



# Market Monitoring Capacities and Procedures of Energy Community Regulatory Authorities

Findings and Recommendations

December 2018

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## I. INTRODUCTION

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### 1. About ECRB

The Energy Community Regulatory Board (ECRB) operates based on the Treaty establishing the Energy Community (hereinafter 'the Treaty'). As an institution of the Energy Community<sup>1</sup> ECRB advises the Energy Community Ministerial Council and Permanent High Level Group on details of statutory, technical and regulatory rules and makes recommendations in the case of cross-border disputes between regulators.

ECRB is the independent regional voice of energy regulators in the Energy Community. ECRB's mission builds on three pillars: providing coordinated regulatory positions to energy policy debates, harmonizing regulatory rules across borders and sharing regulatory knowledge and experience.

### 2. Background

The ongoing process of market liberalization in the Energy Community Contracting Parties (CPs) raises the need for regulators to establish/upgrade a more systematic approach for market monitoring activities with a view to gain accurate and timely data and information aimed to detect eventual market abuse and/or barriers for well-functioning gas and electricity retail markets as well as for customer protection.

This paper assesses the level of capacities and procedures available at the Contracting Parties' national regulatory authorities (NRAs) for market monitoring and provides guidance recommendations for their improvement.

### 3. Scope of the report

The present report assesses the legal basis for performing market monitoring activities by the examined NRAs, allocation of human resources for those tasks, types of key electricity and gas retail market data which monitored, the frequency and format of data collection, usage of analytical tools, internal procedures for sharing findings and follow up procedures, publication of data and finally concludes on a number of recommendations for improvement.

The report covers Albania, Bosnia and Herzegovina (data provided for national – SERC and Entity regulators FERK and RERS), Georgia, fYR of Macedonia, Moldova, Montenegro, Kosovo\*<sup>2</sup>, Serbia and Ukraine as Energy Community CPs, as well Greece.

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<sup>1</sup>[www.energy-community.org](http://www.energy-community.org)

<sup>2</sup> Throughout this document, this designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Advisory Opinion on the Kosovo declaration of independence.



#### 4. Methodology

Assessment contained in the present report is based on the information provided by the regulatory authorities of the Energy Community Contracting Parties.

Data collection was done through a questionnaire containing 31 questions organized in 6 subsections: Legal basis; Organization and Human Resources; Procedures and Scope of Data Collection; Format for Data Collection and Analysis; Internal procedures for Data/Findings Sharing and Follow up Procedure, as well as Data Publication.

## II. ASSESSMENT

### 1. Legal Basis

The first part of the assessment aims to detect the legal basis for conducting electricity and gas retail market monitoring by the examined NRAs, including whether there is a clear definition of such competences in legislation, the scope of the legal order as well as to provide an overview of key elements (articles, definitions etc.) in the primary and secondary legislation related to retail electricity and gas market monitoring.

1.1 NRAs legal competences for monitoring of the electricity/gas retail markets	
<b>Defined/stated</b>	ALB; BIH (SERC and FERK for electricity market, RERS for both) GEO; GRC; KOS*; MKD; MDA; MNE; SRB, UKR
<b>Non-defined</b>	

Results of the survey show that in all examined cases NRAs have clear competences for retail electricity and gas market monitoring defined in their national legislation.

1.2 Legal order defining NRAs market monitoring competences	
<b>Primary legislation</b>	ALB; BIH; GEO; GRC; KOS*; MKD; MDA; MNE; SRB; UKR
<b>Secondary legislation</b>	ALB; BIH; GEO; GRC; KOS*; MKD; MDA
<b>Other</b>	

Most of the NRAs have a legal basis established both in primary and secondary legislation, except in Montenegro, Serbia and Ukraine, where such competences are defined only in primary legislation.

1.3 Overview of primary and secondary legislation related to retail electricity and gas market monitoring	
<b>ALB</b>	Primary legislation <ul style="list-style-type: none"> <li>• Power Sector Law</li> </ul> Secondary legislation <ul style="list-style-type: none"> <li>• Market Model,</li> <li>• Market Rules,</li> <li>• Other secondary acts, regulations</li> </ul>

### 1.3 Overview of primary and secondary legislation related to retail electricity and gas market monitoring

<b>BIH</b>	<p>FERK (Regulatory Commission for Energy in Federation of Bosnia and Herzegovina)</p> <p>Primary legislation</p> <ul style="list-style-type: none"> <li>• Law on Electricity in the Federation of BIH (Official Gazette of FBIH, 66/13 and 94/15). Competence for supervision of electricity market defined in article 21. paragraph (1) indent 2). According to the article 22. indent 8) FERK is obliged to supervise the efficiency of mechanisms and processes due to the insurance of balance between the demand and supply of electricity. Also, according to the article 57. paragraph (2) the supplier of the qualified customer shall be obligated to submit the data on the concluded agreement from paragraph (1) of this Article (agreed quantities and delivery dynamics) to the Distribution System Operator, FERK, ISO BIH and DERK, depending on the place of connection of the qualified customer to the electric power network.</li> </ul> <p>Secondary legislation</p> <ul style="list-style-type: none"> <li>• Rulebook on Monitoring (relates to procedure for monitoring)</li> </ul> <p>RERS (Regulatory Commission for Energy of the Republika Srpska)</p> <p>Primary legislation:</p> <ul style="list-style-type: none"> <li>• Energy Law (Official Gazette of RS 49/09) article 16;</li> <li>• Electricity Law (Official Gazette of RS 8/08,34/09,92/09 and 1/11) articles 23, 24, 62,73,74 and 91;</li> <li>• Gas Law (Official Gazette of RS 22/18) articles 9,19-25, 27 and 97-127.</li> </ul> <p>Secondary legislation:</p> <ul style="list-style-type: none"> <li>• Licensing Rulebook (Official Gazette of RS 39/10 and 65/13);</li> <li>• General Conditions of Electricity (Official Gazette of RS 90/12);</li> <li>• Rulebook on supply of eligible customers with electricity and supplier change procedures (Official Gazette of RS 117/14 and 50/16);</li> <li>• Reporting Rulebook (Official Gazette of RS 64/12);</li> <li>• Rulebook on tariff methodology and tariff proceeding for electricity (Official Gazette of RS 96/12 and 15/15);</li> <li>• Rulebook on tariff methodology and tariff proceeding for distribution and supply of natural gas (Official Gazette of RS 51/14);</li> </ul>
<b>GEO</b>	<p>Primary legislation:</p> <ul style="list-style-type: none"> <li>• Law of Georgia on Electricity and Natural Gas</li> <li>• Law of Georgia on Licenses and Permits</li> </ul> <p>Secondary legislation:</p> <ul style="list-style-type: none"> <li>• Resolution No 23 of GNERC on Approval of the Rules of Licensing and Activity Control in the Electricity, Natural Gas and Water Supply Sectors</li> <li>• Resolution No 13 of GNERC on Approval of Commercial Quality of Service Rules,</li> <li>• Resolution No 33 of GNERC on Approval of Natural Gas Tariff Methodology</li> <li>• Resolution No 14 of GNERC on Approval of Electricity Tariff Calculation Methodology</li> <li>• Energy Market Monitoring Rules (Not yet adopted – GNERC is presently developing the draft document and has the obligation under the Law of Georgia on Electricity and Natural Gas to adopt it by 1 October 2019)</li> </ul>
<b>GRC</b>	<p>Primary legislation:</p> <ul style="list-style-type: none"> <li>• Law 4001/2011, Articles 22, 27</li> </ul> <p>Secondary legislation</p> <ul style="list-style-type: none"> <li>• Electricity Supply Code, Article 4 par. 2 and Article 11 par. 2 &amp; 3.</li> </ul> <p>Article 4: Monitoring of the Code implementation</p> <ol style="list-style-type: none"> <li>1. RAE monitors the implementation of the obligations and rights of both the Customer and the electricity Supplier in accordance with the current Code.</li> <li>2. While monitoring compliance, RAE may particularly:             <ol style="list-style-type: none"> <li>a) Collect, process and evaluate technical and financial information regarding the Suppliers' activity in relation to his Customers, while respecting commercial confidentiality and personal information protection laws.</li> <li>b) Monitor whether the Supplier's obligations are met according to the terms and conditions on their issued licenses.</li> <li>c) Conduct hearings, audit, review and investigate the Code's implementation</li> </ol> </li> </ol>

### 1.3 Overview of primary and secondary legislation related to retail electricity and gas market monitoring

	<p>either ipso jure or following a complaint, and, when necessary, impose administrative penalties in accordance with the prevailing legislation.</p> <p>Article 11: Supply Tariffs</p> <p>2. Supply Tariffs are prepared and presented in a clear, analytical and comprehensible manner according to the 'Tariff Setting Principles' described in Appendix II of the current Code. The Tariff elements must be clearly presented allowing calculation of the relevant charges. Specifically, each Supply Tariff must, at least, include the following information:</p> <ol style="list-style-type: none"> <li>Clarification of the Basic or Special Customer Category to which it refers.</li> <li>The criteria/ requirements for a Customer to be eligible for inclusion in the Basic or Special Customer Category to which the Tariff refers, as these are set out in relevant Ministerial Decisions or by the Supplier himself.</li> <li>Clear distinction of the charges into Supply Charges and Regulated Charges, and a further analytical breakdown of each of these groups of charges.</li> <li>For each unbundled charge, reference to the service or levy it refers to, method of calculation of total charge, basis for the charge, unit charges, the billing period and the parameters for calculating the total charges.</li> <li>Reference to the frequency of issuing bills based on actual or estimated meter readings as well as the method for calculating the charges based on estimated consumption.</li> <li>The amount or the method for calculating the required deposit.</li> <li>Methodology of price revision.</li> <li>Alternative payment options (e.g. by standing order) and statement of whether the specific Supply Tariff is linked to a particular payment method.</li> </ol> <p>3. The Supplier must, without delay, notify RAE within a period of no later than five (5) working days from the time when they come into effect, the Supply Tariffs for each Customer Category as well as any amendments of these Tariffs thereafter.</p>
<b>KOS*</b>	<p>Primary legislation</p> <ul style="list-style-type: none"> <li>Article 16 of the Law No. 05/L – 084 on the Energy Regulator defines Market Monitoring and Measures to Further Competition, and according to this article The Regulator shall be responsible for monitoring of the operation of the markets for electricity, thermal energy and natural gas, to ensure efficient functioning of those markets, and to identify any remedial action that is required.</li> </ul> <p>Secondary legislation</p> <ul style="list-style-type: none"> <li>Article 17 of the Rule on Licencing defines the monitoring of the licensee activities.</li> </ul>
<b>MKD</b>	<p>Primary legislation</p> <ul style="list-style-type: none"> <li>Energy Law (Official Gazette of RM, no. 96/2018), article 25. The whole article refers to ERC rights and obligations for monitoring energy markets.</li> <li>In the previous Energy Law, the legal basis for market monitoring was set in Article 23.</li> </ul> <p>Secondary legislation</p> <ul style="list-style-type: none"> <li>Rulebook on monitoring of the functioning of energy markets (Official Gazette of RM, no. 207/2016 – description of the whole process of market monitoring, types of indicators, obligation and time frame for submitting reports by licensed companies, etc.</li> </ul>
<b>MDA</b>	<p>Primary legislation</p> <ul style="list-style-type: none"> <li>Law No. 174/2017 on Energy (art. 12);</li> <li>Law No. 107/2016 on Electricity (art. 7);</li> <li>Law No. 108/2016 on Natural gas (art. 7).</li> </ul> <p>Secondary Legislation</p> <ul style="list-style-type: none"> <li>Regulation on National Energy Regulatory Agency activity, organization and functioning, approved by Parliament's Resolution No. 238/2012.</li> </ul>
<b>MNE</b>	<p>Primary legislation</p> <ul style="list-style-type: none"> <li>Energy Law, articles 48 and 49.</li> </ul>
<b>SRB</b>	<p>Primary legislation</p> <ul style="list-style-type: none"> <li>Article 57. of the Energy Law</li> </ul>

### 1.3 Overview of primary and secondary legislation related to retail electricity and gas market monitoring

The Agency shall ensure non-discriminatory system access as well as effective competition and efficient functioning of the electricity and natural gas market, through the supervision of:

- 1) efficient separation of accounts of licensed energy entities;
- 2) existence of cross-subsidies among energy entities dealing with different energy-related activities, as well as among different energy-related activities within the same energy entity;
- 3) fulfilment of energy entities' obligations in accordance with this Law and other regulations passed on the basis hereof;
- 4) application of rules on the allocation of cross-border transmission capacities in cooperation with regulatory authorities of other countries;
- 5) implementation of mechanisms for the removal of congestions in the transmission, i.e. transport system, the use of fees due to congestion collected by the transmission, i.e. transport system operator;
- 6) the time necessary for the system operators to carry out the connection to the system, i.e. repair a malfunction in case of delivery interruption;
- 7) publication of data by the transmission or transport system operator referring to cross-border capacities and system use;
- 8) method of the system reserves uses;
- 9) conditions and costs of connection of new electricity producers to the transmission or distribution system so as to guarantee objectivity, transparency and non-discrimination, particularly taking into account the costs and benefits from different technologies for electricity generation from renewable sources and combined electricity and thermal energy generation;
- 10) the level of transparency, including transparency of the price in wholesale trade, as well as the level of competition, including disturbances or limitation of competition, in cooperation with authorities in charge of competition;
- 11) functioning of the organised electricity market, as well as the compliance with the principles of transparency and non-discrimination by the market operator;
- 12) the level and effectiveness of market opening and competition in wholesale trade and end customer supply, including the organised electricity market, prices for households, including subscription billing systems, the percentage of change of suppliers, electricity cuts and interruption of supply, execution and fees for maintenance services;
- 13) conditions for access to the storage facility, line-pack and use of other ancillary services, where supervision of prices is excluded in case of contracted access to the storage facility; and
- 14) compliance with consumer protection measures stipulated by this Law.

In performing the operations under Paragraph 1, Item 1 of this Article, the Agency may inspect the business accounts and accounting records of an energy entity, which shall provide access and make it possible to the Agency to inspect appropriate information.

The Agency may inspect the circumstances, data and exchanged information, including those referring to electricity and natural gas market functioning, decide on the implementation of necessary and appropriate measures for the improvement of effective competition and to ensure normal market operations.

In performing the operations under Paragraph 3 of this Article, the Agency shall cooperate with the authority in charge of competition and authorities in charge of financial market supervision.

For the purpose of performing operations under Articles 49 - 57 hereof, the Agency may make decisions that will be binding for energy entities.

In the procedure of deciding on individual rights and obligations of legal and natural persons, provisions of the law regulating general administrative proceedings shall apply, unless separate proceedings are prescribed by this Law.

The Agency shall ensure, in accordance with the law and other regulations, the confidentiality of commercial and other confidential business information submitted to it for the purpose of performing operations within its competences.



### 1.3 Overview of primary and secondary legislation related to retail electricity and gas market monitoring

<b>UKR</b>	<p>The Law of Ukraine "On National Energy and Utilities Regulatory Commission" Article 20. Monitoring of Markets in the Energy and Public Utilities Sectors</p> <p>1. The Regulator shall monitor the operation of markets in the energy and public utilities sectors by analysing and assessing the following factors:</p> <ol style="list-style-type: none"><li>1) the level of transparency and competition on the markets in the energy and public utilities sectors;</li><li>2) the level and effectiveness of opening markets in the energy and public utilities sectors, the level of competition on the wholesale and retail markets, statistics of supplier changes and exemptions, the level of prices and the quality of maintenance works, consumers' complaints, the application of contractual provisions restricting competition on the markets in the energy and public utilities sectors, as well as any other practices resulting in the violation, distortion or restriction of competition on the markets in the energy and public utilities sectors;</li><li>3) wholesale and retail prices for goods (services) on the markets in the energy and public utilities sectors;</li><li>4) violations and/or restrictions of competition on the markets in the energy and public utilities sectors, occurrence of restrictive contractual practices on the markets in the energy and public utilities sectors, including individual terms and conditions of agreements with large non-household consumers and, where necessary, shall notify the Antimonopoly Committee of Ukraine of such practice;</li><li>5) fulfilment by economic entities operating on the markets in the energy and public utilities sectors of their obligations under the law;</li><li>6) absence of any indications of cross-subsidization between various types of activities or categories of consumers (customers) in the markets in the energy and public utilities sectors;</li><li>7) level of security of supplies of energy resources and the uninterrupted operation of the infrastructure;</li><li>8) development and implementation of short- and long-term investment programs and investment planning measures in respect of transmission system operators, gas transmission system operators aiming at increasing efficiency of the system operation and facilitating market integration;</li><li>9) investments in generating capacities aiming at ensuring security of electricity supplies;</li><li>10) compliance with the requirements to reliable and uninterrupted energy, heat, and gas supply and supply of public utility services, standards of and requirements to the quality of consumer service;</li><li>11) performance by transmission and distribution systems operators, gas transmission and gas distribution systems operators of their functions and fulfilling of their obligations under the law;</li><li>12) compliance with the requirements to reliable and uninterrupted energy and gas supply, quality standards for energy and gas supply services, congestion management rules, including the rules of distribution of the transmission capacity of cross-border electric (gas) networks;</li><li>13) applying rules regulating distribution of inter-system transmission capacities and congestion management in electricity and natural gas transmission systems, including congestion of interconnections, based on Ukraine's commitments under the Treaty establishing the Energy Community;</li><li>14) access to networks for new generating capacities, removing obstacles for access of new electricity (including electricity generated from renewable sources of energy) and natural gas market participants;</li><li>15) terms of access to accumulating capacities in the natural gas transmission system (injection) and other ancillary natural gas-related services;</li><li>16) use of incomes resulting from congestion management in electricity and natural gas transmission systems;</li><li>17) terms necessary for transmission and distribution system operators to perform connection and repair works;</li><li>18) timeliness of publishing information by electricity and natural gas transmission system operators on interconnections, transmission capacity distribution of such interconnections;</li><li>19) changes in the ownership structure of economic entities operating in the energy sector, in particular economic entities that perform the functions of electricity and natural gas transmission and distribution operators;</li></ol>
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### 1.3 Overview of primary and secondary legislation related to retail electricity and gas market monitoring

20) applying prices and tariffs in the regulated areas;  
 21) applying conditions for connecting new generating capacities to networks with due consideration of costs and benefits associated with different technologies in using renewable energy sources, as well as distributed generation and combined heat and power generation (cogeneration);  
 22) compliance with licensing conditions by licensees, including those relating to cross-border issues;  
 23) restrictive contractual practices, including exemptions that may prevent consumers from entering into agreements with more than one supplier at a time, or restrict such possibility;  
 24) fulfilment of obligations by economic entities that carry out one or more types of regulated activities in the energy sector or one or more types of regulated activities in the energy sector and other activities;  
 25) fulfilment of obligations, relating to accounting and publishing of financial reporting, by economic entities that carry out one or more types of regulated activities in the energy sector or one or more types of regulated activities in the energy sector and other activities;  
 26) implementation of compliance programs approved by electricity and natural gas transmission system operators to ensure full legal, financial, managerial and operational independence from vertically integrated companies to which they belong, as well as from related companies with the purpose to ensure non-discrimination, transparency and objectivity in the operation of energy markets;  
 27) technical cooperation with transmission system operators and/or market operators of other Contracting Parties to the Treaty establishing the Energy Community.  
 The procedure of monitoring the operation of markets in the energy and public utilities sectors, including the monitoring period, shall be approved by the Regulator.  
 2. The Regulator shall publish the results of its monitoring of the operation of markets in the energy and public utilities sectors on its official website within one month following the expiry of the monitoring period.

The Law of Ukraine "On the Electricity Market"  
 Article 6. State regulation on the electricity market.

The Law of Ukraine "On the Gas Market"  
 Article 4. State regulation, formation and realization of state policy on the gas market.

## 2. Organization and Human Resources

The second part of the assessment examines in which cases a functional unit/department within NRAs is established with main focus on market monitoring, followed by an explanation how market monitoring is organized/conducted by those NRAs at the current point do not have such department, as well the scope and professional background of the experts in charge of market monitoring activities.

### 2.1 Established separate unit/department within NRA in charge for market monitoring

<b>Yes</b>	ALB; GRC (Retail Market Monitoring, Consumer Monitoring and Wholesale Market Monitoring Departments); MKD; MDA
<b>No</b>	BIH; KOS*; MNE; SRB; UKR
<b>Other</b>	GEO: there is a special unit at GNERC, Commercial Quality of Service Control Unit, which controls commercial quality of service

As presented above, NRAs from Albania, Greece<sup>3</sup>, FYR of Macedonia and Moldova have established separate department for market monitoring, while on the other hand NRAs from Bosnia and Herzegovina, Kosovo\*, Montenegro and Serbia still do not have such organizational unit.

It should be pointed out that the Greek NRA has established separate monitoring departments for retail markets, consumers as well as for wholesale electricity and gas markets.

## 2.2 Conducting market monitoring activities the cases when NRA's don't have established separate unit/department

<b>BIH</b>	<p>SERC performs market monitoring as multisectoral activity.</p> <p>FERK is organized in five sectors. Market monitoring is organized in such a way that each sector, in its domain, monitors market developments and undertakes actions that are necessary accordingly. Monitoring is performed directly with onsite inspections of documentations, facilities and equipment and indirectly by analysing monthly and annual reports according to FERK's Rulebook on Monitoring.</p> <p>RERS: License holders (market participants) submit regular reports to RERS in accordance to Rulebook of reporting. RERS analyses reports and organizes regular and extraordinary audits. Audits are followed by audit reports which could include corrective measures and recommendations for market improvement.</p>
<b>GEO</b>	<p>Market monitoring is carried out by the Electricity and Natural Gas Departments of GNERC. The staff makes sure that regulated companies timely submit quarterly and annual reports of their activities. After receiving the reports, data analysis is performed and in case of detecting any violation of obligations of the regulated entities, appropriate measures will be taken by GNERC. In addition, there is a special unit at GNERC, Commercial Quality of Service Control Unit, which controls commercial quality of service provided by the regulated entities in real time.</p>
<b>KOS*</b>	<p>Department of trade is mainly in charge of market monitoring. There are cases where also other departments are engaged in market monitoring, depending on the issue that is monitored. Each department is engaged on monitoring activities of the licensees.</p>
<b>MNE</b>	<p>Task force composed of experts from different sectors monitors the market.</p>
<b>SRB</b>	<p>Task force composed of experts from different sectors monitors the market.</p>
<b>UKR</b>	<p>NEURC doesn't have a separate department in charge for market monitoring, although has such unit in each department for regulated spheres (gas, district heating, water supply and wastewater).</p> <p>Functions of market monitoring in electricity sector are divided between different units according to their competence (tariff issues, retail market, wholesale market, quality of supply, etc.)</p>

NRAs which at this point do not have separate organizational units for market monitoring are conducting such activities within the scope of other departments or as multisectoral activity organized through task forces for market monitoring.

<sup>3</sup> Since 2018

### 2.3 Number of employees and their professional background, primarily working on market monitoring in the NRA's

<b>ALB</b>	3 employees (Engineers, Economists)
<b>BIH</b>	SERC: 5 employees FERK: It depends on the specific market domain, it can vary from 2 to 10 employees RERS: 6 employees (Engineers, Economists, Lawyers)
<b>GEO</b>	9+ employees (Engineers, Economists)
<b>GRC</b>	In retail electricity and gas market monitoring 4 employees including the director Consumer protection: 4 employees Wholesale market: 4 employees including the director Total 12 employees (Engineers, Economists, Mathematician)
<b>KOS*</b>	At least 4 employees. (Engineers, Economists, Lawyers)
<b>MKD</b>	Primarily 4 employees (3 from Market Monitoring Department and 1 as technical support from IT department) Occasionally, at least 4 experts from Electricity and Gas Departments are included in market monitoring activities. (Engineers, Economists, Lawyers, IT)
<b>MDA</b>	Approximately 5 employees (Engineers, Economists, Lawyers)
<b>MNE</b>	4 employees, part of their working hours are allocating for market monitoring (Engineers, Economists, Lawyers)
<b>SRB</b>	5 employees (Engineers, Economists, Lawyers)
<b>UKR</b>	25 employees (Engineers, Economists)

The average number of employees allocated to market monitoring activities among the examined NRAs is 6 and varies between 3, such as in Albania, up to 25 staff members in Ukraine.

Experts involved in market monitoring are mainly engineers, economists and lawyers, while in Greece and FYR of Macedonia additionally there is engagement of a mathematician and an IT expert.

### 3. Procedures and Scope of Data Collection

The third part of the assessment analyses the presence of legal procedures and acts for data collection, the frequency of data reports, the types of indicators, late arrival (no arrival) and other aspects relevant for retail market monitoring.

#### 3.1 Legally defined procedures for data collection, frequency of data reports, types of indicators, late arrival (no arrival) and other aspects relevant for retail market monitoring

<b>Yes</b>	ALB; BIH; GEO; GRC; KOS*; MKD; MDA; MNE; SRB; UKR
<b>No</b>	
<b>Other / Explanation</b>	GRC: Regulator Board decisions define in detail data collection and frequency of data reports, where there is no provision by primary and secondary legislation, or updates/reformation is needed  KOS*: Regulator according to the articles stipulated on the Law on Energy Regulator, has approved the Reporting handbook for energy sector, and according to the Handbook, the Purpose of the Energy Sector Reporting Manual is to guide the Licensee on how to report to the Energy Regulatory Office, regarding compliance or non-compliance with the relevant provisions of the Licenses, there are also included procedures for data collection, frequency of data reports.

In all analysed cases, there are prescribed legal procedures for various aspects of data collection.

The Greek NRA has provided additional explanation that in cases where there is no provision by primary and secondary legislation, the Regulatory Board issues decisions that in detail define data collection and frequency of data reports or updates/reformation.

#### 3.2 Legal acts in which license holders/market participants are obliged to provide data to NRA

<b>Primary legislation</b>	ALB; BIH; GEO; GRC; KOS*; MKD; MDA; MNE; SRB; UKR
<b>Secondary legislation</b>	ALB; BIH; GEO; GRC; KOS*; MKD; MDA; MNE; UKR
<b>Licenses</b>	ALB; BIH; GEO; GRC; KOS*; MKD; MNE; SRB; UKR

In most cases, license holders/market participants are obliged to provide data to NRAs through provisions stated in primary legislation, secondary legislation, as well in licences, except in Moldova where such obligations are defined in primary and secondary legislation, while in Serbia they are stated in primary legislation and issued licences.

### 3.3 Frequencies (reporting periods) of data reports

<b>ALB</b>	Daily, Monthly, Semi-annual, Annual, Upon NRA Request
<b>BIH</b>	Monthly; Quarterly; Semi-annual; Annual; Upon NRA request
<b>GEO</b>	Quarterly, Annual, Upon NRA Request
<b>GRC</b>	Monthly; Quarterly; Semi-annual; Annual; Upon NRA request
<b>KOS*</b>	Quarterly; Annual; Upon NRA request
<b>MKD</b>	Monthly; Quarterly; Semi-annual; Annual; Upon NRA request
<b>MDA</b>	Monthly; Quarterly; Annual; Upon NRA request
<b>MNE</b>	Monthly; Quarterly; Annual; Upon NRA request
<b>SRB</b>	Monthly; Quarterly; Semi-annual; Annual; Upon NRA request
<b>UKR</b>	Monthly; Quarterly; Semi-annual; Annual; Upon NRA request

Most NRAs collect data on monthly, quarterly and annual basis, as well upon their request to licence holders. Additionally, in Albania, Bosnia and Herzegovina, Greece, FYR of Macedonia and Serbia, NRAs collect data on semi-annual basis, while the Albanian regulator collects data on daily basis as well, including indicators regarding electricity generation, exchanges and consumption of energy in the transmission system, as well data regarding the status of elements in the transmission system.

### 3.4 Number of days after the reporting period (monthly and longer reporting periods) license holders/market participants are legally obliged to submit data reports to NRA

<b>15 days</b>	ALB; KOS*
<b>30 days</b>	BIH; KOS*; MKD – gas; MNE
<b>45 days</b>	GEO (Quarterly Reports)
<b>Other and/or combination</b>	<p>BIH semi-annual and annual and upon request</p> <p>RERS: 15 days for monthly reporting, 30 days for quarterly and semi-annual reports and 90 days for annual reports</p> <p>GEO: Annual report for the previous year should be submitted in the period between April 1<sup>st</sup> to May 1<sup>st</sup></p> <p>GRC: suppliers' annual reports on business activities to be submitted within 6 months (electricity) and 60 days (gas)</p> <p>KOS*: - Upon Regulator request the Licensee is obliged to submit the immediate report; and for this kind of reports there is no reporting period, but regulator usually gives them a period of two weeks.</p>

For quarterly reports,

- TM1 – the reporting period is 30th April every year;
- TM2 – the reporting period is 31st July every year;
- TM3 – the reporting period is 31st October every year.

For Annual Report – the reporting period is 31st January of each year calendar.

MKD – 60 days in electricity

MDA- 15 days (in case of monthly report), 25 days (in case of quarterly report), till 25th of March (in case of annual report).

SRB: It depends of type of data. Period is usually 30 days, only for data provided by DSO this period is 60 days.

UKR: 15-55 days, for different type of information.

The number of days after the reporting period (monthly and longer reporting periods) in which license holders/market participants are legally obliged to submit data reports to the NRA is in the range between 15 and 60 days for most of the reports and depends on the type of data required. Exception is period for submitting annual reports, which usually is up to 90 days.

In Greece the deadline for electricity suppliers to submit an Annual Report on business activities is 6 months whereas for gas suppliers it is 60 days.

<b>3.5 Number of days after the reporting period (monthly and longer reporting periods) license holders/market participants are usually submitting data reports to NRA</b>	
<b>15 days</b>	BIH; GRC; KOS*
<b>30 days</b>	ALB; BIH; KOS*; MKD (Gas); MNE
<b>45 days</b>	GEO (Quarterly Reports); MKD (Electricity)
<b>Other and/or combination</b>	<p>BIH (RERS: 15 days for monthly reporting, 30 days for quarterly and half annual reports and 90 days for annual reports)</p> <p>GEO: Annual Report in the period between April 1<sup>st</sup> and May 1<sup>st</sup></p> <p>MDA: Usually, the license holders/market participants submit their reports on time</p> <p>SRB: Participants are usually submitting data to NRA on legally defined time, but after that period for validation is different.</p> <p>UKR: Few days before the last date for submitting of reports.</p>

In practise, license holders/market participants are usually submitting data reports to NRAs between 15 and 45 days after reporting period, except for the annual reports where this period is up to 150 days such as in Georgia.

### 3.6 Legally prescribed procedure/penalty in the cases of late arrival (no arrival) of requested data reports

**Yes** ALB; BIH; GEO; GRC; KOS\*; MKD; MNE; SRB; UKR

**No**

**Other** MDA: The appointed responsible person is liable for lack of presentation, late presentation of the activity reports or improper form/content of the information presented

Most NRAs have legally prescribed procedure/penalty in the cases of late arrival (no arrival) of requested data reports.

### 3.7 Explanation of the procedure in the cases of late arrival (no arrival) of requested data reports

**ALB** Not provided

**BIH** SERC:

According to the Article 51 of the Licensing Rule, SERC may suspend the license for a definite or an indefinite period, or revoke the license permanently in the following cases:

- 1) The licensee has failed to submit data and information as required by SERC, ISO BIH, the Company for the Transmission of Electric Power or the Ministry of Foreign Trade and Economic Relations of BIH during the term of the license,
- 2) The licensee has intentionally delivered incorrect data and information to SERC, ISO, the Company for the Transmission of Electric Power or the Ministry of Foreign Trade and Economic Relations of BIH,
- 3) The licensee has prevented direct access to the equipment, documents or other facilities which are owned or controlled by the licensee, or the licensee does not comply with the monitoring conditions,

FERK:

In the Article 38 of the Law on Electricity in the Federation of BIH

- 1) FERK may demand of all licensees to insure the documentation, data and information, necessary for conducting the operations from its jurisdiction.
- 2) Upon FERK request, the licensee shall be obligated to document the credibility of data and information from paragraph (1) of this Article.
- 3) The licensee shall be obligated to deliver the documentation, data and information from paragraph (1) of this Article in the set deadline and to cooperate with FERK.
- 4) FERK shall be obligated to use the information of the licensees only for publishing the operations within the statutory established activity.
- 5) The licensee and FERK that in conducting their duties obtain data for which it may be reasonably assumed to be of a confidential character, shall be obligated to preserve the confidentiality of such data.

In the article 108. Paragraph (1) indent 1) and indent 5) is prescribed that Electric power entity shall be fined for offense with penalty in the amount from 5,000.00 BAM to 15,000.00 BAM if it fails to submit the requested data and information to FERK ( Article 38) and if as the holder of permit does not fulfil the obligations determined with permit (Article 84,paragraph (3)). Paragraph (2) prescribes that Responsible person in the company shall be fined for the offense from paragraph (1) of this Article in the amount from 1,000.00 BAM to 3,000.00 BAM.



<p>In the Article 47 (Sanctions) of Licensing Rule:</p> <p>If FERK concludes that the license holder has not complied or violates the terms of the operating license, can take the following actions:</p> <ol style="list-style-type: none"> <li>reminds the license holders of registered irregularities and sets the deadlines for elimination of defects;</li> <li>initiate the procedure for issuing a misdemeanour order in accordance with the penal provisions of the Law on Electricity in the Federation of BiH, and</li> <li>initiate the procedure for revoking the operating license.</li> </ol> <p>RERS:</p> <p>License holders are obliged to submit reports to RERS in accordance to primary and secondary legislation and Reporting Rulebook (Official Gazette of RS 64/12). Penalties for market participants related to reporting are prescribed by Energy Law (Official Gazette of RS 49/09) article 37, Electricity Law (Official Gazette of RS 8/08,34/09,92/09 and 1/11) articles 96 (5) and 97 (4) and Gas Law (Official Gazette of RS 22/18) articles 134 (1) 1).</p>
<p><b>GEO</b> The delay or failure to provide the report by a regulated entity is considered as a violation of licensing conditions and is the subject of imposing administrative sanctions upon the license holder. As for the other market participants (that are not license holders), according the Code on Administrative Offences of Georgia, administrative sanctions shall be imposed upon them either.</p>
<p><b>GRC</b> If data are not submitted in time, there are telephone reminders, followed by written reminders. After this stage, companies usually comply. In the case that they do not comply, sanctions may be imposed by the Regulator.</p>
<p><b>KOS*</b> Rule on Administrative Measures and Fines beside other issues also describes that ERO has competencies to impose fines to the licensee if the licensee fails to fulfil his/her duties in accordance with Law on Energy Regulator and fails to provide information required pursuant to Article 12 of Law on Energy Regulator.</p>
<p><b>MKD</b> Initially, those who are late with submitting data are reminded through a telephone calls and 99% of them provide data afterwards. In the cases (extremely rarely) when they do not comply, the procedure is as follows:</p> <p>First step is sending warning letter to the data provider (licensed company) in which is stated which data are missing and for which period(s). In the letter is stated final due term in which the data provider must submit missing reports. The warning letter also contains information on the penalty procedure in the case of not submitting data.</p> <p>If the data provider doesn't send requested data stated in the warning letter, ERC issues a Decision which puts final obligation for the sender to submit data.</p> <p>In the case when data provider (licensed company) rejects to submit data after ERC Decision, the following step is enacting penalty procedure in front of the Administrative Court.</p> <p>Until now we haven't enacted such penalty procedure.</p>
<p><b>MNE</b> A fine ranging from €2,000 to €10,000.00 shall be imposed on a legal person for an offence, should they, in the capacity of energy undertaking fail to submit, upon request of the Agency, data, information and documents within the deadline set by the Agency – article 233 paragraph 1 point 1 of the Energy Law. Agency has to file a violation report to the responsible authority.</p>

### 3.7 Explanation of the procedure in the cases of late arrival (no arrival) of requested data reports

**SRB** According to the art 56 of the Energy Law, Agency may request from energy entities to submit data and documentation necessary for the Agency's operation, within a deadline that may not be shorter than eight days as of the request receipt date;

In case of non-performance of obligations prescribed by this Law, the Agency may, within its competences, give the system operator, wholesale electricity supplier, electricity supplier, i.e. natural gas supplier, and public natural gas supplier: admonition or warning, or initiate appropriate proceedings before the competent court.

When imposing the measures under Paragraph 1 of this Article, the Agency shall observe the principles of objectivity and impartiality and allow the system operator, wholesale electricity supplier, electricity supplier, i.e. natural gas supplier, and public natural gas supplier to give a statement referring to the facts that have resulted in the initiation of proceedings. –Art.59 of the Energy Law.

An energy entity or another legal person shall be fined with RSD 500,000 to 2,000,000 for a violation if fails to inform, to submit or to act in accordance with the request of the Agency- Art.390 of Energy Law.

**UKR** NEURC checks the cases of late arrival (no arrival) of requested data reports in the process of planned inspections (usually annually).

NEURC can make unplanned inspection of license holders in case of no arrival of data reports for two or more reporting periods.

NEURC may impose the penalties by the results of the planned or unplanned inspection.

From the analysed cases it can be concluded that legal procedures for late arrival (no arrival) of requested data reports usually includes sending reminders to the licenced companies which have failed to submit data on time, followed by warning letters and/or orders/decisions for complying with the obligations for data reporting, and as a final stage imposing/initiating sanction.

The sanctions vary among the analysed cases, and include issuing financial penalty, administrative sanctions, as well suspending or revoking the license.

### 3.8 Indicators monitored by the NRA (both, for universal service/tariff consumers if applicable and fully liberalized segment of the electricity/gas retail markets)

<b>Energy prices (generation)</b>	BIH, GEO, GRC, KOS*, MKD, MDA, MNE; UKR
<b>Energy prices (wholesale)</b>	ALB, BIH, GEO, GRC, KOS*, MKD, MDA, MNE, SRB; UKR
<b>Energy prices (retail)</b>	ALB, BIH, GEO, GRC, KOS*, MKD, MDA, MNE, SRB; UKR
<b>TSO/DSO Tariffs</b>	ALB, BIH, GEO, GRC, KOS*, MKD, MDA, MNE, SRB; UKR
<b>Energy Quantities</b>	ALB, BIH, GEO, GRC, KOS*, MKD, MDA, MNE, SRB; UKR
<b>Customer Complaints/Types/Time of response/Status</b>	ALB, BIH, GEO, GRC, KOS*, MKD, MDA, MNE, SRB; UKR

### 3.8 Indicators monitored by the NRA (both, for universal service/tariff consumers if applicable and fully liberalized segment of the electricity/gas retail markets)

<b>Switching data</b>	BIH, GEO, GRC, KOS*, MKD, MDA, MNE, SRB; UKR
<b>Connections/Disconnections</b>	BIH, GEO, GRC, KOS*, MKD, MDA, MNE, SRB; UKR
<b>Types and number of customers</b>	ALB, BIH, GEO, GRC, KOS*, MKD, MDA, MNE, SRB; UKR
<b>Metering points</b>	ALB, BIH, GEO, GRC, KOS*, MKD, MDA, MNE, SRB; UKR
<b>Other</b>	<p>Albania: energy balance, capacity allocation, imbalances, procedures and prices of purchasing energy by Universal supplier and for transmission losses</p> <p>Georgia: Informing customers of the date and duration of disconnections due to planned maintenance works; Informing customers of the duration of unplanned disconnections caused by accidents and restoring supply within the time period determined by GNERC; Responding the customer calling the call centre of the regulated entity within the time period determined by GNERC; Timely restoration of supply to the customers disconnected for non-payment; Timely response to the customers' requests; Checking metering devices on spot where requested by a customer; Registration of a customer as a subscriber; Checking technical quality of supply on spot where requested by a customer; Connection of a new customer to the network.</p> <p>KOS*: Authorization regarding the Renewables resources</p>

Most of the indicators for assessment of retail electricity and gas markets functioning are monitored by the NRAs, with few exceptions, such as in Albania where the regulator is not monitoring generation energy prices, switching data and connections/disconnections, while Serbian regulator is not monitoring only generation energy prices.

## 4. Format for Data Collection and Analysis

The fourth segment of the assessment paper analyses technical aspects of market monitoring activities, such as format and channels for data collection, procedures for data validation, as well usage of software for data collection and data analysis.

4.1 Format for data collection	
<b>Excel (.xls .xlsx)</b>	ALB, BIH, GEO, GRC, KOS*, MKD, MDA, MNE, SRB; UKR
<b>XML files</b>	BIH
<b>Word</b>	ALB, BIH, GRC, KOS*, MNE
<b>PDF</b>	ALB, BIH, GRC, KOS*, MNE; UKR
<b>Hard copies</b>	ALB, BIH, GRC, KOS*, MDA, MNE; UKR
<b>Other</b>	GEO: Web application

All examined NRAs are using Excel files for data collection and most of them also use data reports provided in text files (Word, PDF, hard copies). The Georgian regulator is collecting

data through a web application and the data collected online is stored in My SQL data base. My SQL is connected to business intelligence & visualization software (Qlik View) from which data can be saved in any of the following formats: Comma Delimited, Semicolon Delimited, Tab Delimited, Hypertext (HTML), XML and Excel (.xls or .xlsx).

4.2 Channels for data collection	
<b>Email</b>	ALB, BIH, GRC, KOS*, MKD, MDA, MNE, SRB; UKR
<b>Web portal</b>	MKD; UKR
<b>Regular post</b>	ALB, BIH, GEO, GRC, KOS*, MDA, MNE; UKR
<b>Other</b>	GEO: special software provided by NRA

NRAs collect data primarily through email, and to a bit less extent through regular post, while regulators from Georgia, FYR of Macedonia and Ukraine are using web application / web portal for this purpose.

4.3 Procedures for data validation	
<b>Yes</b>	BIH (FERK, RERS); GRC; MKD; MDA; UKR
<b>No</b>	ALB; BIH (SERC); GEO; KOS*
<b>Other</b>	SRB: There is no procedure, but employees check data and ask for explanations and corrections, if it needed. After those consultations data are validated. MNE: There is no procedure, but employees check data and ask for explanations and corrections, if it is needed.

Regulators from Bosnia and Herzegovina, Greece, FYR of Macedonia and Moldova have procedures for data validation, while in Albania, Georgia, and Kosovo\* such procedures are lacking.

In Serbia and Montenegro there is no strict procedure although there is a practise in which employees check data and ask for explanations and corrections if needed, and afterwards data are considered as valid.

#### 4.4 Explanation of the procedure for data validation

**BIH** FERK: Establishing a database that includes data tracking of regular data collection and analysis a rational basis. Each submission of a new report checks the data already collected and processed in the database. Significant deviations are subject to new checks and request for additional information.

RERS: Data from reports submitted to RERS by license holders are regularly analysed and compared with data from balance sheets, independent auditor's financial reports, through tariff procedure, system operators reports, etc.

**GRC** The financial data are reconciled with data from the relevant TSO and DSO and the official published financial statements of generators and suppliers.

**MKD** There are three phases of data validation.

The first one is automatic and done by the software in the moment of data submission through the web portal. For instance, if some crucial correlated data is missing (there are quantities, but price is missing), the report will be automatically rejected, and the data provider receives message what kind of correction must be done before resubmitting the report again.

The second phase is done manually. If the report passes the first check, it's been checked visually by the Energy Market Monitoring Department staff. If there are non-logical data, (e.g. the requested data should be presented in kWh, and the report contains data which resembles of MWh), the report will be rejected along with the message which explains to the data provider what kind of correction must be done before resubmitting the report again. If the report is Ok, employee accepts it and automatically goes into database for further analysis.

Third phase of validation is in the process of analysis, where aggregated data are compared. If there is a specific data which is not relevant/logical, the report in which that data is contained is rejected, and the data provider is requested to provide adequate corrections.

In the process of data validation, data reports from other sources are used for comparison.

**MDA** The activity reports are numbered and signed by the director, the chief accountant and by the executant of the license holder, applying the stamp of the license holder as well. The data validation is done manually, similarly with the 2<sup>nd</sup> and 3<sup>rd</sup> phase described by MKD.

**UKR** In case of detection mistakes in reporting data NEURC inform the license holder during 10 working days and license holder is obliged to correct the data during 5 working days. In case of non-correction of data NEURC can make unplanned inspection of license holders.

In Bosnia and Herzegovina and Greece data validation is done via comparison with historic data series, and/or with data from other sources (TSO, DSO, financial statements, etc.).

In FYR of Macedonia there is a semi-automatic three-phase procedure for data validation which includes validation of correlated data in original reports, validation of data regarding required reporting units (kWh, MWh, etc.) and finally, validation of aggregated data through comparison with data from other sources.

Data validation in Ukraine is done by requesting licence holder to correct data which has been detected as non-valid by the regulator.

#### 4.5 Usage of software for data collection and analysis

<b>Yes</b>	GEO; MKD
<b>No</b>	ALB; BIH; GRC; KOS*; MDA; MNE; SRB; UKR

Only in Georgia and fYR of Macedonia NRAs at present have special software for data collection and data analysis.

#### 4.6 Software details

**GEO** The special program was developed by GNERC and introduced in 2016. Regulated entities use the program to report electronically (submitting quarterly and annual reporting forms). Presently, the program is functioning at its full capacity, however, the process of its improvement and development is still ongoing.

**MKD** MM-Central – Custom made software for administering data collection processes

- Administering various user’s data (company details, license details, power plants details, etc.)
- Generating templates for data submitting (every licensed company receives unique template for each energy activity it performs, for each reporting period)
- Managing received files and creating database
- Activity logs

Excel VBA programs for generating aggregated data reports

Web platform <https://monitoring.erc.org.mk/> (web server) – where data providers have their accounts which are used for downloading template reports and submitting filled in reports.

The Georgian NRA developed a special software through which, as of 2016, regulated entities are submitting their reports through a web application. Presently, the program is functioning at its full capacity, however, the process of improvement and development is still ongoing.

In fYR of Macedonia the NRA has developed custom made software for administering data collection processes along with VBA programs for generating aggregated data reports, as well web platform where data providers have their accounts which are used for downloading template reports and submitting filled in reports.

## 5. Internal Procedures for Data/Findings Sharing – Follow up Actions

The fifth part of the analysis examines presence of internal procedures for data/findings sharing within NRA, as well as follow up activities which are undertaken in the cases some suspicion for misconduct is detected through the market monitoring activities.

### 5.1 Internal procedures for sharing findings from market monitoring activities with other NRA departments

<b>Yes</b>	<p>BIH (RERS: All reports submitted to RERS are stored in electronic DMS (Document Management System). As submitted and after analyses all data are available to all departments and Commissioners. RERS Annual Report is based on analysed data collected from market monitoring.</p> <p>GEO: Each department responsible for market monitoring carries out analysis of the data received, compares it to the data presented in the previous reporting periods, makes necessary projections and shares findings and conclusions with the remaining staff of GNERC and the Commission through various means, including the special, internal portal.</p> <p>MDA: the sharing of the documents is noted in the internal register of the NRA</p> <p>UKR: Heads of departments ensure effective interaction with the other departments, including providing rapid data exchange for monitoring purposes.</p>
<b>No</b>	ALB; BIH (SERC, FERK); GRC
<b>Other</b>	<p>KOS*: For every finding in the monitoring process, we share it to all departments for comments, and afterwards we submit that report to Board.</p> <p>MKD: There is no written procedure at this point, although in practise aggregated data reports are provided to other departments. Basic principle is that electricity data is shared only with electricity department/experts, and vice versa, gas data is shared with gas department/experts. Depending on the case, there is also cross-sectoral data/findings sharing. Key findings are presented/shared to Board members.</p> <p>SRB: There is no prescribed procedure particularly for findings in market monitoring activities, but whenever some of the department find some suspicious behaviour in its daily activities, it is obliged to share it to all other departments for comments and after that to submit to the Council an information in written about it. On the base on that information Council will decide whether to initiate the procedure of imposing measures. If this decision is taken, the legal sector conducts the procedure in according to the Law on Administrative procedure and Rulebook on conducting the proceedings and imposing measures and keeping the register of imposed measures, issued by the AERS.</p> <p>MNE: There is no procedure, but employees share important findings in the monitoring process with other departments for comments, and afterwards the findings are presented to the Board.</p>

Most of the NRAs have stated that at the current point the internal procedures for sharing findings from market monitoring activities with other NRA departments are lacking.

In Bosnia and Herzegovina (RERS) and Georgia there is a procedure for sharing analysed market monitoring data with all departments and Board members, in Moldova sharing of the documents is noted in the internal register of the NRA, while in Ukraine heads of departments ensure effective data exchange with the other departments.

In Kosovo\* there is no written procedure, although every finding in the monitoring process is shared with all departments for comments and afterwards the final reports are submitted to the Board.

Also in fYR of Macedonia there is no written procedure in place at this point although in practise aggregated data reports are provided to other departments. The basic principle is that electricity data is shared only with electricity department/experts, and vice versa, gas data is shared with gas department/experts. Depending on the case, there is also cross-sectoral data/findings sharing. Afterwards, key findings are presented/shared to Board members.

In Serbia there is no particular written procedure for findings in market monitoring activities but there is written procedure for all findings which indicate suspicious behaviour according to the Rulebook on conducting the proceedings and imposing measures and keeping the register of imposed measures (Official Gazette of RS, No 35/2016).

**5.2 Follow up procedures on findings for suspicious behaviour of license holders/market participants**

<b>Yes</b>	BIH; GEO; MKD; MNE; SRB
<b>No</b>	ALB; GRC; KOS*; UKR
<b>Other</b>	MDA: There is no specific written follow up procedure, although the NRA has several rights in case of detecting suspicious behaviour of license holders, such as requesting the necessary information from the latter to analyse the apparent suspicious behaviour. After the requested information is received, it is provided to the appointed department for analysis.

The majority of NRAs has declared that there are defined follow up procedures on findings for suspicious behaviour of license holders/market participants; such procedures are lacking in Albania, Kosovo\* and Ukraine.



### 5.3 Details on follow up procedures

#### **BIH** FERK:

License holders are subject to regular and extraordinary monitoring, which is a procedure for finding suspicious behaviour. In addition to this FERK can follow-up on information received from third party that submits request/complaint or to FERK.

According to Rulebook on Monitoring article 14, Paragraph (2) and article 15, Members of Monitoring Team shall submit Monitoring Report with record from monitoring and comments of the licensee to FERK Commissioners. Based on the Monitoring Report and submitted comments FERK Commissioners may:

- a) adopt the report, if there are no irregularities determined to be corrected or measures to be taken, during the monitoring process, what is recorded in the minutes of internal meeting,
- b) pass the final decision about taking necessary measures on the regular session

Licensee shall, in the specified time frame specified in the FERK's decision, correct determined irregularities and submit to FERK report on implementation of ordered measures.

Attached to the report from paragraph (1) of this Article documents and evidence of undertaken steps shall be submitted.

#### **RERS:**

Based on received reports RERS is authorized by legislation to request additional information and data, organize regular or extraordinary audits, prescribe corrective measures, sanctions, temporarily or permanently take over licenses from market participants.

**GRC** In the case of suspicious behaviour (such as debts of suppliers, limitation of competition, aggressive marketing any other violation of obligations), the relevant department- Energy Retail Market Monitoring, provides a written report to the Board of RAE, with a proposal (depending on the case, additional investigation, crosscheck with other involved parties, official hearing etc). The Decision of the Board is sent to the supplier to proceed to further actions.

**GEO** Where a suspicious behaviour is detected, the relevant structural units of GNERC will inquire further, request additional information where needed from the entities concerned and inform the Commission of their findings. If deemed necessary by the Commission, relevant measures (sanctions) will be imposed and monitoring will be continued to make sure that no rules are violated.

**MKD** In the case when suspicious behaviour is detected, Energy Market Monitoring Department provides information to the Board of Commissioners, and afterwards follow up activities are undertaken, including:

- Additional internal investigation if necessary for final confirmation of the suspected behaviour/irregularity;
- Request to other competent state institutions for further investigation and providing feedback to ERC on their findings;
- Licenced company for which is determined that has breached its license obligations or has performed other irregularity prohibited by law, will receive ERC Decision in which the company will be obliged to act in accordance with the licence obligations and correct determined irregularities;
- If the licenced company refuses to fulfil obligations stated in the ERC Decision, as a final step ERC could launch penalty procedure in front of Administrative court or start procedure for revoking issued licence.

### 5.3 Details on follow up procedures

**MNE** According to Energy Law (article 48 paragraph 1 point 4) the Agency shall supervise and analyse operation and application of market rules and an undertaking's market actions, monitoring of degree and effectiveness of opening of market and competition on a retail and wholesale level, including electricity markets: prices for households, including subscription, rate of change of supplier, rate of disconnection, provision of ancillary maintenance services per approved prices and complaints of household customers, as well as other violation or limitation of competition, including provision of respective information and referring of specific cases to Authorities competent for competition.

From the answers provided by Bosnia and Herzegovina, Georgia and FYR of Macedonia, it can be seen that follow up procedures in cases of detected suspicious behaviour of license holders/market participants include additional inquires of the suspected licensed companies, requesting additional information from other relevant authorities, issuing orders/decisions for correction of determined irregularities, and as final steps, if necessary, for launching penalty procedure and/or initiating procedures for revoking license.

## 6. Data Publication

The final part of the assessment focuses on several issues related to data publication, including presence of regular practice and frequencies of publishing data, types of indicators which are published, presence of rules for publishing commercially sensitive data and application of rule for minimum data sources as a precondition for publishing aggregated data.

### 6.1 Regular practice of publishing data received through market monitoring activities

<b>Yes</b>	ALB; BIH; GEO; GRC; KOS*; MKD; MDA; MNE; SRB; UKR
<b>No</b>	
<b>Other / Additional explanation</b>	KOS*: Reports that licensees submit to Regulator are analysed by Regulator, and afterwards different reports are prepared. Depending on the issue, some reports are published, while some reports remain only within the Regulator.  RAE works to gather and publish data at least on a yearly basis to comply with the National Report and MMR's requirements.

The assessment shows that all examined NRAs have a regular practice of publishing data received through market monitoring activities.

## 6.2 Frequency of data publication

<b>Annually</b>	ALB; BIH, GEO, GRC, KOS*, MKD, MDA, MNE, SRB; UKR
<b>Semi-annually</b>	
<b>Quarterly</b>	MDA
<b>Monthly</b>	BIH (FERK), MDA
<b>Other</b>	ALB; according to provisions set in Power Sector Law, there are data publication every fourth month. MKD works to start publishing data in shorter periods.

Most of the NRAs, except Albania, are publishing data on annual basis.

Additionally, in Moldova there is a practise of publishing data on monthly and quarterly basis as well, while in Bosnia and Herzegovina on monthly basis. The Albanian published data every fourth month.

## 6.3 Indicators for which NRA publishes data (both, for universal service/tariff consumers if applicable and fully liberalized segment of the electricity/gas retail markets)

<b>Energy prices (generation)</b>	BIH, GEO, GRC, KOS*, MKD, MDA, MNE; UKR
<b>Energy prices (wholesale)</b>	ALB, BIH, GEO, GRC, KOS*, MKD, MDA, MNE, SRB; UKR
<b>Energy prices (retail)</b>	ALB, BIH, GEO, GRC, KOS*, MKD, MDA, MNE, SRB; UKR
<b>TSO/DSO Tariffs</b>	ALB, BIH, GEO, GRC, KOS*, MKD, MNE; UKR
<b>Energy Quantities</b>	ALB, BIH, GEO, GRC, KOS*, MKD, MNE, SRB; UKR
<b>Customer Complaints/Types/Time of response/Status</b>	BIH, GEO, GRC, KOS*, MKD, MNE, SRB; UKR
<b>Switching data</b>	BIH, GRC, KOS*, MKD, MNE, SRB; UKR
<b>Connections/Disconnections</b>	BIH, GEO, GRC, KOS*, MKD, MNE, SRB; UKR
<b>Types and number of customers</b>	ALB, BIH, GEO, GRC, KOS*, MKD, MNE, SRB; UKR
<b>Metering points</b>	ALB, BIH, GEO, KOS*, MKD, MNE, SRB
<b>Other</b>	ALB: energy balance, capacity allocation, imbalances, procedures and prices of purchasing energy by Universal supplier and for transmission losses GEO: HHI index, installed capacity by technologies, consumption by customer categories and voltage levels, cross border capacities by border

The analysis shows that NRAs publish aggregated data for most of the indicators which are subject to their market monitoring.

#### 6.4 Rules for publishing commercially sensitive data (prices, supply margins, costs or similar)

<b>Yes</b>	<p>ALB: Regulation on Protection of Confidential Information</p> <p>BIH</p> <p>SERC: Rules of Confidential Information Protection</p> <p>FERK: Rulebook on Protection of Confidential Information.</p> <p>RERS: Rules on managing commercially sensitive data in the Republika Srpska are prescribed by Law on Freedom of Access to Sensitive Information (Official Gazette of RS 20/01) and RERS Rulebook on sensitive information (Official Gazette of RS 10/17).</p> <p>GEO: Procedures and rules regarding publishing commercially sensitive data protection are determined by General Administrative Code of Georgia.</p> <p>KOS*: For sensitive data or confidential information we have e Rule on Confidential Information, where the purpose of this Rule is to stipulate which special material shall be considered as confidential information (secret), as well as which are the procedures for stipulation and access to such confidential information.</p> <p>MKD: General principal stipulated in the Market Monitoring Rulebook is that NRA publishes only aggregated/average data from non-regulated energy activities.</p> <p>For regulated energy activities NRA publishes data for each regulated company.</p> <p>MNE</p>
<b>No</b>	<p>GRC, RAE does not't publish commercially sensitive data.</p> <p>SRB</p> <p>UKR</p>
<b>Other</b>	<p>MDA: We do not have specific rules, the general requirement is to note the sensitive data that is received by NRA, to avoid its publishing and protect the license holder data privacy.</p>

Most of the NRAs have rules for treatment of commercially sensitive data, meaning that such data in general are not published.

#### 6.5 Application of rule for minimum data sources as a precondition for publishing average data on some specific commercially sensitive data/indicator (e.g. prices)

<b>Yes</b>	ALB; BIH (FERK); MKD
<b>No</b>	<p>BIH (SERC, RERS)</p> <p>GEO, GRC, KOS*, MDA, MNE, SRB; UKR</p>

Only the NRAs of Bosnia and Herzegovina (FERK) and fYR of Macedonia declared that they apply rules for minimum data sources as a precondition for publishing average data on some specific commercially sensitive data/indicator.

## 6.6 Details on application of rule for minimum data sources

**ALB** No explanation provided

**BIH** FERK: Rulebook on Protection of Confidential Information prescribes following:

Article 11

The submission of confidential information to FBIH Parliament or to other competent institutions through reports approved by the FERK is not considered to be disclosing confidential information. FERK will take appropriate steps to ensure that submitted information is treated as confidential by the recipients.

Article 14

The confidential information may be communicated to third person by President or FERK Commissioner, or FERK staff member upon the special written authorization of FERK.

(2) In communication of confidential information, the person from paragraph (1) of this Article shall stipulate that this information is confidential and shall warn the person to whom is communicated on the obligation to keep confidential information and responsibility in the case it is disclosed.

Article 15, paragraph (1)

When it is necessary, for performance of FERK work, confidential information that represents business secret defined in this Rulebook, may be communicated to persons authorized by FERK from Article 14, paragraph (1) of this Rulebook, with previous written agreement of the owner of the confidential business information.

According to Article 16, Information on communication of confidential information is registered.

**MKD** In the Rulebook on monitoring of the functioning of energy markets, in the article 5 is stated that in the case when for some indicator aggregated data is received from less than 3 license holders of non-regulated energy activity, than such aggregated data will not be published in the regular reports.

In Bosnia and Herzegovina (FERK) there are legal provisions that enable the regulator to submit reports containing sensitive data to other relevant state institutions, taking appropriate steps to ensure that submitted information is treated as confidential by the recipients.

On the other hand, in fYR of Macedonia there are legal provisions which oblige the NRA not to publish aggregated data on some indicator if such data is received from less than three license holders of non-regulated energy activity.

### III. CONCLUSIONS AND RECOMMENDATIONS

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The main conclusions from the presented assessment are the following:

- NRAs have **clear legal competences** for retail electricity and gas market monitoring, although only in Albania, Greece, FYR of Macedonia and Moldova they have established **separate departments** for this purpose. All other NRAs conduct market monitoring within the scope of other departments or as multisectoral activity organized through task forces.
- The average **number of employees** allocated to market monitoring activities is six and varies between three, such as in Albania, up to 25 personnel in Ukraine. These employees are mainly engineers, economists and lawyers, while in Greece and FYR of Macedonia additionally there is engagement of a mathematician and an IT expert.
- Most NRAs collect data on **monthly, quarterly and annual basis**, as well as upon their request to licence holders. The number of days within which licensed companies are legally obliged to submit data reports ranges between 15 and 60 days while in practise these reports are mainly collected 15 to 45 days after the reporting period.
- All NRAs have legally prescribed **procedure/penalty in case of late arrival** (no arrival) of requested data reports, usually including reminders to licenced companies which have failed to submit data on time, followed by warning letters and/or orders/decisions for complying with the obligations for data reporting, and as a final stage imposing/initiating sanction.
- The **sanctions** for non-compliance vary among analysed cases, and include issuing a financial penalty, administrative sanctions as well suspending or revoking the license.
- Most of the indicators for assessment of retail electricity and gas markets functioning are monitored by the examined NRAs.
- Market data is primarily collected in Excel files, although text **formats** (Word, PDF, hard copies) are also present. In most cases licenced companies submit their reports via email, and to a bit less extent through regular post. Regulators from Georgia and FYR of Macedonia are using web application / web portal for this purpose, as well as special software for data analysis.
- In Bosnia and Herzegovina, Greece, FYR of Macedonia and Moldova NRAs have procedures for **data validation**, while in Serbia and Montenegro there is no strict procedure although there is a practise of data validation.
- Most of the NRAs have stated that, at the current point, they are lacking internal procedures for **sharing findings** from market monitoring activities with other NRA departments, except in Bosnia and Hercegovina (RERS), Georgia and Moldova. In Kosovo\*, FYR of Macedonia, Serbia and Montenegro there is no written procedure for this purpose at the current point, although in practise aggregated data reports and findings are shared with other departments.
- The majority of NRAs have defined follow up **procedures on findings for suspicious behaviour** of license holders/market participants, usually including additional inquires of the suspected licenced companies, requesting additional information from other relevant

authorities, issuing orders/decisions for correction of determined irregularities, and as final steps if necessary launching penalty procedure and/or initiating procedures for revoking license.

- The assessment shows that all examined NRAs have a regular practice of **publishing** data received through market monitoring activities on annual basis.
- Most of the NRAs have rules for treatment of **commercially sensitive data**, meaning that such data in general are not published, while only NRAs from Bosnia and Herzegovina (FERK) and FYR of Macedonia declared that they apply rule for sharing commercially sensitive data and minimum data sources as a precondition for publishing average data on some specific commercially sensitive data/indicator, respectively.

Based on this assessment and with the intention for CPs' regulators to establish/upgrade a more systematic approach in market monitoring activities in order to gain accurate and timely data and information to detect eventual market abuse and/or barriers for well-functioning gas and electricity retail markets, as well as for customer protection, ECRB **recommends** the following:

1. Strengthening **human resources** for market monitoring in general, by considering establishing and equipping accordingly separate market monitoring departments in the cases where they are missing, as well as by engaging experts from other relevant fields where possible (e.g. mathematics, IT, trade, etc.);
2. Development and introduction of **software tools** for data collection, data validation and data analysis, aimed at gathering accurate and timely data and information;
3. Adopting and implementing **procedures for internal data/findings sharing**, aimed to secure adequate response to detected market abuses and/or barriers for well-functioning gas and electricity retail markets, and
4. **Publication** of market monitoring data in shorter periods, at least semi-annually, and where possible quarterly and monthly, with an aim to increase wider public understanding of the electricity and gas retail market functioning and building/strengthening confidence in liberalized energy markets in general.

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