitions and methodology set by EUROSTAT for both electricity and gas. Prices charged to industrial and residential customers and price structure. Based on the Program, SSO is preparing a Strategic Plan, the most recent for the period 2013 - 2015.

The sector laws, particularly the Energy Law, allows the Ministry of Economy to collect certain energy data, specifically as regards data for the planning of energy balances and its realisation. The Ministry of Economy has developed a draft government Decision on the creation of energy statistics system at the national level. In 2013 the Energy Law and the Law on Energy Efficiency as sector laws define reporting obligations and competencies of the sector regulations.

The Law on Official Statistics and statistical system of Montenegro of 2012 defines the organisation of activities relating to official statistics, including collection, compilation, record keeping and dissemination of statistical data and principles of official statistics.

The Statistical Office of Montenegro (MONSTAT) is the competent body for the preparation of official statistics, including all data relevant for the acquisition of statistics.

Official statistical activities are based on the program of statistical surveys, prepared in compliance with the Development Strategy and covering a five-year period. Currently the Program of Statistical Surveys for the period 2009 – 2013 has been implemented. The Program requires the preparation of annual energy balances for electricity and coal, as well as the development of annual balances for oil, gas and energy from renewable sources with the aim to prepare a comprehensive energy balance, and indicators on gas and electricity prices for customer categories based on consumption bands.

For the purpose of implementing the Program, an annual plan is adopted for each calendar year. In reference to energy statistics, the Annual Plan for 2013 specifies conducting surveys to collect annual data for electricity, coal, oil and oil derivatives, biofuels and the compilation of a comprehensive annual energy balance. The Plan does not indicate any work on monthly data. However, MONSTAT has started to collect and compile monthly data for electricity and coal, in cooperation with the Ministry in charge of energy.

The Energy Law and the Law on Energy Efficiency as sector specific laws define reporting obligations and competencies for implementation.

Pursuant to the Energy Law, the Ministry in charge of energy is responsible for preparing a long-term and annual energy balance in accordance with the long-term energy strategy and action plan for its implementation. The Ministry is responsible for adopting a rule defining the content, scope, reporting units and their obligations, procedure and methodology for the preparation of an energy balance. The draft rule has been prepared, but not yet adopted.

In accordance with the Law on Energy Efficiency, the Ministry adopted a set of secondary statistical legislation. The Rulebook on information system on energy consumption and reporting on annual consumption, adopted in 2012, defines obligations of different reporting units to submit information on their energy consumption to the Ministry. MONSTAT is responsible for price collections, including electricity and gas prices. In addition, the national regulatory authority is authorised by the Energy Law to monitor the operation of energy undertakings (electricity, gas, heat and coal) and to request from licensed undertakings the submission of information necessary to perform its tasks.

The Official Statistics Law of Serbia provides the legal framework for the production and dissemination of official statistics and for the organization of the system of official statistics in Serbia. According to the Law the Statistical Office of the Republic of Serbia (SORS) acts as the authorised professional agent, main producer and disseminator of official statistics and organiser and coordinator of the official statistics system. It performs its tasks in accordance with the five-year statistical programs approved by Parliament and annual implementation plans approved by Government.

The Program of Official Statistics for the period 2011 - 2015 aims to achieve complete harmonisation of statistical surveys and indicators with international standards, primarily with EU standards, until the end of the reference period. Energy statistics is among the priorities in this Program. Other key topics are the development of quality assurance and sampling methodology. The Program indicated that SORS and the Ministry in charge of energy are responsible for compiling annual energy balances; to provide structural data referring to production of electricity and characteristics of facilities and capacities for gas storage; provide data on consumption of energy commodities by sectors and groups of users.

The Annual Plan of Official statistics for 2013 puts great emphasis on energy statistics, specifying the type of data, methods and sources for collection and periodicity. According to this plan, the methodological and administrative setup to collect, inform and disseminate annual energy balances is compliant with the IEA / EUROSTAT methodology should be completed in 2013.

SORS reported its plan to gradually introduce monthly reporting, starting with simple questionnaires, in the following order of reporting: electricity, coal, natural gas, oil and petroleum products, to provide data on production, imports and exports, and then gradually increase the amount of data required by questionnaires until fully implementing Annex C and Annex D (monthly energy statistics) of Regulation (EC) 1099/2008.

In addition, the Energy Law obliges the Government and the Ministry in charge of energy to prepare an energy strategy and a program for its implementation and to submit an annual implementation report to Parliament. The Law also obliges energy undertakings, the regulatory authority and local administration unit to submit necessary information to the Ministry.


The central coordinating institution is the State Statistical Service of Ukraine (SSSU). It performs its tasks in accordance with the annual plan of state statistical observations approved by the Cabinet of Ministers. Other institutions involved in the production of energy statistics in Ukraine are Ministries in charge of energy, environment and natural resources, the energy regulator, the agency responsible for energy efficiency and others.

The Strategy for the State Statistics Development for the period until 2017 was adopted in March 2013. SSSU has developed a Quality Manual and Quality Management System.

The work plan for the period 2011 - 2012 specified a list of tasks in the area of energy statistics, including information on technical and economic parameters of the power stations, energy consumption and energy capacity serving the manufacturing process in industry, gasification data, heat supply, energy materials and refined products, residues and use of energy materials and products of petroleum, fuel operation of fuel and electricity companies and costs of fuel and energy production unit, production and use of heat and combustible waste energy, establishment of the database export and import of oil, gas, electricity, and other data to compile an energy balance of Ukraine.

SSSU collects information on capacities annually and information on production and consumption mainly on monthly basis.

The obligation of SSSU to compile an annual energy balance is based on the Resolution of the Cabinet of Ministers from 2007, amended in 2008. This Resolution established procedures, a methodological concept and reporting obligations in this respect, including data from administrative sources.

Pursuant to the Resolution 926-p from 1999, SSSU has been collecting monthly data on supply and consumption of coal, oil and oil products, and natural gas. From 2011 the data collection and compilation were adjusted to meet the requirements of IEA questionnaires for monthly reporting.

Half yearly gas and electricity prices are not part of the official statistics established by the Law on State Statistics. In this respect cooperation with the regulatory authority, as an institution responsible for monitoring and gas electricity markets and the conduct of licensed undertakings, should be introduced. However, the Energy Law from 2011 does not require reports on energy prices from the regulatory authority.
After adopting the rules of energy statistics in the Energy Community, the scope of technical assistance to be provided to Contracting Parties was agreed to focus on improving the quality of annual data collections, particularly regarding consumption data and data on energy from renewable sources, monthly data collections and price data collections.

At present the key challenges to implementing the acquis are the lack of financial, technical and human resources, particularly regarding monthly collection. Quality assurance in all collections will also need attention. Implementation of Directive 2008/92/EC is of utmost importance as it is a key tool for monitoring the evolving energy markets. The explicit assignment of tasks relating to price reporting schemes in accordance with the Directive has to be tackled urgently in their action plans, Contracting Parties envisage the coordination with other official sources, notably regulatory authorities. These cooperation arrangements have to be formalised to ensure adequate and timely implementation.

Common activities, managed by the Secretariat, will focus on capacity building to improve working procedures, to develop methodologies and questionnaires and to establish quality assurance procedures.

II. Conclusion and Priorities

The assessment of the legislative and administrative framework showed that in most Contracting Parties adaptations of primary legislation will not be needed and that the relevant institutions are equipped with the necessary powers and competences.

The responsibility for security of supply, energy strategies and planning, as well as for monitoring of the implementation of energy policies are usually vested in the executive authority, often involving collecting and compiling necessary information. Price setting and market monitoring, including the capacity to impose reporting obligations on licensed undertakings is vested in the regulatory authority. Authority to produce official statistics in energy rests with the designated statistics authority.

The existing legislative and institutional framework, limited sources in institutions responsible for energy statistics and complex multifold reporting and monitoring structure indicate that improving coordination and cooperation between different institutions would significantly contribute to the implementation of the acquis in an efficient and cost effective manner, improving the quality of data and reducing the burden on reporting units.

Implementation of the acquis on energy statistics imposes an obligation to permanently improve the system of energy statistics in each Contracting Party and to adjust the reporting schemes in the Energy Community to the methodologies employed by EUROSTAT.

Price statistics compliant with Directive 2008/92/EC and EUROSTAT methodology on price and market monitoring are of utmost importance as key references to assess market integration and market opening. The establishment of the necessary framework is expected by 31 December 2013.

Data quality and quality assurance will be tackled in the technical assistance project managed by the Secretariat from August 2013 to April 2014.

With respect to the completion of annual datasets and their timely preparation, significant progress has been achieved.

Monthly statistics proved to be most challenging. The implementation of the acquis in this respect will require additional staff, technical equipment and substantial resources. The Contracting Parties should prioritise their activities according to available resources and gradually establish a monthly reporting scheme to reflect their needs for short term data.

Memoranda of understanding or other working formats for cooperation should also be established with all providers of administrative data defined in the legislation.

In Albania additional legal arrangements and regulations may be needed, not only to establish and strengthen the authority and legitimacy of the institution responsible for energy statistics, but also to assign authority for monthly collection. In parallel with the strengthening of its position, the responsible institution has to establish reporting requirements, methodology and a quality assurance system.

In Bosnia and Herzegovina, tasks related to monthly reporting still need to be explicitly assigned. The Law on Census of Population, Households and Dwellings in Bosnia and Herzegovina in 2013, planned for October 2013, remains of crucial importance for all statistics. This will provide the first official count of population, households and dwellings after 22 years and a basic input for all statistical calculations.

In Kosovo* priority should be given to complete institutional setup in place. It has to introduce the role on an energy balance, envisaged in the Energy Law, to enable efficient data collection and the coordinated approach of institutions and stakeholders. Staff numbers are still a limiting factor thus making human resources a key challenge to fully implementing the acquis on statistics.

Serbia has to finalise the current activities on data collections required for annual energy balances, as well as for monthly collections, to be compliant with the EUROSTAT methodologies in 2014. As a next step a comprehensive consumption survey will be needed. Although statistics on electricity and gas prices was not the top priority in 2013, coordination and cooperation between institutions should be encouraged or imposed for the sake of cost efficient implementation of the acquis.

Ukraine has already made plans and earmarked resources to have annual and monthly data collections in the required format and quality. In addition to implementation of this plan, a reporting system on electricity and gas prices in accordance with Directive 2008/92/EC should be defined in order to have reported half yearly prices for the first semester of 2014.

In addition to problems and obstacles regarding specific data needed to implement the acquis on energy statistics, most Contracting Parties are faced with a persistent lack of staff, very often combined with insufficient funding for key activities and in some cases lacking technical resources. Therefore, the first and foremost general precondition for a sound and reliable system of energy statistics is providing sufficient resources for the system to function.
3.9 Dispute Settlement Report
3.9 Dispute settlement report 2012/2013

a. Background

Title VII of the Treaty establishing the Energy Community envisages a dispute settlement mechanism to enforce the obligations as defined by the Treaty. Articles 90 to 93 have been fully applicable since the entry into force of the Treaty, but dispute settlement only started in practical terms after the adoption of the Rules of Procedure for Dispute Settlement under the Energy Community Treaty in June 2008 by the Ministerial Council (Procedural Act No 2008/01/MCE-Enc of 27 June 2008 on the Rules of Procedure for Dispute Settlement under the Treaty). The main features under these Rules are a two-step preliminary procedure to be carried out by the Secretariat on its own initiative or upon complaint by a private body, and the creation of an Advisory Committee to support the Ministerial Council in making a Decision under Article 91 of the Treaty.

The present dispute settlement report reflects the situation on 1 September 2013 and summarizes the open cases. Cases closed or not yet opened by this date are not reflected in this report. The present report is also without prejudice to bilateral discussions and negotiations currently taking place between the Secretariat and individual Contracting Parties (still) outside the scope of a dispute settlement procedure.

b. Open dispute settlement cases upon complaints

1. Case Ecs-3/08 was initiated with an Opening Letter sent by the Secretariat to the Republic of Serbia on 17 September 2010. Following Serbia’s reply, the Secretariat issued a Reasoned Opinion on 7 October 2011. The case was initiated by a complaint from the operator of the electricity transmission system located in Kosovo*, KOSTT. In the Secretariat’s assessment, the lack of compensation received by KOSTT for costs incurred as a result of electricity transit on the network it operates violates Article 3 of Regulation (EC) 1228/2003 in cases where the electricity flow originates or ends on the system operated by the Serbian EMS. Moreover, revenues resulting from the allocation of interconnection on the interconnectors with countries adjacent to Kosovo* seem not to be used for one of the reasons stipulated by Article 6 of Regulation (EC) 1228/2003. This issue is also subject to bilateral negotiations held in Brussels between the two Governments.

2. On 26 February 2013, the Secretariat sent an Opening Letter in Cases Ecs-6/13 to Ukraine. The Secretariat, taking the preliminary view that the Auction Rules adopted for the allocation of capacity on the country’s electricity interconnectors with its Western neighbours and Moldova, as well as their appliance in practice by the system operator, fail to respect relevant Energy Community rules, namely Regulation (EC) 1228/2003 and the so-called Congestion Management Guidelines. The view that the Secretariat takes in the Opening Letter is that different treatment of electricity imports and exports by distinguishing between different directions of electricity flow and maintaining different procedures for the allocation of capacity in both directions is incompatible with the Energy Community law. In addition, the Secretariat found that the access to interconnectors for electricity exports is limited by maintaining requirements for participation in the auctions that are falling short of respecting the acquis. The Secretariat also took the preliminary view that the procedure for capacity allocation in cases of non-congested interconnectors as well as the prohibition of secondary trading encroach upon several provisions and principles of the Energy Community Law.


5. On 11 February 2013, the Secretariat sent Opening Letters to Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Serbia and Ukraine in accordance with Article 12 of the Rules of Procedure for Dispute Settlement. The Secretariat comes to the preliminary conclusion that these five Contracting Parties have not yet transposed and implemented the requirements of Directive 1999/92/EC as required by Article 16 and Annex X of the Treaty. Directive 1999/92/EC aims to reduce emissions of SO₂ resulting from the combustion of heavy fuel oils and gas oils.

This designation is without prejudice to positions on status, and is in line with UNSC 1244 and ICI Advisory opinion on the Kosovo declaration of independence.
3.10 Investment Report
3.10 INVESTMENT REPORT: Projects of Energy Community interest

The investment outlook

“The Energy Community is about investments, economic development, security of energy supply and social stability”, reads the European Commission’s Report to the European Parliament and the Council in 2011. Improving the balance between energy supply and demand is critical for supporting economic development. Primary sources of energy are limited in the Contracting Parties, and the energy sector is facing the major challenges of reducing its carbon and energy intensity as well as rehabilitating and replacing the ageing power generation capacities. This necessitates the attraction of substantial new investments. According to the Contracting Parties’ own projections, total electricity production including net imports is forecasted to grow to 136.5 TWh by 2020 and to 170.72 TWh by 2030, aggregated at the level of Western Balkans and Moldova; the aggregated electricity generation including Ukraine is estimated at 443.5 TWh in 2020 and 590.1 TWh in 2030. In terms of new domestic generation capacity, the Contracting Parties have indicated plans to produce an additional 20 GW between 2012 and 2020, of which 8.1 GW is to be generated in Ukraine. The new plants are expected to be based on hydro energy (42%) and coal lignite (32%), nuclear (10%), gas (6%), other renewable energy sources (10%).

As part of the work on the Energy Community’s first Energy Strategy, a scenario analysis was performed with technical assistance sponsored by USAID. This included a ‘Current Trends’ scenario, evaluating the implications of continuing the current investment practices in the energy sector; a ‘Minimal investment Costs’ scenario examining the costs of meeting energy demand regardless of the environmental impact; and a ‘Low Emissions Development/Sustainability’ scenario looking at the costs and implications of a more aggressive promotion of energy efficiency and renewable energy, as well as the full implementation of the Large Combustion Plants Directive.

Under the ‘Current Trends’ scenario, the unmet electricity demand is estimated at 70 GW by 2020. The scenarios further indicate the potentially large investment needs required for the region to meet supply adequacy. Between 2012 and 2020, an estimated EUR 29.1 billion is needed under the ‘Minimal Investment Costs’ scenario. Under the ‘Current Trends’ scenario, considering the Contracting Parties’ own investment plans, the investments were estimated at EUR 44.6 billion. Under the ‘Low Emissions Development/Sustainability’ scenario, the expected investment costs are over EUR 73 billion.

Investment challenges

As they recover from the economic and financial crisis, the Contracting Parties will face an increasing demand in energy, and increasing pressure to cover the gap between supply and demand. This will require large scale investments in both power generation and transmission as well as in gas and oil supply. The lack of infrastructure is one of the most significant constraints to growth through its impact on the business environment. Investing in infrastructure is therefore a key component of any new growth agenda. In order to successfully attract private investments, several constraints need to be overcome.

1. Growth projection constraints

The World Bank in its Southeast Europe Regular Economic Report of December 2012 stated that: “After two years of fragile recovery from the global recession, as a group the six South East European countries (SEE)—Albania, Bosnia and Herzegovina (BiH), Kosovo, FYR Macedonia, Montenegro, and Serbia—are experiencing a double-dip recession in 2012. Deteriorating external conditions, the impact of the severe winter on economic activity, and a continuing rise in unemployment early in the year took a toll on consumption, investments, and exports”.

In 2012, the weighted average of GDP of the Western Balkans fell by 0.8%. The growth for 2013 is currently projected at 1.4% in the IFI Coordination Office of DG Enlargement report, based on International Monetary Fund (IMF) revised 2013 projections. Moldova’s GDP decreased by 0.8% in 2012 and its increase of 4% is forecasted for 2013. Ukraine’s GDP grew by only 0.2% in 2012 and is expected to grow by 1% in 2013 according to the World Bank and EBRD.

2. Public budget constraints

The IFI Coordination Office, in June 2013, described the (near term) investment perspectives in the Western Balkans as follows: “The countries are experiencing serious difficulties in financing infrastructure development due to sluggish growth of incomes, taxes and remittances. The global economic and financial crisis and particularly the problems in the euro zone have significantly reduced the fiscal space of governments in the region, public debt has attained critical levels for some countries, and access to bank lending and capital markets has become more difficult.”

Furthermore, Contracting Parties – with the exception of Ukraine – constitute small markets with relatively small investment projects, which make them less attractive to investors. Following the logic of economies of scale, it will definitely be more expensive for each Contracting Party to pursue full energy independence and to strive to achieve security of supply alone rather than cooperating in the planning and realization of infrastructure developments with its neighbours and increasing regional energy trade.

This fact as well as the present financing constraints for infrastructure investment requires even more activity than before, namely the identification of priorities for the future development of the electricity, gas and oil infrastructure at Energy Community level.

C. Projects of Energy Community Interest

For the reasons mentioned above, the Contracting Parties have agreed to cooperate in the process of identifying those projects which have the highest positive impact in the largest possible number of Contracting Parties, so-called Projects of Energy Community Interest (PECIs). The selection of these projects was accomplished by the same Task Force that contributed to the preparation of the Energy Strategy.

The methodology used to assess PECIs included as criteria: a cost-benefits analysis, enhancement of competition, system adequacy, progress in implementation, and the facilitation of renewable energy. The methodology applied to electricity generation projects is displayed in the diagram below. The same methodology with other weights (result of the “Cost Benefit Analysis (CBA)” 48%, enhancement of competition 20%, system adequacy 18%, and progress in realization 14%) was used for electricity and gas infrastructure projects.

Proposed Project Assessment Methodology to be continued for each investment project

Pre-assessment

Economic Cost Benefit Analysis

Multi-Criteria Assessment

- Projects proposed by project promoters

Enable project data

Result of CBA

Net Present Value

System Adequacy Index

Implementation Progress Indicator

Fiscal Support Indicator

Cost-Benefit Categories

Project costs

Security of supply

Market integration / Price convergence

CO2 emissions

Public consultation

Verification of project data

Identification of matching projects, complementaries, project clustering

Reference scenario Presented to TF

Agreed with TF

Modeling assumptions

Possible PECI projects

Agreed with TF

Input data for modeling

Public sources; questionnaires

Change in socio-economic welfare

Agreed with TF

Ability of each project to fulfill criterion

Weights*

Total score of each proposed project

Ranking of projects according to scores

*Weights and criteria differ slightly for the different groups (electricity infrastructure, electricity generation and gas infrastructure). In this graph criteria and weights for electricity generation are presented.
In order to facilitate the development and implementation of PECs, the Energy Community plans to strongly encourage regulatory measures in order to remove the barriers to cross-border investment. Such measures may include enhanced dialogue and cooperation between national regulatory authorities particularly in the case of cross-border projects, permitting procedures, information for decision makers, cost-benefit analysis, incentives for projects with a cross border impact, and others. To complement these, more innovative financial instruments should be used, and special funding mechanisms for PECs will have to be designed, using the pre-accession funds or other similar instruments. The Western Balkans Investment Framework focusing on supporting strategic projects in the Energy Community is a potential channel to secure financing for priority investments and to finance sector studies that can contribute to the implementation of PECs.

Based on this approach, the projects that will be proposed as PECs to the Ministerial Council on 24 October 2013 are the following:

### Electricity Generation

<table>
<thead>
<tr>
<th>Contracting Party</th>
<th>Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>AL</td>
<td>Hydro Power Plant Skavica</td>
</tr>
<tr>
<td>AL</td>
<td>Wind Park Dac-Velipoje</td>
</tr>
<tr>
<td>BIH</td>
<td>Combined Heat and Power Plant KTG Zenica</td>
</tr>
<tr>
<td>BIH</td>
<td>Hydro Power Plant Dabar</td>
</tr>
<tr>
<td>BIH + HR</td>
<td>Hydro Power Plant Dubrovnik (Phase II)</td>
</tr>
<tr>
<td>BiH + RS</td>
<td>Hydro Power Plants Upper (HPP Buk Bijela, HPP Foča, HPP Paunči, HPP Sutjeska) and Middle Drina (HPP Tegare, HPP Rogasica, HPP Dubravica)</td>
</tr>
<tr>
<td>Kosovo*</td>
<td>Kosovo e Re Power Plant (KRPP)</td>
</tr>
<tr>
<td>ME</td>
<td>Hydro Power Plants Lim River</td>
</tr>
<tr>
<td>RS</td>
<td>Thermal Power Plant Kulubara B</td>
</tr>
<tr>
<td>RS</td>
<td>Thermal Power Plant Nikola Tesla B3</td>
</tr>
<tr>
<td>RS</td>
<td>Combined Heat and Power Plant Novi Sad</td>
</tr>
<tr>
<td>RS</td>
<td>Hydro Power Plants Ilbirske (10 HPPs)</td>
</tr>
<tr>
<td>RS</td>
<td>Hydro Power Plants Velika Morava (HPP Ljubicevo, HPP Trnovec, HPP Svilajnac, HPP Mijatovac, HPP Varvarin)</td>
</tr>
</tbody>
</table>

### Oil Infrastructure

<table>
<thead>
<tr>
<th>Contracting Party</th>
<th>Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>HR</td>
<td>Project of Inspection, Evaluation, Rehabilitation, Upgrading and Reconstruction of the existing JANAF Oil Pipeline</td>
</tr>
<tr>
<td>UA</td>
<td>Construction of the Brody – Adamovsky oil pipeline</td>
</tr>
</tbody>
</table>

### Gas Infrastructure

<table>
<thead>
<tr>
<th>Contracting Party</th>
<th>Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>AL-GR-ME-HR-BIH</td>
<td>Ionian Adriatic Pipeline (IAP)</td>
</tr>
<tr>
<td>GR-AL-IT</td>
<td>Trans Adriatic Pipeline (TAP)</td>
</tr>
<tr>
<td>AL</td>
<td>EAGLE LNG Terminal</td>
</tr>
<tr>
<td>BIH - HR</td>
<td>Interconnection Pipeline BiH - HR (Slobodnica-Bosanski Brod-Zenica)</td>
</tr>
<tr>
<td>BIH - HR</td>
<td>Interconnection Pipeline BiH - HR (Plome – Mostar - Sarajevo/Zagvozd - Posuđe/Travnik)</td>
</tr>
<tr>
<td>BIH - HR</td>
<td>Interconnection Pipeline BiH - HR (Li ka Jesenica-Tržac-Bosanska Krupa)</td>
</tr>
<tr>
<td>HR</td>
<td>LNG Terminal in Croatia + Pipeline Žüdbri-Bosiljevo-Sisak-Kozarac-Slobodnica</td>
</tr>
<tr>
<td>HR - RS</td>
<td>Interconnection Pipeline HR - RS (Slobodnica-Solin-Ba ko Novo Selo)</td>
</tr>
<tr>
<td>Sr</td>
<td>Interconnection Pipeline RS (Nis) – BG (Dimitrovgrad)</td>
</tr>
<tr>
<td>UA</td>
<td>Modernization of Urengoy-Pomory-Uzghorod Pipeline</td>
</tr>
</tbody>
</table>

### Electricity Infrastructure

<table>
<thead>
<tr>
<th>Contracting Party</th>
<th>Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>AL - FYR of MK</td>
<td>400 kV OHL SS Bitola (FYR of MK) – SS Elbasan (AL)</td>
</tr>
<tr>
<td>HR - BIH and HR internal line reinforcement</td>
<td>400 kV OHL Banja Luka (BIH) – Lika (HR) 400 kV OHL Brinje – Lika – Velebit including 400 kV substation Brinje</td>
</tr>
<tr>
<td>IT - AL</td>
<td>400 kV HVDC SS Vlora - Bari West</td>
</tr>
<tr>
<td>Kosovo* - AL</td>
<td>400 kV OHL Tirana (AL) – Pristina (Kosovo*)</td>
</tr>
<tr>
<td>MD - RO</td>
<td>OHL Balti (MD) and Sučaova (RO)</td>
</tr>
<tr>
<td>ME - RS - BIH and ME internal line reinforcement</td>
<td>400 kV OHL SS Bajina Basta (RS) – SS Prijepolje (ME) – SS Visegrad (BIH) 400 kV OHL Prijepolje – Lastva</td>
</tr>
<tr>
<td>RS</td>
<td>400 kV OHL SS Kragujevac - SS Kraljevo</td>
</tr>
<tr>
<td>RS</td>
<td>400 kV OHL SS Bajina Basta - SS Kraljevo</td>
</tr>
<tr>
<td>RS</td>
<td>400 kV OHL SS Obrenovac - SS Bajina Basta</td>
</tr>
<tr>
<td>RS - RO</td>
<td>400 kV OHL SS Resita (RO) - SS Pancevo (RS)</td>
</tr>
</tbody>
</table>
3.11 Social Issues

A Regional Overview
3.11 SOCIAL ISSUES – A Regional Overview

a. The social acquis

Article 2 of the Treaty mentions social stability together with economic development as one of the primary interests of the Parties for which the access to stable and continuous energy supply is essential. Chapter IV of the Treaty (Articles 31–33) envisages further promotion of the social aspects of the energy acquis related to the provision of energy to citizens and affordability.

The Memorandum of Understanding on Social Issues in the context of the Energy Community was signed in October 2007. Moldova and Ukraine signed it in October 2011. The Memorandum indicates the political intent of the Contracting Parties to take due account of the social consequences of implementing the Treaty, and the ensuing energy sector reforms. However, the Treaty does not provide a specifically defined set of social acquis.

The Memorandum of Understanding addresses in more detail the social protection of consumers, the safeguarding of limits to the impact of social and economic change, particularly for the most vulnerable consumers; the improvement of energy sector workers’ living and working conditions; and the anticipation of and solution to negative impacts as a result of sector restructuring. It also addresses the protection of workers’ rights, the improvement of safety at work, equal opportunities for men and women, dealing with redundant workers, investment in lifelong learning, energy efficiency at work and similar activities.

The Ministerial Council also established an annual Social Forum in December 2007, as a platform for discussing the progress of the Memorandum’s implementation.

Following the Memorandum and guided by the Secretariat, the Contracting Parties (apart from Moldova and Ukraine) prepared Social Action Plans. The Social Action Plans are intended to serve as a roadmap to develop and implement measures necessary to deal with the social consequences of energy sector reform.

As regards such measures, the main focus is on the protection of vulnerable consumers, the information and consultation of social partners in the energy sector, the development of specific employment, training and support services for managing the restructuring process and workers’ fundamental rights as well as their working conditions and equal opportunities.

b. The state of play

The 5th Social Forum held in September 2012 called for addressing the social dimension of the Energy Strategy of the Energy Community as adopted by the Ministerial Council in 2012. The Ministerial Council Meeting held in October 2012 invited the Secretariat, in cooperation with the social partners, to prepare an outline of a Social Strategy. Subsequently, the Secretariat started a public consultation with stakeholders during January and February 2013. The 6th Social Forum held in April 2013 discussed the Secretariat’s draft outline of the Social Strategy. It was agreed to propose a regional definition of vulnerable consumers. Based on this invitation, the Secretariat proposed that:

1. In electricity, a vulnerable customer is (1) using energy for supplying her/his permanent housing; (2) not exceeding a maximum energy consumption per person. When defining the electricity consumption level per person, Contracting Parties shall consider total consumption of up to 200 kWh/month for a family with up to 4 members and reflect seasonality; (3) belonging to a category of citizens with the lowest income. For the definition of low income, as well as income all available assets shall be taken into account; (4) having her/his electricity consumption supplied through a single-phase meter with a connection not exceeding the maximum power. When defining power of a mono-phase meter Contracting Parties shall consider power of up to 16 Ampere. The definition shall not include more than a minority of the population.

2. For gas consumption, a vulnerable customer is (1) using gas for supplying her/his permanent housing; (2) not exceeding a maximum gas consumption per person. When defining the gas consumption level per person, Contracting Parties shall consider total consumption of up to 70 cm3/month for a family with up to 4 members and reflect seasonality; (3) belonging to a category of citizens with the lowest income. For the definition of low income, as well as income all available assets shall be taken into account. The definition shall not include more than a minority of all consumers.

Reflecting the possibility to switch from gas to electricity supply, support schemes granted to vulnerable gas customers shall not apply in case the same customer benefits from the support mechanism for socially vulnerable electricity customers.

The outline is expected to be approved by the Ministerial Council in October 2013. However, as the Permanent High Level Group noted in June 2013, taking into account the very different historical backgrounds, legal frameworks and approaches to social issues of each Contracting Party, it is currently not feasible to prepare a regional Social Strategy.

Conclusions and Priorities

The Governments of Albania, Kosovo*, Moldova and Ukraine have still not approved the Social Action Plans. This should be rectified with priority.

A continual update of the Social Action Plans by all Contracting Parties with concrete actions in the energy sector and strengthening provisions on follow-up and monitoring should be another priority.

As a legal obligation following from the Third Package, Contracting Parties must define vulnerable customers in terms appropriate to national circumstances. Properly defining vulnerable customers is a first important step for breaking the vicious circle of across-the-board price regulation and its negative impact on investments, security of supply and energy efficiency. In this sense, the needs of vulnerable customers should ideally be dealt with in the context of social policy rather than energy policy issues. Social allowances provided by central or local governments should directly or indirectly go to the beneficiaries rather than leaking to other groups. Furthermore, more focus should be put on non-economic support such as protection from disconnection at critical times, e.g. severe winters.

Moreover, bipartite and tripartite social dialogue needs to be further improved by the inclusion of the social partners in the energy policy process. Currently, collective agreements are poorly enforced and the autonomous bipartite and in particular the sectoral social dialogue is still weak. National tripartite bodies seem to be more mature but their impact on policy making still appears to be limited.
Glossary

The report makes a reference to the following institutions, treaties, support programmes, energy policy related concepts and measurement units.

1. Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>ATC</td>
<td>available transmission capacity</td>
</tr>
<tr>
<td>ACER</td>
<td>Agency for the Cooperation of Energy Regulators</td>
</tr>
<tr>
<td>CEE-CAO</td>
<td>Central European Electricity Co-ordinated Auction Office</td>
</tr>
<tr>
<td>CEN</td>
<td>European Committee for Standardization</td>
</tr>
<tr>
<td>CHP</td>
<td>Combined Heat and Power</td>
</tr>
<tr>
<td>CNG</td>
<td>compressed natural gas (trucks)</td>
</tr>
<tr>
<td>DSO</td>
<td>Distribution System Operator</td>
</tr>
<tr>
<td>ECRB</td>
<td>Energy Community Regulatory Board</td>
</tr>
<tr>
<td>EBRRD</td>
<td>European Bank for Reconstruction and Development</td>
</tr>
<tr>
<td>EEA</td>
<td>Agreement on the European Economic Area</td>
</tr>
<tr>
<td>EIA</td>
<td>Environmental Impact Assessment</td>
</tr>
<tr>
<td>EnC</td>
<td>Energy Community</td>
</tr>
<tr>
<td>ENTSOe</td>
<td>European Network of Transmission System Operators for Electricity</td>
</tr>
<tr>
<td>ENTSOg</td>
<td>European Network of Transmission System Operators for Gas</td>
</tr>
<tr>
<td>ESCO</td>
<td>energy service companies</td>
</tr>
<tr>
<td>ESIA</td>
<td>Environmental and Social Impact Assessment</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>EUROSTAT</td>
<td>the statistical office of the European Union</td>
</tr>
<tr>
<td>FS</td>
<td>Feasibility study</td>
</tr>
<tr>
<td>GIZ</td>
<td>Deutsche Gesellschaft fur Internationale Zusammenarbeit</td>
</tr>
<tr>
<td>HPP</td>
<td>Hydro power plant</td>
</tr>
<tr>
<td>HVDC</td>
<td>high-voltage, direct current</td>
</tr>
<tr>
<td>IAP</td>
<td>Ionian Adriatic Pipeline</td>
</tr>
<tr>
<td>IFI</td>
<td>International Finance Corporation, member of World Bank group</td>
</tr>
<tr>
<td>IFC</td>
<td>International Financial Institution</td>
</tr>
<tr>
<td>IFI Co</td>
<td>IFI Coordination Office, EU + IIs, EU funded project</td>
</tr>
<tr>
<td>INOGATE</td>
<td>an international energy co-operation programme between the European Union, the littoral states of the Black and Caspian seas and their neighboring countries</td>
</tr>
<tr>
<td>IPA</td>
<td>programmes EU's Instrument for Pre-Accession Assistance for countries engaged in the accesssion process</td>
</tr>
<tr>
<td>ITO</td>
<td>Independent Transmission Operator</td>
</tr>
<tr>
<td>KRW</td>
<td>Kreditanstalt fur Wiederaufbau</td>
</tr>
<tr>
<td>LNG</td>
<td>Liquefied Natural Gas</td>
</tr>
<tr>
<td>MoU</td>
<td>Memorandum of Understanding</td>
</tr>
<tr>
<td>NALAS</td>
<td>Network of Associations of Local Authorities of South East Europe</td>
</tr>
<tr>
<td>NEEAPs</td>
<td>National Energy Efficiency Action Plans</td>
</tr>
<tr>
<td>NREAPs</td>
<td>National Renewable Energy Action Plans</td>
</tr>
<tr>
<td>NTC</td>
<td>Net Transfer Capacity (auctions)</td>
</tr>
<tr>
<td>OTC</td>
<td>Over the Counter</td>
</tr>
<tr>
<td>OHL</td>
<td>an overhead electric line</td>
</tr>
<tr>
<td>PECs</td>
<td>Projects of Energy Community Interest</td>
</tr>
<tr>
<td>PHLG</td>
<td>Energy Community Permanent High Level Group</td>
</tr>
</tbody>
</table>

2. Definitions on the Electricity and Gas Fact and Figure Tables

<table>
<thead>
<tr>
<th>Electricity</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricity Production</td>
<td>Annual domestic electricity production of all generation including pumped storage, measured at the outlet of the power plant to the transmission or distribution networks, excluding own consumption of electricity absorbed by the generating auxiliaries and the losses in the main generator transformers of the power plants.</td>
</tr>
<tr>
<td>Net Imports</td>
<td>Amount of electricity supplied from abroad to cover the needs of domestic consumption including energy used to cover network losses (transmission and distribution), whether customs clearance has taken place or not (if not available, report the amount of electricity that have crossed the national borders).</td>
</tr>
<tr>
<td>Net Exports</td>
<td>Amount of electricity produced in the country supplied to customers across the national boundaries, whether customs clearance has taken place or not (if not available, report the amount of electricity that have crossed the national borders).</td>
</tr>
<tr>
<td>Total energy supplied</td>
<td>Total amount of electricity supplied by all power plants to the network, reduced for net export and increased for net imports from abroad.</td>
</tr>
<tr>
<td>Gross Electricity Consumption</td>
<td>Total amounts of electricity consumed by all customers connected to transmission or distribution network, including network losses and electricity consumed by power plants (including for pumping), if supplied from the network.</td>
</tr>
<tr>
<td>Losses in Transmission</td>
<td>The difference between the amount of electricity injected into the transmission network and the aggregated amount of electricity taken from the transmission network registered at all customers’ metering points.</td>
</tr>
<tr>
<td>Losses in Transmission</td>
<td>Percentage of total losses in the transmission system (relative to the total electricity injected into the transmission network).</td>
</tr>
<tr>
<td>Losses in Distribution</td>
<td>The difference between the amount of electricity injected into the distribution system and the aggregated consumption registered at customers’ metering points.</td>
</tr>
<tr>
<td>Losses in Distribution</td>
<td>Percentage of total losses in the distribution system (relative to the total electricity injected into the distribution network).</td>
</tr>
<tr>
<td>Gas</td>
<td>Definition</td>
</tr>
<tr>
<td>----------------------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Natural Gas Production</td>
<td>Amount of indigenous annual production of natural gas (all dry marketable production within national boundaries, including offshore production, measured after purification and extraction of NGs and sulphur, excluding extraction losses and quantities reinjected, vented or flared.)</td>
</tr>
<tr>
<td>Imports Flows</td>
<td>Amount of natural gas produced outside the national territory that have crossed the political boundaries of the territory for ultimate consumption, whether customs clearance has taken place or not.</td>
</tr>
<tr>
<td>Exports Flows</td>
<td>Amount of natural gas produced within the political boundaries of the territory that crossed the boundaries for ultimate consumption outside the national territory, whether customs clearance has taken place or not.</td>
</tr>
<tr>
<td>Stock changes</td>
<td>The difference between the opening stock level and closing stock level for stocks held on national territory. A stock build is shown as a negative number and a stock draw is shown as a positive number.</td>
</tr>
<tr>
<td>Total supply</td>
<td>Amount of natural gas available for consumption calculated as: Indigenous production + Imports – Exports – Stock changes</td>
</tr>
<tr>
<td>Gross consumption of natural gas</td>
<td>Calculated amount of consumed natural gas by all customers, including in energy sector, transformation inputs and conversions, as well as to cover for losses in network</td>
</tr>
<tr>
<td>Consumption in Energy Sector</td>
<td>Amounts of NG used for own consumption of gas sector for operation and for network losses, and for the transformation to derived energy products (heat and electricity)</td>
</tr>
<tr>
<td>Available for final consumplosion of natural gas</td>
<td>The quantity of recorded consumption in surveys of end-use sectors (including energy and non energy use and excluding transformation inputs and consumption of energy sector)</td>
</tr>
<tr>
<td>Interconnectors' capacity</td>
<td>Total annual capacity of all interconnectors</td>
</tr>
<tr>
<td>Storage working capacity</td>
<td>Total working capacity of underground storages (without cushion gas)</td>
</tr>
<tr>
<td>Length of Transmission Network</td>
<td>Total length of transport network(s)</td>
</tr>
<tr>
<td>Length of Distribution Network</td>
<td>Total length of distribution networks</td>
</tr>
<tr>
<td>Eligible customers under national legislation</td>
<td>Number of customers eligible to choose supplier, according to the legislation in force, regardless of how many have exercised eligibility</td>
</tr>
<tr>
<td>Active eligible customers</td>
<td>Number of customers who have switched their supplier and are being supplied under market conditions</td>
</tr>
<tr>
<td>Gas supplied to active eligible customers</td>
<td>Quantity of natural gas supplied to eligible customers from competitive market under market conditions</td>
</tr>
<tr>
<td>Share of total consumption</td>
<td>Natural gas supplied from to eligible customers as a part of total consumption</td>
</tr>
<tr>
<td>Final Consumption of Natural Gas per Sector</td>
<td>Total annual consumption of all final customers of Natural Gas</td>
</tr>
<tr>
<td>Consumption for Energy transformation</td>
<td>Amount of natural gas used for production of electricity or heat</td>
</tr>
<tr>
<td>Consumption of Industry and Commercial Customers</td>
<td>Amount of natural gas consumed by industry, commercial customers (including small enterprises), governmental institutions and transport sector (public transportation services, transport utilities, private vehicles) excluding network losses</td>
</tr>
<tr>
<td>Consumption of Households</td>
<td>Natural gas consumed by the residential customers (households)</td>
</tr>
</tbody>
</table>

| Consumption of energy sector | Amount of electricity taken from the power network and consumed by the energy industry to support the power plant operation |
| Final consumption of electricity | Total consumption of end-users in industry, transport, commercial and public services, agriculture and residential sector |
| Consumption of industrial, transport, services and other non-residential sectors | Electricity consumed by industry, commercial customers (including small enterprises), governmental institutions and transport sector (public transportation services, transport utilities, private vehicles) including public lighting, excluding network losses |
| Consumption of Households | Electricity consumed by the residential customers (households) |
| Net maximum electrical capacity of power plants | Sum of net maximum capacities of all power plants taken individually throughout a period of operation of 15 hours of continuous running, at the power plant outlet to the network, assuming the power to be solely active power |
| Coal-fired plant | Sum of net maximum capacities of all plants using solid fossil fuels (coal, lignite, coke, patent) |
| Coal multi-fired plant | Sum of net maximum capacities of multi-fired plants using combined solid and liquid fuel or solid fuel and gas (Multi-fired are units which can burn more than one type of fuel on a continuous basis) |
| Gas-fired plant | Sum of net maximum capacities of all plants using natural gas as a fuel |
| Gas multi-fired plant | Sum of net maximum capacities of all multi-fired plants using natural gas and solids or liquids |
| Oil-fired plant | Sum of net maximum capacities of all plants using oil or oil product as a fuel, excluding combined oil and gas |
| Nuclear plant | Sum of net maximum capacities of all plants using nuclear energy |
| Hydro power plant | Sum of net maximum capacities of all plants using hydro power sources including storage, pumped storage and run-of-river plants of all types and sizes |
| Small hydro power plant | Sum of maximum capacities of all small hydro power plants (10 MW or less, connected to a distribution network) |
| Other Renewables | All existing RES generation capacity excluding hydro (wind, PV, solar, geothermal, biomass-fired, biogas-fired, other) |
| Horizontal Transmission Network | 380 kV or more Total length of existing OHL on 380 kV or more |
|                          | 220 kV Total length of existing OHL on 220 kV or more – but less than 380 kV (in the transmission or distribution network) |
|                          | 110 kV Total length of existing OHL on 110 kV or more – but less than 220 kV (in the transmission or distribution network) |
| Substation Capacity | Sum of the nominal capacities of all substations in the transmission network |
| Eligible customers under national legislation | Number of customers eligible to choose supplier, according to the legislation in force, regardless of how many have exercised eligibility |
| Active eligible customers | Number of customers who have switched their supplier and are supplied under market conditions |
| Electricity supplied to active eligible customers | Quantity of electricity supplied to active eligible customers |
| Share of total consumption | Electricity supplied to active eligible customers as a part of total consumption |
3. MEASUREMENT UNITS

<table>
<thead>
<tr>
<th>Symbol</th>
<th>Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>kW</td>
<td>kilowatt</td>
</tr>
<tr>
<td>MW</td>
<td>megawatt</td>
</tr>
<tr>
<td>GW</td>
<td>gigawatt</td>
</tr>
<tr>
<td>TW</td>
<td>terawatt</td>
</tr>
<tr>
<td>kWh</td>
<td>kilowatt hour</td>
</tr>
<tr>
<td>MWh</td>
<td>megawatt hour</td>
</tr>
<tr>
<td>GWh</td>
<td>gigawatt hour</td>
</tr>
<tr>
<td>TWh</td>
<td>terawatt hour</td>
</tr>
<tr>
<td>j</td>
<td>joule</td>
</tr>
<tr>
<td>TJ</td>
<td>terajoule</td>
</tr>
<tr>
<td>kgoe</td>
<td>kilogram of oil equivalent</td>
</tr>
<tr>
<td>toe</td>
<td>ton of oil equivalent</td>
</tr>
<tr>
<td>t</td>
<td>ton</td>
</tr>
<tr>
<td>m</td>
<td>meter</td>
</tr>
<tr>
<td>cm</td>
<td>cubic meter</td>
</tr>
<tr>
<td>mcm</td>
<td>million cubic meters</td>
</tr>
<tr>
<td>bcm</td>
<td>billion cubic meters</td>
</tr>
</tbody>
</table>

ENERGY MARKET SCHEME LEGENDS

The report displays special markets schemes to demonstrate the degree of market opening in each Contracting Party. The legends for the different market elements are the following: