

Pursuant to Article IV 4 a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina at the session of the House of Peoples held on [●], and at the session of the House of Representatives held on [●] adopted

LAW ON TRANSMISSION OF ELECTRIC POWER, REGULATOR AND ELECTRICITY MARKET IN BOSNIA AND HERZEGOVINA¹

CHAPTER I GENERAL PROVISIONS

Article 1 *Regulatory scope*

- (1) This Law establishes the general legal framework for the governing, organisation, regulation, monitoring and supervision of the electricity activities within the jurisdictional competence at the level of Bosnia and Herzegovina.
- (2) This Law lays down the rules related to the opening, organisation, functioning and operation of the electricity market, as well as to the trade in electricity within the entire territory of Bosnia and Herzegovina. It also regulates the performance of electricity undertakings engaged in the electricity activities under the terms and conditions stipulated herein, and of the State Regulatory Commission (hereinafter – “the State Regulator”), as well as mutual relations between electricity undertakings, their relations with the State Regulator and cooperation by the regulatory authorities and other competent institutions operating in the electricity sector of Bosnia and Herzegovina.
- (3) This Law is set on the basis of prevailing international practices and follows the international commitments undertaken by Bosnia and Herzegovina, in particular the relevant decisions taken within the framework of the Treaty establishing the Energy Community (hereinafter – “the Energy Community Treaty”).

Article 2 *Definitions*

For the purposes of this Law, the following definitions shall apply:

1. **“ancillary services”** shall mean all services necessary for operation of a transmission or distribution system;
2. **“balance between supply and demand”** shall mean the satisfaction of foreseeable demands of consumers to use electricity without the need to enforce measures to reduce consumption;
3. **“balancing”** shall mean all actions and processes, on all timescales, through which the transmission system operator ensures, in a continuous way, to maintain the system

¹ **Disclaimer: The present document was produced as part of the IPA Project for Development of an EU acquis-compliant electricity legislative framework in Bosnia and Herzegovina in close cooperation with the Energy Community Secretariat.**

frequency within a predefined stability range as set forth in the European Union Network Code on the load-frequency control and reserves, and to comply with the amount of reserves needed per frequency containment process, frequency restoration process and reserve replacement process with respect to the required quality, as set forth in the European Union Network Code on the load-frequency control and reserves;

4. **“balancing energy”** shall mean electricity required for balancing the system;
5. **“balancing group”** shall mean a group made up of one or more electricity market participants whose imbalances fall under the responsibility of a single balancing group responsible party;
6. **“balancing group responsible party”** shall mean an electricity market participant that is responsible for imbalances of a balancing group and that has concluded a balancing energy contract with the transmission system operator and, when operational following its creation under this Law, with the electricity market operator;
7. **“balancing market”** shall mean an organised market for the purchase and sale of electricity, as needed for balancing of the power system;
8. **“bilateral electricity market”** shall mean the market on which purchase and sale of electricity is performed directly between electricity market participants on the basis of a bilateral contract on purchase and sale of electricity;
9. **“certification”** shall mean a procedure which establishes conformity of the transmission system operator with the conditions in relation to its independence and unbundling, as well as other relevant requirements imposed on the transmission system operator by this Law, and leads towards the appointment and designation of the transmission system operator;
10. **“congestion”** shall mean a situation in which an interconnector cannot accommodate all physical flows resulting from international trade requested by market participants, because of a lack of capacity of the interconnector and/or of the transmission systems concerned;
11. **“control”** shall mean rights, contracts or any other means which, either separately or in combination and having regard to the considerations of fact and law involved, confer the possibility of exercising decisive influence on an undertaking, in particular by ownership or the right to use all or part of the assets of an undertaking, and/or rights or contracts which confer decisive influence on the composition, voting or decisions of the organs of an undertaking;
12. **“cross-border flow”** shall mean a physical flow of electricity on a transmission network of Bosnia and Herzegovina, which results from the impact of the activity of producers and/or consumers outside Bosnia and Herzegovina on its transmission network;
13. **“customer”** shall mean a wholesale or final customer of electricity;
14. **“day-ahead electricity market”** shall mean an organised wholesale electricity market where the purchase and sale of electricity take place on hourly basis each day prior to the day of actual sale and physical delivery of electricity;
15. **“declared export”** shall mean the dispatch of electricity in Bosnia and Herzegovina on the basis of an underlying contractual arrangement to the effect that the simultaneous corresponding take-up (declared import) of electricity will take place in another Energy Community Party or a third country;

16. **“declared import”** shall mean the take-up of electricity in Bosnia and Herzegovina simultaneously with the dispatch of electricity (declared export) in another Energy Community Party or a third country;
17. **“declared transit”** shall mean a circumstance where declared export occurs and where the nominated path for the transaction involves Bosnia and Herzegovina in which neither the dispatch nor the simultaneous corresponding take-up of the electricity will take place;
18. **“delivery”** shall mean the turn-over of electricity at a certain delivery point;
19. **“direct line”** shall mean either an electricity line linking an isolated generation site with an isolated customer, or an electricity line linking an electricity producer and an electricity supply undertaking to supply directly their own premises, subsidiaries and final customers;
20. **“dispatching”** shall mean managing electricity flows and voltage regulation in the electricity system, also including exchange with other systems;
21. **“distribution”** shall mean the transport of electricity on medium-voltage and low-voltage distribution systems with a view to its delivery to final customers, but does not include supply of electricity;
22. **“distribution system operator”** shall mean an electricity undertaking responsible for operating, ensuring the maintenance of and, if necessary, developing the distribution system in a given area and, where applicable, its interconnections with other systems and for ensuring the long-term ability of the distribution system to meet reasonable demands for distribution of electricity;
23. **“economic precedence”** shall mean the ranking of sources of electricity supply in accordance with economic criteria;
24. **“electricity activities”** shall mean economic activities related to the generation, transmission, distribution and supply of electricity, as well as the operation of the electricity market and trade in electricity, as regulated under the terms and conditions stipulated in this Law;
25. **“electricity derivative”** shall mean a financial instrument aimed to secure electricity market participants from possible fluctuations of the price of electricity in the market, where that instrument relates to electricity;
26. **“electricity market operator”** shall mean a legal person responsible for organising the electricity market in Bosnia and Herzegovina;
27. **“electricity supply contract”** shall mean a contract for the supply of electricity, but does not include electricity derivatives;
28. **“electricity undertaking”** shall mean any natural or legal person carrying at least one of the following activities: generation, transmission, distribution, supply of electricity, or the trade in electricity, or the operation of the electricity market, which is responsible for the commercial, technical and/or maintenance tasks related to those activities, but does not include final customers;
29. **“eligible customer”** shall mean a customer who is free to purchase electricity from the supplier of his choice;
30. **“Energy Community Parties”** shall mean the Contracting Parties to the Energy Community Treaty, as well as the European Union and its Member States;

31. **“final customer”** shall mean a customer purchasing electricity for his own use;
32. **“generation”** shall mean the production of electricity;
33. **“horizontally integrated undertaking”** shall mean an undertaking performing at least one of the activities of generation for sale, transmission, distribution, or supply of electricity, or trade in electricity, or operation of the electricity market, and another non-electricity activity;
34. **“household customer”** shall mean a final customer purchasing electricity for his own household consumption, excluding commercial and/or professional activities;
35. **“implicit auction”** shall mean a mechanism for cross-border trade in electricity which includes consolidated prices calculated by the service provider, containing at least components for the costs of electricity traded and the costs for using cross-border transmission capacities;
36. **“integrated electricity undertaking”** shall mean a vertically or horizontally integrated undertaking;
37. **“interconnected system”** shall mean a number of transmission and distribution systems linked together by means of one or more interconnectors;
38. **“interconnector”** shall mean equipment used to link the national transmission systems of Bosnia and Herzegovina and of any other country;
39. **“intra-day electricity market”** shall mean an organised wholesale electricity market where the purchase and sale of electricity take place by way of continuous trading in transactions created after closing the day-ahead electricity market;
40. **“licensee”** shall mean a holder of a license (or licenses) for the electricity activities regulated by this Law;
41. **“long-term transmission planning”** shall mean the planning of the need for investment in transmission capacity on a long-term basis, with a view to meeting the demand of the system for electricity and securing supplies to customers;
42. **“network access”** shall mean a right of the system user to use the network for transmission, distribution, taking up and delivering of the contracted amount of electricity during the contracted term, based on the prescribed and publicly announced conditions in conformity with principles of transparency and non-discrimination;
43. **“new interconnector”** shall mean an interconnector not completed by 1 July 2007;
44. **“non-household customer”** shall mean any legal or natural person purchasing electricity which is not for its own household use, and includes producers and wholesale customers;
45. **“non-standard services of the transmission system operator”** shall mean all allocated services falling within the competence and responsibility of the transmission system operator that are not included in the transmission network use price and the transmission network connection fee;
46. **“operational network security”** shall mean continuous operation of the transmission and, where appropriate, the distribution network under foreseeable circumstances;
47. **“producer”** shall mean a natural or legal person generating electricity;
48. **“public service obligation”** shall mean a duty imposed upon electricity undertakings entrusted with the provision of services of general economic interest, which may relate

to security, including security of supply, regularity, quality and price of supplies, and environmental protection, which is non-discriminatory and does not distort competition beyond what is strictly necessary in order to achieve the public service in question;

49. **“region”** shall mean the geographical area defined under Title III of the Energy Community Treaty and/or other geographical areas specifically referred to;
50. **“related undertaking”** shall mean affiliated undertakings and/or associated undertakings, within the meaning prescribed by the entity laws governing the activities of business companies, and/or undertakings which belong to the same shareholder;
51. **“renewable energy sources”** shall mean renewable non-fossil energy sources, *i.e.* wind, solar, geothermal, wave, tidal, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases;
52. **“security”** shall mean both security of supply and provision of electricity, and technical safety;
53. **“security of supply”** shall mean the ability of the electricity system of Bosnia and Herzegovina to supply final customers with electricity, as provided for under this Law, other applicable laws and their implementing regulations;
54. **“small customer”** shall mean a household customer and any other final customer with fewer than 50 occupied persons and an annual turnover or balance sheet not exceeding 20 million BAM having facilities connected to a low-voltage distribution network with nominal voltage level not exceeding 1 kV and the total sum of connected powers on all accounting metering points corresponding to the amount of 3x63 A;
55. **“supplier”** shall mean an electricity undertaking performing the supply of electricity and authorised for such activity under the terms and conditions provided in this Law, other applicable laws and/or their implementing regulations;
56. **“supplier of last resort”** shall mean an electricity undertaking performing the supply of electricity as a public service for a limited period of time according to the regulated conditions to those final customers which failed to choose or lost their supplier under specified circumstances;
57. **“supplier performing the supply as a public service”** shall mean an electricity undertaking performing the supply of electricity as a public service, *i.e.* the universal service supplier and/or the supplier of last resort;
58. **“supply”** shall mean the sale, including resale, of electricity to customers;
59. **“supply of electricity performed as a public service”** shall mean purchase of electricity and sale of electricity according to regulated conditions to those final customers that are entitled to such a supply, as well as resale to wholesale customers under contracted conditions;
60. **“supply of last resort”** shall mean the supply of electricity as a public service for a limited period of time according to regulated conditions to those final customers which have failed to choose or lost their supplier under specified circumstances;
61. **“system services”** shall mean electricity system services which are necessary for the operation of the transmission and distribution system including managing the electricity system, frequency regulation, voltage control, and restoration of supply, and are provided by the transmission system operator;

- 62. **“system user”** shall mean any natural or legal person supplying to, or being supplied by, a transmission or distribution system;
- 63. **“tariff”** shall mean a regulated price or set of prices for electricity, for the use of electricity networks, or for other electricity related services;
- 64. **“tariff methodology”** shall mean the rules, methods, and principles that are prescribed by the relevant regulatory bodies to apply in the setting of regulated tariffs;
- 65. **“third country”** shall mean any country which is not the Energy Community Party, or a member of the European Economic Area;
- 66. **“trade”** shall mean purchase and/or sale, including resale, of electricity to wholesale customers, excluding sale of electricity to final customers;
- 67. **“trader”** an electricity undertaking performing the trade in electricity and authorised for such activity under the terms and conditions provided in this Law, other applicable laws and/or their implementing regulations;
- 68. **“transit”** shall mean transmission of electricity with a view to fulfilling agreements concerning trade in electricity, where none of the parties to the agreement purchase or produce such electricity in Bosnia and Herzegovina;
- 69. **“transmission”** shall mean the transport of electricity on the high-voltage interconnected system with a view to its delivery to final customers or to distributors, but it does not include supply of electricity;
- 70. **“transmission network”** shall mean a network made up of network plants or substations, network transformers and lines of 110 kV or of higher voltage levels, leading up to the connection point of the system user, as well as, where relevant, of the other facilities or infrastructure required for the functioning of the transmission system;
- 71. **“transmission network owner”** shall mean an electricity undertaking which owns the transmission network of Bosnia and Herzegovina;
- 72. **“transmission system operator”** shall mean an independent electricity undertaking responsible for operating, ensuring the maintenance of and developing the transmission system of Bosnia and Herzegovina and its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the transmission of electricity;
- 73. **“universal service”** shall mean the supply of electricity as a public service according to regulated conditions to those final customers which have a right to the supply of electricity under such conditions, *i.e.* small customers, and freely choose, or automatically use, such a method of supply;
- 74. **“universal service supplier”** shall mean an electricity undertaking offering small customers the right to be supplied with electricity of a specified quality at reasonable, transparent and cost-reflective prices;
- 75. **“vertically integrated undertaking”** shall mean an electricity undertaking or a group of electricity undertakings where the same person or the same persons are entitled, directly or indirectly, to exercise control, and where the undertaking or group of undertakings perform at least one of the activities of transmission and/or distribution, and at least one of the activities of generation and/or supply of electricity;
- 76. **“wholesale customer”** shall mean a natural or legal person purchasing electricity for the purpose of resale inside or outside the territory of Bosnia and Herzegovina.

Article 3

General objectives

General objectives of this Law shall be the following:

1. to lay the legal background for unrestricted trade in and uninterrupted supply of electricity at defined quality standards for the benefit of the customers in Bosnia and Herzegovina;
2. to ensure secure, reliable and efficient operation of the electricity transmission system and the provision of electricity transmission services to all system users;
3. to set the rights and obligations of electricity undertakings engaged in the electricity activities under the terms and conditions stipulated in this Law and to set the rights and obligations of the State Regulator, as well as the legal background for mutual relations between the electricity undertakings and their relations with the State Regulator;
4. to create conditions for a complete opening of the electricity market in Bosnia and Herzegovina based on the principles of competitiveness, transparency and non-discrimination;
5. to establish the rules on organisation and functioning of the electricity market in Bosnia and Herzegovina, including its further development and the pan-European market integration;
6. to ensure effective unbundling of the transmission system operator and its independence from other electricity activities and from other commercial interests;
7. to create conditions for adequate investments to the electricity transmission system; and
8. to establish the legal background for regional and international cooperation of the transmission system operator and of the State Regulator, as well as for mutual cooperation among competent authorities, institutions and other public bodies in Bosnia and Herzegovina. Obligations with regard to regional cooperation of the State Regulator and the transmission system operator shall be construed in line with the scope of such region or, where relevant, any other region referred to.

CHAPTER II

GOVERNING OF THE ELECTRICITY ACTIVITIES

Article 4

General principles governing the electricity activities

- (1) Organisation, regulation, monitoring and supervision of the electricity activities shall be implemented in compliance with the following general principles:
 1. security and reliability of operation of the transmission system and provision of the transmission services;
 2. security of supply in order to fulfil the demand for electricity by customers in Bosnia and Herzegovina;
 3. competitiveness, transparency, non-discrimination and legal certainty for the electricity activities, whether related to public services or market based;

4. increase of the energy efficiency and decrease of the negative environmental impact of the electricity activities and their sustainable development following environmental, economic and social security policies of Bosnia and Herzegovina;
 5. promotion of the use of smart and environmentally-friendly technologies while transmitting electricity and operating the transmission system; and
 6. availability, accessibility and affordability of electricity for the benefit of the customers in Bosnia and Herzegovina.
- (2) Other legal acts regulating electricity activities at the level of Bosnia and Herzegovina, in the Entities of the Federation of Bosnia and Herzegovina and Republika Srpska (hereinafter – “the Entities”), and in the Brčko District of Bosnia and Herzegovina (hereinafter – “the District”) shall be construed and implemented in line with the general principles laid down in paragraph 1 of this Article.

Article 5

Competent institutions

- (1) The Council of Ministers of Bosnia and Herzegovina (hereinafter – “the Council of Ministers”) and the Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina (hereinafter – “the Ministry”) shall be responsible for taking relevant decisions with regard to the governing of the electricity sector at the level of Bosnia and Herzegovina within the scope of their specific competences, as assigned in accordance with this Law and other relevant laws and regulations.
- (2) The State Regulator shall be designated as a single regulatory authority at the level of Bosnia and Herzegovina. The State Regulator shall possess its competences and implement its regulatory powers with regard to the electricity activities performed in Bosnia and Herzegovina in accordance with this Law and other relevant laws and regulations.
- (3) Competence of institutions assigned with the organisation, regulation, monitoring and/or supervision of the electricity activities in the Entities and the District shall be defined by their respective laws.
- (4) Competent institutions of Bosnia and Herzegovina shall ensure close mutual cooperation at the governmental and/or ministerial levels for the purposes of harmonised practices in the field of electricity. Cooperation between the State Regulator, the regulatory authorities of the Entities (hereinafter – “the Entity Regulators”) and/or other competent authorities of the Entities and the District shall be performed under the terms and conditions stipulated in this Law.

CHAPTER III

ORGANISATION OF THE ELECTRICITY ACTIVITIES

Article 6

Electricity activities

- (1) The following electricity activities shall be covered by this Law:
 1. operation of the transmission system, which also includes the transmission of electricity and other activities performed by the transmission system operator;
 2. operation of the electricity market; and

3. trade in electricity, which also includes the cross-border trade in electricity.
- (2) Other electricity activities referred to in this Law, including generation of electricity and supply of electricity, including the provision of ancillary services, shall be regulated under the terms and conditions of this Law to the extent the organisation and operation of a single electricity market in Bosnia and Herzegovina is concerned, including the monitoring and supervision of the electricity market and effective competition therein. Other legal relations with regard to these activities and any other electricity activities not regulated by this Law shall be regulated by respective laws of the Entities and the District.

Article 7

Public services

- (1) The following activities falling within the regulatory scope of this Law shall be performed as public services:
1. operation of the transmission system, including the transmission of electricity, performed by the transmission system operator; and
 2. operation of the electricity market, performed by the electricity market operator.
- (2) Electricity undertakings performing activities referred to in paragraph 1 of this Article shall ensure, within the specific scope of and in conformity with the requirements set out in the license for performance of respective activity, the following:
1. security of supply;
 2. application of prices defined according to the regulated conditions;
 3. non-discriminatory access;
 4. environmental protection;
 5. energy efficiency and sustainability;
 6. protection of health, life and property of citizens; and
 7. measures for protecting final customers.
- (3) Public services shall be provided in a transparent and non-discriminatory manner, and they shall guarantee equality of access for electricity undertakings of the Energy Community to customers in Bosnia and Herzegovina.
- (4) The Energy Community Secretariat shall be informed of any measure adopted under this Law at the level of Bosnia and Herzegovina and/or, based on respective applicable laws, in the Entities and the District to fulfil public service obligations, and of their possible effect on national and international competition upon the entry into force of this Law. The Energy Community Secretariat shall be subsequently informed every two (2) years of any changes to such measures.
- (5) The Ministry shall be in charge to prepare, in cooperation with the State Regulator and competent institutions of the Entities and the District, as well as with the transmission system operator and the electricity market operator, and to submit reports containing information referred to in paragraph 4 of this Article to the Energy Community Secretariat.

Article 8

Market activities

Electricity activities, which are not defined as public services under this Law or respective laws of the Entities and the District, shall be performed as market activities where amounts and prices of delivered electricity and/or other commercial terms and conditions are freely negotiated by the conclusion of short-term and long-term contracts and/or directly on the organised electricity market.

Article 9

Licensing for the performance of electricity activities

- (1) Performance of the electricity activities falling within the regulatory scope of this Law shall be authorised by the State Regulator following the licensing procedures under the terms and conditions of this Law, other applicable laws and implementing regulations.
- (2) A license under this Law shall be required for the following electricity activities:
 1. operation of the transmission system, including the transmission of electricity;
 2. operation of the electricity market; and
 3. trade in electricity.
- (3) Any electricity activities specified in paragraph 2 of this Article may be performed by legal or natural person only subject to prior issuance of the license, except if otherwise expressly provided by this Law.
- (4) Under conditions stipulated in this Law, the license for the activities of the transmission system operator may be issued only after its prior approval and designation following the certification decision granted by the State Regulator.
- (5) Procedures for issuance of the license shall be clearly defined and publicly announced, in compliance with the general criteria specified in Article 10 [*General criteria for issuance of licenses*] of this Law, and shall be conducted in a transparent, objective, legally justified and non-discriminatory manner.
- (6) The State Regulator shall adopt the licensing rules setting forth the specific requirements for issuance of licenses, including the application forms, procedures and fees for submitting a request, and the time period for rendering respective decisions, as well as the content and manner of keeping the register of issued and revoked licenses, including any change or modification thereto.
- (7) Performance of the generation of electricity and supply of electricity, as well as of any other electricity activities not regulated by this Law, shall be subject to the licensing and/or other authorisation procedures regulated by the respective laws of the Entities and the District.

Article 10

General criteria for issuance of licenses

- (1) Based on the requirements for regulated electricity activities established by this Law and following the licensing rules adopted by the State Regulator, a license for the electricity activities may be issued to an applicant:

1. which is duly incorporated and registered for carrying out the electricity activities, as it may be required for legal persons, under the terms and conditions stipulated in the applicable laws of Bosnia and Herzegovina;
 2. which is technically qualified to carry out the activity;
 3. which has employed the qualified staff required to carry out the activity;
 4. which has the financial resources necessary to carry out the activity, or prove that they can obtain such resources;
 5. which has no revoked licenses for carrying out any electricity activity, for which the license is required under this Law or other applicable laws, in the last five (5) years preceding the year of application;
 6. whose board members and/or other responsible persons were not convicted of a criminal act and/or were not imposed any security measure or protective measure banning the performance of the activity or the duty that is relevant for the issuance of the license; and
 7. which complies with other criteria required for respective electricity activity under by this Law, other laws or licensing rules adopted by the State Regulator.
- (2) The criteria for acquisition of a license shall, among others, include those relating to:
1. criteria particular to the applicant, such as technical, economic, financial and human resources capabilities;
 2. measures required to ensure the quality of provided services; and
 3. ability to meet any applicable public service obligations, as referred to in Article 7 [*Public services*] of this Law.
- (3) The criteria for acquisition of a transmission system operation license shall, in addition and in particular, include those relating to:
1. safety and security of the transmission network, installations and associated equipment;
 2. protection of public health and safety;
 3. protection of the environment;
 4. land use and siting;
 5. use of public property;
 6. energy efficiency.
- (4) Licenses issued for the operation of the transmission system, including the transmission of electricity, and for operation of the electricity market shall grant the respective licensee with an exclusive right to perform such activities throughout the entire territory of Bosnia and Herzegovina, *i.e.* only one (1) license may be issued for each of these two activities.
- (5) Number of licenses issued for trade in electricity shall not be limited.
- (6) Applications for issuance of a license may be refused only on grounds specified in this Law and in the licensing rules adopted by the State Regulator. Decision on such refusal shall be taken on a legally justified basis in objective, transparent and non-discriminatory manner, and shall be well substantiated and explained to the respective applicant.

Article 11

Duration, suspension, revocation, modification and transfer of licenses

- (1) Licenses for performance of activities referred to in paragraph 2 of Article 9 [*Licensing for the performance of electricity activities*] of this Law shall be issued for the following periods of time, taking into account that upon the expiration of their validity, at the request of the licensee, the State Regulator may approve the extension of licenses:
 1. license for operation of the transmission system the transmission of electricity – for a period of up to thirty (30) years;
 2. license for operation of the electricity market – for a period of up to ten (10) years;
 3. license for trade in electricity – for a period of up to five (5) years.
- (2) The State Regulator may suspend or revoke a license, prior to the expiry of its validity:
 1. temporarily suspend, if the licensee:
 - a. ceases to meet any of the conditions referred to in subparagraphs 1, 2, 3, 4 and 7 of paragraph 1 of Article 10 [*General criteria for issuance of licenses*] of this Law;
 - b. fails to perform services for which it obtained a license in the manner prescribed by this Law and implementing regulations; and/or
 - c. for a period of three (3) consecutive months does not meet in a timely manner its obligations to other electricity undertakings, which carry out their activities as a public service.
 2. permanently revoke, if the licensee does not eliminate the deficiency established by the specific decision of the State Regulator on the temporary suspension, or does not eliminate the deficiencies in its operations based on the specific decision issued by a competent inspector.
- (3) In addition to the conditions referred to in paragraph 2 of this Article, the State Regulator may temporarily suspend or permanently revoke the license before the expiry of its validity if the competent inspection establishes safety flaws of facilities, devices, network and system, and/or other factors threatening life or health of people, environment, or security of the power system, including the security of supply, and informs the State Regulator on these flaws and/or other factors.
- (4) Before taking a decision on the temporary suspension of the license, in case any of the conditions referred to in paragraph 2 and/or 3 of this Article are indicated, the State Regulator shall issue to the licensee a formal notice to comply with a determined deadline within which the licensee eliminates the infringements or deviations mentioned in this Article.
- (5) The decision on the temporary suspension of the license shall determine the period within which the licensee is obliged to eliminate the circumstance (or circumstances) that caused such temporary suspension of the license.
- (6) Licenses may be modified upon the initiative of the State Regulator in case requirements for respective licensed activity have been changed, as regulated by the applicable laws and their implementing regulations. Changes of the address, the contact details and/or of any other information of minor importance not affecting the licensed activity may be notified by the licensee upon notification by registered letter with

acknowledgment of receipt no later than in ten (10) business days after such circumstance occurred.

- (7) Licenses may be transferred to the other electricity undertaking, whether in case of transfer of facilities or equipment necessary for performance of a particular electricity activity or in case of change of control, merger, or split of the licensee. Conditions which must be met and the procedures which must be applied for the survival or renewal of the license in such case shall be determined in the licensing rules adopted by the State Regulator, taking into account general criteria stipulated in Article 10 [*General criteria for issuance of licenses*] of this Law.
- (8) Information on duration, suspension, revocation, modification and transfer of licenses shall be made public under the terms and conditions established in the licensing rules adopted by the State Regulator.

CHAPTER IV REGULATION OF THE ELECTRICITY ACTIVITIES

Article 12 *Designation of the State Regulator*

- (1) For the purposes of this Law and in line with the objectives established in Article 3 [*General objectives*] hereto, electricity activities shall be regulated, monitored and supervised by the State Regulator, which shall act as a designated single regulatory authority operating at the level of Bosnia and Herzegovina.
- (2) The State Regulator shall be assigned with its regulatory powers over the operation of the transmission system, including the transmission of electricity, as well as over the operation of the electricity market, as of a single unified economic space within the territory of Bosnia and Herzegovina, and trading in electricity under the terms and conditions established by this Law.
- (3) The State Regulator shall be also assigned with its jurisdiction and regulatory powers over the generation of electricity, its distribution and supply to customers in the District under the terms and conditions established by this Law, other applicable laws and their implementing regulations.
- (4) The State Regulator shall be assigned with its regulatory powers with regard to the electricity market in Bosnia and Herzegovina, including its monitoring and the issuance of binding decisions, as regulated under the terms and conditions of this Law. This provision shall be implemented without prejudice to paragraph 2 of Article 6 [*Electricity activities*] of this Law.
- (5) The State Regulator shall possess its exclusive competence in a unanimous representation of Bosnia and Herzegovina for the international cooperation and contact purposes at the level of the European Union and the Energy Community, including within the Energy Community Regulatory Board. The State Regulator shall cooperate with the Entity Regulators, as prescribed in Article 19 [*Public consultations and cooperation*] of this Law, when it is necessary to carry out its duties with regard to regional and/or international cooperation.
- (6) Organisational and financial setup of the State Regulator, appointment of its commissioners, and organisation of its activities shall be arranged, as well as its powers,

rights and obligations shall be pursued duly following provisions of this Law, other relevant laws and regulations.

Article 13

Designation of regulatory authorities in the Entities

- (1) Paragraph 1 of Article 12 [*Designation of the State Regulator*] of this Law shall be without prejudice to the designation of separate Energy Regulators following their respective laws regulating electricity activities.
- (2) Jurisdiction and regulatory powers of the Entity Regulators shall not interfere or otherwise compete with those assigned to the State Regulator.

Article 14

Legal status of the State Regulator

- (1) The State Regulator shall be a specialised, independent, autonomous and non-profit institution with the status of a legal person incorporated under the laws of Bosnia and Herzegovina.
- (2) The State Regulator shall have its individual bank account and a seal fashioned, used and stored in line with respective laws of Bosnia and Herzegovina.
- (3) The State Regulator may be reorganised or liquidated under the terms and conditions established by a law adopted for this purpose.

Article 15

Independence of the State Regulator

- (1) The State Regulator shall exercise its powers as an independent regulatory authority in accordance with the principles of objectivity, transparency and non-discrimination, duly following legal requirements for regulation of the electricity activities in Bosnia and Herzegovina and best international practices thereto.
- (2) When carrying out the regulatory tasks conferred upon the State Regulator by this Law and other laws regulating electricity activities at the level of Bosnia and Herzegovina and in the District, the State Regulator shall:
 1. remain legally distinct and functionally independent from any other public or private entity;
 2. ensure that its Commissioners and other member of the staff act independently from any public or commercial interest in the electricity market, and do not seek or take instructions from any governmental or other public or private entity when carrying the regulatory tasks;
 3. take autonomous decisions, independently from any political body, and have its own separate annual budget allocations, with autonomy in implementation of the allocated budget, and its own adequate human and financial resources to carry out its duties, as further elaborated in this Law.
- (3) Requirements established in Paragraph 2 of this Article shall be applied without prejudice to close cooperation, as appropriate, between the State Regulator and other relevant authorities operating at the level of Bosnia and Herzegovina or in the Entities, or to general energy policy guidelines issued by such competent authorities not related to the regulatory powers assigned to the State Regulator.

Article 16
General objectives of the State Regulator

- (1) In carrying out the regulatory tasks specified in this Law and other relevant laws and regulations, the State Regulator shall take all reasonable measures in pursuit of the following objectives within the framework of its duties, tasks and regulatory powers laid down in Articles 17 [*Duties and tasks of the State Regulator*] and 18 [*Regulatory powers of the State Regulator*] of this Law:
1. promoting the unlimited and free trade and a continuous supply of electricity at defined quality standards in the interest of the customers of Bosnia and Herzegovina;
 2. promoting, in close cooperation with the Energy Community Regulatory Board and competent regulatory authorities of other Energy Community Parties a competitive, secure and environmentally sustainable internal electricity market within the Energy Community, and effective opening of the electricity market for all customers and suppliers in the Energy Community and ensuring appropriate conditions for the effective and reliable operation of electricity networks, taking into account long-term objectives;
 3. developing competitive and properly functioning regional electricity markets within the Energy Community, including the EU internal market, in view of achievement of the objectives referred to in subparagraph 1 of this paragraph 1;
 4. eliminating restrictions on trade in electricity between the Energy Community Parties, including developing appropriate cross-border transmission capacities to meet demand and enhancing the integration of national electricity markets which may facilitate electricity flows across the Energy Community, including the EU internal market;
 5. helping to achieve, in the most effective way, the development of secure, reliable and efficient non-discriminatory systems that are customer oriented, and promoting system adequacy and energy efficiency;
 6. ensuring that the transmission system operator, distribution system operators and system users are granted appropriate incentives, in both the short term and long term, to increase efficiencies in system performance and foster integration of the electricity market;
 7. ensuring that customers benefit through the efficient functioning of the electricity market, promoting effective competition and helping to ensure customer protection, including protection of vulnerable customers, final customers in remote areas, as well as transparency regarding contractual terms and conditions, general information, dispute settlement mechanisms, and easy switching to a new supplier.
- (2) The objectives established in paragraph 1 of this Article shall be pursued in close cooperation with other competent authorities operating at the level of Bosnia and Herzegovina, in the Entities and the District, including the Competition Council of Bosnia and Herzegovina (hereinafter – “the Competition Council”) and the Entity Regulators, as appropriate, and without prejudice to their respective competences.
- (3) In pursuit of objectives referred to in paragraph 1 of this Article, the State Regulator shall take all reasonable measures to carry out its regulatory tasks accordingly within

the framework of its duties, tasks and regulatory powers assigned in the District under this Law and respective laws regulating electricity activities in the District.

Article 17
Duties and tasks of the State Regulator

- (1) The State Regulator shall have the following duties and tasks with regard to the licensing for performance of the electricity activities and their monitoring:
 1. issuance, modification, suspension and revocation of licenses under the terms and conditions stipulated in this Law and its implementing regulation;
 2. certification of the transmission system operator and monitoring its continual compliance with the requirements for independence and unbundling, as well as other requirements imposed on the transmission system operator by this Law;
 3. monitoring the performance of electricity undertakings licensed for performance of the electricity activities, and ensuring their compliance with respective obligations and requirements set by this Law, other related laws governing electricity activities at the level of Bosnia and Herzegovina and/or in the Entities and their implementing regulations;
 4. approving special regulatory requirements for accounting in the electricity undertakings, monitoring and enforcing their proper implementation, where relevant, in cooperation with the Entity Regulators;
 5. establishing the terms and conditions regulating the provision of information possessed by electricity undertakings to system users and/or customers.
- (2) The State Regulator shall have the following duties and tasks with regard to setting of tariffs and/or fees, and adoption of methodologies:
 1. adopting methodologies used to calculate the terms and conditions for setting:
 - a. tariffs for the transmission of electricity and provision of system services;
 - b. fees for connection and tariffs for access to the transmission network, allowing the necessary investments in the transmission network to be carried out in a manner allowing these investments to ensure the viability of such network and its undisrupted development, taking into account the transmission network development plans;
 - c. tariffs for provision of the balancing service and establishing the manner of settlement of the balancing energy, as a transitory measure referred to in paragraph 3 of Article 87 [*Transitory measures with regard to market opening*], which shall be performed in the most economic manner possible and provide conditions for development and operation of a competitive balancing market, adequate balancing price signals and appropriate incentives for system users to balance their input and off-takes, taking into account that the balancing services shall be provided in a fair and non-discriminatory manner and be based on objective and transparent criteria;
 2. ensuring that methodologies referred to in subparagraph 1 of this paragraph 2 are publicly announced sufficiently in advance within the reasonable time period prior to their entry into force, and incorporate the following principles:

- a. tariffs and fees shall be justified, reasonable, verifiable, non-discriminatory, based on objective criteria, and determined in a transparent manner;
 - b. tariffs and fees shall reflect the justified costs of operation, maintenance, replacement, construction and reconstruction of facilities, including a reasonable return of investment, amortisation and taxes, with consideration of environmental and consumer protection;
 - c. transmission system operator shall be granted appropriate incentive, over both the short and long term, to increase efficiencies, foster market integration and security of supply, and support the related research activities;
 - d. the State Regulator shall be permitted to establish performance based rates;
 - e. interruptible rates, load balancing rates and other mechanisms to improve energy efficiency and demand side management shall be encouraged, including consideration of the development and dispatch of renewable energy sources;
 - f. season and time-of-use rates shall be allowed, in case tariffs may be adjustable according to the cost of peak and off-peak services;
 - g. cross-subsidies between the transmission, distribution and supply of activities and discrimination between system users or different classes of system users shall be eliminated;
 - h. connection fees that are cost justified may be included for connection to the transmission network or substantially increasing load;
 - i. unrestricted access to the transmission network shall be guaranteed under the terms and conditions stipulated in Article 27 [*Access to the transmission network*] of this Law;
 - j. setting of tariffs and fees, as well as respective terms and conditions thereto, shall reflect prevailing international practices;
3. setting tariffs, fees and/or price caps, *i.e.* highest rates possible to be charged by the electricity undertaking for provision of respective services, following adopted methodologies and in line with procedures and criteria set by the State Regulator under its rules and regulations, which *inter alia* shall require respective electricity undertakings to prepare and submit to the State Regulator their tariff schedules for each group of customers and their justifications;
4. monitoring application of tariffs and fees, and of respective methodologies, as well as enforcing their proper implementation.
- (3) The State Regulator shall have the following duties and tasks with regard to the regulation, monitoring of the transmission of electricity and, where relevant, other electricity activities:
- 1. establishing, monitoring and enforcing the rules and regulations related to fair and non-discriminatory third-party access to the transmission network;
 - 2. establishing, monitoring and enforcing quality standards for operation of the transmission system and, in particular, transmission of electricity, including system and ancillary services;
 - 3. approving and monitoring investment plans of the transmission system operator and providing in its annual report an assessment of those plans, including, where relevant, recommendations for their amendment;

4. monitoring activities of the transmission system operator, including the efficiency of mechanisms and methods to secure a system balance between demand and supply of electricity;
 5. revising and approving the transmission network code prepared by the transmission system operator, as well as the terms and conditions for connection and access to the transmission network;
 6. approving the rules for the procurement of ancillary services by the transmission system operator;
 7. adopting rules on the quality of electricity supply serving for the gradual introduction and establishment of minimum standards, guaranteed and overall, for the quality of electricity supply. The rules especially cover continuity of supply, voltage quality and commercial quality, as well as other quality aspects to be defined by the State Regulator. Where relevant, this shall be done together with the Entity Regulators;
 8. monitoring compliance with and reviewing the past performance of the network with respect to the rules on the quality of electricity supply adopted by the State Regulator, including the time taken by the transmission system operator to make connections or repairs;
 9. monitoring of implementation of safeguard measures in the electricity activities;
 10. approving mechanisms to deal with congested capacity within the transmission system;
 11. issuance of other rules and regulations, as well as relevant methodologies, guidelines and/or explanatory notices, within its competence and in consistency with this Law, other relevant laws and regulations.
- (4) The State Regulator shall have the following duties and tasks with regard to regulation and the monitoring of the electricity market:
1. regulation, monitoring, where relevant, in cooperation with the Entity Regulators, of the generation, distribution and supply of electricity, and trade in electricity;
 2. monitoring the level and effectiveness of the electricity market opening and competition at the market, as well as any distortion or restriction of competition, including providing any relevant information to the Competition Council;
 3. monitoring the level of transparency on the electricity market, including of wholesale and retail prices, and ensuring compliance of electricity undertakings with transparency obligations, where relevant, in cooperation with the Entity Regulators;
 4. revision and approval of the rules on organisation of the electricity prepared by the electricity market operator, setting the fees applied by the electricity market operator and monitoring its activities;
 5. ensuring, in cooperation with the Entity Regulators, that there are no cross-subsidies between the transmission, distribution, and supply activities;
 6. contributing to the compatibility of data exchange processes for the most important electricity market processes at regional level.
- (5) The State Regulator shall have the following duties and tasks with regard to cross-border exchanges in electricity:

1. monitoring enforcement of conditions related to cross-border exchanges in electricity, in particular ensuring that relevant technical requirements are met and adhered to;
 2. monitoring the quality and availability of technical and commercial data on the interconnectors required by the system users in order to allow them to participate in the electricity market with no discrimination;
 3. monitoring congestion management of the electricity system of Bosnia and Herzegovina, including interconnectors with neighbouring systems, and implementation of the congestion management rules;
 4. approving the rules for the access to the cross-border infrastructure, including procedures for the capacity allocation and congestion management (*inter alia* taking into account regionally coordinated arrangements thereto), as prepared and implemented by the transmission system operator;
 5. cooperating in regard to cross-border issues with the competent regulatory authorities of the Energy Community Parties concerned, and with the Energy Community Regulatory Board.
- (6) The State Regulator shall have the following duties and tasks with regard to customer protection and dispute settlement:
1. ensuring, together with other competent authorities operating at the level of Bosnia and Herzegovina and the Entity Regulators, that the customer protection measures are effective and enforced, so as to ensure:
 - a. fair and non-discriminatory treatment;
 - b. receipt of high-quality services;
 - c. competition and prevention of anti-competitive actions;
 2. resolution of disputes, as referred to in Article 79 [*Dispute settlement*] of this Law and set forth in more detail in respective rules and regulations adopted by the State Regulator.
- (7) In addition to the duties and tasks conferred upon it under this Article, when an independent system operators has been approved and designated under Article 34 [*ISO*] of this Law, the State Regulator shall:
1. monitor the compliance of the independent system operator and the transmission network owner with their obligations under this Law and/or other laws adopted by the Parliamentary Assembly of Bosnia and Herzegovina (hereinafter – “the Parliamentary Assembly”), and issue penalties for non-compliance in accordance with Articles 81 [*Penalty provisions*] and 82 [*Enforcement of the penalty provisions*] of this Law, and shall closely cooperate with the Competition Council for the purposes hereto;
 2. monitor the relations and communication between the independent system operator and the transmission network owner, so as to ensure compliance of the independent system operator with its obligations, and in particular approve contracts between the independent system operator and the transmission network owner, and act as a dispute settlement authority for disputes between them ;

3. approve, the ten-year network development plan, including the investments planning and the multi-annual network development plan presented annually by the independent system operator;
 4. ensure that tariffs for access to the transmission network collected by the independent system operator include an adequate remuneration for the transmission network owner with regard to its costs related to the network assets and any new investments made therein, provided that such costs are economically and efficiently incurred and justified;
 5. have the powers to carry out inspections, including unannounced inspections, at the premises of the independent system operator and the transmission network owner;
 6. monitor the use of congestion charges collected by the independent system operator in accordance with applicable terms and conditions.
- (8) The State Regulator shall have the following specific duties and tasks with regard to regulation and monitoring of the electricity activities in the District:
1. Regulation and monitoring of the relationship between the generation, distribution and supply on the one hand, and customers on the other hand;
 2. issuance, modification, suspension and revocation of licenses for generation, distribution and supply of electricity;
 3. issuance, modification, suspension and revocation of authorisations for construction and for use of electricity facilities intended for the generation, distribution and supply of electricity;
 4. monitoring the performance of licensees performing activities of the generation, distribution and supply of electricity, as well as of electricity undertakings authorised for construction and for operation of electricity facilities intended for the generation, distribution and supply of electricity, and ensuring their compliance with respective obligations and requirements;
 5. adopting methodologies used to calculate or establish the terms and conditions for setting tariffs and/or fees for distribution of electricity, connection to the distribution network and supply of electricity performed as a public service, both as a universal supply service and supply of last resort, *mutatis mutandis* in compliance with subparagraph 1 of paragraph 2 of this Article;
 6. setting tariffs, fees and/or price caps for distribution of electricity, connection to the distribution network and supply of electricity performed as a public service, both as a universal supply service and supply of last resort;
 7. approves the distribution network code, as prepared and submitted by the distribution system operator;
 8. adopting the rulebook for the supply of electricity, including conditions for the supply of electricity performed as a public service, both as a universal supply service and supply of last resort.
- (9) The State Regulator shall carry out other duties and fulfil other tasks, if so assigned under this Law or other applicable laws.

Article 18
Regulatory powers of the State Regulator

- (1) The State Regulator shall have necessary regulatory powers enabling it to carry out the duties and fulfil the tasks referred to in Article 17 [*Duties and tasks of the State Regulator*] of this Law. In particular, the State Regulator shall be entitled to:
1. require for any information, which is relevant for full and proper implementation of its competences, to be provided under the terms and conditions stipulated in this Law or its implementing regulations by:
 - a. electricity undertakings authorised for activities in the electricity sector by the State Regulator, including those operating at the level of Bosnia and Herzegovina and in the District;
 - b. other electricity undertakings authorised for activities in the electricity sector by the Entity Regulators; and/or
 - c. the Entity Regulators or other competent institutions operating at the level of Bosnia and Herzegovina, in the Entities or the District, which due to their direct responsibilities are in a possession of information with a justified relevance to the State Regulator;
 2. initiate procedures for public consultations and cooperation, as regulated under Articles 19 [*Public consultations and cooperation*] and 20 [*Cooperation with other authorities*] of this Law, whenever it is required for collection of necessary information, harmonisation of regulatory practices, justification of intended decisions, or evaluation of proposed legal and/or regulatory solutions;
 3. initiate and carry out investigations with regard to the functioning of the electricity market in Bosnia and Herzegovina, and to decide upon and impose any necessary and proportionate measures to promote effective competition and ensure the proper functioning of the electricity market. For the purposes of this subparagraph 3, where relevant, the State Regulator may consult with the Competition Council, regulators of the financial market in Bosnia and Herzegovina, the Entity Regulators and the Energy Community Secretariat;
 4. issue binding decisions, as it may be required for due implementation of this Law or its implementing regulations with regard to proper organisation and/or functioning of the electricity market in Bosnia and Herzegovina, to be directly implemented by:
 - a. electricity undertakings authorised for activities in the electricity sector by the State Regulator, including those engaged in the transmission of electricity or trade in electricity, as regulated by this Law, or in the generation, distribution or supply of electricity, as regulated in the respective law of the District;
 - b. the Entity Regulators within their specific jurisdictional powers in the Entities, including those on electricity undertakings performing activities of the generation and/or supply of electricity;
 - c. electricity undertakings authorised by the Entity Regulators, including those engaged in the generation, distribution and/or supply of electricity, in cases where binding decisions referred to in item (b) of this subparagraph 4 are not properly implemented by the Entity Regulators within three (3) months after

their issuance and in case the State Regulator fails to agree with the Entity Regulators on their proper implementation within thirty (30) days following respective notice issued by the State Regulator;

- d. electricity undertakings authorised by the Entity Regulators following the immediate notice of the State Regulator irrespective of the time periods required under item (c) of this subparagraph 4, in cases where the State Regulator indicates that certain activities or omission by any electricity undertaking engaged in the generation, distribution and/or supply of electricity are threatening or may be threatening proper organisation and/or functioning of the electricity market in Bosnia and Herzegovina, and sufficient justification may be provided to prove such indication made by the State Regulator;
 - 5. impose effective, proportionate and dissuasive penalties on electricity undertakings not complying with their obligations under this Law, other relevant laws and their implementing regulations, or any legally binding decisions of the State Regulator or competent bodies of the Energy Community in accordance with Articles 81 [*Penalty provisions*] and 82 [*Enforcement of the penalty provisions*] of this Law;
 - 6. possess appropriate rights of investigations and relevant powers of instructions for dispute settlement, as referred to in Article 79 [*Dispute settlement*] of this Law.
- (2) Any approvals given by the State Regulator or competent bodies of the Energy Community, as referred to in this Law, shall be without prejudice to any duly justified future uses of its powers by the State Regulator under this Article, or to any penalties imposed by the State Regulator or by any other competent authority, including the Competition Council.
 - (3) Decisions taken by the State Regulator shall be fully reasoned and justified to allow for judicial review. The decisions shall be available to the public while preserving the confidentiality of commercially sensitive information.
 - (4) Any person affected by a decision of the State Regulator has a right of filing the complaint to the Court of BiH under respective laws of Bosnia and Herzegovina.

Article 19

Public consultations and cooperation

- (1) The State Regulator shall publicly announce the general draft legal acts initiated for adoption and other relevant decisions within the scope of its competence and jurisdictional powers, except for individual acts or decisions and dispute settlement decisions, and shall ensure a reasonable time period for any interested party to submit its comments, remarks and proposals thereto.
- (2) The State Regulator shall adopt the rules and regulations for public consultations, which *inter alia* shall regulate the scope and conditions for public consultations, its procedures, formal requirements and public announcement of information. General information regarding on-going public consultations shall be publicly available on the website of the State Regulator. The State Regulator shall announce results of public consultations, except for any confidential or otherwise sensitive information.
- (3) While preserving its independence, without prejudice to its own specific competences and consistent with the principles of better regulation, the State Regulator may, as appropriate, consult with the transmission system operator and the electricity market operator, and shall closely cooperate with other relevant authorities operating at the

level of Bosnia and Herzegovina, in the Entities and the District when carrying out its duties and performing tasks.

- (4) The Entity Regulators shall closely cooperate with the State Regulator to ensure the necessary support in carrying out duties and performing tasks of the State Regulator related to the monitoring of the electricity market and electricity activities, or any other duties and tasks if so expressly provided in this Law. In case relevant monitoring functions are carried out by the Entity Regulators under the terms and conditions stipulated in respective laws of the Entities, the information resulting from such monitoring shall be made available to the State Regulator without any undue delay.
- (5) The State Regulator and the Entity Regulators shall establish a framework for mutual cooperation in order to ensure continual exchange of information and guarantee an effective regulation of the electricity activities in Bosnia and Herzegovina, as well as to provide a platform for discussions and consultations with regard to harmonisation of regulatory practices at the level of Bosnia and Herzegovina, in the Entities and the District. The above referred framework for mutual cooperation may be established in a form of the agreement, memorandum of understanding, letter of intent, joint protocol, regulatory decisions and/or as any other commonly acceptable legal arrangements.
- (6) If necessary, the State Regulator and the Entity Regulators may convene *ad hoc* working teams or task forces to address certain specific legal and regulatory issues falling within the scope of their competences and regulatory powers, and requiring for common consideration.
- (7) Without prejudice to other provisions of this Article, the State Regulator shall not possess any decision powers within the exclusive competence of the Entity Regulators and *vice versa*, and only consultative role may be assigned to each of the regulatory authorities in this regard, except for in those cases expressly defined by this Law when the State Regulator shall possess a power to issue mandatory notices to be implemented by the Entity Regulators for the purposes of organisation and functioning of a single electricity market in Bosnia and Herzegovina, as well as regulation, monitoring and supervision thereto.

Article 20

Cooperation with other authorities

- (1) The State Regulator shall cooperate with the Competition Council, including (but not exclusively) informing the Competition Council of any relevant case of breach of competition law and effectiveness of the electricity market opening and competition at the market.
- (2) The State Regulator shall cooperate with the regulators of the financial market in Bosnia and Herzegovina, including (but not exclusively) informing the regulators of the financial market of breach of financial law identified while monitoring the level and effectiveness of the electricity market opening and competition at the market.
- (3) The State Regulator shall closely consult and cooperate with competent regulatory authorities of the Energy Community Parties, and shall provide them and the Energy Community Regulatory Board with any information necessary for the fulfilment of their tasks, and shall request for such information respectively. In respect of the information exchanged, the State Regulator shall ensure the same level of confidentiality as that required of the originating authority.

- (4) The State Regulator shall cooperate at the international level, as referred to in paragraph 3 of this Article, in order to:
 1. foster the creation of operational arrangements in order to enable an optimal management of the network, promote joint electricity exchanges and the allocation of cross-border capacity, and to enable an adequate level of interconnection capacity, including through new interconnections, within the region and between regions to allow for development of effective competition and improvement of security of supply, without discriminating between supply undertakings in different Energy Community Parties;
 2. participate in the development of all network codes for the relevant transmission system operators and other electricity market participants;
 3. participate in the development of the congestion management rules applicable for Bosnia and Herzegovina and represent the regulatory rule of Bosnia and Herzegovina in all mechanisms for regionally coordinated capacity allocation and congestion management.
- (5) The State Regulator shall have a right to enter into cooperative arrangements with any other competent regulatory authority to foster regulatory cooperation. To the extent legally binding, such arrangements shall be binding on the Entities and the District as well.
- (6) The actions referred to in paragraph 2 of this Article shall be carried out, as appropriate, in close consultations with other competent authorities of Bosnia and Herzegovina, including the Entity Regulators, without prejudice to their specific competences and jurisdictional powers.
- (7) The State Regulator shall comply with, and implement, any relevant legally binding decisions of the competent bodies of the Energy Community.

Article 21

Appointment of the State Regulator

- (1) The State Regulator shall be composed of six (6) Commissioners appointed by the Parliamentary Assembly for a fixed term of five (5) years, which may be renewed once.
- (2) Nominations for the Commissioners shall be made by the Council of Ministers based on the open competition following the terms and conditions established by this Law.
- (3) Competition for selection of the nominated Commissioners shall be publicly announced by the Council of Ministers in the Official Gazette of Bosnia and Herzegovina and at least in three (3) sources of the printed mass media covering the entire territory of Bosnia and Herzegovina. Public announcement shall be made in a timely manner before the term of the assigned Commissioners expires and, in any case, at least thirty (30) days prior to the scheduled interview with potential nominees and shall contain at least the information regarding requested qualifications, deadlines for application, other relevant requirements and procedural rules for competition, or a link to the source where such information is published with unrestricted public access.
- (4) Competitions for selection of the nominated Commissioners shall be organised by the special purpose commission convened by the Council of Ministers and composed of five (5) members, *i.e.* three (3) members representing the level of Bosnia and Herzegovina and one (1) member representing each of the Entities. Members of the

special purpose commission, as well as the procedural rules on its formation and internal organisation, as adopted by the Council of Ministers, shall be publicly announced.

- (5) Any individual may be appointed as a Commissioner if he or she complies with the following general requirements:
 1. is a citizen of Bosnia and Herzegovina;
 2. holds a university degree in law, economics, financing, engineering, public administration or business management, and has at least ten (10) years of relevant experience in the field of energy, which may include electricity, natural gas and/or renewable energy, as proven by respective diplomas, certificates and references;
 3. has a good knowledge regarding the constitutional setup of Bosnia and Herzegovina, as well as its energy, environmental, social and economic policies, as verified under the terms and conditions stipulated in the procedural rules for competition referred to in paragraph 3 of this Article;
 4. has the general interest as an objective and demonstrates independence vis-à-vis the electricity market participants and all public authorities, and promotes sustainable development and environmental protection; and
 5. complies with other qualification requirements, as determined in the procedural rules for competition referred to in paragraph 3 of this Article, which shall be set and applied in a clear, transparent, reasonable and non-discriminatory manner.
- (6) Commissioners shall be of good reputation and shall comply with respective requirements set for public administration officials under the laws of Bosnia and Herzegovina. Commissioners shall not be allowed to undertake any simultaneous political or commercial activities, except for those of the academic, educational, and scientific or research field unless the latter activities are funded by any electricity undertaking. Commissioners shall be fully compliant with the independence requirements laid down in Article 15 [*Independence of the State Regulator*] of this Law.
- (7) Nominated Commissioners shall be selected at the latest within three (3) months from the date of the public announcement of the open competition for selection. The special purpose commission, as referred to in paragraph 4 of this Article, may postpone such selection for up to additional two (2) months in cases where there are less than two (2) candidates applying for each vacant position of the Commissioner.
- (8) Nominations for the Commissioners shall reflect equal representation of the constituent people of Bosnia and Herzegovina, *i.e.* the State Regulator shall be composed of four (4) Commissioners coming from the Federation of Bosnia and Herzegovina and two (2) Commissioners coming from Republika Srpska, as indicated by the citizenship of the respective Entity or the declared (registered) place of residence, given that each of three groups of the constituent peoples of Bosnia and Herzegovina is represented by at least one (1) Commissioner.
- (9) After nominations for the Commissioners are submitted by the Council of Ministers to the Parliamentary Assembly, the appointment shall promptly be made, but not later than in thirty (30) days from submission of nominations.
- (10) If so requested, representative of the Council of Ministers may be invited to the Parliamentary Assembly to present the nominated Commissioners and to justify their

suitability for the position. All nominations submitted to the Parliamentary Assembly shall also be announced in public.

- (11) In case the Parliamentary Assembly fails to decide upon the appointment of the Commissioners within the time period indicated in paragraph 9 of this Article or, as the case may be, to reject these nominations on the exclusive grounds of non-compliance with the requirements established by this Law, the nominated Commissioners shall be deemed as appointed by default.
- (12) The Parliamentary Assembly shall have the sole authority to relieve the Commissioner from the office during its assigned term, whether by its own initiative or following application of the Council of Ministers, and only under the following circumstances:
 1. illness rendering the Commissioner incapable of performing his or her duties;
 2. conviction of a crime punishable by imprisonment;
 3. conflict of interest;
 4. violation of the independence requirements laid down by this Law;
 5. failure to perform his or her duties by participating in the proceedings of the State Regulator for a period longer than six (6) weeks;
 6. personal request for resignation;
 7. election or appointment to other position, except for those referred to in paragraph 6 of this Article;
 8. loss of the citizenship of Bosnia and Herzegovina.
- (13) Whenever the vacancy of the Commissioner appears prior to expiration of the assigned term, a new Commissioner shall be appointed for a new term of five (5) years following the procedure laid down in this Article.
- (14) In case the term of the Commissioner expires and there are no circumstances specified in paragraph 11 of this Article, such Commissioner shall remain in his or her position until a new Commissioner is appointed.
- (15) An appropriate rotation scheme of the Commissioners shall be ensured in accordance with the following requirements:
 1. initial appointments of the Commissioners shall be made for a variable term of office so as not more than two (2) active Commissioners coming from different Entities are changed in a period of each calendar year;
 2. not more than two (2) new Commissioners coming from different Entities may be appointed (or re-appointed, as the case may be) in a period of each calendar year, except for specific cases provided in this Law or applicable regulations when more than two (2) Commissioners are being relieved from their office during the respective period;
 3. in cases provided in subparagraph 2 of this paragraph 14, new appointments of the Commissioners shall be made for the remaining period of the terms of office of previous Commissioners;
 4. in any case referred to in this paragraph 14, appointment or re-appointment of the Commissioner shall be processed so as to ensure equal representation of the constituent people of Bosnia and Herzegovina, as required under paragraph 8 of this Article.

- (16) The Law on Ministerial Appointment, Appointments of the Council of Ministers and Other Appointments of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, No 7/03 and 37/03) shall be accordingly applied to the appointment procedure, however without prejudice to the requirements specified in this Article.

Article 22

Work organisation of the State Regulator

- (1) Work of the State Regulator shall be organised in accordance with its Statute, procedural rules, internal organisation rules and other regulations adopted by the State Regulator within the scope of its competence and jurisdictional powers.
- (2) The State Regulator shall be chaired by the Commissioner elected as a Chairman of the State Regulator by other Commissioners. The position of the Chairman shall automatically rotate annually between Commissioners coming from each Entity, given that Commissioners coming from the Federation of Bosnia and Herzegovina shall chair the State Regulator for two (2) consecutive years and the Commissioner coming from Republika Srpska – for one (1) year. In any case, the same Commissioner may not be elected as a Chairman for the second term of one (1) year consecutively.
- (3) Daily work organisation of the State Regulator shall be ensured by its administration. The structure of administration, functions of employees and other staff, and their respective competences shall be regulated by internal organisation rules of the State Regulator.
- (4) The sessions of the State Regulator shall be open to the public, except in limited circumstances in which confidential information or trade secrets are involved, as determined by the State Regulator in accordance with the procedural rules adopted by the State Regulator.
- (5) Records of all proceedings, minutes of the sessions and other related documents of the State Regulator shall be maintained in accordance with its procedural rules. Such documents shall be available to the public, except that sensitive business information shall remain confidential whenever such confidentiality is necessary, as described in the procedural rules of the State Regulator.
- (6) The State Regulator shall adopt and publish its Code of Ethics governing conflicts of interest and other ethical standards for the Commissioners and staff members. The Code of Ethics shall reflect prevailing international practices.
- (7) All rules and regulations adopted by the State Regulator shall be in compliance with requirements established by this Law and other laws adopted by the Parliamentary Assembly, and shall be published in the Official Gazette of Bosnia and Herzegovina.
- (8) Unless a different date is specified in the rules and regulations adopted by the State Regulator, all respective rules and regulations shall come into force eight (8) days after their publication in the Official Gazette of Bosnia and Herzegovina.

Article 23

Decisions of the State Regulator

- (1) The State Regulator is liable for the legitimacy of its decisions and resolutions. All decisions made and resolutions issued by the State Regulator shall be in writing and

shall contain their justification and, where relevant, explanation on their implementation.

- (2) The Commissioners shall pursue that all decisions and resolutions of the State Regulator shall be approved by way of consensus, *i.e.* unanimously by all the Commissioners. In cases where the consensus among the Commissioners cannot be reached, as documented in the minutes of the respective session, all decisions and resolutions shall be approved without any delay by the majority voting of the Commissioners.
- (3) Following the majority voting referred to in paragraph 2 of this Article, the decision or resolution of the State Regulator shall be considered as adopted in case four (4) Commissioners, including at least one (1) Commissioner representing each of three groups of the constituent peoples of Bosnia and Herzegovina, vote in favour of the respective decision or resolution.
- (4) Decisions and resolutions of the State Regulator shall be effective on the date and in the manner that the State Regulator shall prescribe, in accordance with applicable laws, and shall remain in effect unless changed by the State Regulator or modified by the competent court, in accordance with this Law.

Article 24

Funding of the State Regulator

- (1) By the 1st of December each year, the State Regulator shall adopt a detailed budget for the next year, which shall indicate all expenses of the State Regulator, including the salaries and benefits of the Commissioners and staff members, as well as other budgeted expenses of the State Regulator planned for the next year. The State Regulator shall submit its budget to the Parliamentary Assembly for information purposes and shall publish it on its website.
- (2) The State Regulator shall establish a regulatory fee to be paid by licensees to cover budgeted expenses of the State Regulator. Licensees shall be entitled to recover such regulatory fees through the tariffs set by the State Regulator or through their commercial activities in the electricity sector.

Article 25

Accounting and reporting of the State Regulator

- (1) Accounts of the State Regulator shall be maintained in accordance with international accounting standards and shall be audited annually by an independent auditor. Audit reports shall be prepared and publicly announced by the State Regulator not later than four (4) months after the closure of each fiscal year.
- (2) The State Regulator shall prepare annual reports on its activities and the fulfilment of its duties, and shall transmit them to the Parliamentary Assembly, the Energy Community Regulatory Board and the Energy Community Secretariat, taking into account that such reports shall cover the steps taken and the results obtained as regards each of the duties and tasks listed in this Law. Such reports shall be prepared and provided not later than six (6) months after the end of each calendar year.

CHAPTER V TRANSMISSION OF ELECTRICITY

Article 26

General principles for the transmission of electricity

- (1) The transmission system operator shall be responsible for the stability and reliability of the transmission system in Bosnia and Herzegovina, ensuring the electricity balance in the power system of Bosnia and Herzegovina, and for the provision of system services and procurement of ancillary services, as well as for the operation, maintenance and development of the transmission network, including cross-border interconnections, and effective congestion management taking into account the needs of the system users.
- (2) The transmission system operator shall ensure that conditions for connection to the transmission network, as applicable for electricity facilities and equipment of producers, distribution system operators and customers, are compliant with requirements laid down in laws and are applied in a non-discriminatory manner.
- (3) The transmission system operator shall provide information to transmission system operators of other countries, as necessary to ensure secure and reliable functioning of the powers systems, their coordinated development, as well as compatibility and interoperability of interconnected systems.
- (4) The transmission system operator shall ensure that all system users may rely on clearly defined, transparent, justified and non-discriminatory conditions for the use of the transmission network.
- (5) The transmission system operator shall provide system users with all information necessary to ensure secure and efficient access to the transmission network. The State Regulator shall establish the terms and conditions for provision of such information, as referred to in subparagraph 5 of paragraph 1 of Article 17 [*Duties and tasks of the State Regulator*] of this Law.

Article 27

Access to the transmission network

- (1) The transmission system operator shall provide system users with an unrestricted and non-discriminatory access to the transmission network in line with the terms and conditions laid down in the transmission network code. Charges for access to the transmission network shall be based on tariffs set by the State Regulator, as calculated under the methodology adopted by the State Regulator.
- (2) The transmission system operator shall be responsible for the construction of connections for system users and shall ensure that all technical requirements regarding the transmission network are properly met.
- (3) Data on possibilities for use of the transmission network shall be made public and updated annually and shall be adequately published.
- (4) The transmission system operator may refuse or limit access to the network where it lacks the necessary technical or operational capacity due to system maintenance or construction or threats to human life or property. Upon refusal or limitation of access to the network, system users shall be informed on reasons and the period of refused access, as well as on measures that would be necessary to remove the stated reasons,

substantiated with written evidence based on objective, non-discriminatory, technically and economically justified criteria.

- (5) A system user whose access to the network has been refused or limited or is unsatisfied with conditions of its access to the network may file a complaint with the State Regulator, following the terms and conditions laid down in Article 79 [*Dispute settlement*] of this Law.
- (6) The State Regulator shall ensure, where appropriate and when refusal of access takes place, that the transmission system operator provides relevant information on measures that would be necessary to reinforce the network. The party requesting such information may be charged a reasonable fee reflecting the cost of providing such information.

Article 28

Connection to the transmission network

- (1) The transmission system operator shall establish and publish transparent and efficient procedures for non-discriminatory connection of the electricity facilities and equipment of producers and customers to the transmission network, subject to the prior approval of the State Regulator.
- (2) In cases where producers or final customers apply for connection of their electricity facilities and equipment to the transmission network, the transmission system operator, in cooperation with distribution system operator functioning in a respective territory, shall evaluate a feasibility for such connection, including its overall impact towards security and/or reliability of the power system, and shall propose to the producer or to the final customer an appropriate solution for connection to the transmission or distribution network based on clearly justified technical, operational and economic criteria.
- (3) The transmission system operator shall not be entitled to refuse the connection of a new power plant on the grounds of possible future limitations to available network capacities, such as congestion in distant parts of the transmission network, except for in cases where such connection would threaten the overall security of the power system based on duly justified technical criteria indicated and proved by the transmission system operator. The transmission system operator shall provide necessary information thereon to the system user concerned, including conditions for developments and/or technical solutions reasonably required for connection.
- (4) The connection point shall be defined by the transmission system operator following relevant published technical criteria and based on a solution which is, *ceteris paribus*, economically or commercially most viable from the aspect of the new system user.
- (5) The transmission system operator shall not be entitled to refuse a new connection point, on the ground that it will lead to additional costs linked with necessary capacity increase of network elements in the close-up range to the connection point.

Article 29

Direct lines

- (1) If an electricity producer holding a license for performing an electricity generation activity and a customer plan to conclude an electricity supply contract, but cannot gain access to the transmission network, they may construct a direct line, subject to a prior authorisation by the State Regulator.

- (2) The State Regulator shall establish objective and non-discriminatory criteria for issuance of the authorisation for construction and operation of direct lines. Electricity undertakings referred to in paragraph 1 of this Article would by using a direct line be able to supply with electricity its own business premises, its subsidiaries and its customers.
- (3) The possibility of supplying electricity through a direct line as referred to in paragraph 1 of this Article shall not affect the possibility of contracting electricity on the basis of bilateral contracts or on the organised electricity market of Bosnia and Herzegovina under the terms and conditions stipulated in this Law.
- (4) The State Regulator may issue a prior authorisation to construct a direct line subject either to the prior refusal of transmission network access on the basis, as appropriate, of Article 27 [*Access to the transmission network*] of this Law or to the opening of a dispute settlement procedure under Article 79 [*Dispute settlement*] of this Law.
- (5) The State Regulator shall be authorised to refuse to issue a prior authorisation to construct a direct line if the granting of such an authorisation would obstruct implementation of the provisions on the public service obligations, including the protection of final customers. Duly substantiated reasons shall be given in writing by the State Regulator for such refusal.

Article 30

Compatibility and interoperability of the power system

- (1) In order to ensure compatibility and interoperability of the power system, rules and regulations establishing technical requirements for electricity facilities and equipment shall, in accordance with the criteria of objectivity and non-discrimination, lay down harmonised terms and conditions for construction, operation and safety of respective facilities and equipment used for the generation, transmission and distribution of electricity, including required technical standards thereto.
- (2) Electricity facilities and equipment referred to in paragraph 1 of this Article, as well as interconnectors and direct lines shall comply with respective technical requirements for their construction, operation and safety, so as to ensure the interoperability of the transmission and distribution networks.
- (3) For the purpose of this Article, respective requirements for electricity facilities and equipment used for the transmission of electricity shall be established by the Ministry, and requirements for electricity facilities and equipment used for the generation and distribution of electricity shall be established by competent authorities assigned under the applicable laws of the Entities and the District.

Article 31

Land use for the electricity transmission infrastructure

- (1) For the protection of the transmission network and associated equipment, as well as to ensure public safety, a safety zone shall be established under the terms and conditions of the applicable laws and/or their implementing regulations.
- (2) The transmission system operator and/or other natural or legal person authorised by the transmission system operator shall be allowed to freely and unrestrictedly perform any activities within the safety zone, as necessary to ensure due exploitation, upkeep, maintenance and development of the transmission network and associated equipment.

- (3) Within the safety zone, it shall be prohibited to place buildings or installations, to plant vegetation (trees) or to carry out activities endangering the safety and uninterrupted operation of the electric facility, life, or safety of property.
- (4) Regulations relating to safety zone shall be taken into consideration by the State Regulator in the course of licensing and by legal persons or citizens exercising the right of cabling and right of other use. Transmission electric plants and wires shall be designed, constructed and operated in such a way that the effects thereof shall not endanger the health of population of the area concerned, and should change its natural environment and landscape value to the smallest possible extent.
- (5) Granting of servitudes for the use of the land for construction, maintenance and operation of the transmission infrastructure, as well as any rights and obligations thereto, including compensations to the land owners, and any other legal relations with regard to possession, use and/or expropriation of the land shall be regulated by the applicable laws of the Entities and the District.

CHAPTER VI TRANSMISSION SYSTEM OPERATOR

Article 32

Legal status of the transmission system operator

- (1) The transmission system operator shall be a specialised and independent electricity undertaking with the status of a legal person incorporated under the laws of Bosnia and Herzegovina. The transmission system operator shall act in accordance with this Law and other legal acts regulating electricity activities in Bosnia and Herzegovina.
- (2) Establishment, formation and corporate setup of the transmission system operator, including legal status and competences of its corporate bodies (including the general assembly, supervisory and management bodies), shall be regulated, if necessary, under the special purpose law adopted by the Parliamentary Assembly, but without prejudice to the requirements for independence and unbundling of the transmission system operator established by this Law.
- (3) The transmission system operator, while carrying out its duties and fulfilling its tasks established by this Law, shall be independent from any other electricity activities, namely generation, distribution, supply of and trade in electricity, and related commercial interests.
- (4) Independence of the transmission system operator shall be implemented and further on ensured through unbundling of the transmission system operator under the terms and conditions of this Law. Unbundling of the transmission system operator shall be implemented either through the ownership unbundling (Article 33 [*Ownership unbundling of the TSO*] of this Law) or approving and designating the independent system operator (Articles 34 [*ISO*] and 35 [*Unbundling of the TNO*] of this Law), in case all conditions required under the Law are duly met. Without prejudice to the above, nothing shall prevent from applying the ownership unbundling under Article 33 [*Ownership unbundling of the TSO*] of this Law at any time.
- (5) The transmission system operator shall be entitled to undertake its activities subject to the license for operation of the transmission system, which also includes an authorisation to perform the transmission of electricity, issued by the State Regulator under the terms and conditions laid down in this Law and its implementing regulations.

License for operation of the transmission system may be issued only to a duly certified transmission system operator, as required under Article 36 [*Designation and certification of the TSO*] of this Law.

- (6) Licenses issued before this Law came into force and allowing the electricity undertakings to carry out the duties and fulfil the tasks related to the operation of the transmission system and/or the transmission of electricity shall be deemed as temporary licenses authorising respective activities before the transmission system operator will be designated following the certification procedure stipulated in this Law and a new license referred to in paragraph 5 of this Article is issued, but in any case no longer than until 1 June 2016.

Article 33

Ownership unbundling of the transmission system operator

- (1) The transmission system operator shall be organised as an independent legal person which is not part of a vertically integrated undertaking, separate from other electricity activities, and in accordance with the principles and requirements prescribed by the provisions of this Law.
- (2) The electricity undertakings owning the transmission system, including the dispatch centre and the transmission network, shall be designated as a transmission system operator. In this regard the transmission system operator shall acquire the license for the operation of the transmission system, as referred to in paragraph 5 of Article 32 [*Legal status of the TSO*] of this Law.
- (3) To ensure the independence of the transmission system operator the same person or persons shall not be entitled in the same time:
1. directly or indirectly to exercise control over an undertaking performing any of the activities of generation or supply, and directly or indirectly exercise control or exercise any right over a transmission system operator or over a transmission network;
 2. directly or indirectly to exercise control over a transmission system operator or over a transmission network, and directly or indirectly exercise control or exercise any right over an undertaking performing any of the activities of generation or supply;
 3. to appoint members of the supervisory board, the management board or bodies legally representing the undertaking, of a transmission system operator or a transmission network, and directly or indirectly exercise control or exercise any right over an undertaking performing any of the activities of generation or supply; and
 4. to be a member of the supervisory board, the management board or bodies representing the undertaking, of both an undertaking performing any of the activities of generation or supply and a transmission system operator or a transmission network.
- (4) The rights referred to in paragraph 3 of this Article shall include in particular:
1. the power to exercise voting rights;
 2. the power to appoint members of the supervisory board, the management board or bodies representing the undertaking; or

3. the holding of a majority share.
- (5) For the purpose of this Article, the undertakings performing any of the activities of generation or supply shall include such undertakings operating both in the field of electricity and/or natural gas, and the transmission system operator and the transmission network shall include such operator and such network both for the electricity and natural gas. Respective notions for the natural gas sector shall be defined by relevant laws regulating natural gas activities in Bosnia and Herzegovina.
- (6) The obligation set out in paragraph 3 of this Article shall be deemed to be fulfilled in a situation where two or more undertakings which own transmission networks have created a joint venture which acts as a transmission system operator in two or more countries. No other undertaking may be part of the joint venture, unless it has been designated as an independent system operator and certified under the terms and conditions stipulated in this Law.
- (7) Where the person or persons referred to in paragraph 3 of this Article is government or another public body, two separate public bodies that exercise control over a transmission system operator or over a transmission network on the one hand, and over the electricity undertaking that performs any of the activities of generation or supply on the other, shall be deemed not to be the same person or persons.
- (8) Commercially sensitive information held by a transmission system operator which was part of a vertically integrated undertaking, or by the staff of such a transmission system operator shall not be transferred to electricity undertakings performing any of the activities of generation and supply.

Article 34

Independent system operator

- (1) By way of exception from the provisions of Article 33 [*Ownership unbundling of the TSO*] of this Law, an independent system operator in Bosnia and Herzegovina may be designated upon the proposal by owners of the transmission system, both of the dispatch centre and the transmission network, under the terms and conditions and in the manner stipulated in this Law.
- (2) The independent system operator may be approved and designated only if the following requirements have been met:
1. the candidate operator has demonstrated that it complies with the requirements of paragraph 3 of Article 33 [*Ownership unbundling of the TSO*] of this Law;
 2. the candidate operator has demonstrated that it has at its disposal the required financial, technical, physical and human resources to carry out its tasks under Article 41 [*Tasks of the TSO*] of this Law;
 3. the candidate operator has undertaken to comply with the ten-year transmission network development plan supervised by the State Regulator;
 4. the candidate operator has demonstrated its ability to comply with its obligations under Articles 67 [*Management of the cross-border exchanges in electricity*] of this Law, and its ability to cooperate with other transmission system operators on a regional and European level; and

5. the transmission network owner has demonstrated its ability to meet the obligations set out in paragraph 2 of Article 42 [*Responsibilities of the ISO and the TNO*] of this Law. To that end, it shall provide to the State Regulator all the draft contractual arrangements with the candidate operator and any other relevant entity.
- (3) The undertaking which has been certified by the State Regulator as having complied with the requirements of this Article and Article 36 [*Designation and certification*] of this Law may be approved and designated as an independent system operator.
- (4) In cases where an independent system operator is provided for approval and designation, requirements for independence and unbundling of the transmission network owner have to be fully implemented and respective justification has to be submitted to the State Regulator with other required materials for certification of an independent system operator.

Article 35

Unbundling of the transmission network owner

- (1) A transmission network owner, where an independent system operator is provided for appointment and designation, shall be and continuously remain independent at least in terms of its legal form, organisation and decision making from other activities not relating to the transmission.
- (2) In order to ensure the independence of the transmission network owner referred to in paragraph 1 of this Article the following criteria shall apply:
 1. persons responsible for the management of the transmission network owner shall not participate in company structures of the vertically integrated undertaking responsible, directly or indirectly, for the day-to-day operation of the generation, distribution and supply of electricity;
 2. appropriate measures shall be taken to ensure that the professional interests of persons responsible for the management of the transmission network owner are taken into account in a manner that ensures that they are capable of acting independently;
 3. in order to preserve the confidentiality of commercially sensitive information, as required under paragraph 2 of Article 54 [*Confidentiality obligations*], the transmission network owner and the vertically integrated undertaking responsible, directly or indirectly, for the day-to-day operation of the generation, distribution and supply of electricity shall not use joint services, such as joint legal services, apart from purely administrative or IT functions;
 4. the transmission network owner shall establish a compliance programme, which sets out measures taken to ensure that discriminatory conduct is excluded, as well as specific obligations of employees to meet those objectives, and shall ensure that observance of such compliance programme is adequately monitored by the State Regulator;
 5. the person responsible for monitoring the compliance programme of the transmission network owner (the compliance officer) shall prepare an annual report, setting out the measures taken to ensure that discriminatory conduct is excluded, which shall be therefore submitted to the State Regulator and published. Such annual report shall be prepared and submitted not later than by the 31st of March of each year following the relevant reporting year; and

6. to the safety of the employment position of the compliance officer employed at the transmission network owner, as the case may be, the provisions of the laws regulating protection of union representatives in Bosnia and Herzegovina shall apply.
- (3) Compliance with requirements for unbundling of the transmission network owner, as laid down in paragraph 2 of this Article, shall be verified during the certification procedure of the independent system operator (Article 36 [*Designation and certification of the TSO*] of this Law) and shall be continuously monitored by the State Regulator (Article 37 [*Monitoring of the unbundling of the TSO*] of this Law).
- (4) Establishment, formation and corporate setup of the transmission network owner, including legal status and competences of its corporate bodies (including the general assembly, supervisory and management bodies), shall be regulated, if necessary, under the special purpose law adopted by the Parliamentary Assembly, but without prejudice to the requirements for independence and unbundling of the independent system operator and the transmission network owner stipulated in this Law.

Article 36

Designation and certification of the transmission system operator

- (1) Before an undertaking is approved and designated as transmission system operator, either as a transmission system operator with unbundled ownership or as an independent system operator, by issuance of an appropriate license under the terms and conditions stipulated in this Law and its implementing regulations, it shall be certified according to the certification procedure laid down in this Article.
- (2) The undertaking, after implementation of all requirements for the ownership unbundling of the transmission system operator under Article 33 [*Ownership unbundling of the TSO*] or, as the case may be, for an independent system operator under Article 34 [*ISO*] of this Law, shall notify the State Regulator in written and shall submit all respective documents, data and information evidencing and justifying due compliance thereto. Procedure and requirements for such notification and submission of documents, data and information shall be regulated under the rules on certification of the transmission system operator adopted by the State Regulator.
- (3) The State Regulator shall adopt a decision on the certification of the transmission system operator within a period of four (4) months from the date of the notification by the transmission system operator and proper submission of all required documents, data and information. After expiry of that period, the certification shall be deemed to be granted based on the tacit decision of the State Regulator. The explicit or tacit decision of the State Regulator shall become effective only after conclusion of the procedure set out in paragraphs 4-10 of this Article.
- (4) The explicit or tacit decision of the certification of the transmission system operator shall be notified without delay to the Energy Community Secretariat by the State Regulator, together with all the relevant information with respect to that decision. The Energy Community Secretariat shall examine the notification by the State Regulator of a decision on the certification of a transmission system operator as soon as it is received.
- (5) Within four (4) months of the day of receipt of notification referred to in paragraph 4 of this Article, the Energy Community Secretariat shall deliver its opinion to the State Regulator as to its compatibility with respective requirements for designation and

certification of the transmission system operator. When preparing such opinion, the Energy Community Secretariat shall request the Energy Community Regulatory Board to provide its opinion on the decision of the State Regulator.

- (6) In the absence of an opinion by the Energy Community Secretariat within the period referred to in paragraph 5 of this Article, the Energy Community Secretariat shall be deemed not to raise objections to the decision of the State Regulator.
- (7) Within two (2) months of receiving an opinion of the Energy Community Secretariat, the State Regulator shall adopt its final decision regarding the certification of the transmission system operator, taking the utmost account of that opinion. Decision of the State Regulator and opinion of the Energy Community Secretariat shall be published together.
- (8) Where the final decision of the State Regulator diverged from the opinion of the Energy Community Secretariat, the State Regulator shall provide and publish together with such decision, the reasoning underlying its diverging decision, and shall inform the Energy Community Secretariat accordingly.
- (9) At any time during the certification procedure, the State Regulator and the Energy Community Secretariat may request from the transmission system operator and/or electricity undertakings performing any functions of generation or supply any information relevant for fulfilment of their tasks under this Article. The State Regulator and the Energy Community Secretariat shall preserve the confidentiality of commercially sensitive information.
- (10) The final decision of the State Regulator on certification of the transmission system operator and its following materials, as referred to in this Article, shall be published in the Official Gazette of Bosnia and Herzegovina, on the website of the State Regulator and within a designated section of the website of the Energy Community Secretariat.
- (11) Upon a separate request of the transmission system operator or by initiative of the State Regulator, the certification procedure may be followed by issuance of a new license to the transmission system operator (and/or the transmission network owner) or modification of existing licenses, as it may be required.
- (12) During the certification procedures the Law on Administrative Procedure of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, No 29/02, 12/04 and 88/07) shall be applied, but without prejudice to the requirements stipulated in this Article.

Article 37

Monitoring of the unbundling of the transmission system operator

- (1) The State Regulator shall monitor the continuing compliance of the designated transmission system operator with the requirements for its independence and unbundling stipulated in this Law. The State Regulator shall open a certification procedure to ensure such compliance in the following cases:
 1. upon notification by the transmission system operator pursuant to paragraph 2 of this Article;
 2. on its own initiative where it has knowledge that a planned change in rights or influence over the transmission system operator (and/or the transmission network owner) may lead to an infringement of respective requirements for independence

and unbundling of the transmission system operator, or where it has a reason to believe that such an infringement may have occurred; or

3. upon a reasoned request from the Energy Community Secretariat.
- (2) The transmission system operator shall notify to the State Regulator any planned transaction which may require a reassessment of its compliance with the requirements for independence and unbundling of the transmission system operator.
- (3) The State Regulator shall adopt its decision on compliance of the transmission system operator with the requirements for its independence and unbundling not later than in four (4) months from the date of respective notification by the transmission system operator or receipt of a request from the Energy Community Secretariat, or the beginning of an inspection on its own initiative, which shall be considered as a date of the notification by the State Regulator to the transmission system operator on such inspection.
- (4) In case the State Regulator considers the requirements for independence and/or unbundling of the transmission system operator have been infringed, the transmission system operator shall eliminate such infringements during the reasonable time period determined by the State Regulator and shall therefore submit any documents, data and information evidencing and justifying such elimination. Until the State Regulator adopts its final decision on elimination of the considered infringements, the transmission system operator shall be authorised, on a temporary basis, to perform its respective activities.
- (5) For the purposes of this Article, a certification procedure reopened by the State Regulator shall be followed under Article 36 [*Designation and certification of the TSO*] of this Law.
- (6) Failure by the transmission system operator to eliminate infringements of requirements for its independence and/or unbundling, as considered by the State Regulator, may result in suspension or revocation of its license, and/or financial penalties referred to in paragraph 1 of Article 81 [*Penalty provisions*] of this Law. In case of suspension or revocation of the license for operation of the transmission system, the State Regulator shall ensure that respective activities shall be performed in a continuous and uninterrupted manner under the terms and conditions of the licensing rules adopted by the State Regulator.

Article 38

Certification in relation to third countries

- (1) Where certification is requested by the transmission system operator or the transmission network owner which is controlled by a person or persons from a third country or third countries, the State Regulator shall notify the Energy Community Secretariat. the State Regulator shall also notify the Energy Community Secretariat without delay of any circumstances that would result in a person or persons from a third country or third countries acquiring control of the transmission system operator or the transmission network.
- (2) For the purposes of paragraph 1 of this Article, the transmission system operator shall notify to the State Regulator any circumstances that would result in a person or persons from a third country or third countries acquiring control of the transmission system operator or the transmission network.

- (3) The certification procedure in relation to third countries shall be implemented following the requirements of Article 36 [*Designation and certification of the TSO*] of this Law taking into account specific requirements stipulated in this Article.
- (4) The State Regulator shall refuse the certification of the transmission system operator which is controlled by a person or persons from a third country or third countries if it has not been demonstrated that:
 - 1. the transmission system operator complies with the requirements for its independence and unbundling established by this Law; and
 - 2. granting certification will not put at risk the security of supply in Bosnia and Herzegovina and/or in the Energy Community. When considering such question the State Regulator shall take into account:
 - a. the rights and obligations of the Energy Community with respect to that third country arising under the international law, including any agreements concluded with one or more third countries to which the Energy Community is a party and which addresses the issues of security of energy supply;
 - b. the rights and obligations of Bosnia and Herzegovina with respect to that third country arising under agreements concluded with it, insofar as they are in compliance with the Energy Community Treaty;
 - c. the rights and obligations resulting from association or trade agreements between Bosnia and Herzegovina and the European Union; and
 - d. other specific facts and circumstances of the case and the third country concerned.
- (5) The Ministry and/or other competent authorities of Bosnia and Herzegovina shall provide, upon request of the State Regulator, their opinion on the questions referred to in paragraph 4 of this Article. The State Regulator shall take into account such opinions while adopting the decision on certification of the transmission system operator or refusing to grant the certification.
- (6) The relevant decision of the State Regulator on certification of the transmission system operator or the refusal to grant certification shall be notified to the Energy Community Secretariat without delay, together with all the relevant information with respect to such decision.
- (7) The final decision on certification of the transmission system operator in relation to third countries shall be adopted and published following the procedure stipulated in Article 36 [*Designation and certification of the TSO*] of this Law.
- (8) While taking utmost account of the opinion of the Energy Community Secretariat the State Regulator shall have the right to refuse certification where granting certification puts at risk security of supply in Bosnia and Herzegovina or in any Energy Community Party, or threatens the public security interests of Bosnia and Herzegovina.

Article 39

Rights of the transmission system operator

- (1) The transmission system operator is entitled to charge and collect fees to which it is entitled pursuant to concluded contracts and for all other services which it provides pursuant to the provisions of this Law, including for expenses arising from its regional

and/or international cooperation. The tariffs and conditions for provision of services on the part of the transmission system operator shall be non-discriminatory and cost-based, as set by the State Regulator, and appropriately published.

- (2) The transmission system operator shall apply tariffs set by the State Regulator, which are calculated according to the same tariff model, tariff elements and tariff items on the entire territory of Bosnia and Herzegovina for the same class of system users, particularly with regards to the connection voltage level and the quantity of accounting values (including, *inter alia*, active energy, active power, surplus reactive power, and metering service) in addition to other criteria.
- (3) The transmission system operator shall not trade in electricity, except for:
 1. covering losses in the transmission network;
 2. procuring ancillary service; and
 3. providing system services.
- (4) The transmission system operator shall procure the electricity required for coverage of losses in the transmission network on the electricity market at non-regulated prices.
- (5) The transmission system operator shall ensure the provision of system services according to the minimum cost principle. Electricity undertakings and final customers, owners of facilities for providing ancillary services, shall at the request of the transmission system operator immediately provide ancillary services for the purpose of providing system services and achieving safe and reliable operation of the electricity system. Mutual rights and obligations shall be regulated under the contract on provision of ancillary services.
- (6) The transmission system operator shall procure ancillary services, including the balancing energy, according to the rules for the procurement of ancillary services approved by the State Regulator. On a monthly basis, the transmission system operator shall report to the State Regulator on contracts concluded with providers of ancillary services. The State Regulator shall, at the proposal of the transmission system operator, decide on the setting-up (or opening) of a market for ancillary services and system services.
- (7) As regards the electricity system balancing, the transmission system operator shall procure the balancing energy according to the rules for the procurement of ancillary services approved by the State Regulator and perform the technical part of balancing activities, which shall be defined in detail in the rules on electricity system balancing. These rules shall be used to elaborate the technical part of the electricity system balancing regime and shall be determined by the transmission system operator subject to approval by the State Regulator. The technical part of balancing activities includes metering and activating offers for the balancing energy according to the merit order list for balancing, including the economic precedence, which the electricity market operator forwards to the transmission system operator.
- (8) The transmission system operator shall monitor and maintain the quality indicators in the transmission system, keep records on information required for quality establishment, and submit annual reports to the State Regulator, in the form and scope defined by the State Regulator in line with the rules on the quality of electricity supply adopted by the State Regulator. The transmission system operator shall harmonise all rules for the adoption of which it is designated as competent under this Law with the rules on the quality of electricity supply.

- (9) The transmission system operator may engage generation facilities intended for temporary use only in the event of the following:
 1. serious disturbances or system failures;
 2. for fulfilling the criteria for safe operation of the transmission network and for secure supply of customers; and/or
 3. in emergency situations as set out in this Law.
- (10) Generation facilities intended for temporary use shall be those facilities of the system user intended for temporary or permanent electricity generation for their own consumption or for the needs of the electricity market.
- (11) Criteria for safe operation of the transmission network and for secure supply of customers shall be the criteria for managing the operation of the electricity system and planning the development of the transmission network, as defined in the transmission network code.

Article 40

Responsibilities of the transmission system operator

Responsibilities of the transmission system operator shall include in particular:

1. operation of the transmission system of Bosnia and Herzegovina, including the transmission of electricity on the entire territory of Bosnia and Herzegovina;
2. development of the transmission network ensuring the long-term ability of the transmission network to meet reasonable demands for the transmission of electricity with the predefined operational safety;
3. maintenance and construction of the transmission network and its technological pertinent (including, *inter alia*, devices for the reactive power control);
4. connecting system users related to the transmission network and creating the necessary technical preconditions for connecting users pursuant to this Law and other regulations governing that field;
5. ensuring continuity and reliability of the electricity supply and proper coordination of the generation, transmission and distribution system;
6. management of the electricity system in such a way as to ensure security of supply and economic use of the transmission network;
7. ensuring network access and transmission network use to customers and producers, system users related to the transmission network, according to regulated, transparent and non-discriminatory principles;
8. giving priority access to all the quantities of electricity delivered to the network by preferential producers, as defined under the respective laws of the Entities and/or the District, connected to the transmission network, if the requirements related to maintaining reliability and safety of operation have been met, especially in accordance with the transmission network code;
9. for reasons of the security of supply, giving priority for the dispatch of generating installations using indigenous primary fuel sources to an extent not exceeding, in any calendar year, 15% of the overall primary energy necessary to produce the electricity consumed in Bosnia and Herzegovina;

10. giving necessary instructions for proper operation of the generation and transmission system according to the reliability and security criteria stipulated in the transmission network code;
11. procuring the balancing energy and carrying out the technical part of activities related to the electricity system balancing;
12. procuring electricity for covering losses in the transmission network from the electricity market in accordance with the principles of minimum cost, transparency and non-discrimination;
13. ensuring system services in the transmission system in accordance with the principles of transparency and non-discrimination, and under regulated conditions until the establishment of conditions for a functional electricity market in accordance with Article 57 [*Scope of the electricity market*] of this Law;
14. allocation of transmission capacities of cross-border transmission lines, taking into account regionally coordinated arrangements thereto;
15. monitoring implementation of all its duties, especially with regard to ensuring compliance with the principles of transparency, objectivity and non-discrimination, accompanied by the obligation to issue an annual report based on prior approval of the State Regulator;
16. monitoring implementation of the transmission network code, accompanied by the obligation to issue an annual report based on prior approval of the State Regulator;
17. monitoring losses in the transmission network and producing an annual loss analysis, as well as planning losses for the purpose of procurement, accompanied by the obligation to issue an annual report based on prior approval of the State Regulator;
18. monitoring and maintaining indicators of electricity supply quality in the transmission system in accordance with the rules on the quality of electricity supply, accompanied by the obligation to issue an annual report based on prior approval of the State Regulator;
19. monitoring security of supply, accompanied by the obligation to issue an annual report based on the prior approval of the State Regulator, which shall forward the annual report to the Ministry upon its issuing;
20. providing information on future electricity demand and other information required by the State Regulator;
21. following the request of the Ministry in the context of the tendering for new generation capacity, giving well-grounded proposals to the Ministry on the need for the construction of new generation facilities to maintain security of supply;
22. giving opinions to the State Regulator and the electricity market operator pertaining to the rules on organisation of the electricity market in the procedure of their adoption; and
23. giving due attention to energy efficiency and nature and environmental protection.

Article 41

Tasks of the transmission system operator

The tasks of the transmission system operator shall include in particular:

1. ensuring the long-term ability of the transmission network to meet reasonable demands for the transmission of electricity with the predefined operational safety, maintenance, upgrading, improvement and development of the transmission network;
2. contributing to security of supply through adequate transmission capacity and transmission network reliability;
3. using transmission network facilities in conformity with technical regulations and standards, subject to technical inspections;
4. undertaking environmental protection measures;
5. undertaking prescribed safety measures during use of the transmission network and other electricity system elements used for operating the transmission system, subject to technical inspections;
6. adopting, with the prior approval of the State Regulator the transmission network code in line with instructions by the State Regulator and publishing it in appropriate form;
7. managing electricity flows in the transmission network, taking into account exchanges of electricity with other interconnected systems and ensuring the availability of all necessary ancillary services;
8. managing the electricity system and, within the technical and technological limits of the transmission system, not limiting the purchase and sale of electricity, except in crisis situations;
9. engaging generation facilities and determining the use of interconnections with the networks of the neighbouring transmission system operators based on objective, public and non-discriminating market-based criteria;
10. regulating frequency and power exchange;
11. securing energy to cover the losses in the transmission network and energy required for provision of system services under transparent, non-discriminatory and market principles;
12. passing, with the prior approval of the State Regulator, the objective, transparent and non-discriminatory rules for the procurement of ancillary services, including the balancing energy;
13. passing, with the prior approval of the State Regulator, the objective, transparent and non-discriminatory rules on the electricity system balancing in line with instructions by the State Regulator and publishing them in an appropriate form;
14. in accordance with the rules on the electricity system balancing, using electricity from providers according to the economic precedence list submitted to him by the electricity market operator;
15. timely report to the electricity market operator on the electricity system balancing and on the activated offers from the economic precedence list in line with the rules on organisation of the electricity market;
16. keeping a register of accounting metering points of each balancing group for points of delivery on the transmission network and delivering to the electricity market operator information contained in the register, in accordance with the rules on organisation of the electricity market and the rules on supplier switching;

17. conclude contracts on provision of ancillary services with system users for the purpose of providing system services and ensuring system services in an economic and efficient manner;
18. planning the operation of the electricity system, in cooperation with the electricity market operator and operators of other systems, including the distribution system operator;
19. exchanging required information with the transmission system operator of any other system with which the transmission system of Bosnia and Herzegovina is interconnected in order to ensure the secure and efficient operation, coordinated development and interoperability of the interconnected systems;
20. maintaining secure operation of the electricity system;
21. ensuring non-discrimination between all system users related to the transmission network, including related undertakings within the vertically integrated undertaking;
22. providing system users with the information they need for efficient network access and transmission network use;
23. publishing relevant data on aggregated forecast and actual demand, on availability and actual use of generation and load assets, on availability and use of the networks and interconnections, and on balancing power and reserve capacity. For availability and actual use of small generation and load units, aggregated estimate data may be used;
24. establishing a complaints commission dealing with matters related to network access and transmission network use in accordance with the provisions of the Consumer Protection Law as an independent mechanism for handling complaints and out-of-court dispute settlement;
25. harmonising the preparation of overhaul plans for transmission facilities and plants of system users;
26. resolving overloads in certain segments of the transmission network, while safeguarding the equal position of all system users;
27. amending the plan for engaging power plants in the case of endangered security of operation of the electricity system, breakdown, major deviations in consumption in comparison to planned values, as well as in case of application of measures introduced due to disturbances on the electricity market and in crisis situations and transmission system congestions in accordance with the relevant technical regulations and procedures;
28. adopting, with the prior approval of the State Regulator, the rules on allocation and use of cross-border transmission capacities based on market principles and the instructions of the State Regulator, accompanied by appropriate publication thereof;
29. establishing cross-border transmission capacity, in cooperation with interconnected system operators;
30. allocating cross-border transmission capacity and management of congestions on the interconnectors in accordance with principles of competition, transparency and non-discrimination towards electricity market participants, as well as taking into account regionally coordinated arrangements thereto, and publishing in an appropriate manner information on allocation of cross-border transmission capacity;

31. making accessible, publicly and in appropriate form, information of relevance for use of the transmission network, information on cross-border transmission capacities, congestion on cross-border and internal transmission lines, in addition to other information required for organising the electricity market;
32. measuring flows of electricity at points of decoupling of the transmission network from the distribution network, system users relevant for the transmission network, neighbouring systems and at other relevant points, taking care that such information is also available to the distribution system operator, operators of related transmission systems and to the State Regulator;
33. delivering metering information from accounting metering points and points of decoupling from neighbouring systems to other electricity undertakings (users of metering information) in accordance with the law and special regulations or as regulated under an agreement on the mutual relations of the transmission system operator and the electricity undertaking;
34. supporting solutions leading to smart networks and equipping with smart metering equipment those final customers that are connected to the transmission network;
35. based on the rules on the quality of electricity supply, keeping records on information required for establishing the quality of electricity supply in the transmission system, including information on continuity of supply, voltage quality, commercial quality and other information defined by the State Regulator;
36. producing annual analyses of energy losses in the transmission network, and where appropriate creating and implementing loss reduction and other energy efficiency measures;
37. based on the methodology for preparation of the annual plan for losses in the transmission network that is adopted by the State Regulator, preparing and delivering by the 30th of September of the current year to the State Regulator for approval the annual plan for losses in the transmission network for the following year;
38. subject to prior approval by the State Regulator, by the 31st of October of each year preceding the plan, adopting and publishing an updated ten-year development plan for the transmission network in an appropriate form, harmonised with the requirements for connection of generation facilities and final customers to the transmission network, and with the development plans of neighbouring transmission networks, as well as with the distribution network development plans, as necessary;
39. subject to prior approval by the State Regulator, by the 31st of October of the year preceding to a three-year period to which the plan refers, adopting and publishing a three-year development plan for the transmission network in an appropriate form, harmonised with the ten-year development plan for the transmission network and spatial planning documents, which plan shall cover only those facilities for which conceptual projects have been prepared in line with the spatial plan, the legislation regulating physical planning and construction, and other special regulations subject to mandatory coordination with the distribution system operator as regards the joining network;
40. subject to prior approval by the State Regulator, by the 30th of November of the year preceding the plan, adopting and publishing an annual investment plan in accordance with the needs of system users in an appropriate form, harmonised with the ten-year and three-year transmission network development plan and spatial planning documents;

41. applying to the State Regulator for its prior approval with regard to any planned and/or unplanned modifications in the financial framework of the annual investment plans introduced during the current financial year;
42. taking into account, when adopting the ten-year and three-year transmission network development plan and adopting annual investment plans, energy efficiency measures, consumption and distributed generation, which may defer the need for strengthening the transmission network;
43. cooperating and exchanging information, in accordance with international commitments of Bosnia and Herzegovina, with institutions established within the Energy Community and the European Union that monitor transmission network development plans, use and development of cross-border lines and cooperation within one or more regions;
44. in accordance with international commitments of Bosnia and Herzegovina, taking under consideration opinions and recommendations and abiding by the decisions taken by institutions established in the Energy Community and the European Union which have the right and obligation to perform tasks connected with the duties of the transmission system operator;
45. participating, in accordance with international commitments, in the activities of the European Network of Transmission System Operators for Electricity;
46. undertaking appropriate joint ventures, including those with the electricity market operator and other transmission system operators, power exchanges and other relevant undertakings, aimed at developing regional electricity markets or supporting their liberalisation;
47. adopting, subject to the prior approval of the State Regulator, the rules for connection to the transmission network and transmission network strengthening which are necessary for integrating new generation facilities using renewable energy sources into an interconnected system, and publishing them in the appropriate form;
48. clearly providing to each network user wishing to connect to the transmission network all required information, including a clear and detailed cost estimate of expenses relating to connections to the transmission network, a realistic and detailed timeframe for receipt and processing connection requests and a realistic indicative timeframe for the proposed connection to the transmission network, for which the transmission system operator may set a fee which allows the transmission system operator to cover its reasonable costs;
49. applying the fees set by the State Regulator for connection to the transmission network, based on decision of the State Regulator, as published by the State Regulator in an appropriate form at least fifteen (15) days prior to their application;
50. applying the tariffs set by the State Regulator for the use of the transmission network, based on decision of the State Regulator, as published by the State Regulator in an appropriate form at least fifteen (15) days prior to application;
51. apply the tariffs set, as a transitory measure referred to in paragraph 3 of Article 87 [*Transitory measure with regard to market opening*] of this Law, by the State Regulator for the procurement of ancillary services and provision of system services, as published by the State Regulator in an appropriate form at least fifteen (15) days prior to their application;

52. adopting, subject to approval by the State Regulator, the rules and price-list for non-standard services of the transmission system operator and publishing them in an appropriate form at least fifteen (15) days prior to their application;
53. commencing, at the initiative and in accordance with the instructions of the State Regulator, the procedure regarding the amendment of regulations or changes to prices, the adoption or setting of which falls under its competence; and
54. reporting to the State Regulator, pursuant to the license for performing the electricity transmission activity and this Law, on subjects defined by the State Regulator, in the form and within the timeframes established by the State Regulator, and especially on a monthly basis on the following:
 - a. planned disconnections required for transmission network maintenance;
 - b. requirements of the system users and transmission system operators for developing the transmission network;
 - c. operation of the transmission system;
 - d. allocation and use of cross-border capacities;
 - e. actual use and allocation of proceeds it receives based on use of cross-border transmission capacities;
 - f. contracts on provision of ancillary services concluded with providers; and
 - g. concluded contracts on procurement of electricity for covering losses in the transmission network.

Article 42

Responsibilities and tasks of the independent system operator and the transmission network owner

- (1) In case the transmission system operator has been approved and designated as an independent system operator, it shall be responsible for carrying out the duties and fulfilling the tasks of the transmission system operator, as regulated under Articles 40 [*Responsibilities of the TSO*] and 41 [*Tasks of the TSO*] of this Law respectively, in possession of relevant rights laid down in Article 39 [*Rights of the TSO*] of this Law, except for those directly related to activities of the transmission network owner and determined in paragraph 2 of this Article or otherwise explicitly required for the purposes hereto, but without prejudice to the requirements for independence and unbundling of an independent system operator.
- (2) For the purposes of paragraph 1 of this Article, the transmission network owner shall be obligated to:
 1. provide all the relevant cooperation and support to the independent system operator for the fulfilment of its tasks, including in particular all relevant information;
 2. finance the investments decided by the independent system operator and approved by the State Regulator, or give its agreement to financing investments by any interested party including the independent system operator. Such financing arrangements shall be subject to approval by the State Regulator. Prior to such approval, the State Regulator shall consult the transmission network owner as well as the other interested parties. If the approval is not granted by the State Regulator, such financing arrangement shall not be realised;

3. provide for the coverage of liability relating to the network assets, excluding the liability relating to the tasks of the independent system operator; and
 4. provide guarantees to facilitate the financing of any network expansions with the exception of those investments where, pursuant to subparagraph 2 of this paragraph 2, it has given its approval to financing by any interested party including the independent system operator.
- (3) The transmission network owner shall not be in any case responsible for approving and managing network access and transmission network use, nor for investment planning.

Article 43
Transmission network code

- (1) The operation and management of the transmission network shall be regulated by the transmission network code.
- (2) The transmission network code shall prescribe in particular:
 1. technical and other prerequisites for safe operation of the transmission network in order to secure reliable supply of final customers with electricity of prescribed quality;
 2. obligations of system users related to the transmission network;
 3. planning of transmission system operation;
 4. procedures for operating the electricity system in normal network operation and operation under extraordinary conditions, operation under fault conditions, events of force majeure and other cases of disturbed operation;
 5. protected zone and special conditions within the protected zone of electricity facilities;
 6. criteria and method of the procurement of ancillary services and provision of system services;
 7. technical and other prerequisites for interconnection and operation of networks;
 8. planning transmission network development;
 9. method of publication of data required for organising the electricity market and submission of information to the transmission system operator and the distribution system operators; and
 10. method of giving the priority dispatch for the generating installations using indigenous primary fuel sources to an extent not exceeding, in any calendar year, 15% of the overall primary energy necessary to produce the electricity consumed in Bosnia and Herzegovina.
- (3) The transmission network code shall establish in particular:
 1. monitoring of security of supply and quality of electricity supply;
 2. mutual contractual relations among electricity undertakings and system users related to the transmission network;
 3. tasks and responsibilities of electricity undertakings and system users related to the transmission network;

4. conditions for measuring delivered electricity and power in the transmission network; and
 5. conditions for implementation of the restriction procedure or stoppage of delivery of electricity in the transmission network.
- (4) The transmission network code shall, in line with instructions given by the State Regulator, be adopted by the transmission system operator, subject to prior approval by the State Regulator. In the process of adopting the transmission network code, the transmission system operator shall secure the appropriate participation of all interested parties. The transmission system operator shall harmonise the transmission network code with the rules on the quality of electricity supply which is adopted by the State Regulator pursuant to paragraph 8 of Article 39 [*Rights of the TSO*] of this Law. The transmission network code shall be published in the Official Gazette of Bosnia and Herzegovina.

Article 44

Rules for connection to the transmission network

- (1) The rules for connection to the transmission network shall prescribe in particular:
1. technical and other prerequisites for user connection to the transmission network;
 2. technical and other prerequisites for safety of connections;
 3. conditions for network access and transmission network use;
 4. ownership of metering equipment at the accounting metering point of the system user; and
 5. functional requirements and accuracy class of metering instruments in addition to the method of measurement of electricity.
- (2) The rules for connection to the transmission network shall establish in particular:
1. procedures for creating the conditions for connection to the transmission network;
 2. conditions for the connection and the transmission network use;
 3. contractual relations between the transmission system operator and system users related to the transmission network;
 4. tasks and responsibilities of the transmission system operator and system users related to the transmission network; and
 5. conditions for measuring delivered electricity and power in the transmission network.
- (3) The rules for connection to the transmission network shall, in line with instructions given by the State Regulator, shall be adopted by the transmission system operator, subject to prior approval by the State Regulator. In the process of adopting the rules for connection to the transmission network, the transmission system operator shall secure appropriate consultations with all interested parties. The transmission system operator shall harmonise the rules for connection to the transmission network with the rules on the quality of electricity supply which is adopted by the State Regulator pursuant to paragraph 8 of Article 39 [*Rights of the TSO*] of this Law. The rules for connection to the transmission network shall be published in the Official Gazette of Bosnia and Herzegovina.

Article 45

***The rules on allocation and use of cross-border transmission capacities
and the rules on the electricity system balancing***

- (1) The transmission system operator shall, subject to prior approval by the State Regulator, adopt the rules on allocation and use of cross-border transmission capacities and congestion management, based on market principles and the instructions of the State Regulator, as well as taking into account regionally coordinated arrangements thereto. As part of the approval procedure, the State Regulator shall obtain the opinion of the electricity market operator.
- (2) For the purpose of allocation and use of the cross-border transmission lines within one or more regions, or the implicit purchase and sale of electricity along with the cross-border transmission capacities, the transmission system operator shall, in conformity with international agreements, establish together with the transmission system operators of other countries, one or more legal persons for coordinating auctions of cross-border transmission capacities.
- (3) The rules on allocation and use of cross-border transmission capacities in accordance with harmonised rules at the level of the region of the Energy Community shall be adopted, subject to the prior approval of the State Regulator, by the transmission system operator, in line with the instructions of the State Regulator, and in coordination with other competent authorities in the region concerned. As part of the approval procedure, the State Regulator shall obtain the opinion of the electricity market operator. Supervision over cross-border capacity allocation at the level of the region of the Energy Community shall be implemented in conformity with the decision on establishing a legal person for coordinated auctions.
- (4) Subject to the prior approval of the State Regulator and in line with the instructions of the State Regulator, the transmission system operator adopts the rules on the electricity system balancing. As part of the approval procedure, the State Regulator shall obtain the opinion of the electricity market operator.

Article 46

Network development and investment decisions

- (1) By the 31st of October of the year which precedes the relevant year, transmission system operator shall submit to the State Regulator a ten-year transmission network development plan based on existing and forecast supply and demand after having consulted all the relevant stakeholders. The transmission network development plan shall contain efficient measures in order to guarantee the adequacy of the network and security of supply.
- (2) The ten-year network development plan shall in particular:
 1. indicate to the electricity market participants the main transmission infrastructure that needs to be built or upgraded over the next ten years;
 2. contain all the investments already decided and identify new investments which have to be executed in the next three years; and
 3. provide for a time frame for all investment projects.

- (3) When elaborating the ten-year network development plan, the transmission system operator shall make reasonable assumptions about the evolution of the generation, supply, consumption and exchanges of electricity with other countries, taking into account investment plans for surrounding networks.
- (4) The State Regulator shall consult all actual or potential system users regarding the ten-year network development plan in an open and transparent manner. Persons or undertakings claiming to be potential system users may be required to substantiate such claims. The State Regulator shall publish the result of the consultation process, in particular possible needs for investments.
- (5) The State Regulator shall examine whether the ten-year network development plan covers all investment needs identified during the consultation process. The State Regulator may require the transmission system operator to amend its ten-year network development plan.
- (6) The State Regulator shall monitor and evaluate the implementation of the ten-year network development plan.
- (7) In circumstances where the transmission system operator, other than for overriding reasons beyond its control, does not execute an investment, which, under the ten-year network development plan, was to be executed in the following three years, the State Regulator shall take at least one of the following measures to ensure that the investment in question is made, if such investment is still relevant on the basis of the most recent ten-year network development plan:
 1. require the transmission system operator to execute the investments in question;
 2. organise a tender procedure open to any investors showing interest for the investments in question; or
 3. oblige the transmission system operator to accept a capital increase to finance the necessary investments and allow independent investors to participate in the capital.
- (8) Where the State Regulator has made use of its powers under the subparagraph 2 of paragraph 7 of this Article, it may oblige the transmission system operator to agree to one or more of the following options:
 1. financing by any third party;
 2. construction by any third party;
 3. building the new concerned assets itself; or
 4. operating the new concerned assets itself.
- (9) The transmission system operator shall provide the investors with all information needed to realise the investments, shall connect new assets to the transmission network and shall generally make its best efforts to facilitate the implementation of the investment project. The relevant financial arrangements shall be subject to approval by the State Regulator.
- (10) Where the State Regulator has made use of its powers under paragraphs 7 and 8 of this Article, the costs of the investments in question shall be covered by tariff items for electricity transmission.

Article 47
Compliance programme and compliance officer

- (1) Regardless of its organisational form and/or implemented solutions for its unbundling, as required under paragraph 4 of Article 32 [*Legal status of the TSO*] of this Law, the transmission system operator shall establish a compliance programme setting out measures taken to ensure that discriminatory conduct is excluded, and ensure a method for monitoring compliance with that programme. The compliance programme shall set out the specific obligations of employees of the transmission system operator to meet those objectives. It shall be subject to approval by the State Regulator. Compliance with the programme shall be independently monitored by a compliance officer.
- (2) The compliance officer shall be appointed by the supervisory board or, if such body is not formed, by the collective management body of the transmission system operator, subject to the prior approval by the State Regulator. The State Regulator may refuse the approval of the compliance officer only for reasons of lack of independence or professional capacity. The compliance officer may be a natural or legal person and shall be independent in his or her work and actions.
- (3) The independence of the compliance officer shall be ensured in the following manner:
 1. he or she shall have no other professional position or responsibility, interest or business relationship, directly or indirectly, with any part of the vertically integrated undertaking or with its controlling shareholders or, as the case may be, with any electricity undertaking exercising another activity than the transmission of electricity;
 2. he or she shall exercise no professional position or responsibility, interest or business relationship, directly or indirectly, with the vertically integrated undertaking or any part of it or its controlling shareholders other than the transmission system operator for a period of three years before the appointment;
 3. upon termination of his or her contractual relation with the transmission system operator, he or she shall have no professional position or responsibility, interest or business relationship with any part of the vertically integrated undertaking or its controlling shareholders or, as the case may be, with any electricity undertaking exercising another activity than the transmission of electricity, for a period of not less than four (4) years; and
 4. he or she shall hold no interest in or receive any financial benefit, directly or indirectly, from any part of the vertically integrated undertaking or, as the case may be, from any electricity undertaking exercising another activity than the transmission of electricity.
- (4) The transmission system operator shall without delay deliver to the State Regulator a proposal for appointment of the compliance officer and the terms of his or her agreement with the company, especially terms relating to commencement, duration and termination of appointment, remuneration conditions, substantive and other rights.
- (5) Within three weeks from the day of receipt of the proposal referred to in paragraph 4 of this Article the State Regulator may object to the proposed appointment decision or to the terms of the agreement concluded with the compliance officer where:

1. doubts arise as to the professional independence of the nominated compliance officer within the meaning of paragraph 3 of this Article and the appointment terms, including remuneration and other substantive rights; or
 2. in the case of premature termination of a term of office, doubts exist regarding the justification of such premature termination. Premature termination shall be considered unlawful where indicating termination circumstances not in conformity with the provisions of this Law on the independence from the vertically integrated undertaking.
- (6) The compliance officer shall be in charge of:
1. monitoring the implementation of the compliance programme;
 2. elaborating an annual report, setting out the measures taken in order to implement the compliance programme and submitting it to the State Regulator;
 3. reporting to the responsible bodies of the transmission system operator and issuing recommendations on the compliance programme and its implementation;
 4. notifying the State Regulator on any substantial breaches with regard to the implementation of the compliance programme; and
 5. reporting to the State Regulator on any commercial and financial relations between the vertically integrated undertaking and the transmission system operator.
- (7) Where an independent system operator has been designated as transmission system operator, the compliance officer shall make recommendations with respect to the decisions regarding the appointment and renewal, the working conditions, including remuneration, and the termination of the term of office of the persons responsible for the management and/or members of the administrative bodies of the transmission network owner and of the independent system operator.
- (8) The compliance officer shall submit the proposed decisions on the investment plan or on individual investments in the network to the State Regulator, at the latest by the moment when respective decision on such plan and/or investments is adopted by the responsible management body of the transmission system operator.
- (9) The conditions governing the mandate or the employment conditions of the compliance officer, including the duration of his or her mandate or employment, shall be subject to approval by the State Regulator. Those conditions shall ensure the independence of the compliance officer, including by providing him with all the resources necessary for fulfilling his or her duties. During his or her mandate, the compliance officer shall have no other professional position, responsibility or interest, directly or indirectly, in or with any part of the vertically integrated undertaking or with its controlling shareholders or, as the case may be, with any electricity undertaking exercising another activity than the transmission of electricity.
- (10) The compliance officer shall report to the State Regulator regularly, either verbally or in writing, and shall have the right to report regularly, either orally or in writing, to the responsible bodies of the transmission system operator.
- (11) The compliance officer may attend all meetings of the managing staff and corporate bodies of the transmission system operator, including the general assembly, supervisory and management bodies, which have the obligation to inform the compliance officer of scheduled meetings and to provide him with all necessary materials. The compliance officer shall attend all meetings that address the following matters:

1. conditions for network access and transmission network use, in particular regarding prices for network use, services related to network access and transmission network use, transmission capacity allocation and congestion management, transparency, balancing and secondary markets,
 2. projects undertaken in order to manage the electricity system and to maintain and develop the transmission network, including investments in cross-border interconnection lines and the connections, and
 3. energy purchases or sales necessary for the operation of the electricity system and the transmission system, including ancillary services and balancing service.
- (12) The compliance officer shall monitor the compliance of the transmission system operator with the provisions regulating confidentiality of the transmission system operator and the transmission network owner.
- (13) The compliance officer shall have access to all relevant data and to the offices of the transmission system operator and to all the information necessary for the fulfilment of his or her tasks. The compliance officer shall have access to the offices of the transmission system operator without prior announcement.
- (14) With prior approval of the State Regulator, the supervisory board or, if such is not formed, the collective management body of the transmission system operator may dismiss the compliance officer. It shall dismiss the compliance officer for reasons of lack of independence or professional capacity upon request of the State Regulator.
- (15) To the safety of the employment position of the compliance officer, if employed at the transmission system operator, the provisions of the laws regulating protection of union representatives in Bosnia and Herzegovina shall apply.

Article 48

Delivery of data and information to the transmission system operator

- (1) Producers, distribution system operators and final customers connected to the transmission network shall, at the request of the transmission system operator, deliver to the transmission system operator data and information required for the purpose of system development and management, and analysing operative events:
1. on consumption/production characteristics and other information required for regulating the frequency, voltage and exchange of electricity;
 2. required for realising network access and transmission network use;
 3. required for forecasting the demand for electricity, as well as deviations from the production development plans and annual investment plans;
 4. required for planning the operation of the electricity system in the short-term period, including hourly plan for generation of electricity from renewable energy sources;
 5. required for the provision of system services;
 6. required for monitoring quality of electricity supply in the transmission system; and
 7. required for monitoring security of electricity supply.

- (2) The transmission system operator shall exchange metering data and other information required for regulating frequency, voltage and exchange of electricity with operators of interconnected transmission systems.
- (3) Market participants shall provide the transmission system operator with any relevant data and information, which is necessary for carrying out the duties and performing the tasks of the transmission system operator, including those required for collection and aggregation of the respective power system data.

Article 49

Annual report of the transmission system operator

- (1) At the latest by the 31st of March of each year, the transmission system operator shall issue the annual report on:
 1. implementation of all the tasks and duties of the transmission system operator during the previous calendar year;
 2. implementation of the transmission network code during the previous calendar year;
 3. electricity losses in the transmission network during the previous calendar year, including results of the respective monitoring of the electricity losses in the transmission network;
 4. the quality of electricity supply in the transmission system during the previous calendar year, including results of the respective monitoring of the continuity of supply, voltage quality and commercial quality in addition to other quality aspects defined by the State Regulator; and
 5. the security of supply in the transmission system.
- (2) Annual report issued by the transmission system operator, as referred to in paragraph 1 of this Article, shall be approved by the State Regulator and publicly announced on the website of the transmission system operator.
- (3) Based on the annual report issued by the transmission system operator, the State Regulator may request the transmission system operator and/or, where appropriate, other electricity undertakings to implement certain measures aimed at:
 1. ensuring the principles of transparency, objectivity and non-discrimination;
 2. ensuring normal operation and management of the transmission network;
 3. reducing electricity losses;
 4. improving the quality of electricity supply; and/or
 5. improving the security of supply.
- (4) The transmission system operator shall submit its annual report, following the mandatory approval by the State Regulator, to the Ministry, which shall then prepare its own annual report on the state of the security of supply and the expected electricity demand in Bosnia and Herzegovina.

Article 50

Regional and international cooperation of the transmission system operator

- (1) The transmission system operator in coordination with the State Regulator shall particularly promote and facilitate the cooperation of transmission system operators at a regional level, including cross-border issues, with the aim of creating a competitive regional market in electricity, foster the consistency of their legal, regulatory and technical frameworks and facilitate integration of the isolated systems forming electricity islands that persist in the Energy Community, in line with the assumed international commitments of Bosnia and Herzegovina.
- (2) The transmission system operator shall cooperate with the Energy Community Regulatory Board and within its framework with regulatory authorities and transmission system operators of other countries to ensure the compatibility of regulatory frameworks, with the aim of creating a competitive regional market in electricity.
- (3) The transmission system operator, with prior approval of the State Regulator, may participate in the work of one or more integrated system(s) at the level of one or more regions covering two or more Energy Community Parties for allocation of transmission capacity and for checking the operational security.
- (4) Transmission system operator shall promote operational arrangements in order to ensure the optimum network management in the Energy Community and shall promote the development of electricity exchanges, the coordinated allocation of cross-border capacity through non-discriminatory market-based solutions, paying due attention to the specific merits of implicit auctions for short-term allocations, and the integration of balancing and reserve power mechanisms.

CHAPTER VII

TRANSPARENCY AND PROVISION OF INFORMATION

Article 51

Right of access to accounts

- (1) The State Regulator and other competent authorities of Bosnia and Herzegovina authorised by the applicable laws shall, insofar as necessary to carry out their activities, have a right of access to the accounts of electricity undertakings, the activities of which are regulated under this Law, as set out in Article 52 [*Unbundling of accounts*] of this Law.
- (2) The State Regulator and other competent authorities of Bosnia and Herzegovina, as referred to in paragraph 1 of this Article, shall preserve the confidentiality of commercially sensitive information. Such information may be provided for the disclosure only under the terms and conditions provided by laws.

Article 52

Unbundling of accounts

- (1) Electricity undertakings, whatever their system of ownership or legal form is, shall draw up, submit to audit and publish their annual accounts under the terms and conditions

stipulated in the applicable laws of Bosnia and Herzegovina and in compliance with international accounting standards.

- (2) Electricity undertakings which are not legally obliged to publish their annual accounts shall keep a copy of these at the disposal of the public in their head office.
- (3) The transmission system operator and, where relevant, the transmission network owner shall, in their internal accounting, keep separate accounts for their activities related to the transmission as they would be required to do if such activities were carried out by separate undertakings, with a view to avoiding discrimination, cross-subsidisation and distortion of competition. Revenues from ownership of the transmission network shall be specified in the accounts.
- (4) Without prejudice to paragraph 3 of this Article, all electricity undertakings shall keep separate accounts, which may be consolidated, for the electricity activities and, where relevant, those not related to electricity.
- (5) The internal accounts of electricity undertakings shall include a balance sheet and a profit and loss account for each activity.
- (6) The audit referred to in paragraph 1 of this Article shall, in particular, verify that the obligation to avoid discrimination and cross-subsidies referred to in paragraph 3 of this Article is respected.

Article 53

Provision of information

- (1) The Council of Ministers, the Ministry, the State Regulator and other competent authorities of Bosnia and Herzegovina shall, insofar as necessary to carry out their activities, have a right to request from electricity undertakings for any data and information related to their electricity activities.
- (2) The State Regulator shall have a right to request from other authorities of Bosnia and Herzegovina and electricity undertakings for any data and information necessary for due fulfilment of its tasks related to the monitoring of the electricity market, including such relevant data and information obtained from the Energy Community bodies and/or the Energy Community Parties or any other third countries.
- (3) Electricity undertakings shall provide the data and information referred to in paragraphs 1 and 2 of this Article under the terms and conditions established by legal acts. Rules on provision of information to the State Regulator shall be adopted by the State Regulator.

Article 54

Confidentiality obligations

- (1) The State Regulator and other competent authorities of Bosnia and Herzegovina shall preserve the confidentiality of commercially sensitive information provided by electricity undertakings, and shall use the data and information obtained only for the purposes indicated in their request for information. The confidential information may be disclosed only under the terms and conditions established by the laws.
- (2) Without prejudice Article 51 [*Right of access to accounts*] or any other legal duty to disclose information, the transmission system operator, the electricity market operator and, where relevant, the transmission network owner shall preserve the confidentiality of commercially sensitive information obtained in the course of carrying out its

activities, and shall prevent information about their own activities which may be commercially advantageous from being disclosed in a discriminatory manner. Such information may be disclosed only under the terms and conditions established by the laws, or in case where it is expressly required for carrying out a business transaction.

- (3) The transmission system operator shall not, in the context of sales or purchases of electricity by related undertakings, misuse commercially sensitive information obtained from third parties in the context of providing or negotiating access to the transmission network.
- (4) Information necessary for effective competition and the efficient functioning of the electricity market shall be made public. Such obligation shall be implemented without prejudice to preserving the confidentiality of commercially sensitive information.

CHAPTER VIII ELECTRICITY MARKET

Article 55 *Market opening*

Every customer in Bosnia and Herzegovina shall be eligible and shall be therefore entitled to a free choice of supplier and its change.

Article 56 *Organisation of trade in electricity*

- (1) Trade in electricity may be performed by an electricity undertaking based on a license issued in accordance with this Law.
- (2) The trade license shall be issued by the State Regulator under the terms and conditions stipulated in this Law and the licensing rules based on the following key preconditions:
 1. the trade license to the electricity undertaking, which is authorised for the supply of electricity in the Entity or in the District, shall be issued without any additional proceedings after its notification to the State Regulator on the intended engagement in the trade in electricity, submission of information on the valid supply license and payment of the regulatory fee referred to in paragraph 2 of Article 24 of this Law;
 2. the trade license to the electricity undertaking, which is not authorised for the supply of electricity and intends to proceed only with the wholesale trade in electricity (on the internal wholesale market and/or cross-border trade), shall be issued following the simplified procedure elaborated in the licensing rules.
- (3) The State Regulator shall ensure, in accordance with the international commitments of Bosnia and Herzegovina, that the procedure for issuing the license for performance of the trade in electricity and the requirements set out in the license do not discriminate against traders coming from any Energy Community Party. Registration of the seat in Bosnia and Herzegovina or other equivalent preconditions for undertaking the commercial activities may still be required under the terms and conditions stipulated in the applicable laws of Bosnia and Herzegovina. Such preconditions shall be set and applied in a clear, transparent, justified and non-discriminatory manner.
- (4) Each electricity trader shall make available to the State Regulator, the Competition Council and, in conformity with international commitments of Bosnia and Herzegovina,

to other competent institutions established within the Energy Community which are authorised and obliged to perform related tasks pursuant to international agreements, within a period of five (5) years, all relevant data related to all transactions arranged with wholesale customers and with the transmission system operator or electricity market operator in connection with purchase and sale of electricity, including electricity derivatives.

- (5) The relevant data referred to in paragraph 4 of this Article must include details on relevant transactions such as duration, terms of delivery, import and settlement, amounts, date and time of execution, transaction prices and methods for identifying the wholesale customer in question, in addition to specific details on all unsettled sale agreements and electricity derivatives.

Article 57 ***Scope of the electricity market***

- (1) The electricity market shall include the retail and wholesale electricity market.
- (2) Transactions between final customers and their suppliers shall take place on the retail electricity market.
- (3) The wholesale electricity market shall include:
 1. bilateral electricity market;
 2. day-ahead electricity market;
 3. intra-day electricity market;
 4. balancing electricity market.
- (4) Purchase and sale on the wholesale electricity market shall be contracted under bilateral agreements, as well as on organised electricity markets, *i.e.* day-ahead electricity market, intra-day electricity market and balancing electricity market.
- (5) On the balancing electricity market, the electricity market operator collects offers from the market participants for the purpose of the electricity system balancing, and prepares the economic precedence list, while for the purpose of achieving safe operation of the electricity system the transmission system operator performs measuring and activates offers for balancing energy according to the economic precedence list which was delivered to it by the electricity market operator.
- (6) Participation on the balancing electricity market shall be regulated by the contract on provision of balancing service that the electricity market operator concludes with all electricity market participants, in accordance with the rules on organisation of the electricity market which contain the rules on organisation of the balancing electricity market. The electricity market operator shall manage the calculating and charging of the balancing energy due to imbalances caused by the balancing group responsible parties concerned, as well as calculating and charging the provided balancing service.
- (7) Until the establishment of a functional balancing electricity market, electricity tariffs for the purpose of the electricity system balancing shall be set by the State Regulator in the manner laid down by the methodology for determination of tariffs for the provision of balancing service and manner of settlement of the balancing energy for the balancing group responsible parties which is adopted by the State Regulator. The State Regulator shall, within the framework of that methodology, establish providers of balancing

service which shall provide balancing service until the establishment (or opening) of the balancing electricity market. The State Regulator shall, upon proposal of the electricity market operator, decide on the establishment (or opening) of the balancing electricity market, but in any case not later than by 1 January 2017.

- (8) The electricity market operator shall notify the State Regulator on a monthly basis on the contracts that it has concluded with producers in relation to provision of balancing service.
- (9) The electricity market operator shall be responsible for the organisation of the electricity market on the whole territory of Bosnia and Herzegovina in accordance with the rules on organisation of the electricity market which the electricity market operator shall pass subject to prior approval of the State Regulator.
- (10) The electricity market operator shall be responsible for the organisation of the day-ahead electricity market and intra-day electricity market for physical trade in electricity on the whole territory of Bosnia and Herzegovina as well as for its connecting with other organised electricity markets, *i.e.* power exchanges.
- (11) The possibility of establishing the stock exchange of financial electricity derivatives shall not be limited only to the electricity market operator.

Article 58

Measures to promote market opening

- (1) The State Regulator, in cooperation with the Entity Regulators and the Competition Council, shall conduct inquiry of the electricity market functioning at least every two (2) years starting from the first year after entry into force of this Law.
- (2) If necessary, the State Regulator shall, within the scope of its competence and regulatory powers, establish all required and proportionate measures for the promotion of efficient market competition and thus ensure regular functioning of the electricity market. The State Regulator, upon its own initiative or following the request of the Energy Community Secretariat, shall take such measures wherever deemed necessary.
- (3) The measures referred to in paragraph 2 of this Article shall be proportionate, non-discriminatory and transparent. Those measures may be put into effect only following the notification to the Energy Community Secretariat based on its respective opinion.
- (4) The Energy Community Secretariat acts on the notification referred to in paragraph 3 of this Article within two (2) months of the receipt of the notification. That period begins on the day following receipt of the complete information. In the event that the Energy Community Secretariat does not act within that two-month period, it is deemed not to have raised objections to the notified measures.

Article 59

Designation of the electricity market operator

- (1) The electricity market operator shall be a company owned by the transmission system operator. The transmission system operator shall ensure its functional independence from the electricity market operator and shall include respective measures preventing the discriminatory conduct in its compliance programme.

- (2) The electricity market operator shall perform the activity of organising the electricity market on the whole territory of Bosnia and Herzegovina on the basis of a license for the performance of that activity issued by the State Regulator.
- (3) The electricity market operator shall perform its duties respecting the principles of transparency, objectivity and non-discrimination, under the supervision of the State Regulator.
- (4) The electricity market operator shall apply the fee for organisation of the electricity market set by the State Regulator in accordance with the annual operational plan and financial plan of the electricity market operator.
- (5) The electricity market operator shall keep a separate account for the transactions involving purchase and sale of electricity.

Article 60

Tasks of the electricity market operator

- (1) The electricity market operator shall be particularly responsible for the following:
 1. organising the electricity market for the benefit and wellbeing of all electricity market participants, on the basis of the rules on organisation of the electricity market;
 2. organising the balancing electricity market as well as securing of the balancing energy, on the basis of the rules on organisation of the electricity market whose integral part are the rules on organisation of the balancing electricity market, which include the rules on settlement of the balancing energy;
 3. organising the day-ahead electricity market;
 4. organising the intra-day electricity market;
 5. adopting, subject to prior approval of the State Regulator, the rules on organisation of the electricity market whose integral part are the rules on organisation of the balancing electricity market, which include the rules on settlement of the balancing energy as well as rules on organisation of the day-ahead electricity market and rules on organisation of the intra-day electricity market, in line with the instructions of the State Regulator;
 6. keeping records on contracts and contractual obligations concluded between undertakings on the electricity market in accordance with the rules on organisation of the electricity market;
 7. quantitative settlement of the balancing energy based on the data delivered by the transmission system operator and distribution system operators;
 8. financial settlement and control over financial coverage of the recognised imbalances on the basis of quantitative settlement of the balancing energy;
 9. preparation of daily schedules for purchase and sale of electricity within and across the borders of Bosnia and Herzegovina pursuant to contractual obligations arising from purchasing and selling on the electricity market;
 10. timely delivery of daily schedules for purchase and sale of electricity referred to in subparagraph 9 of this paragraph 1 to the transmission system operator;

11. verifying alignment of the scheduled cross-border purchase and sale with the allocated cross-border transmission capacities;
 12. keeping records on electricity market participants;
 13. keeping records on suppliers and customers and their contractual obligations;
 14. appropriate publishing of information required for unhindered organisation of the electricity market and performance of the electricity activities.
- (2) The electricity market operator shall commence, upon the initiative and in accordance with the instructions given by the State Regulator, the procedure for amending rules on operation of the electricity market for whose adoption it is responsible.
 - (3) The electricity market operator shall not trade in electricity, except for the purpose of trading on the day-ahead electricity market and intra-day electricity market where the electricity market operator represents a contractual party.
 - (4) In view of the electricity system balancing, the electricity market operator shall perform the commercial part of balancing activities, which are defined by the rules on settlement of the balancing energy which are included in the rules on organisation of the balancing electricity market and are an integral part of the rules on organisation of the electricity market and are used for the development of the commercial part of the electricity system balancing. The commercial part of the balancing activities includes:
 1. organising the procurement side of the balancing energy (the balancing electricity market), which includes collection of offers, preparation of the economic precedence list and its forwarding to the transmission system operator as well as making payments to the service providers;
 2. organising the user side of the balancing energy, which includes managing calculation and charging of the balancing energy due to imbalances caused by the balancing group responsible parties concerned.
 - (5) Electricity undertakings shall provide the electricity market operator with continuous and unlimited access to data that the electricity market operator needs for the organisation of the electricity market in line with the rules on organisation of the electricity market.

Article 61

The rules on organisation of the electricity market

- (1) The rules on organisation of the electricity market shall define the manner of organisation and operation of the electricity market.
- (2) The rules on organisation of the electricity market shall define in particular:
 1. electricity market design;
 2. procedures, principles and standards for organisation and operation of the electricity market in line with the applied electricity market model;
 3. method for identification and registration of electricity market participants;
 4. types and templates of contracts concluded on the electricity market;
 5. products for trading in the electricity market;

6. standards and procedures for keeping records of transactions conducted on the electricity market;
 7. standards and procedures for establishing and keeping a database for the needs of the electricity market;
 8. standards and procedures for the application, preparation, verification and change of daily schedules for purchasing and selling of electricity;
 9. standards and procedures for the procurement of ancillary services for the purpose of providing system services and purchase of electricity to cover losses in the transmission and distribution network in order to ensure continuous, safe and reliable supply of customers with electricity;
 10. functioning of the balancing electricity market;
 11. responsibility for imbalances;
 12. calculation of imbalances;
 13. calculation of the balancing energy for balancing service providers;
 14. calculation of quantitative imbalances of balancing groups and financial settlement of the imbalances on the electricity market by the balancing group responsible parties;
 15. day-ahead electricity market;
 16. intra-day electricity market;
 17. other issues necessary for the organisation and operation of the electricity market.
- (3) The electricity market operator shall pass, upon prior approval of the State Regulator and in line with instructions given by the State Regulator, the rules on organisation of the electricity market, whose integral part are the rules on organisation of the balancing electricity market and which includes the rules on settlement of the balancing energy as well as rules on organisation of the day-ahead electricity market and rules on organisation of the intra-day electricity market. In the procedure for granting prior approval, the State Regulator shall obtain the opinion of the transmission system operator. The rules on organisation of the electricity market shall be published in the Official Gazette of Bosnia and Herzegovina.

Article 62

Electricity market participants

- (1) Electricity undertakings and other legal and natural persons shall be allowed to participate in the electricity market for sale and/or purchase of electricity under the terms and conditions stipulated in this Law and the applicable rules on organisation of the electricity market.
- (2) Each electricity market participant, including producers, traders, suppliers, including those performing the supply of electricity as a public service, and final customers, shall be entitled for trade in electricity on the organised electricity market of Bosnia and Herzegovina under the terms and conditions stipulated in this Law and the applicable rules on organisation of the electricity market.
- (3) Electricity market participants shall regulate their mutual rights and obligations by contracts in line with the rules on organisation of the electricity market.

- (4) In relation to the obligation of procuring electricity to cover the losses in the transmission and distribution network, the transmission system operator and distribution system operators are specific electricity market participants whose special characteristics are further regulated by the rules on organisation of the electricity market.
- (5) In relation to the trade on the day-ahead electricity market and intra-day electricity market, where the electricity market operator represents a contractual party, the electricity market operator is a specific electricity market participant whose special characteristics are further regulated by the rules on organisation of the electricity market.

Article 63

Liability of the electricity market participants in relation to imbalances

- (1) Liability for the imbalance is established for all electricity market participants based on the balancing group model, for the purpose of unobstructed performance of purchase and sale transactions on the electricity market and their fair settlement, achieving a balance between generation and consumption in the electricity system of Bosnia and Herzegovina and separation of financial transactions from physical delivery.
- (2) The conditions related to details of the balancing group model, including rights and obligations of the balancing group responsible parties *vis-à-vis* the balancing group, on one hand, and the electricity market operator, on the other hand, shall be prescribed by the electricity market operator in the rules on organisation of the electricity market, which shall include the definition of the balancing group responsible parties, as well as the liability for the imbalance of those undertakings.
- (3) The electricity market operator shall be responsible for the establishment and calculation of the balancing energy required due to imbalances of balancing group responsible parties and for keeping a register of the balancing group responsible parties.
- (4) The register of accounting metering points of one balancing group for delivery points in the transmission system shall be kept by the transmission system operator and for delivery points in the distribution system by the distribution system operator. The transmission system operator and the distribution system operators shall use data from the register to deliver data required for the establishment and calculation referred to in paragraph 3 of this Article to the electricity market operator in line with the rules on organisation of the electricity market and the rules on supplier switching.

Article 64

Monitoring and supervision of the electricity market

- (1) The State Regulator shall carry out the monitoring and supervision of the electricity market under the terms and conditions stipulated in this Law and in the rules on the monitoring of the electricity market, as adopted by the State Regulator.
- (2) By the 31st of March each year the State Regulator shall prepare and publish the report on the electricity market which at least shall include a detailed review of the organisation and functioning of the electricity market in Bosnia and Herzegovina, analysis of the activities of the electricity market participants, and indicated trends of any developments in the electricity market.

- (3) The electricity market operator while carrying its tasks defined in Article 60 [*Tasks of the electricity market operator*] shall:
 1. analyse the organisation of the electricity market and propose to the State Regulator measures for its improvement;
 2. provide the State Regulator and the transmission system operator with an opinion on the rules on the electricity system balancing from the Article 45 [*The rules on allocation <...> electricity system balancing*] of this Law upon their adoption;
 3. provide the State Regulator and the transmission system operator with an opinion on the rules for allocation and use of cross-border capacities, as referred to in Article 45 [*The rules on allocation <...> electricity system balancing*] of this Law; and
 4. perform other functions with regard to the observation of the trade in electricity within the entire territory of Bosnia and Herzegovina, as assigned to by this Law and/or by the rules on the monitoring of the electricity market.
- (4) The electricity market operator and transmission system operator, within their respective competences, shall inform the State Regulator on any indicated or potential infringements of requirements for activities in the electricity market.

Article 65 ***Competition in the electricity market***

- (1) The State Regulator shall pursue that conditions for effective competition in the electricity market and its development are established, and possibilities for market abuse are timely intercepted and controlled.
- (2) For the purposes of paragraph 1 of this Article, the State Regulator shall carry out the monitoring the electricity market and, when necessary, shall therefore proceed with the market survey:
 1. upon request of competent authorities of Bosnia and Herzegovina;
 2. upon request of the electricity market participants or other parties concerned;
 3. on its own initiative.
- (3) The market survey shall constitute the following:
 1. definition of the market (scope of services and geographical territory);
 2. analysis of the effectiveness of competition in the market and quantitative assessment of the concentration in the market (including the Herfindahl-Hirschman Index (HHI), used as a measure to assess the share of the electricity market possessed by each electricity undertaking and the amount of competition among several electricity undertakings);
 3. indication of persons having significant influence upon the market, as referred to in Article 66 [*Significant influence upon the electricity market*] of this Law; and
 4. conclusions of the market survey, which shall include decisions on or proposals for regulatory measures referred to in paragraph 8 of this Article.
- (4) The market survey shall be carried out under the terms and conditions established by the rules on the electricity market survey, as adopted by the State Regulator, and following respective decision of the State Regulator.

- (5) The market survey shall be processed in line with the laws of Bosnia and Herzegovina, respective regulations and/or recommendations of the Energy Community, and taking into account recommendations of competent authorities of Bosnia and Herzegovina and best international practices in the field.
- (6) For the purposes of the market survey, the State Regulator shall proceed with public consultations, as referred to in Article 19 [*Public consultations and cooperation*] of this Law. Comments received during the public consultations shall be analysed by the State Regulator and their consolidated review, including explanations provided by the State Regulator, shall be publicly announced on the website of the State Regulator.
- (7) The market survey shall be finished in four (4) months from the date of the respective decision of the State Regulator to start such market survey. If reasonably required and duly justified, such term may be extended under decision of the State Regulator, but in any case not longer than for additional four (4) months. The State Regulator shall pursue that the market survey is finished in the most effective and timely manner.
- (8) The market survey shall be finished by adoption of the decision of the State Regulator, which shall demonstrate the outcomes of questions referred to in paragraph 3 of this Article. Decisions on or proposals for regulatory measures may include the following:
 1. decision on temporary suspension or permanent revocation of license for the electricity activities, as referred to in paragraph 2-4 of Article 11 [*Duration, suspension, revocation, modification and transfer of licenses*] of this Law;
 2. decision on application of financial penalties, as referred to in Articles 81 [*Penalty provisions*] and 82 [*Enforcement of the penalty provisions*] of this Law;
 3. obligatory decisions to be implemented by the Entity Regulators within the framework of their competence and jurisdictional powers;
 4. decision on application of measures to promote market opening according to Article 58 [*Measures to promote market opening*] of this Law; and /or
 5. proposals for the Competition Council to apply respective regulatory measures within its specific competence.
- (9) Results of the market survey and respective decisions of the State Regulator shall be submitted to the Ministry, the Entity Regulators, other competent authorities of Bosnia and Herzegovina, and shall be publicly announced on the website of the State Regulator.
- (10) Monitoring of competition of the electricity market in Bosnia and Herzegovina shall be also ensured by the Competition Council with the framework of its competence under the applicable laws of Bosnia and Herzegovina.

Article 66

Significant influence upon the electricity market

- (1) An undertaking shall be deemed as having a significant influence upon the electricity market in cases where it, individually or in collaboration with another undertaking (or undertakings), covers a share of the respective market which may be considered as dominant, *i.e.* rendering such economic power which allows to undertake commercial activities enough independently from competitors, clients and/or customers.

- (2) In case an undertaking is deemed as having significant influence upon one particular market, it may be also considered as such in another closely interrelated market, in case such interrelation between those two markets allows using the influence in one market for increase of respective influence in another market.
- (3) An undertaking, which is acknowledged as having a significant influence upon the electricity market under the decision of the State Regulator, shall be deemed as such until the State Regulator adopts another decision stating the absence of such influence.

CHAPTER IX CROSS-BORDER EXCHANGES IN ELECTRICITY

Article 67

Management of the cross-border exchanges in electricity

- (1) In line with international agreements which bind Bosnia and Herzegovina, the transmission system operator shall manage the cross-border transmission of electricity through the transmission network under the conditions and in the manner established by those agreements and technical capacities of cross-border transmission lines, as well as of the overall transmission network.
- (2) The amount of financial resources which are collected for using cross-border lines shall be settled between the transmission system operator and system operators in other countries involved in the transit of electricity, in line with this Law, arranged procedures and all applicable international agreements and obligations.
- (3) The transmission system operator shall inform the State Regulator on actual use and purpose of revenues received in relation to use of cross-border transmission lines so as to allow the State Regulator to exercise its regulatory powers with respect to cross-border transmission lines and interconnections as defined under this Law.
- (4) The transmission system operator shall be responsible for the development of a general scheme for the calculation of the total capacity for transfer of electricity through the transmission network (hereinafter – “the transfer capacity”) and the transmission reliability margin based upon the electrical and physical features of the network. Transmission system operator shall submit that scheme and all its amendments to the State Regulator for prior approval and publish it in appropriate form.
- (5) The transmission system operator shall publish estimates of available transfer capacity for each day, indicating any available transfer capacity already reserved. Those publications shall be made at specified intervals before the day of transmission and shall include, in any event, week-ahead and month-ahead estimates, as well as a quantitative indication of the expected reliability of the available transmission capacity.
- (6) Producers, which own or operate the electricity generation facilities, where at least one generation unit has an installed capacity of at least 250 MW, shall keep at the disposal of the State Regulator, the Entity Regulators and the Competition Council, for five (5) years all hourly data per plant that is necessary to verify all operational dispatching decisions and the bidding behaviour at power exchanges, interconnection auctions, reserve markets and over-the-counter-markets. The per-plant and per-hour information to be stored shall include, but shall not be limited to, data on available generation capacity and committed reserves, including allocation of those committed reserves on a per-plant level, at the times the bidding is carried out and when production takes place.

- (7) The State Regulator, in line with internationally assumed obligations of Bosnia and Herzegovina, shall deliver, upon request, to the competent bodies of the Energy Community all data related to cross-border electricity flows.

Article 68
Transit of electricity

- (1) Operational requirements for transit of electricity through the territory of Bosnia and Herzegovina using its transmission network shall be regulated by the transmission network code.
- (2) There shall be no specific network charge on individual transactions for declared transits of electricity.

Article 69
Congestion management

- (1) Network congestion problems shall be addressed with non-discriminatory market-based solutions which give efficient economic signals to the electricity market participants, the transmission system operator and other involved electricity undertakings.
- (2) Network congestion problems shall preferentially be solved with non-transaction based methods, *i.e.* methods that do not involve a selection between the contracts of individual electricity market participants.
- (3) Transaction curtailment procedures shall only be used in emergency situations where the transmission system operator must act in an expeditious manner and re-dispatching or counter trading is not possible. Any such procedure shall be applied in a non-discriminatory manner. Except in cases of force majeure, electricity market participants who have been allocated transmission capacity shall be compensated for any curtailment.
- (4) The transmission system operator shall make the maximum capacity of cross-border interconnection lines and transmission network affecting cross-border exchanges available to electricity market participants, providing consistency with the security standards of the electricity system operation in Bosnia and Herzegovina and neighbouring systems.
- (5) Electricity market participants shall inform the transmission system operator a reasonable time in advance of the relevant operational period whether they intend to use allocated transmission capacity. Any allocated transmission capacity that is not used shall be reattributed to the electricity market, in an open, transparent and non-discriminatory manner.
- (6) Transmission system operator shall, as far as technically possible, net the capacity requirements of any power flows in opposite direction over the congested cross-border interconnection line in order to use that line to its maximum capacity.
- (7) Having full regard to security of operation of the electricity system, the transmission system operator shall make sure that transactions which relieve congestions are never to be denied.
- (8) In the case when capacity nominations for the use of the interconnector from all the electricity market participants net out to a total capacity lower than the available transfer

capacity and no congestion exists, all market participants shall be served and no additional congestion management charges shall be imposed.

- (9) Any revenues that the transmission system operator receives in relation to use of cross-border transmission lines shall be used for the following purposes:
1. guaranteeing the actual availability of the allocated transmission capacity; and/or
 2. maintaining or increasing interconnection capacities through investments in the transmission network, in particular in new interconnectors.
- (10) If the revenues received by the transmission system operator cannot be efficiently used for the purposes set out in paragraph 9 of this Article, the State Regulator shall include this unused revenue in the methodology for calculating price for the transmission network use with the view of decreasing the tariff for the transmission network use. The rest of the revenues shall be placed on a separate internal account until such time as they can be spent on the purposes set out in paragraph 9 of this Article. The State Regulator shall inform the Energy Community Regulatory Board thereof.

Article 70

Inter-transmission system operator compensation mechanism

- (1) Transmission system operators shall receive compensation for costs incurred as a result of hosting cross-border flows of electricity on their networks.
- (2) The compensation referred to in paragraph 1 shall be paid by the operators of national transmission systems from which cross-border flows originate and the systems where those flows end.
- (3) Compensation payments shall be made on a regular basis with regard to a given period of time in the past. *Ex-post* adjustments of compensation paid shall be made where necessary, to reflect costs actually incurred.
- (4) The magnitude of cross-border flows hosted and the magnitude of cross-border flows designated as originating and/or ending in national transmission systems shall be determined on the basis of the physical flows of electricity actually measured during a given period of time.
- (5) The costs incurred as a result of hosting cross-border flows shall be established on the basis of the forward-looking long-run average incremental costs, taking into account losses, investment in new infrastructure, and an appropriate proportion of the cost of existing infrastructure, in so far as such infrastructure is used for the transmission of cross-border flows, in particular taking into account the need to guarantee security of supply. When establishing the costs incurred, recognised standard-costing methodologies shall be used. Benefits that a network incurs as a result of hosting cross-border flows shall be taken into account to reduce the compensation received.

Article 71

Exemptions for new interconnectors

- (1) New direct current interconnectors may, upon request of the electricity undertakings concerned, be exempted for their entire capacity or for a part of the respective capacity, for a limited period of time, from the provisions of paragraph 2 of Article 17 [*Duties and tasks of the State Regulator*], Article 33 [*Ownership unbundling of the TSO*], and paragraph 8 of Article 69 [*Congestion management*] of this Law, as well as respective

provisions regulating third-party access to the transmission network under the following conditions:

1. the investment must enhance competition in electricity supply;
 2. the level of risk attached to the investment is such that the investment would not take place unless an exemption is granted;
 3. the interconnector must be owned by a natural or legal person which is separate at least in terms of its legal form from the transmission system operator and the system operator of the system with which the interconnector will be built;
 4. charges are levied on users of that interconnector;
 5. no part of the capital or operating costs of the interconnector has been recovered from any component of charges made for the use of transmission or distribution systems linked by the interconnector; and
 6. the exemption must not be to the detriment of competition or the effective functioning of the electricity market in Bosnia and Herzegovina and in one or more regions, or the efficient functioning of the regulated system to which the interconnector is linked.
- (2) Paragraph 1 of this Article shall also apply, in exceptional cases, to alternating current interconnectors provided that the costs and risks of the investment in question are particularly high when compared with the costs and risks normally incurred when connecting two neighbouring transmission systems by an alternating current interconnector.
- (3) Paragraph 1 of this Article shall also apply to significant increases of capacity in existing interconnectors.
- (4) The decision on the exemption under paragraphs 1, 2 and 3 shall be taken on a case-by-case basis by the State Regulator and the regulatory authority of the neighbouring country concerned. An exemption may cover all or part of the capacity of the new interconnector, or of the existing interconnector with significantly increased capacity. Without any delay, the State Regulator shall inform the Energy Community Regulatory Board on the request for exemption which has been received.
- (5) Within two (2) months from the date on which the request for exemption was received by the State Regulator, the Energy Community Regulatory Board may submit an advisory opinion to the State Regulator which could provide a basis for its decision.
- (6) In deciding to grant an exemption, consideration shall be given, on a case-by-case basis, to the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the interconnector. When deciding those conditions, account shall, in particular, be taken of additional capacity to be built or the modification of existing capacity, the time-frame of the project and national circumstances.
- (7) Before granting an exemption, the State Regulator shall decide upon the rules and mechanisms for management and allocation of capacity. Congestion management rules shall include the obligation to offer unused capacity on the market and users of the facility shall be entitled to trade their contracted capacities on the secondary market. In the assessment of the criteria referred to in subparagraphs 1, 2 and 6 of paragraph 1 of this Article, the results of the capacity allocation procedure shall be taken into account.
- (8) Where the State Regulator and the regulatory authority of the neighbouring country concerned have reached agreement on the exemption decision within six (6) months, the

State Regulator shall inform the Energy Community Regulatory Board of that decision. The exemption decision, including any conditions referred to in the paragraph 6 of this Article, shall be duly reasoned and published.

- (9) The decision referred to in paragraphs 4 to 8 of this Article shall be taken by the Energy Community Regulatory Board:
1. where the State Regulator and the regulatory authority concerned have not been able to reach an agreement within six (6) months from the date the exemption was requested before the last of those regulatory authorities; or
 2. upon a request from the State Regulator or the regulatory authority concerned.
- (10) Before the Energy Community Regulatory Board takes a decision referred to in paragraph 9 of this Article, the Energy Community Regulatory Board shall consult the regulatory authorities concerned and the applicants.
- (11) Notwithstanding paragraphs 4 to 10 of this Article, the State Regulator may consult, where relevant, the Entity Regulators and other competent authorities of Bosnia and Herzegovina, on the basis of Article 19 [*Public consultations and cooperation*] of this Law, with regard to the request for an exemption. Opinions received by the State Regulator shall be published together with the decision.
- (12) A copy of every request for exemption shall be transmitted for information without delay by the State Regulator to the Energy Community Regulatory Board and to the Energy Community Secretariat on receipt. The decision shall be notified, without delay, by the State Regulator or by the Energy Community Regulatory Board, to the Energy Community Secretariat, together with all the relevant information with respect to the decision. That information may be submitted to the Energy Community Secretariat in aggregate form, enabling the Energy Community Secretariat to reach a well-founded decision. In particular, the information shall contain:
1. the detailed reasons on the basis of which the exemption was granted or refused, including the financial information justifying the need for the exemption;
 2. the analysis undertaken of the effect on competition and the effective functioning of the electricity market resulting from the grant of the exemption;
 3. the reasons for the time period and the share of the total capacity of the interconnector in question for which the exemption is granted; and
 4. the result of the consultation of the regulatory authorities concerned.
- (13) Within a period of two (2) months from the day following receipt of notification under paragraph 12 of this Article, the Energy Community Secretariat may take a decision requesting the notifying bodies to amend or withdraw the decision to grant an exemption. That period of two (2) months may be extended by an additional period of two (2) months where further information is sought by the Energy Community Secretariat. That additional period shall begin on the day following receipt of the complete information. The initial period of two (2) months may also be extended by consent of both the Energy Community Secretariat and the notifying bodies.
- (14) When the requested information is not provided within the period set out in the request, the notification shall be deemed to be withdrawn unless, before the expiry of that period, either the period is extended by consent of both the Energy Community Secretariat and the notifying bodies, or the notifying bodies, in a duly reasoned

statement, inform the Energy Community Secretariat that they consider the notification to be complete.

- (15) The notifying bodies shall comply with a decision of the Energy Community Secretariat to amend or withdraw the exemption decision within one (1) month and shall inform the Energy Community Secretariat accordingly.
- (16) The Energy Community Secretariat shall preserve the confidentiality of commercially sensitive information.
- (17) The approval of an exemption decision issued by the Energy Community Secretariat shall expire two (2) years after the date of its adoption in the event that construction of the interconnector has not yet started by that date, and five (5) years after the date of its adoption if the interconnector has not become operational by that date, unless the Energy Community Secretariat decides that any delay is due to major obstacles beyond the control of the person to whom the exemption has been granted.

CHAPTER X SECURITY OF SUPPLY

Article 72 *Security of supply*

- (1) The State Regulator, together with the Entity Regulators and other competent authorities of Bosnia and Herzegovina, shall carry out its duties and fulfil respective tasks in regulating and monitoring of the activities of electricity undertakings so as to ensure:
 - 1. continuity of secure and reliable supply of electricity to final customers in Bosnia and Herzegovina;
 - 2. transparent and stable regulatory framework for the electricity activities, taking into account clearly defined roles and responsibilities of the electricity market participants, and harmonised regulatory practices at the level of Bosnia and Herzegovina, in the Entities and the District;
 - 3. effective functioning, development and integration of a single electricity market in Bosnia and Herzegovina, including liquidity of the internal trading in electricity, both wholesale and retail, as well as unrestricted access for cross-border exchanges in electricity;
 - 4. regular maintenance and, where necessary, renewal of the transmission and/or distribution network to maintain the performance of the respective network;
 - 5. unrestricted and justified investments to the transmission and/or distribution network in order to meet a foreseeable demand from the electricity market, including commercial investments in development of the cross-border interconnection capacities;
 - 6. promotion of electricity produced from renewable energy sources and in effective cogeneration;
 - 7. sufficient transmission and generation reserve capacities for stable operation of the power system;

8. maintaining a balance between the demand for electricity and the availability of generation capacities; contributing to the reduction of long-term effects of the growth of electricity demand;
 9. promotion, of the energy efficiency and the adoption of new technologies, in particular demand management technologies, renewable energy technologies, distributed generation, as well as smart metering technologies, in order to adopt a real-time electricity demand management;
 10. encouragement of the energy conservation measures;
 11. removed administrative barriers and minimised administrative burden to investments in the electricity infrastructure for the access of new generation capacities; and
 12. removal of barriers that prevent the use of interruptible contracts and conclusion of contracts of varying lengths for both producers and customers.
- (2) Any regulatory measures undertaken or adopted for the purpose of paragraph 1 of this Article shall be non-discriminatory, shall not distort conditions for competition and price signals on the electricity market to the extent higher than the minimum level necessary, and shall not place an unreasonable burden on the electricity market participants, including new entrants and undertakings with small market shares. Such measures shall be also justified on their economic and social effect to the final customers of Bosnia and Herzegovina, including their possible impact on the price of electricity.
- (3) In cases where building of new interconnectors or maintenance of existing interconnectors is considered by the transmission system operator in order to increase cross-border exchange capacities, any regulatory measures referred to in paragraph 1 of this Article shall be considered taking into account at least the following criteria:
1. specific geographic situation of Bosnia and Herzegovina and its neighbouring countries concerned;
 2. maintaining a reasonable balance between the costs of building new interconnectors and the benefit to final customers; and
 3. ensuring that existing interconnectors are used as efficiently as possible.
- (4) The State Regulator and other competent institutions, where necessary, shall ensure close regional and international cooperation in relation to security of supply. The transmission system operator shall cooperate with transmission system operators of the neighbouring countries for the purposes hereto.

Article 73 ***Operational network security***

- (1) The transmission system operator shall set the minimum operational rules and obligations of the security of the transmission network. Such rules and obligations shall be established in the transmission network code, as referred to in Article 43 [*Transmission network code*] of this Law.
- (2) Operational rules and obligations of the security of the transmission network shall be adopted following prior consultations with the system users in Bosnia and Herzegovina

and, where relevant, with transmission system operators of the neighbouring countries, and shall be approved by the State Regulator.

- (3) The State Regulator and the Entity Regulators shall ensure that transmission and, where relevant, distribution system operators comply with the minimum operational requirements, and maintain an appropriate level of the operational network security.
- (4) The transmission system operator shall maintain an appropriate level of technical transmission reserve capacity for operational network security and cooperate with transmission system operators of the neighbouring and/or other countries concerned. The level of foreseeable circumstance in which security shall be maintained shall be defined in the transmission network code.
- (5) The transmission system operator shall exchange information with the relevant system operators in interconnected systems relating to the operation of network in a timely and effective manner in line with the minimum operational requirements.
- (6) The transmission system operator shall meet network security performance objectives and, where relevant, the quality of electricity supply, as adopted or approved by the State Regulator respectively.
- (7) For the purposes of the cross-border exchanges in electricity and the operational network security thereto, the transmission system operator, the electricity market operator and/or any other electricity undertaking in charge shall not discriminate between the cross-border contracts and national contracts.

Article 74 ***Curtailment of supply***

- (1) Supply of electricity to the final customers in Bosnia and Herzegovina may be temporarily interrupted only when such interruption is justified by necessity to secure the public interest, including the emergency situation in electricity, as referred to in Article 75 [*Emergency situation in electricity*] of this Law, or in case when such interruption is technically required for maintenance of the network or connection of new customers.
- (2) Supply of electricity may be interrupted or restricted without prior notice to the customers only in cases when it is required to avoid accidents or breakdowns in the power system, or to eliminate such accidents or breakdowns, including conditions referred to in paragraph 1 of this Article. In these cases the customers shall be informed without any delay on such interruptions or restrictions, their effect towards supply of electricity and intended continuance.
- (3) Curtailments of supply due to the planned maintenance of the transmission network shall be carried out following the adopted schedule, which shall be publicly announced, and respective separate announcements shall be sent to the customers at least two (2) business days before the intended start of the maintenance works.
- (4) Without prejudice to paragraphs 1 and 2 of this Article, the transmission system operator may interrupt the supply of electricity for those customers which do cause disturbances in the network and/or negative impact towards the quality of electricity supply, in case such infringements are not eliminated in five (5) days following a written notice from the respective operator, and their continuance may cause the risk of

accident or breakdown in the power system or otherwise negatively effects security, safety and/or reliability of the power system.

- (5) The transmission system operator may also interrupt supply of electricity to the customers which did not pay for the electricity consumed or for the services provided by the transmission system operator in ten (10) days following written notice from the transmission system operator. Such written notice may be issued by the transmission system operator after the customer fails to pay for the electricity consumed or for the services provided in a time period defined by implementing regulations and/or the respective contract.
- (6) The transmission system operator may, upon prior written notice provided in terms referred to in paragraph 5 of this Article, interrupt supply of electricity to the customers which do not allow for authorised representatives of the operators to enter the territory of the customer for installation, maintenance or verification of the electricity metering devices.
- (7) Requirements for supply of electricity, including rights and obligations of the transmission system operator and customers thereto, shall be regulated under the rules adopted by the State Regulator and the Entity Regulators, taking into account general requirements stipulated in this Law.

Article 75

Emergency situation in electricity

- (1) Emergency situation in electricity may be caused and announced in case generation, transmission, distribution, supply of electricity and/or trade in electricity is interfered by unexpected circumstances or those beyond the reasonable control of the electricity undertakings in charge, and which threatens the overall security and reliability of the power system or supply to the final customers in order to meet their daily demand for electricity.
- (2) Emergency situation in electricity shall be announced under the decision of the Council of Ministers following its adopted rules and regulations.
- (3) Any safeguard measures applied in case of the emergency situation in electricity shall be duly consulted and closely coordinated with the State Regulator and the Entity Regulators, the transmission system operator and distribution system operators, as well as competent authorities and operators of the Energy Community Parties and/or other countries concerned.
- (4) All such measures referred to in paragraph 4 of this Article shall be applied temporarily and shall cause least possible disturbance in the functioning of the electricity market, and shall not be wider in scope than is strictly necessary to remedy the threat to the physical safety or security of persons, electricity facilities and/or equipment. The Council of Ministers shall without delay notify these safeguard measures to the Energy Community Secretariat and shall provide all relevant data and information.

Article 76

Technical and safety provisions

- (1) The technical and safety provisions applicable for the electricity facilities and equipment, including technical safety criteria, minimum technical design and operational requirements, as well as requirements for technical inspections thereto, shall

be regulated by the rules and regulations, as referred to in Article 30 [*Compatibility and interoperability of the power system*] of this Law, adopted by the Ministry and competent authorities of the Entities within the framework of their competences and jurisdictional powers.

- (2) Such rules and regulations shall be clearly defined, objective and non-discriminatory, and shall ensure the interoperability of the power system of Bosnia and Herzegovina.
- (3) The professional qualification and experience of natural and legal persons authorised to carry out technical and safety responsibilities, such as physical construction, engineering and maintenance works with the electricity facilities and equipment shall be defined in the rules and regulations referred to in paragraph 1 of this Article.

Article 77 ***Monitoring of security of supply***

- (1) The Ministry shall monitor, in cooperation with the State Regulator, the Entity Regulators and, where relevant, with other competent authorities of Bosnia and Herzegovina, as well as with the transmission system operator, the security of supply in Bosnia and Herzegovina. Such monitoring shall, in particular, cover:
 1. the balance of supply and demand on the single electricity market of Bosnia and Herzegovina;
 2. the level of expected future demand and envisaged additional capacity being planned or under construction; and
 3. the quality and level of maintenance of the networks, as well as measures to cover peak demand and to deal with shortfalls of one or more suppliers.
- (2) By the 31st of July each second year the Ministry shall prepare and publish a common single report for Bosnia and Herzegovina, incorporating the information collected and compiled by the State Regulator, the Entity Regulators and, where relevant, by other competent authorities and the transmission system operator. This report shall outline the findings resulting from the monitoring of those issues referred to in paragraph 1 of this Article, as well as any measures taken or envisaged to address them. First report shall be prepared and submitted in six (6) months after adoption of this Law. Report prepared by the Ministry shall be submitted to the Energy Community Secretariat forthwith.
- (3) Report referred to in paragraph 2 of this Article, shall *inter alia* cover the overall adequacy of the power system of Bosnia and Herzegovina to supply current and projected demands for electricity, comprising:
 1. operational network security;
 2. the projected balance of supply and demand for the period of next five (5) years;
 3. the prospects for security of supply for the period between five (5) and fifteen (15) years from the date of the report; and
 4. the investment intentions, for the next five (5) or more calendar years, of the transmission system operator and those of any other party of which it is known, as regards the provision of cross-border interconnection capacity.
- (4) The section of the report relating to interconnection investment intentions, referred to in subparagraph 4 of paragraph 3 of this Article, shall take account of:

1. the principles of congestion management as set out in Article 69 [*Congestion management*] of this Law;
 2. existing and planned transmission lines;
 3. expected patterns of generation, supply, trade, cross-border exchanges and consumption, allowing for demand management measure; and
 4. regional, national and pan-European sustainable development objectives, including the Energy Community priority electricity infrastructure projects.
- (5) For the purpose of carrying out its monitoring and reporting duties stipulated in this Article, the Ministry shall closely cooperate with competent authorities of Bosnia and Herzegovina, including the State Regulator and the Entity Regulators, as well as with the transmission system operator, and in this regard:
1. all data and information possessed by the State Regulator and the Entity Regulators, collected in course of carrying their regulatory functions, as well as any other relevant information possessed by other competent authorities of Bosnia and Herzegovina shall be transferred to the Ministry without any delay upon receipt of respective written request;
 2. the transmission system operator shall provide the Ministry with information on its investment intentions or those of any other party of which it is aware as regards the provision of cross-border interconnection capacity;
 3. the transmission system operator shall provide the Ministry with information on investments related to the building of internal transmission lines that materially affect the provision of cross-border interconnection capacity; and
 4. the transmission system operator, where relevant, shall consult with transmission system operators of neighbouring and/or other countries concerned, and shall provide the Ministry with respective information on cross-border cooperation.
- (6) While carrying out its monitoring and reporting duties stipulated in this Article, the Ministry shall ensure non-disclosure of the commercially sensitive information, as required under Article 54 [*Confidentiality obligations*] of this Law.

CHAPTER XI

LIABILITY AND DISPUTE SETTLEMENT

Article 78

Liability of the electricity undertakings

- (1) Electricity undertakings shall be liable for carrying out their duties and fulfilling their tasks with regard to each particular electricity activity in due compliance with requirements and obligations stipulated in this Law, other laws regulating electricity activities in Bosnia and Herzegovina and their implementing regulations.
- (2) Electricity undertakings shall perform their activities based on the general principles established in Article 3 of this Law [*General principles for the management of the electricity activities*] and shall ensure safe and reliable operations technical and safety provisions adopted by the Ministry and competent authorities of the Entities, as referred to in Article 76 [*Technical and safety provisions*] of this Law.

- (3) Electricity undertakings, or any other persons in charge, may become liable for their non-performance or misconduct under the terms and conditions established by this Law or other applicable laws of Bosnia and Herzegovina.

Article 79
Dispute settlement

- (1) Complaints filed by the electricity market participants or any other parties concerned with regard to acts or omission of the transmission system operator, electricity market operator, traders and, where relevant, transmission network owner shall be heard, as well as disputes between such persons shall be settled by the State Regulator under the terms and conditions prescribed in this Article and in the rules on hearings and dispute settlement adopted by the State Regulator.
- (2) The rules referred to in paragraph 1 of this Article shall establish, amongst others, a form for request to hear a complaint or settle a dispute, requirements for submission of such request, requirements for collection and submission of evidence, as well as a detailed procedure for hearing and dispute settlement.
- (3) The State Regulator shall refuse to hear a complaint or settle a dispute in the following cases:
 1. the State Regulator is not competent to hear a particular complaint or settle a dispute;
 2. the ruling on the same subject of the complaint or dispute is already issued by the other competent dispute settlement authority, or request to hear such complaint or to settle the dispute is accepted by another competent authority, as having legal effect to the same parties applying to the State Regulator;
 3. the State Regulator has already heard a complaint or settled the dispute on the same subject and with legal effect to the same parties applying to the State Regulator;
 4. the parties applying to the State Regulator have previously agreed to settle their dispute in the court of arbitration and the defendant refuses to present the dispute before the State Regulator and requires to comply with the agreement on arbitration, except for those disputes that are legally not allowed for arbitration; and/or
 5. request was submitted to the State Regulator by a person who is not authorised to act on behalf of the claimant.
- (4) The State Regulator shall cease the hearing or dispute settlement procedure in case any of the circumstances referred to in subparagraphs 1 and 2 of paragraph 3 of this Article appear, as well as in the following cases:
 1. the claimant withdraws its request to hear a complaint or to settle a dispute, and such withdrawal is approved by the State Regulator; or
 2. the parties entered into mutual settlement agreement, which was approved by the State Regulator.
- (5) The State Regulator shall leave the complaint unheard or the dispute unsettled in case any of the circumstances referred to in subparagraphs 4 and 5 of paragraph 3 of this Article appear, as well as in case the claimant fails to eliminate shortcomings in its

submitted request, as indicated by the State Regulator, during the reasonable time period assigned by the State Regulator.

- (6) The State Regulator shall suspend the hearing or dispute settlement procedure in the following cases:
 1. one of the parties ceased (terminated), for the period until the rights and obligations of such party will transferred to another party or such transfer would be justified as not feasible, in case the claim for the hearing or dispute settlement procedure may not be separated from the ceased (terminated) party;
 2. The State Regulator or another competent dispute settlement authority started the hearing or dispute settlement procedure the final ruling of which may have an effect with regard to the claim or dispute submitted.
- (7) The parties involved in the hearing or dispute settlement procedure, as well as any other persons concerned shall have an access to the materials of the complaint or dispute, except for a commercially sensitive information and other data and information the disclosure of which may violate an individual right to privacy. Parties to the dispute shall always have an access to the request for a complaint or dispute, and any responses by the other party thereto.
- (8) The parties involved in the hearing or dispute settlement procedure shall have the right to present evidence, explanations, arguments and opinions, as well as to object to the claims, arguments and reasoning presented by the other party or other persons concerned. The claimant shall have the right to withdraw its request for a complaint or dispute, and the defendant shall have the right to accept or reject such withdrawal. The parties may complete the hearing or dispute settlement procedure by their mutual settlement agreement approved by the State Regulator. The parties involved in the hearing or dispute settlement procedure, as well as other persons concerned shall exercise their rights in good faith.
- (9) The State Regulator shall apply a written procedure for hearing of complaints or settlement of disputes, except for in case where oral proceedings are requested by any of the parties, other persons concerned or decided by the State Regulator. The State Regulator shall inform the parties and other persons concerned on the oral proceeding in due time, but their absence shall not a precondition to adjourn or otherwise restrict the proceedings. Oral proceedings in the State Regulator shall be open for public, except it is otherwise announced by the State Regulator in order to preserve the commercially sensitive information or individual right of privacy.
- (10) The State Regulator shall have a right to refuse acceptance of the evidence or any other materials submitted by the parties, if they had to be submitted before filing a complaint or a request to settle a dispute or during later proceedings, as requested by the State Regulator.
- (11) The State Regulator, acting as a dispute settlement authority, shall issue a ruling within a time period of two (2) months after receipt of the complaint or request to settle a dispute, including all the documentation and/or other information required to be enclosed to such a complaint or request. Such time period may be extended by two (2) months where additional information is sought by the State Regulator. The ruling of the State Regulator shall have a binding effect unless and until it is overruled on appeal, as referred to in Article 80 [*Appeal and judicial review*] of this Law.

- (12) The ruling of the State Regulator shall be publicly announced, except for its parts considered as a commercially sensitive information or important to preserve an individual right of privacy. Such information may be indicated by the parties, other persons concerned or decided by the State Regulator. Part of the ruling related to the interpretation of the law shall always be public. The State Regulator shall provide the parties with a detailed explanation and legal justification of its ruling.
- (13) If so agreed between the parties, the State Regulator may act as a mediator with regard to any complaint or dispute in questions under the terms and conditions stipulated in the rules on mediation adopted by the State Regulator.
- (14) The State Regulator shall be entitled to reimbursement of costs incurred during the procedures of hearing, dispute settlement and/or mediation.
- (15) Complaints and disputes related to the customer protection shall be respectively heard and settled under the terms and conditions established by applicable laws regulating the customer protection in Bosnia and Herzegovina.

Article 80

Appeal and judicial review

- (1) All rulings issued by the State Regulator shall be appealable to the Court of Bosnia and Herzegovina.
- (2) The Court of Bosnia and Herzegovina may entertain appeals of decisions rendered by the State Regulator lodged with the Court within sixty (60) days of the public notice of such decision. In its review of the appeal, the Court of Bosnia and Herzegovina shall consider only the following aspects of the case:
 1. whether the State Regulator acted in violation of this Law or its implementing regulations;
 2. whether the State Regulator wrongly applied applicable rules and regulations; or
 3. whether there has appeared new facts in the case, which were not known at the time of the previous decision and which, if known, would have changed the outcome of that decision.
- (3) Law on Administrative Disputes of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, No 19/02, 88/07 and 83/08) shall be accordingly applied to the judicial review of the decisions of the State Regulator.

Article 81

Penalty provisions

- (1) The State Regulator may impose a financial penalty of up to 10% of the annual turnover of the transmission system operator on the transmission system operator or of up to 10% of the annual turnover of the vertically integrated undertaking on the vertically integrated undertaking or, as the case may be, up to 10% of the annual turnover of the transmission network owner on the transmission network owner for non-compliance with their respective obligations on the unbundling of electricity activities and/or independence of the transmission system operator.
- (2) A financial penalty of a lump sum from KM 15,000 to 50,000 may be imposed on the responsible person (or persons) in the transmission system operator or vertically

integrated undertaking or, as the case may be, the transmission network owner for violations referred to in paragraph 1 of this Article.

- (3) The State Regulator may impose a financial penalty of a lump sum from KM 50,000 to 200,000 for each violation of this Law when an electricity undertaking:
1. carries out a regulated activity in the electricity without a license or, where relevant, without final decision on granting of the certification, except otherwise expressly allowed under this Law;
 2. carries out more economic activities, and at least one or more of them is an electricity activity, and fails to comply with the requirements for unbundling of accounts and their accessibility, are required under this Law and/or its implementing regulations;
 3. fails to provide the State Regulator, the transmission system operator or the electricity market operator with requested data and information;
 4. improperly refuses to grant access to the transmission network;
 5. does not comply with technical and safety rules and regulations; and/or
 6. fails to carry out its duties or fulfil its tasks pursuant to its respective license, as determined by this Law, other applicable laws and their implementing regulations.
- (4) A financial penalty of a lump sum from KM 300 to 15,000 may be imposed on the responsible person (or persons) in the electricity undertaking for violations referred to in paragraph 3 of this Article.
- (5) In addition to the financial penalties referred in to paragraph 3 of this Article, an electricity undertaking may be banned by a decision of the State Regulator from carrying out the electricity activities for up to one (1) year, and a responsible person in such undertaking may be banned from carrying out the same activities for a period of one (1) year, if these violations are committed by two (2) or more times repeatedly.
- (6) The State Regulator may impose a financial penalty of a lump sum from KM 3,000 to 20,000 for each violation of this Law of any legal person when:
1. its facilities do not comply with technical and safety rules and regulations, and if they threaten the stability, reliability and/or safety of the power system of Bosnia and Herzegovina;
 2. it wrongfully impedes access to the electrical transmission facilities located on its real estate for purpose of maintenance; or
 3. it wrongfully plants vegetation in the soil that can endanger safety of transmission lines, plants, human lives and property, or if that vegetation aggravates normal utilisation of said facilities.
- (7) The State Regulator may impose a financial penalty of a lump sum up to KM 2,000 for each violation of this Law by any natural person when:
1. without approval granted by the transmission system operator connects to the electrical transmission system; or
 2. wrongfully plants vegetation in the soil that can endanger safety of transmission lines, electrical facilities, human lives and property, or if that vegetation aggravates normal utilisation of said facilities.

- (8) Financial penalties levied pursuant to this Law shall be considered as revenue of Bosnia and Herzegovina.

Article 82

Enforcement of the penalty provisions

- (1) Enforcement of the penalty provisions, as referred to in Article 81 [*Penalty provisions*] of this Law, shall be regulated under the rules adopted by the State Regulator in accordance with the mandatory requirements and criteria specified in this Article.
- (2) Penalties to the electricity undertakings and other persons concerned shall be differentiated by the State Regulator based on the following criteria:
1. gravity and continuity of the infringement;
 2. overall effect of the infringement;
 3. palliating or aggravating circumstances.
- (3) Proactive behaviour of the electricity undertaking or other person concerned if aimed at minimising the overall negative effect of the infringement, immediate cease of the violating activities, and supporting the State Regulator in investigation of any effects related thereto shall be treated as palliating circumstances.
- (4) Behaviour of the electricity undertaking or other person concerned if impeding investigation of the infringement of this Law, aimed to conceal such infringement or any effects thereto, continuity of the violating activities, or repeated infringements shall be considered as aggravating circumstances.
- (5) Other palliating or aggravating circumstances apart from those specified in paragraphs 3 and 4 of this Article shall also be taken into consideration by the State Regulator.
- (6) Decision to impose a penalty shall be adopted within six (6) months after the infringement was detected by the State Regulator. Payment provisions may not be enforced due to the infringement ceased more than five (5) years before its detection or disclosure of its effects. Only one penalty can be imposed for the same infringement or violation.
- (7) Penalties imposed by the State Regulator shall be paid within the time period indicated in the respective decision of the State Regulator.
- (8) In case the electricity undertaking, other legal or natural person refuses to implement or execute the decision on the imposition of the penalty, the State Regulator may seek for the legal enforcement assistance from other competent authorities for its execution. In its request for such an assistance the State Regulator shall indicate and justify required legal measures. In the application of the forcible measures, the competent authorities shall act in accordance with the request of the State Regulator, fully abiding by the legal measures indicated by the State Regulator.
- (9) In case infringement of this Law is also investigated by the Competition Council, the State Regulator shall cooperate with the Competition Council to solve any issues relevant thereto. For the same infringement only one penalty may be imposed, whether under the terms and conditions of this Law or of these laws regulating enforcement of penalties imposed by the Competition Council.

CHAPTER XII FINAL AND TRANSITORY PROVISIONS

Article 83 *Implementation of the Law*

- (1) Competent authorities of Bosnia and Herzegovina shall, within the scope of their competences and jurisdictional powers, adopt the rules and regulations, and shall make other decisions on legislative and/or regulatory incentives required for due implementation of this Law.
- (2) Rules and regulations implementing this Law shall be prepared, consulted and adopted within six (6) months from the date of entry into force of this Law, unless other terms are provided in transitory provisions herein below.
- (3) Until the entry into force of the rules and regulations under paragraph 2 of this Article, rules and regulations relating to the matters concerned shall apply if they are not in conflict with the provisions of this Law.
- (4) Proceedings initiated before the entry into force of this Law shall be completed by applying the provisions of the respective legal and regulatory requirements which have been in force at the date of the start of such proceedings.
- (5) Competent institutions of Bosnia and Herzegovina, including those operating at the level of Bosnia and Herzegovina, in the Entities and in the District, shall cooperate, within the framework of their competence and jurisdictional powers, to address and resolve issues related to the implementation of this Law.

Article 84 *Transitory provisions with regard to unbundling of the transmission system operator*

- (1) The principle decision on the selected model for unbundling of the transmission system operator, as referred to in paragraph 4 of Article 34 [*Legal status of the TSO*] of this Law, shall be made not later than within three (3) months from the date of entry into force of this Law under the following general terms and conditions:
 1. the Ministry, in cooperation with the competent ministries of the Entities, the State Regulator and the Entity Regulators, shall prepare and submit to the Council of Ministers the memorandum on the requirements for unbundling of the transmission system operator, possible alternative solutions, their advantages and disadvantages, as well as proposed model for unbundling and scenario for its implementation;
 2. if deemed necessary, before its submission to the Council of Ministers, the memorandum prepared by the Ministry may be consulted with key stakeholders in the electricity sector of Bosnia and Herzegovina and/or announced for public consultations;
 3. the Council of Ministers shall consider the memorandum submitted by the Ministry in close cooperation with the Governments of the Entities and, where relevant, in consultations with other competent authorities of Bosnia and Herzegovina;
 4. the principle decision on the selected model for unbundling of the transmission system operator shall be adopted by a decree of the Council of Ministers.

- (2) Amendments to other laws adopted by the Parliamentary Assembly or decision to repeal any of such laws, or drafts for any new laws, as it may be required for due implementation of the selected model for unbundling of the transmission system operator, including those indicated in paragraph 2 of Article 32 and paragraph 4 of Article 35 of this Law, shall be prepared in parallel with the principle decision referred to in paragraph 1 of this Article and adopted not later than within four (4) months from the date of entry into force of this Law.
- (3) The transmission system operator and, where relevant, the vertically integrated undertaking or any other private entities or public bodies related thereto shall harmonise their internal organisation, corporate structure, contractual arrangement and activities with the provisions of this Law with regard to the respective model for unbundling of the transmission system operator, and subsequently the transmission system operator shall apply to the State Regulator for its certification within twelve (12) months from the date of the principle decision referred to in paragraph 1 of this Article.
- (4) Notwithstanding paragraphs 1, 2 and 3 of this Law, conditions for independence and unbundling of the transmission system operator, as required by this Law, shall be properly implemented by 1 June 2016.
- (5) Until the final certification of the transmission system operator will be granted, for the purposes of this Law current Independent System Operator in Bosnia and Herzegovina and Elektroprenos-Elektroprijenos BiH shall be deemed as temporarily authorised to continue with their respective activities, including relevant competences and obligations, related to the operation of the transmission system and transmission of electricity based on the licenses issued before this Law came into force, as referred to in paragraph 6 of Article 32 of this Law.

Article 85

Transitory provisions with regard to certification in relation to third countries

- (1) Article 38 [*Certification in relation to third countries*] of this Law shall apply from 1 January 2017.
- (2) The transmission system operator shall provide the State Regulator with all relevant data and information necessary for proper implementation of requirements and obligations under Article 38 [*Certification in relation to third countries*] of this Law within three (3) months from the date indicated in paragraph 1 of this Article.

Article 86

Transitory provisions with regard to the transmission network management

- (1) The transmission system operator shall adjust metering points on the transmission and distribution network, and the interface between the transmission network and the system users, in accordance with the transmission network code within two (2) years from the date of entry into force of this Law.
- (2) The transmission system operator shall establish a permanent monitoring of power quality at the interface of the transmission and distribution networks, and the interface between the transmission network and the system users, within two (2) years from the date of entry into force of this Law.
- (3) The transmission system operator and distribution system operators are obliged to conclude an agreement on the mutual obligations for each object that is co-owned and

are associated with the use and managing the facility within twelve (12) months from the date of entry into force of this Law.

Article 87

Transitory provisions with regard to market opening

- (1) Paragraph 1 of Article 55 [*Market opening*] of this Law shall apply from 1 January 2015.
- (2) Until the date referred to in paragraph 1 of this Article, each non-household customer in Bosnia and Herzegovina shall be treated as eligible customer and shall be therefore entitled to a free choice of supplier and its change.
- (3) Until the setting-up of a system for procurement of ancillary services and provision of system services in accordance with conditions regulating a well-functioning electricity market, but in any case not later than by 1 January 2018, the conditions and tariffs for the provision or ensured provision of such services shall be defined using a methodology adopted for this purpose by the State Regulator. The State Regulator shall set the tariffs for the procurement of ancillary services and for the provision of system services during the transitory period.

Article 88

Transitory provisions with regard to the appointment of the State Regulator

- (1) Commissioners of the State Regulator appointed before this Law comes into force shall remain in their positions for their remaining terms, as previously assigned.
- (2) Procedures for appointment of new Commissioners of the State Regulator, if started before this Law comes into force, shall be finished under the terms and conditions stipulated in the relevant laws and their implementing regulations applied at the moment when such procedures were started.

Article 89

Transitory provisions with regard to the penalty provisions

- (1) The State Regulator shall notify the provisions stipulated in Articles 81 [*Penalty provisions*] and 82 [*Enforcement of the penalty provisions*], and any other regulatory instruments established thereto, to the Energy Community Secretariat by 1 January 2015.
- (2) The State Regulator shall notify the Energy Community Secretariat without delay of any subsequent amendment affecting provisions referred to in paragraph 1 of this Article.

Article 90

Relevant legal acts of the European Union

This Law transposes the following legal acts of the European Union, constituting the *acquis communautaire* on electricity within the regulatory framework of the Energy Community:

1. Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity, as adopted by Decision

No 2011/02/MC-EnC of the Ministerial Council of the Energy Community of 6 October 2011;

2. Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity, as adopted by Decision No 2011/02/MC-EnC of the Ministerial Council of the Energy Community of 6 October 2011; and
3. Directive 2005/89/EC of the European Parliament and of the Council of 18 January 2006 concerning measures to safeguard security of electricity supply and infrastructure investment, as adopted by Decision No 2007/06/MC-EnC of the Ministerial Council of the Energy Community of 18 December 2007.

Article 91

European Union Guidelines and Network Codes

- (1) Guidelines and Network Codes adopted within the legal and regulatory framework of the European Union, and subsequently adopted by the Energy Community, shall be transposed to the domestic legislation of Bosnia and Herzegovina without any amendments or changes thereto.
- (2) For the purposes of paragraph 1 of this Article, the State Regulator shall carry out the adoption of such Guidelines and Network Codes following respective notice on their adoption at the Energy Community, and shall monitor and enforce their proper application and implementation. All Guidelines and Network Codes shall be adopted by the decision of the State Regulator, which shall be made and publicly announced in accordance with the requirements stipulated in this Law.
- (3) The State Regulator shall notify the Energy Community Secretariat on the measures adopting the Guidelines and Network Codes, and of any subsequent changes, within two (2) weeks after the adoption of such measures.
- (4) For the purposes of this Article, the State Regulator shall cooperate with the Energy Community Secretariat, the Energy Community Regulatory Board and competent regulatory authorities of other Energy Community Parties.

Article 92

Relationship with other laws

- (1) The Law on Transmission of Electric Power, Regulator and System Operator of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, No 7/02, 13/03, 76/09 and 1/11) shall cease to apply following the entry into force of this Law.
- (2) In case of any discrepancies or conflict between provisions of this Law and other laws regulating activities in the electricity sector or any other related activities at the level of Bosnia and Herzegovina, provisions of this Law shall apply.
- (3) Provisions of the laws regulating activities in the electricity sector in the Entities and the District shall be in line with this Law.

Article 93
Entry into force

This Law shall enter into force eight (8) days after publication in the Official Gazette of Bosnia and Herzegovina. This Law will also be published in the Official Gazettes of the Entities and the District.