IMPLEMENTATION OF THE TREATY
STATUS AS OF SEPTEMBER 2007
– ELECTRICITY –

Energy Community Secretariat, Vienna

17 October 2007, Vienna, Austria

The 6th PHLG Meeting
REPORTING REQUIREMENTS

1. REPORT ON THE IMPLEMENTATION OF THE ACQUIS UNDER THE TREATY ESTABLISHING THE ENERGY COMMUNITY - requested at the 2nd MC in Becici, June 2007


5. Progress Notice in Electricity, 5th PHLG Meeting, Becici, - ECS, June 2007
IDENTIFICATION OF STATE OF PLAY AT INDIVIDUAL LEVEL

- Comparison Tables for Benchmarking Purposes

  Topics:
  - Electricity, Gas, Competition, Environment, Renewable Energy Sources.

  Electricity:
  - Adoption of the *Acquis* (Directive 2003/54/EC), Implementation of the electricity market (Roadmaps), Market integration (Regulation 1228/2003/EC).

  Scope:
## FINDINGS

### NATIONAL LEVEL with regard to Directive 2003/54/EC

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<th>Croatia</th>
<th>The former Yugoslav Republic of Macedonia</th>
<th>Montenegro</th>
<th>Serbia</th>
<th>UN Interim Admin. Mission in Kosovo</th>
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- **Bottlenecks in the process**:  
- **Some provisions are available**:  
- **Some provisions are missing**:  
- **All provisions are available**:  

- prepared by the Energy Community Secretariat -
## FINDINGS

### NATIONAL LEVEL with regard to the Acquis on electricity

|-------------------|-----------------------|------------------|------------------|--------------|---------------|---------------|-------------------|

- **Green**: All provisions are available
- **Yellow**: Some provisions are available
- **Blue**: Some provisions are missing
- **Red**: Bottlenecks in the process
- **All provisions are available**: This phrase is not used in the table.

- prepared by the Energy Community Secretariat -
CONCLUSIONS

CHARACTERISTIC PROBLEMS

- Public service obligations are defined – in the primary legislation, in some cases it is extended in the regulatory rules and licenses. Universal supply is well addressed. However, the protection of vulnerable customers is generally missing or left to the basic social programmes, which are usually not sufficient. This is a far-reaching prerequisite, having in mind the required interoperability and associated fiscal effects, as well as its importance for the necessary tariff reforms and cost-reflectivity of the prices which are of utmost importance for opening of the electricity markets. Specific social schemes should be developed and implemented to address this issue. In addition, disclosure on the origin of electricity is still to be introduced.

- All of the Contracting Parties have provisions for the Security of electricity supply introduced in their legislation, and almost all of them have adopted adequate Statements. However, in all cases the Mechanisms for adequate implementation still need further development. This is of high importance as some Parties already face substantial difficulties in their supply, which may adversely affect the effective opening of the electricity market.
CONCLUSIONS

CHARACTERISTIC PROBLEMS

- **Technical rules** related to the transmission networks have been developed to significant level in general, while the Technical rules for the distribution networks require further attention. Several of the Parties have still to develop and/or adopt their Market rules. Adequate Technical rules need to be in place in order to enforce the overall competitive market structure, in particular the TPA, CBT mechanisms, Security of supply, Balancing market, Ancillary services and Monitoring of the market, as well as the required level of Information and Transparency, wherever these are still missing. In addition, in most cases, appropriate **Standard agreements** should be introduced as well.

- The **Authorisation procedures** for construction of new generation capacities are provided (with some exemptions) in the legislation, often also referring to Laws on concession and/or Licensing rules. What is generally missing are adequate provisions for the rules on **Tendering for new capacity**, which should also be developed and implemented. To cope with the lack of sufficient generation in the region and the widespread quest for investments in new generation capacities, the tendering practices in some cases should be further improved to comply with standard transparency and non-discrimination criteria.
CONCLUSIONS

CHARACTERISTIC PROBLEMS

- In general, in most of the Contracting Parties the Unbundling provisions are embedded in the law, as well as provisions related to the Access to unbundled accounts. Full practical implementation, however is less present. In particular, legal unbundling is more often implemented with respect to the Transmission/TSO functions (with some exceptions), while legal unbundling of the DSOs from the Supply function is still to be implemented and enforced in general. While access to the accounts is generally provided for, the instruments for monitoring of the unbundled accounts still call for further attention. In some cases assurance of independent management may be a subject of concern.

- All the Contracting Parties have introduced sufficient provisions related to regulated TPA to their Transmission and Distribution networks in their legislation, in most cases together with an obligations to justify the denial of access to a network. The non-discriminatory rTPA however should be further enforced and implemented in practice, which is often not yet the case due to missing or inadequate secondary rules or existence of a long-standing priority contract. In some cases a cost reflective methodology for determining network access tariffs is yet to be developed and adequately applied, and/or have the tariffs published.
CONCLUSIONS

CHARACTERISTIC PROBLEMS

- Effective implementation of the deadline for **Market Opening** for non-household customers defined by the Treaty is not likely from today’s perspective, even in the small number of cases when it is already defined in the legislation, the main reasons being some or all of the following:
  - insufficiently developed competitive market environment, especially in the distribution domain (legislation, unbundling, switching, balancing, metering, billing & collection, customer protection, etc);
  - existence of single/dominant (regulated) wholesale supplier;
  - bundled (national) generation companies;
  - scarcity of generation capacity in the region which increases the market prices and disincentivises the potential suppliers;
  - substantial disparity of consumer tariffs versus market prices which disincentivises both the eligible customers and potential suppliers;

Some of the Parties have introduced specific/more applicable eligibility criteria for further opening of the market, sometimes without, or with diverse deadlines.
CONCLUSIONS

CHARACTERISTIC PROBLEMS

- Additional problems which in some of the Parties undermine or defocus the implementation of the electricity market reforms:
  - (insufficient) rate of development of the transmission/interconnection capacities, deteriorating/inadequate infrastructure (generation, distribution);
  - (unresolved and/or costly) environmental issues (“historic” pollution, GHG emissions, availability/use of water resources);
  - (inadequate) consumption structure and/or consumer practices;
  - (insufficient) collection rates and outstanding level of losses (mostly of “commercial” origin), inefficient financial settlement rules and practices;
  - (missing/late or inadequate) pricing reform (lack of diversity of energy products, lack of cost-reflectivity of prices, inappropriate tariff systems, implicit cross-subsidies);
  - (inadequate) administrative focus on the energy sector (number, size and capacity of administrative bodies, available/allocated financial resources, priority criteria, insufficient cooperation between administrative authorities);
CONCLUSIONS

COMMON PROBLEMS

- Persistence of low-level regulated tariffs (significantly below the market price), in particular for the benefits of potentially eligible customers;

- Missing or insufficiently developed schemes for social protection of vulnerable customers;

- Insufficient legal unbundling and/or independence of DSO and Supply functions;

- Insufficiently developed market environment, particularly in the distribution domain.

- Insufficient generation capacity, existence of wholesale suppliers and/or bundled generation assets preventing competition in the supply;

- Access to the networks is non-transparent/non-competitive and/or limited by long-standing contracts (transmission);

- Low level of collection rates and/or high level of commercial losses.
### COMPLIANCE WITH REGULATION 1228/2003

<table>
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<th>Regulation 1228/2003/EC provisions</th>
<th>Compliance</th>
<th>Findings at Regional Level</th>
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| **ITC MECHANISM** (Art. 3)          | YES        | - Actual Agreement is valid until end of 2007, Agreement for 2008/09 has been signed  
- Fair methodology for handling the ITC funds is missing for some Contracting Parties  
- Implementation of the market rules still pending |
| **CHARGES FOR ACCESS TO NETWORKS** (Art. 4) | Partially | - Most of the tariffication regulation for access to networks exists  
- Still need for harmonization at regional level  
- Need to set up cost reflective tariff values  
- Need to conclude contracts for access to network |
| **CONGESTION MANAGEMENT METHOD** (Art. 6, § 2) | Partially | - Weak compliance with Congestion Management principles  
- Envisaged implementation of CAO on flow-based method will provide full compliance |
| **TRANSPARENCY** (Art. 5 and 10, § 4 and 5) | Partially | - Only a part of the necessary information is published on TSOs webpages (outage data, real time net physical flow data is still not published)  
- Notable Progress has been achieved by some participants (Croatia, BiH) |
| **USE OF CONGESTION INCOME** (Art. 9, § 3) | NO         | - No common procedure for the use of congestion income (There are no provisions on the use of congestion income within the legislations of the contracting parties). Common procedure will guaranty the investment into new infrastructure. Shall be preferably assigned to projects to relief cross-border congestion |
| **NEW INTERCONNECTORS** (Art. 7) | Partially | - Not explicitly addressed in the Electricity or Market Acts  
- Some parties have foreseen provisions in the primary legislation (authorisation and operations). Some participants act on a Project based level (Memorandum of Understanding) |
| **COORDINATION** (Art. 9, § 3) | Partially | - Some Contracting Parties do not have provisions in their primary legislation  
- High level of coordination will be achieved through the planned common network model for capacity calculation |
| **PENALTIES** (Art. 12) | NO         | - Most of Contracting Parties do not have provisions in their legislation. Need to include and enforce these provisions to fully comply |
| **PUBLIC SERVICE OBLIGATION** (breach of Art. 6) | NO         | - Most of Contracting Parties do not comply (Market based principles should not have been affected by PSO)  
- Social support schemes needed at national level (primary legislation)  
- Appointment of suppliers of last resort still pending |
### RECOMMENDATIONS concerning R 1228/2003

- **NOTABLY PROGRESS HAS BEEN ACHIEVED WITH THE SIGNING OF ITC VOLUNTARY AGREEMENT**

- **CROSS-BORDER TRADE VOLUMES ARE STILL VERY WEAK DUE TO A LESS DEVELOPED MARKET**

- **MOST OF THE PRINCIPLES OF CONGESTION MANAGEMENT ARE NOT IMPLEMENTED**

- **IMPLEMENTATION OF COORDINATED EXPLICIT AUCTIONS ON SHORT TERM WOULD BE A POSSIBLE WAY TO REACH HARMONIZATION IN THE REGION**

- **IMPLEMENTATION OF COORDINATED AUCTION OFFICE ON FLOW BASED METHOD ON LONG TERM SEEMS TO BE THE BEST SOLUTION**

- **COOPERATION AND COORDINATION AT REGIONAL LEVEL IS CRUCIAL**

- **HARMONISED APPROACH FOR MARKET RULES AND PROCEDURES FOR CROSS-BORDER CAPACITY ALLOCATION**

- **TO INCREASE COMPLIANCE IT SEEMS TO BE NECESSARY TO APPLY A SIMILAR APPROACH USED WITHIN ETSOVISTA – COMMON ALLOCATION PROCEDURE AND REAL-TIME INFORMATION**