

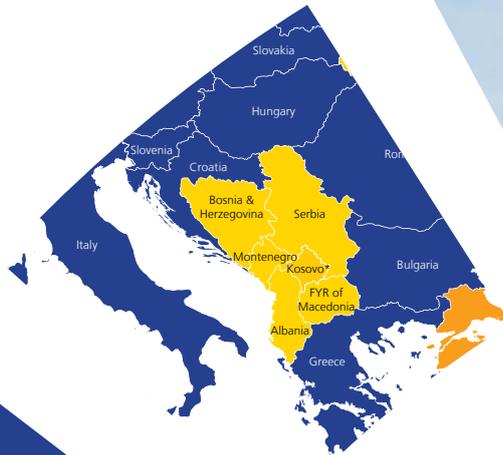


# WB6 Electricity Monitoring Report

Energy Community Secretariat  
May 2019



## Introduction



## Creating a Regional Electricity Market in the Western Balkans

The 2015 Summit of the Western Balkan 6 Initiative provided a renewed impetus to the development of the regional electricity market spanning the six Contracting Parties of the Energy Community in Southeast Europe: Albania, Bosnia and Herzegovina, North Macedonia, Montenegro, Kosovo\* and Serbia. EU Member States participating in the process - Austria, France, Germany, Italy and the United Kingdom - and the six focus countries in cooperation with the European Commission and the Energy Community Secretariat decided to take steps to improve energy connectivity in the region. The Western Balkan 6 (WB6) parties committed to a set of regional and national reform measures, which target the development of the electricity market in different timeframes, tackling capacity allocation and calculation, spot markets and balancing markets. The regional measures are focused on strengthening regional institutions and cooperation, whereas national measures aim at removing national obstacles to regional electricity market development.

Implementation of the regional measures, namely the establishment of regional day-ahead market coupling and cross-border balancing, is ongoing under the Memorandum of Understanding on regional electricity market development (WB6 MoU). The initiative extended beyond the boundaries of the WB6 on the occasion of the West-

ern Balkan 6 Summit on 12 July 2017 in Trieste, when the WB6 MoU was for the first time signed by an EU Member State at ministerial level, namely by the Italian Ministry of Economic Development. Furthermore, in the declaration issued following the summit, the WB6 MoU and the Treaty establishing the Energy Community (Title III) are recognised as the cornerstones of the cooperation between WB6 and neighbouring EU Member States. In September 2017, also Hungary signed the MoU at ministerial level.

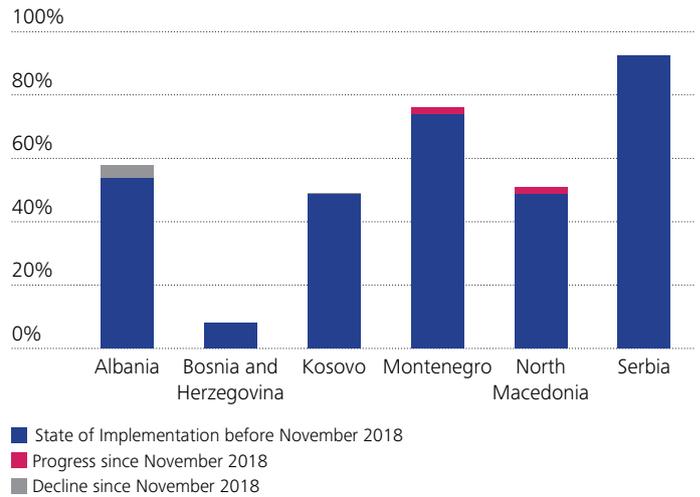
The present Monitoring Report is prepared by the Energy Community Secretariat, which was tasked by the Western Balkan countries "to take the lead to develop the regional energy market and to help implement these 'soft measures'". The report provides an overview of the state of play of implementation of the soft measures and highlights the achievements and setbacks made since November 2018 until 15 May 2019. It presents the progress made at both national and regional level, as well as points to where continued implementation efforts are needed the most. In addition, this report provides an overview of the value added tax regimes for electricity related to cross-border transactions and of the public procurement rules applicable to specific energy related procurements.

\* This designation is without prejudice to positions on status, and it is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence.

# Overall Progress in Soft Measures implementation

## Spot Market Development

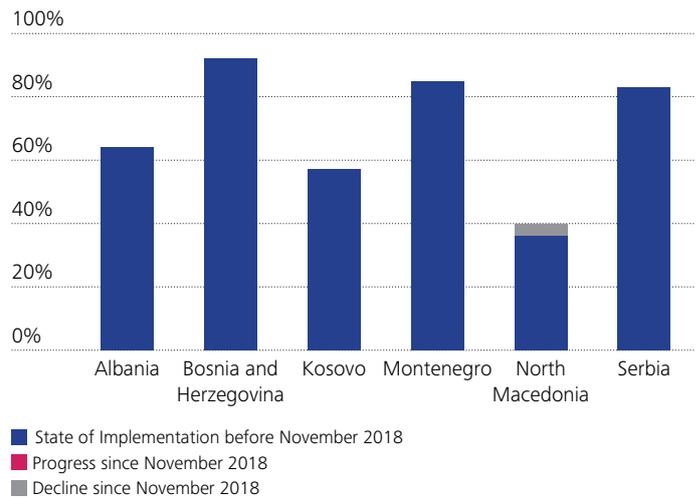
The process of establishing day-ahead markets continued in Montenegro and North Macedonia, whereas progress in Albania continued to stall once again. Following a tendering procedure launched in Q2 2018, the Montenegrin company responsible for establishing a day-ahead market, BELEN, has selected Nord Pool as its strategic partner. According to the plan presented at a kick-off meeting in Podgorica on 24 April 2019, the Montenegrin electricity power exchange (MEPX) is expected to go-live in Q1 2020. This will largely depend on the pace in which supporting contracts between the two companies are agreed and signed, as well as on the necessary amendments of the legal and regulatory framework, including those related to harmonisation of VAT legislation. North Macedonia advanced in operationalising the electricity market operator MEMO, which is in the licensing process. A decree defining conditions for an operator of the organised market was drafted and expected to be adopted in June 2019. As the next step, the Government will have to pass a decision on whether to appoint MEMO as the day-head market operator or to select an operator via a tendering procedure. The pending adoption of the decision on establishing a day-ahead market in Albania by the Council of Ministers means that this project is likely to be delayed further. In Bosnia and Herzegovina, no activities took place or are foreseen. The Serbian power exchange, SEEPEX, remains the only operational day-ahead market in WB6.



## Cross-border Balancing

North Macedonia continues to delay the adoption of the new balancing rules, which were due in September 2018. Following a public consultation in November 2018, the draft balancing rules, developed under the WB6 regional energy market connectivity programme, were to be resubmitted by the transmission system operator for approval. However, this has not happened yet and an exemption of regulated companies from balance responsibility continues to be in force.

A legal gap analysis on cross-border balancing, developed as part of the WB6 regional energy market connectivity programme, unveiled that procurement of balancing capacity in WB6 is generally regulated on an annual basis and that the prequalification procedure for service providers is missing. The only exception is Bosnia and Herzegovina, having introduced competition among service providers. Regulation prevents the efficient use of balancing capacity and entrance of new service providers that would allow for competition to develop. On the other hand, the current lack of service providers is used as a justification for regulators to continue with the regulation of the balancing reserve. To brake this vicious circle, the renewal of balancing rules and cross-border balancing integration in line with the Electricity Balancing Guidelines are required.



### Montenegro takes key step towards establishing national day-ahead market

Following an open tender procedure, the government-established company BELEN selected Nord Pool as its strategic partner for setting up a power exchange in Montenegro. This is a crucial step in accelerating the establishment of the day-ahead market in Montenegro, to go live in Q1 2020. The day-ahead market and its further coupling with Italy and neighbouring WB6 day-ahead markets will contribute to the development of the regional electricity market and an optimal utilisation of the submarine cable between Montenegro and Italy, expected to be commissioned in Q4 2019, and the Trans-Balkan corridor.

The selection of Nord Pool as a strategic partner constitutes the final step in implementing the project for establishing the institutional set-up for an organised day-ahead market in Montenegro, under which an optimal model of strategic partnership and the procedure and criteria for selecting a strategic partner were identified. This project was supported by "Technical Assistance to Connectivity in the Western Balkans - Component 2: Regional Energy Market", implemented by the Energy Community Secretariat and funded by the European Union.

## Regional Capacity Allocation

The dispute on capacity allocation between the transmission system operators of Kosovo and Serbia needs to be resolved, following the Ministerial Council's decision in Case ECS-3/08, requiring Serbia to rectify the breach of European law by the end of May 2019. Efforts of both Serbia and Kosovo in finding the best solution are facilitated by the Energy Community Dispute Resolution and Negotiation Centre.

Progress towards the entry into force of the Connection Agreement between KOSTT and ENTSO-E is pending the licensing of a Serbian supplier in Kosovo. Follow-up actions towards licensing are yet to be made. The transmission system operator of Serbia started allocating capacities on its borders with Bulgaria through the Joint Auction Office (JAO), whereas a regionally coordinated mechanism is still not applied on Hungarian, Romanian and WB6 borders. All WB6 parties, except Kosovo, are using services of the Security Coordination Centre. However, the implementation of a

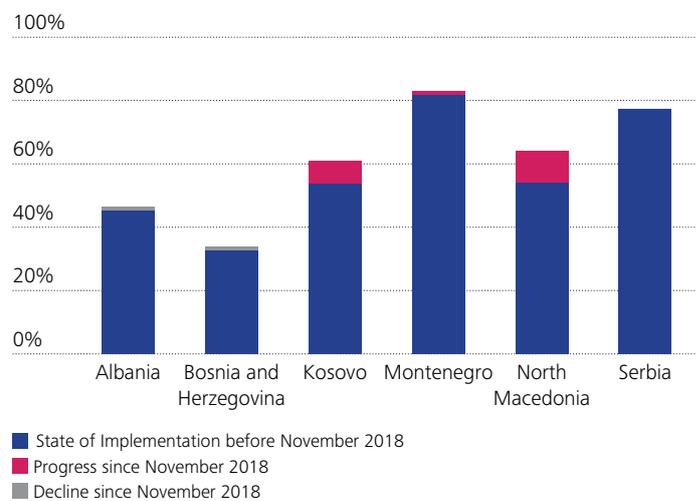
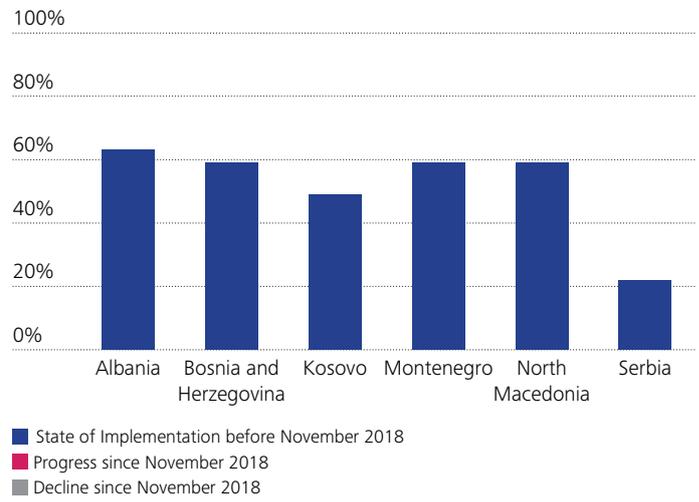
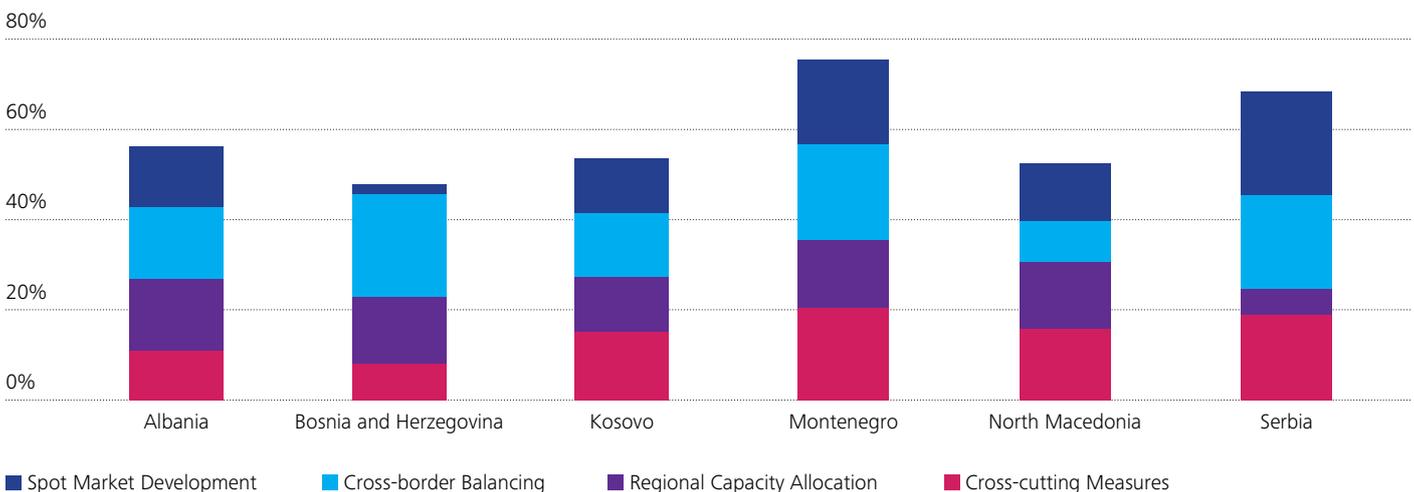
regionally coordinated capacity calculation is pending adoption of a regional methodology developed under the WB6 regional energy market connectivity programme.

## Cross-cutting Measures

Tangible progress towards finalizing the unbundling and certification of transmission system operators in Kosovo and North Macedonia was made in the reporting period. The transmission system operator of Kosovo was certified by the regulator in February 2019, following the Energy Community Secretariat's Opinion. In North Macedonia, the regulator issued a preliminary decision on the certification of the transmission system operator, which is currently being assessed by the Energy Community Secretariat. Bosnia and Herzegovina remains the only WB6 party where the certification procedure has not been initiated yet due to the lack of legislation compliant with the unbundling requirements of the Third Energy Package.

Except North Macedonia, where functional unbundling of the distribution system operator was completed in the reporting period, no progress was made to finalise legal and functional unbundling in those WB6 parties where this issue still remains open. In Albania, the process was even postponed to the end of 2019, due to which the Energy Community Secretariat will escalate the infringement procedure. To provide further support to the WB6 parties in this process, the Secretariat launched a technical assistance project to efficiently implement, monitor and report on the functional unbundling of distribution system operators under the WB6 regional energy market connectivity programme. The project will provide guidelines for the implementation of functional unbundling and its monitoring through a compliance officer programme and reporting. It is expected to be finalised by the end of May 2019. No progress was made on phasing out the regulation of production prices in Albania and Bosnia and Herzegovina. On the retail side, Kosovo postponed deadlines for the deregulation of prices for medium voltage customers by one year. The only progress was made by North Macedonia, which selected a universal and last resort supplier in a competitive procedure.

## Overall Implementation of Soft Measures





## Spot Market Development

### Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat (March 2016)

The legal ground for the establishment of an organised day-ahead electricity market was set by the adoption of amendments to the Power Sector Law in mid-February 2018. According to the deadline set by the Law, the Council of Ministers (CoM) was obliged to adopt decisions on the establishment and ownership structure of the operator of the Albanian power exchange (APEX) not later than August 2018. This deadline was missed, and the process has stalled.

### Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade (July 2016)

The CoM's decision on APEX establishment was again not adopted, which further delays the creation of APEX. Consequently, the plan to launch APEX by the end of September 2019 is not likely to be fulfilled. With the continued postponement, the Albanian government is losing credibility with regard to this project.

### Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc. (July 2016)

There was no progress towards the removal of obstacles to the development of competition in the wholesale market and its full liberalisation. The Council of Ministers' Decision on public service obligations continues to oblige the distribution system operator and supplier OSHEE to purchase the electricity needed for universal service and losses exclusively from generation company KESH, in breach of the acquis. Apparently, the Albanian authorities are considering the development of a merger between generation company KESH and the supplier/distribution operator OSHEE. This would create another major obstacle to the opening of the wholesale market. The Secretariat is currently assessing a complaint concerning the procurement practices of KESH in the wholesale market.

### Coupling of organised day-ahead electricity markets with at least one neighbouring country (July 2017)

The delay in APEX establishment represents a major blocking point for the coupling of the Albanian day-ahead market with its neighbouring markets. No progress was made on Albania-Kosovo market coupling since October 2018 when the working groups adopted their work programmes. According to the Memorandum of Understanding on day-ahead market coupling, signed between the transmission system operators and national regulatory authorities of Albania and Kosovo in August 2018, the coupling of these two markets is to be finalised by the end of June 2019. Albania is participating in the project for the coupling of its market with those of Italy, Montenegro and Serbia, for which establishing a national day-ahead market is also a precondition. No concrete roadmap for its implementation has been adopted. The project is likely to move on without Albania.

#### Spot Market Development

Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat



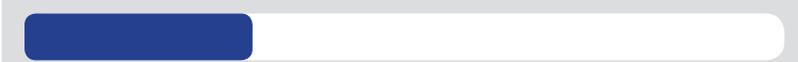
Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade



Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc.



Coupling of organised day-ahead electricity markets with at least one neighbouring country



#### Total for spot market development



## Cross-border Balancing

### Legal possibility for transmission system operators to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions (March 2016)

The legal possibility for the transmission system operator to acquire balancing services under market-based, non-discriminatory and transparent procedures, is envisaged by the Power Sector Law and the market model.

### Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services (March 2016)

The transmission system operator drafted the final balancing rules, but has not yet submitted them to the regulator for approval. Until these rules are adopted, the transitional balancing rules

drafted with support of the WB6 connectivity programme and adopted in November 2017, remain in force. The transmission system operator has not responded to the initiative of the transmission system operator of Montenegro to develop cross-border balancing cooperation.

### Establishment of a functioning national balancing market based on above model (July 2016)

The transitional balancing rules are applied as of 1 January 2018. Imbalances are settled in a non-discriminatory manner using as reference hourly prices of the Hungarian day-ahead market. KESh continues to be the only balance service provider. The transitional rules allow for new balance service providers to enter the market. The Secretariat's Dispute Resolution and Negotiation Centre mediates a dispute between the Ashta HPP and the Ministry of Infrastructure and Energy as well as other stakeholders such as KESh related to balancing obligations.

#### Cross-border Balancing

Legal possibility for transmission system operator to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions



Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services



Establishment of a functioning national balancing market based on above model



#### Total for cross-border balancing



## Regional Capacity Allocation

### Introduction of a coordinated capacity calculation process for the allocation of day-ahead capacities based on a regionally coordinated congestion forecast (July 2016)

A methodology for coordinated capacity calculation in the so-called Shadow Capacity Calculation Region 10 (comprising WB6 and its neighbouring EU Member States) was developed under the WB6 regional energy market connectivity programme. According to the proposal, this methodology is to be applied in accordance with a currently discussed recommendation of the

Energy Community Regulatory Board on early implementation of coordinated capacity calculation in the Energy Community. The recommendation is expected to be adopted in the course of 2019. The transmission system operator has signed a service agreement with the Security Coordination Centre (SCC) and started to procure its services since 15 June 2018. The European Commission has expressed concerns about SCC's legitimacy as regional security coordinator given the non-applicability of the System Operation Guideline in the Energy Community and in light of the EMS-KOSTT dispute.



## The Western Balkan countries to support signing of agreements between SEE CAO and relevant EU Member States (July 2017)

There is no lack of support by WB6 countries. This task depends on support from the European Commission.

### Regional Capacity Allocation

Introduction of a coordinated capacity calculation process for the allocation of day ahead capacities based on a regionally coordinated congestion forecast



The Western Balkan Countries to support signing of agreements between SEE CAO and relevant EU Member States



### Total for regional capacity allocation



## Cross-cutting Measures

### Eliminate price regulation of generation for other than small enterprises and household customers, and adopt national action plans for phasing out price regulation in general (January 2016)

Prices of generation and supply of medium and low voltage customers, with the exception of a few 35 kV customers, continue to be regulated under the public service obligation imposed on generation company KESH and universal and last resort supplier OSHEE. The regulated and anti-competitive wholesale contract between KESH and OSHEE is still in force after numerous extensions. Despite the fact that the necessary prerequisites for 35 kV customers to switch supplier are in place, the majority have not switched supplier due to the possibility given by the Power Sector Law amendments of February 2018 to continue to be supplied by a last resort supplier for a period of two years as of the date when they are informed by the distribution system operator that they are technically ready to change their supplier. This effectively postponed market opening and infringes the eligibility right of customers.

### Legal and functional unbundling of distribution system operators and supply companies (March 2016)

The finalisation of unbundling of the distribution system operator within the state-owned joint stock company OSHEE was postponed for another 12 months by the regulator to the end of 2019. In March 2018, OSHEE created three new daughter companies - the Universal Service Supplier, the Free Market Supplier and the Distribution System Operator, which were issued

licenses by the regulator. However, the activities of the electricity distribution system operator, the free market supplier and the universal service supplier are still carried out by OSHEE. The resources necessary for conducting distribution activities have still not been made available to the newly established Distribution System Operator nor are functional unbundling requirements on management separation, independent decision making and separation of identity in place. The Secretariat will escalate the dispute settlement case on the lack of distribution system operator unbundling initiated in January 2018.

### Ensure independence of national energy regulatory authorities based on pre-defined indicators (January 2016)

The Power Sector Law gives the regulator only weak sanctioning powers, which need to be improved by increasing the penalty levels. ERE should get involved more in taking care of the well-functioning of the electricity sector. Recent developments prove the opposite: a decision of ERE of December 2018 supported the postponement of effective distribution unbundling, and a recent decision supported OSHEE's request to extend the payment deadline for electricity trade to 180 days which further decreases attractiveness of the Albanian market. In both cases, ERE acted upon recommendations by the Ministry of Infrastructure and Energy.

### Apply for observer status in ACER based on a positive opinion of the European Commission (July 2016)

ERE submitted an application for observer status to the Secretariat.

### Unbundle and certify transmission system operator in line with the Third Energy Package (June 2016)

The transmission system operator of Albania was unbundled and conditionally certified by the regulator in line with the Secretariat's Opinion. According to the certification decision, the requirement to transfer the ministry's competence related to investment to the new shareholder of the transmission system operator was to be implemented by 15 March 2018. Yet, after an initial postponement until 15 March 2019, compliance with ERE's condition was further postponed to 15 December 2019.

### Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending proceedings, and take due account of the Secretariat's opinion (July 2016)

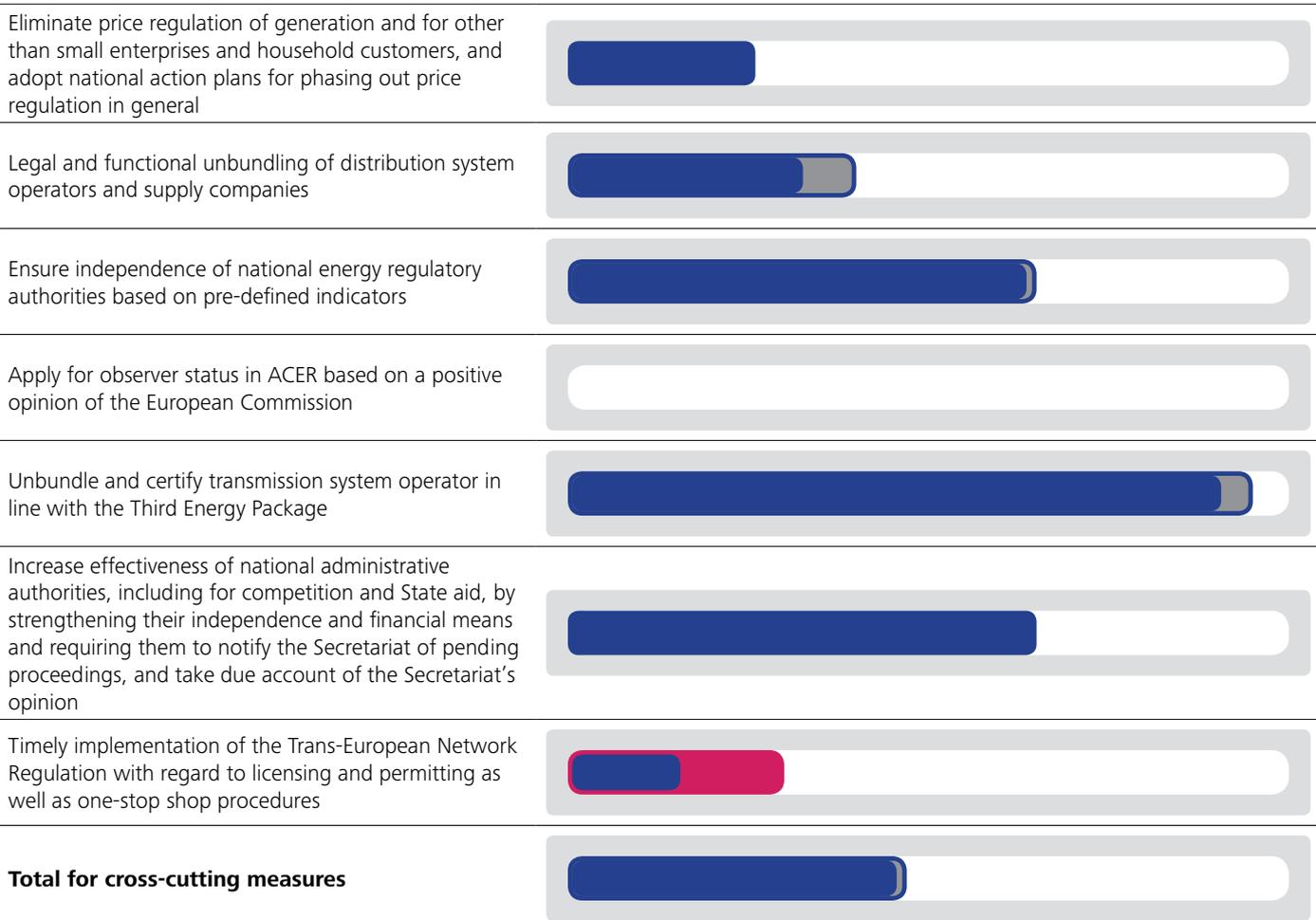
The national competition and State aid authorities cooperate well with the Secretariat. The competition authority's activities with

regard to a complaint on electricity market manipulation have stalled. Overall, the effectiveness of the national competition and State aid authorities in the energy sector is not satisfactory. Due to the restructuring of the administration, the State aid authority lacks an operational body to whom grantors may notify State aid and which prepares the decisions to be taken by the decision-making body. The decision-making body also lacks human resources and independence.

### Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures (January 2017)

The Council of Ministers approved in November 2018 a Decision on the adoption of practices for promoting joint regional investments in the energy sector infrastructure, which partially transposes Regulation (EU) No 347/2013. Further implementation activities are necessary in order to fully implement provisions defined by the Regulation. The Ministerial Council adopted a decision on 29 November 2018 establishing a breach of the acquis.

#### Cross-cutting Measures





## Spot Market Development

### Remove major legal and contractual obstacles to establishing organized electricity markets and market coupling based on the reports of the Secretariat (March 2016)

Bosnia and Herzegovina once again failed to adopt the State Law on Regulator, Transmission and Power Market and the complementary law on establishment of a transmission system operator. This triggered the adoption of the Energy Community Ministerial Council's Decision establishing a serious and persistent breach of European law in November 2018. In April 2019, high-level officials of both entities and the State agreed through a Joint Statement to undertake the necessary steps to reconcile the differences between the two entities and adopt the State Law within three months.

### Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade (July 2016)

The absence of the necessary legal framework blocks the setting up a day-ahead electricity market. Stakeholders in Bosnia and

Herzegovina did not take any action following the closure of the WB6 connectivity programme project aimed at identifying a viable solution for the establishment of an organised day-ahead market in the country.

### Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc. (July 2016)

No competition exists on the electricity market, including between the three incumbents. All market activities of the incumbents are limited to their respective areas of operation. Only the power utility of Republika Srpska trades on an organised day-ahead market.

### Coupling of organised day-ahead electricity markets with at least one neighbouring country (July 2017)

No activities were taken to initiate the project of market coupling of Bosnia and Herzegovina with Croatia, Montenegro and Serbia, proposed by Bosnia and Herzegovina itself under the roadmap for regional day-ahead market integration in Western Balkans. Due to the lack of commitment of key stakeholders in Bosnia and Herzegovina, not even technical assistance could be provided.

## Spot Market Development

Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat



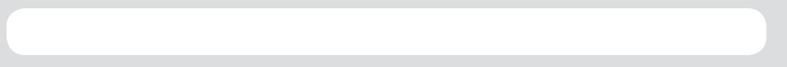
Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade



Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc.



Coupling of organised day-ahead electricity markets with at least one neighbouring country



### Total for spot market development





## Cross-border Balancing

### Legal possibility for transmission system operators to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions (March 2016)

Legislation is not preventing the transmission system operator from acquiring balancing services in a market-based manner and across borders. Provisions for market-based and cross-border procurement of balancing services are included in the draft Law on Regulator, Transmission and Power Market which has never been adopted.

### Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services (March 2016)

A balancing model that ensures market-based and non-discriminatory procurement of balancing capacity and balancing energy by the transmission system operator is included in the market rules. Balancing services (manually activated frequency restoration reserve) with the transmission system operators of Croatia and Slovenia are exchanged based on the recently renewed control block agreement, and with the transmission system operators of Montenegro and Serbia on a bilateral basis. These exchanges are not market-based.

### Establishment of a functioning national balancing market based on above model (July 2016)

A competitive state-wide balancing market, encompassing both the balancing reserve and the balancing energy procured via market-based procedures, is operated by the transmission system operator since 2016.

Cross-border Balancing	
Legal possibility for transmission system operator to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions	
Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services	
Establishment of a functioning national balancing market based on above model	
<b>Total for cross-border balancing</b>	



## Regional Capacity Allocation

### Introduction of a coordinated capacity calculation process for the allocation of day-ahead capacities based on a regionally coordinated congestion forecast (July 2016)

A methodology for coordinated capacity calculation in the so-called Shadow Capacity Calculation Region 10 (comprising WB6 and its neighbouring EU Member States) was developed under the WB6 regional energy market connectivity programme. According to the project proposal, this methodology is to be applied in accordance with a currently discussed recommendation of the Energy Community Regulatory Board on the early implementation of coordinated capacity calculation in the Energy Community.

The recommendation is expected to be adopted in the course of 2019. The transmission system operator is a shareholder of the Security Coordination Centre (SCC), which was established together with the transmission system operators of Montenegro and Serbia. The European Commission has expressed concerns about SCC's legitimacy as regional security coordinator given the non-applicability of the System Operation Guideline in the Energy Community and in light of the EMS-KOSTT dispute.

### The Western Balkan countries to support signing of agreements between SEE CAO and relevant EU Member States (July 2017)

There is no lack of support by WB6 countries. This task depends on support from the European Commission.

#### Regional Capacity Allocation

Introduction of a coordinated capacity calculation process for the allocation of day ahead capacities based on a regionally coordinated congestion forecast



The Western Balkan Countries to support signing of agreements between SEE CAO and relevant EU Member States



#### Total for regional capacity allocation



## Cross-cutting Measures

### Eliminate price regulation of generation and for other than small enterprises and household customers, and adopt national action plans for phasing out price regulation in general (January 2016)

The price of electricity supplied by the incumbent generation companies to public suppliers under the universal service provision continues to be regulated in Republika Srpska. This is a breach of Energy Community law, and the Secretariat is preparing infringement procedures. The Joint Statement of April 2019 envisages that Republika Srpska adopts a new Electricity Law to address generation price deregulation. End-user price regulation also continues for small customers and households. In the Federation of Bosnia and Herzegovina, all prices were deregulated on 1 January 2015, except for households and small customers. There is no national or entity-based action plan for phasing out remaining price regulation.

this process has not even started and the Secretariat initiated infringement procedures in January 2018. The draft of the Electricity Law in Republika Srpska does not foresee an implementation deadline for unbundling. The two power utilities in Federation of Bosnia and Herzegovina keep on revising action plans.

### Ensure independence of national energy regulatory authorities based on pre-defined indicators (January 2016)

The existing legislation fails to comply with numerous independence and competence requirements of the Third and even the Second Package. The lack of a single nation-wide regulator is the most critical. Independence is further weakened by other factors such as unanimity voting rules.

### Apply for observer status in ACER based on a positive opinion of the European Commission (July 2016)

The state regulator has not applied yet. A prerequisite for application is the transposition of the Third Package, including adoption of all necessary secondary legislation.

### Legal and functional unbundling of distribution system operators and supply companies (March 2016)

In the Joint Statement of April 2019, authorities committed to the unbundling of power utilities in Bosnia and Herzegovina. So far,

### Unbundle and certify transmission system operator in line with the Third Energy Package (June 2016)

The transmission system operator is not unbundled in line with the Third Energy Package. This is a clear breach of Energy Com-



munity law. Adoption of the State Law is a precondition for certification.

**Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending proceedings, and take due account of the Secretariat’s opinion (July 2016)**

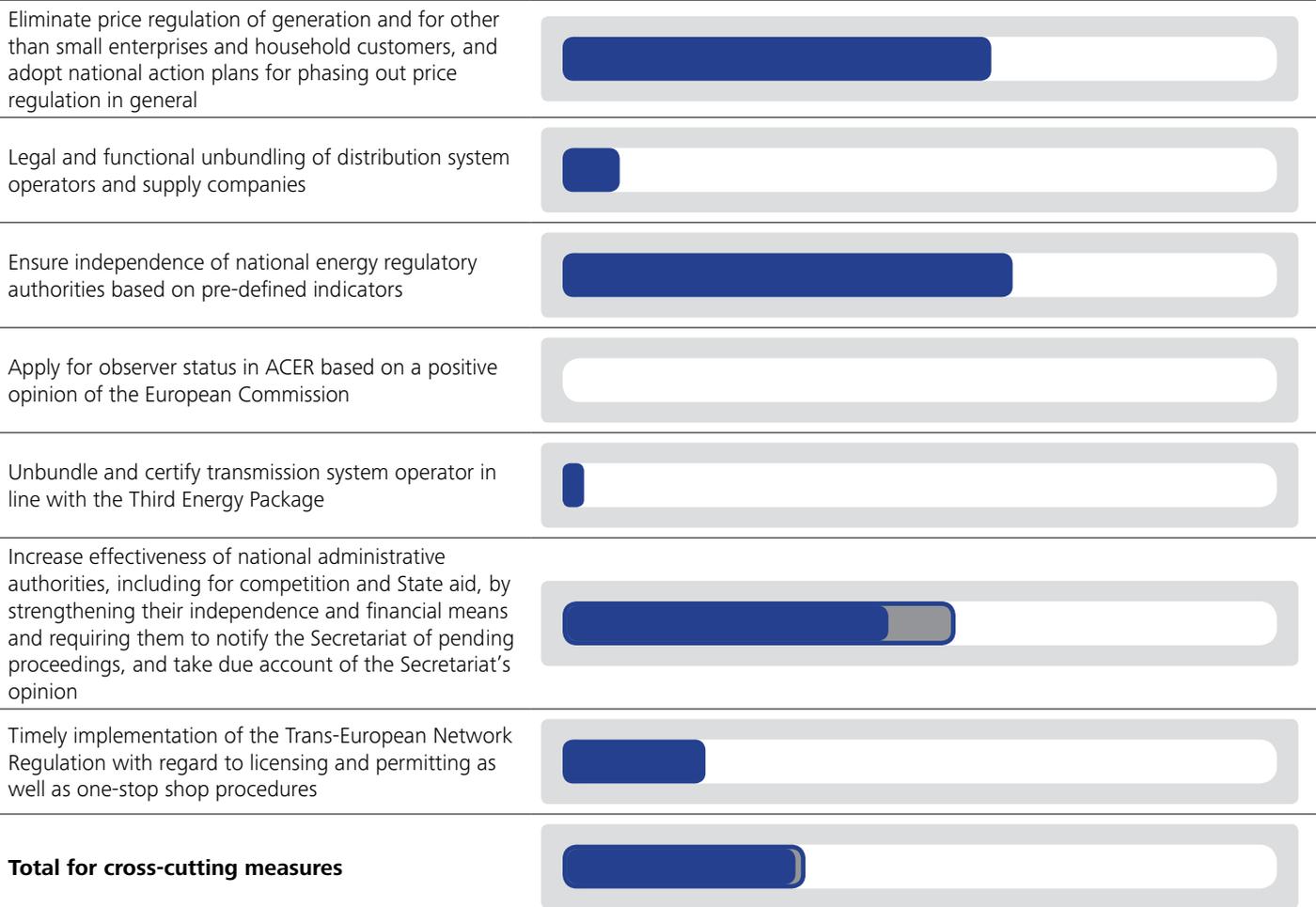
The State aid authority started rendering decisions in the energy sectors. In particular, the State aid authority assessed a public guarantee for a loan by the Chinese Import-Export Bank for the Tuzla 7 power plant project and came to the conclusion that it does not constitute State aid. Since the authority’s decision is

not compliant with European State aid acquis, the Secretariat opened infringement procedures (ECS-10/18). The competition authority does not enforce the respective rules nor does it make use of the cooperation mechanism stipulated under Article 2 of the Energy Community Dispute Settlement Rules.

**Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures (January 2017)**

In spite of the provided technical assistance, Bosnia and Herzegovina has again not transposed the Trans-European Network Regulation, the deadline for which expired already on 1 January 2017. The Ministerial Council adopted a decision on 29 November 2018 establishing a breach of European law by this failure.

**Cross-cutting Measures**





## Spot Market Development

### Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat (March 2016)

A set of primary laws defining the legal and contractual framework for establishing organised spot markets for electricity and market coupling was adopted in June 2016. The contracts adopted for the so-called Kosovo e Re power plant project, however, have a foreclosing effect on the wholesale market.

### Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade (July 2016)

Progress in this area was not made. Kosovo has opted for its day-ahead market to be serviced by the Albanian power exchange and the transmission system operator KOSTT is to be one of its shareholders. The establishment of a power exchange in Albania is in delay.

### Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc. (July 2016)

The regulatory authority has not exercised its competence to impose measures for improving liquidity in the electricity market. Despite an evident lack of competition in the market, no actions were taken by the regulator to improve the situation. Instead, in March 2019, the regulator postponed the liberalisation of the electricity market for 35 and 10 kV customers until 31 March 2020 and 31 March 2021, respectively. In addition, the contractual and financial framework adopted for the new Kosovo e Re power plant raises concerns about its potentially detrimental impact on competition and electricity prices in Kosovo and the regional market.

### Coupling of organised day-ahead electricity markets with at least one neighbouring country (July 2017)

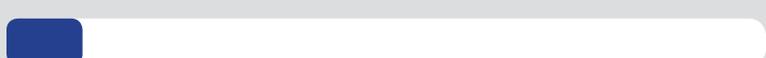
The project for day-ahead market coupling of Kosovo and Albania is stalled mostly due to the delay in establishing the Albanian day-ahead market that will administer both markets. No progress was made since October 2018. The coupling of these two markets is not likely to be finalised by end June 2019, as envisaged by a Memorandum of Understanding on day-ahead market coupling (between the transmission system operators and national regulatory authorities of Albania and Kosovo), signed in August 2018. The power purchase agreement concluded for Kosovo e Re is expected to have a negative impact on this project too.

## Spot Market Development

Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat



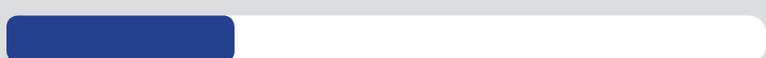
Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade



Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc.



Coupling of organised day-ahead electricity markets with at least one neighbouring country



### Total for spot market development



## Cross-border Balancing

### Legal possibility for transmission system operators to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions (March 2016)

The Law on Electricity stipulates an obligation of the transmission system operator to procure balancing services in a transparent, market-based and non-discriminatory procedure. A contractual framework and a non-discriminatory approach to balance responsibility of each market participant have been introduced by the Law.

### Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services (March 2016)

New balancing rules need to be developed by the transmission system operator in order to establish a compliant and harmonised framework for the cross-border exchange of balancing services. Implementation of a developed mechanism for the cross-border procurement of a reserve for secondary regulation between the transmission system operators of Kosovo and Albania is pending the entry into force of the Connection Agreement between KOSTT and ENTSO-E.

### Establishment of a functioning national balancing market based on above model (July 2016)

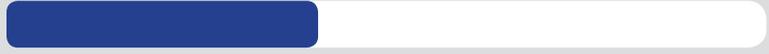
A national balancing services market is not operational. Balance responsible parties' imbalances are settled based on the methodology for determining the imbalance settlement price, applied by the transmission system operator since 1 June 2017.

#### Cross-border Balancing

Legal possibility for transmission system operator to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions



Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services



Establishment of a functioning national balancing market based on above model



#### Total for cross-border balancing



## Regional Capacity Allocation

### EMS (Serbia) and KOSTT (Kosovo) to implement the Framework and Inter-TSO Agreement (September 2015)

The contracts signed by the transmission system operators of Serbia and Kosovo in 2014 are still not implemented. They also failed to make progress in finalising agreements on compensation for past congestion management and the Inter-TSO compensation (ITC). This is subject to the Ministerial Council's decision in Case ECS-3/08 which required Serbia to rectify the breach of European law by the end of May 2019, and both Serbia and Kosovo\* to

make their best efforts to find a solution. Negotiations between Serbia and Kosovo are facilitated by the Energy Community Dispute Resolution and Negotiation Centre. On 7 November 2018, the Kosovo Business Registration Agency registered a supply company Elektroserver, wholly owned by the Electric Power Utility of Serbia, EPS. The registration certificate was corrected in March 2019. Follow-up activities towards licensing of the registered company are yet to be taken. Licensing of a Serbian supplier in Kosovo is a precondition for the entry into force of the Connection Agreement between ENTSO-E and the transmission system operator of Kosovo, KOSTT.



### Introduction of a coordinated capacity calculation process for the allocation of day-ahead capacities based on a regionally coordinated congestion forecast (July 2016)

A methodology for coordinated capacity calculation in the so-called Shadow Capacity Calculation Region 10 (comprising WB6 and its neighbouring EU Member States) was developed under the WB6 regional energy market connectivity programme. According to the proposal, this methodology is to be applied in accordance with a currently discussed recommendation of the Energy Community Regulatory Board on early implementation

of coordinated capacity calculation in the Energy Community. The recommendation is expected to be adopted in the course of 2019. The transmission system operator has not made a decision on joining any of the existing regional security coordinators.

### The Western Balkan countries to support signing of agreements between SEE CAO and relevant EU Member States (July 2017)

There is no lack of support by WB6 countries. This task depends on the support from the European Commission.

## Regional Capacity Allocation

EMS (Serbia) and KOSTT (Kosovo) to implement the Framework and Inter-TSO Agreement



Introduction of a coordinated capacity calculation process for the allocation of day ahead capacities based on a regionally coordinated congestion forecast



The Western Balkan Countries to support signing of agreements between SEE CAO and relevant EU Member States



**Total for regional capacity allocation**



## Cross-cutting Measures

### Eliminate price regulation of generation for other than small enterprises and household customers and adopt national action plans for phasing out price regulation in general (January 2016)

The deregulation of prices for medium voltage customers was again postponed by the regulator in March 2019. Customers supplied at a 35 kV voltage level will be regulated until 31 March 2020, and 10 kV customers until 31 March 2021. The Secretariat is assessing compliance with eligibility rules and might open infringement procedures. Wholesale and supply prices for high voltage customers are deregulated since 1 April 2017.

### Legal and functional unbundling of distribution system operators and supply companies (March 2016)

Legal unbundling of the distribution system operator from supply is in effect as of 1 January 2015. Secretariat expressed concerns with regard to the implementation of functional unbundling.

### Ensure independence of national energy regulatory authorities based on pre-defined indicators (January 2016)

The Law on the Energy Regulator of June 2016 overcomes the

previously existing shortcomings related to the lack of independence and competences of the regulator. In practice, the regulator's independence in enforcing market opening is weak. The decision to postpone the deregulation of prices for medium voltage customers was made following the recommendation of the Kosovo Parliament. Recent changes to the Law on Organisation and Functioning of State Administration and Independent Agencies, and the Law on Public Salaries also have the potential to limit the financial and organisational independence of the regulator.

### Apply for observer status in ACER based on a positive opinion of the European Commission (July 2016)

The Energy Regulatory Authority has not applied for observer status yet.

### Unbundle and certify transmission system operator in line with the Third Energy Package (June 2016)

The regulator adopted a final decision on certification of the transmission system operator on 15 February 2019, following the Energy Community Secretariat's opinion issued on 2 February 2019. The unbundling is done in a way that the Government controls the generation company KEK, while the transmission system operator KOSTT is controlled by Parliament.



**Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending proceedings, and take due account of the Secretariat’s opinion (July 2016)**

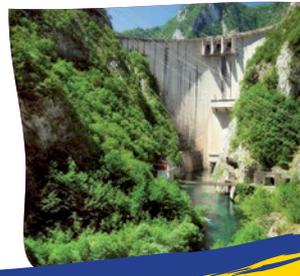
According to the Law on State aid of 2017, the Ministry of Finance includes a State Aid Department. Moreover, the members of the decision-making body, the State Aid Commission, have been selected following a prolonged delay in March 2019. However, the authority has not taken any decisions to enforce State aid law yet. The absence of active authorities exacerbates the lack of State aid compliance of the contractual framework

for the Kosovo e Re project. The Secretariat continues with the next steps in its infringement procedure based on the lack of non-compliance with the State aid acquis.

**Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures (January 2017)**

The Administrative Instruction on the promotion of joint regional investments in the energy sector, which transposed the so-called TEN-E Regulation, was signed by the Minister of Economic Development on 20 February 2017. Kosovo has also designated the required national competent authority. The implementation of the Administrative Instruction is ongoing.

<b>Cross-cutting Measures</b>	
Eliminate price regulation of generation and for other than small enterprises and household customers, and adopt national action plans for phasing out price regulation in general	
Legal and functional unbundling of distribution system operators and supply companies	
Ensure independence of national energy regulatory authorities based on pre-defined indicators	
Apply for observer status in ACER based on a positive opinion of the European Commission	
Unbundle and certify transmission system operator in line with the Third Energy Package	
Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending proceedings, and take due account of the Secretariat’s opinion	
Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures	
<b>Total for cross-cutting measures</b>	



## Spot Market Development

### Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat (March 2016)

This task has been completed. The legislative framework needed for establishing the organised electricity market is set by the 2015 Energy Law and the Law on Cross-border Exchanges of Electricity and Natural Gas adopted in 2016.

### Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade (July 2016)

The company responsible for establishing a power exchange in Montenegro, BELEN, has selected Nordpool as its strategic partner for setting up a power exchange. The two companies will establish the Montenegrin electricity power exchange (MEPX). MEPX is expected to go-live in Q1 2020. The supporting agreements are expected to be signed soon.

### Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc. (July 2016)

The process of day-ahead market coupling is expected to go swiftly following the selection of the strategic partner Nord Pool. The commissioning of the undersea cable between Italy and Montenegro, which is currently in the testing phase, is expected to boost wholesale market liquidity, which is modest at present. Despite the fact that Montenegro is the only WB6 party where a license for wholesale trade is not required, the applicable VAT regime risks being an obstacle to cross-border trade on the spot market and subsequently affect market coupling. On the retail market, all customers continue to be supplied by the incumbent supplier.

### Coupling of organised day-ahead electricity markets with at least one neighbouring country (July 2017)

Concrete steps towards coupling with neighbouring markets will depend on the agreement with the selected strategic partner. Montenegro is participating in the project for coupling of its market with those of Albania, Italy and Serbia (AIMS). However, a roadmap for the project's implementation has not been adopted.

## Spot Market Development

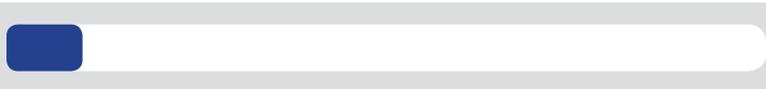
Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat



Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade



Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc.



Coupling of organised day-ahead electricity markets with at least one neighbouring country



### Total for spot market development





## Cross-border Balancing

### Legal possibility for transmission system operators to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions (March 2016)

There are no legal obstacles for the transmission system operator to procure balancing services from domestic providers and across the border. The Energy Law provides a compliant legal framework for market-based procurement of balancing services and development of the cross-border balancing market. A methodology for provision and pricing of balancing services, adopted by the national regulatory authority, envisages non-discriminatory procurement of balancing services.

### Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services (March 2016)

The regulator adopted market and balancing rules in July 2017. The balancing model allows for market-based and non-discriminatory balancing with an inter-transmission system operator

model for cross-border exchange of balancing energy. The transmission system operator is exchanging balancing energy from a manual frequency restoration reserve with the transmission system operator of Serbia and with the transmission system operator of Bosnia and Herzegovina. No progress was made in establishing cooperation with the Albanian transmission system operator. Despite that the cross-border balancing project, financed under the WB6 connectivity programme, showed a considerable savings potential, imbalance netting within the control block of North Macedonia, Montenegro and Serbia has not progressed.

### Establishment of a functioning national balancing market based on above model (July 2016)

The national balancing market is functional. In addition to the incumbent generation company EPCG, who is acting as a balancing service provider, a contract for providing balancing services was signed with an industrial customer. Imbalance settlement is applied to all market participants in a non-discriminatory manner. According to the current methodology, prices of balancing reserves are regulated until a competitive balancing market is in place.

#### Cross-border Balancing

Legal possibility for transmission system operator to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions



Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services

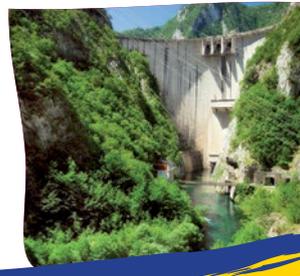


Establishment of a functioning national balancing market based on above model



#### Total for cross-border balancing





## Regional Capacity Allocation

### Introduction of a coordinated capacity calculation process for the allocation of day-ahead capacities based on a regionally coordinated congestion forecast (July 2016)

A methodology for coordinated capacity calculation in the so-called Shadow Capacity Calculation Region 10 (comprising WB6 and its neighbouring EU Member States) was developed under the WB6 regional energy market connectivity programme. According to the proposal, this methodology is to be applied in accordance with a currently discussed recommendation of the Energy Community Regulatory Board on early implementation of coordinated capacity calculation in the Energy Community. The recommendation is expected to be adopted in the course

of 2019. The transmission system operator is a shareholder of the Security Coordination Centre (SCC), which was established together with the transmission system operators of Bosnia and Herzegovina and Serbia in August 2015. The European Commission has expressed concern about SCC's legitimacy as regional security coordinator given the non-applicability of the System Operation Guideline in the Energy Community and in light of the EMS-KOSTT dispute.

### The Western Balkan countries to support signing of agreements between SEE CAO and relevant EU Member States (July 2017)

There is no lack of support by WB6 countries. This task depends on the support from the European Commission.

#### Regional Capacity Allocation

Introduction of a coordinated capacity calculation process for the allocation of day ahead capacities based on a regionally coordinated congestion forecast



The Western Balkan Countries to support signing of agreements between SEE CAO and relevant EU Member States



#### Total for regional capacity allocation



## Cross-cutting Measures

### Eliminate price regulation of generation and for other than small enterprises and household customers, and adopt national action plans for phasing out price regulation in general (January 2016)

Until the tender for a supplier of last resort and of vulnerable customers is completed, the former public supplier is designated to act in this position. The regulator has adopted a methodology on setting the price of electricity based on a reference market price, which is to be used until a final supplier is selected. The Ministry of Economy published an invitation for submission of bids by 24 May 2019. The tender procedure will ensure that the provision of universal service is market-based in accordance with the Energy Law. The generation of electricity is not subject to price regulation.

### Legal and functional unbundling of distribution system operators and supply companies (March 2016)

This measure was completed. Legal unbundling of the distribution system operator was finalised in June 2016 with the establishment of Montenegrin Electricity Distribution System (CEDIS). A compliance programme was adopted and approved by the national regulatory authority. A compliance officer was appointed.

ed. The first compliance report confirmed that the distribution system operator's behaviour was in conformity with the Law and the compliance programme. Rebranding was done in a compliant manner.

### Ensure independence of national energy regulatory authorities based on pre-defined indicators (January 2016)

The regulator still lacks the full set of Third Energy Package independence requirements, including full autonomy over its budget, internal organisation and the power to issue penalties. No progress has been made to overcome the remaining shortcomings.

### Apply for observer status in ACER based on a positive opinion of the European Commission (July 2016)

The regulatory authority RAE is the only WB6 regulator holding an observer status in ACER Working Groups. The ACER Director approved RAE's admission in October 2017, following the Secretariat's positive assessment of the requirements for such participation.

### Unbundle and certify transmission system operator in line with the Third Energy Package (June 2016)

The certification procedure was completed. In line with the requirements and deadline defined in the regulator's final decision,



adopted on 24 April 2018, the transmission system operator appointed a compliance officer and submitted draft Energy Law amendments to the Ministry of Economy. The proposed amendments were approved by the Ministry of Economy, and need now to be put forward to the Parliament for adoption.

from merger decisions. The independence of the State Aid Control Commission is questionable and should be improved with the adoption of the new State aid law, under which the State Aid Control Commission was moved under the umbrella of the Agency for Competition Protection.

**Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending proceedings, and take due account of the Secretariat's opinion (July 2016)**

There is no enforcement of competition and State aid rules by the national competition authority in the energy sector, apart

**Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures (January 2017)**

A new Law on infrastructure, which is to transpose Regulation (EU) 347/2013, is being drafted by the Ministry in charge. The draft Law is expected to be adopted in the first half of 2019. In addition, a national competent authority should be designated and become fully operational.

**Cross-cutting Measures**

Eliminate price regulation of generation and for other than small enterprises and household customers, and adopt national action plans for phasing out price regulation in general



Legal and functional unbundling of distribution system operators and supply companies



Ensure independence of national energy regulatory authorities based on pre-defined indicators



Apply for observer status in ACER based on a positive opinion of the European Commission



Unbundle and certify transmission system operator in line with the Third Energy Package



Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending proceedings, and take due account of the Secretariat's opinion



Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures



**Total for cross-cutting measures**





## Spot Market Development

### Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat (March 2016)

The Energy Law, adopted in May 2018, sets the legal ground for establishing an organised day-ahead market in North Macedonia and for its coupling with neighbouring markets. The remaining obstacles to market coupling, stemming from non-harmonised VAT legislation, have been identified by the Secretariat. The necessary legal amendments are yet to be proposed and adopted.

### Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade (July 2016)

An electricity market operator (MEMO) was established by the transmission system operator in October 2018. The transfer of assets to the newly established company was completed. However, MEMO has not yet become operational and the licensing procedure is ongoing. The secondary legislation on the operation of MEMO, including the necessary technical, staffing and financial conditions, is currently being drafted and is expected to be adopted by June 2019. Technical assistance to the operationalisation of MEMO was launched under the WB6 connectivity programme in April 2019.

### Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc. (July 2016)

The new Energy Law gives the regulatory authority the competence to impose liquidity measures, should the regulator, in co-operation with the Competition Commission and the Secretariat, consider that competition is inefficient.

### Coupling of organised day-ahead electricity markets with at least one neighbouring country (July 2017)

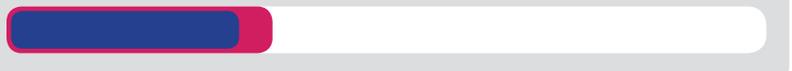
Following the signatures of the Bulgaria - North Macedonia Memorandums of Understanding on electricity day-ahead market coupling between TSOs, NRAs and PX on 12 April 2018, and between Ministers on 18 May 2018, a non-disclosure agreement and a roadmap for market coupling between the two countries were adopted by the programme steering committee in November 2018. A cost sharing agreement was drafted and is expected to be adopted once MEMO becomes operational. According to the roadmap, market coupling shall go live by January 2020. However, the delay in establishing a day-ahead market in North Macedonia is likely to postpone the coupling. The project envisages market coupling based on available transmission capacity and in compliance with the requirements of single day-ahead coupling (SDAC). The project is supported by the WB6 regional energy market connectivity programme.

## Spot Market Development

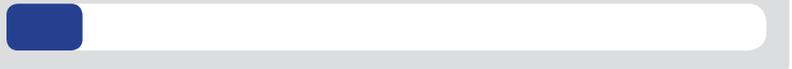
Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat



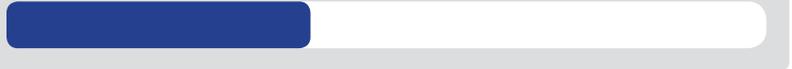
Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade



Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc.



Coupling of organised day-ahead electricity markets with at least one neighbouring country



### Total for spot market development



## Cross-border Balancing

### Legal possibility for transmission system operators to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions (March 2016)

Legal obstacles to the transmission system operator to procure balancing services in a non-discriminatory and market-based manner were removed by the adoption of the new Energy Law.

### Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of bal-

### ancing services (March 2016)

The adoption of new balancing rules was further delayed. According to the Law, the new balancing rules were to be adopted by September 2018. The transmission system operator failed to submit a new version of the draft balancing rules, developed under the WB6 regional energy market connectivity programme, to the national regulatory authority for approval.

### Establishment of a functioning national balancing market based on above model (July 2016)

The implementation of a market-based model is subject to the adoption of the new balancing rules.

#### Cross-border Balancing

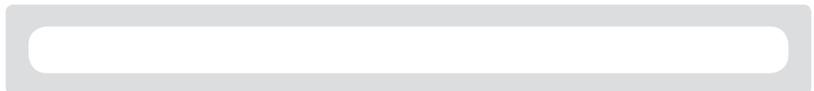
Legal possibility for transmission system operator to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions



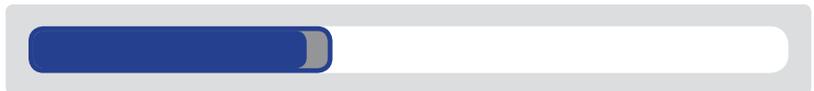
Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services



Establishment of a functioning national balancing market based on above model



#### Total for cross-border balancing



## Regional Capacity Allocation

### Binding agreement between TSO from North Macedonia with SEE CAO on coordinated allocation (November 2015)

This task was completed. As of 2017, interconnection capacities between North Macedonia and Greece are auctioned on a yearly, monthly and daily basis through SEE CAO.

### Introduction of a coordinated capacity calculation process for the allocation of day-ahead capacities based on a regionally coordinated congestion forecast (July 2016)

A methodology for coordinated capacity calculation in the so-called Shadow Capacity Calculation Region 10 (comprising WB6 and its neighbouring EU Member States) was developed under the WB6 regional energy market connectivity programme. According to the project proposal, this methodology is to be applied in accordance with a currently discussed recommendation of the Energy Community Regulatory Board on the early implementation of coordinated capacity calculation in the Energy Community. The recommendation is expected to be adopted in the course of 2019. As of March 2018, the transmission system operator is procuring services of a regional security coordinator, from the Security Coordination Centre (SCC). However, the European Commission has expressed concern about SCC's legitimacy



as a regional security coordinator given the non-applicability of the System Operation Guideline in the Energy Community and in light of the EMS-KOSTT dispute.

### The Western Balkan countries to support signing of agreements between SEE CAO and relevant EU Member States (July 2017)

There is no lack of support by WB6 countries. This task depends on the support from the European Commission.

#### Regional Capacity Allocation

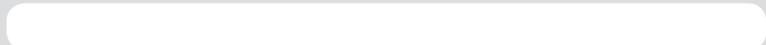
Introduction of a coordinated capacity calculation process for the allocation of day ahead capacities based on a regionally coordinated congestion forecast



Binding agreements between TSOs from North Macedonia, and Serbia with SEECAO on coordinated allocation



The Western Balkan Countries to support signing of agreements between SEE CAO and relevant EU Member States



#### Total for regional capacity allocation



## Cross-cutting Measures

### North Macedonia to comply with the obligation to grant eligibility to all electricity customers (October 2015)

This measure was accomplished as the Energy Law grants the eligibility right to all customers as of 1 January 2019.

### Eliminate price regulation of generation for other than small enterprises and household customers and adopt national action plans for phasing out price regulation in general (January 2016)

This measure was accomplished as regulation of the generation price was abolished by the Energy Law. The obligation of the incumbent generation company ELEM to provide electricity for supply to households and small customers under universal supply and supply of last resort ceased to exist as of 1 January 2019. An obligation of ELEM to offer a certain share of its production at market prices to the universal supplier as of 2019 is defined by the new Energy Law. A step-wise reduction of this share, starting from 80% in 2019, to minimum 30% in 2025 is defined. In a tender procedure, the Government selected a universal supplier and a supplier of last resort. The selected supplier is currently in the process of licensing. The regulator adopted a tariff system for the sale of electricity by the universal service supplier and the supplier of last resort.

### Legal and functional unbundling of distribution system operators and supply companies (March 2016)

This task is completed. The distribution system operator was legally unbundled from the vertically integrated utility EVN. On 1 January 2017, a daughter company established by EVN was licenced for distribution. This company performs distribution activities with assets leased from the mother company. The compliance programme of EVN Distribucija was approved by the regulatory authority on 16 November 2018, following which a compliance officer was appointed. A separate identity of the company was established through rebranding which was completed in December 2018. The company's name has been changed from EVN Distribucija to Elektrodistribucija.

### Ensure independence of national energy regulatory authorities based on pre-defined indicators (January 2016)

By adoption of the new Energy Law, the regulatory authority's competences were expanded in line with the Third Energy Package requirements.

### Apply for observer status in ACER based on a positive opinion of the European Commission (July 2016)

The regulatory authority ERC is preparing an application for observer status following the implementation of the Third Energy Package.

**Unbundle and certify transmission system operator in line with the Third Energy Package (June 2016)**

A preliminary decision on certification of the transmission system operator, MEPSO, was adopted by the national regulatory authority and submitted for an opinion to the Energy Community Secretariat on 27 March 2019. The Secretariat will issue its opinion by 27 July 2019.

**Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending proceedings, and take due account of the Secretariat’s opinion (July 2016)**

The Commission for Protection of Competition, as the competition and State aid enforcement authority, does not conduct enforcement activities related to competition and State aid rules in the energy sector.

**Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures (January 2017)**

North Macedonia did not comply with the transposition and implementation deadlines defined by the Regulation. The manner in which the Regulation should be transposed and implemented was subject to technical assistance provided by the Secretariat. A compliant Law is expected to be adopted in the first half of 2019.

**Cross-cutting Measures**

Eliminate price regulation of generation and for other than small enterprises and household customers, and adopt national action plans for phasing out price regulation in general	
Legal and functional unbundling of distribution system operators and supply companies	
Ensure independence of national energy regulatory authorities based on pre-defined indicators	
Apply for observer status in ACER based on a positive opinion of the European Commission	
Unbundle and certify transmission system operator in line with the Third Energy Package	
Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending proceedings, and take due account of the Secretariat’s opinion	
Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures	
<b>Total for cross-cutting measures</b>	



## Spot Market Development

### Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat (March 2016)

The legal and regulatory framework for the organised electricity market and market coupling is in place.

### Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade (July 2016)

This task was completed by the launch of the Serbian day-ahead electricity market in February 2016. It is operated by the joint stock company South East European Power Exchange (SEEPEx).

### Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc. (July 2016)

Trading on SEEPEx is voluntary and no regulatory measures promoting liquidity have been taken. The transmission system operator is procuring electricity for covering network losses through an online auction platform and a day-ahead market through SEEPEx. Trading on the Serbian day-ahead market increased by 174% in 2018. A further increase of liquidity requires implementation of additional measures such as mandatory sales of electricity from renewable sources, further deregulation of retail prices and abandoning the licencing regime for wholesale.

### Coupling of organised day-ahead electricity markets with at least one neighbouring country (July 2017)

SEEPEx's initiatives to launch market coupling projects with neighbouring EU Member States have not succeeded. Serbian stakeholders are participating in the project for coupling of the Serbian market with those of Albania, Italy and Montenegro (AIMS). A non-disclosure agreement was signed in September 2018, but a concrete implementation roadmap was not adopted. A trilateral market coupling of Bulgaria, Croatia and Serbia was announced in February 2019. No follow-up activities and timeline were reported.

#### Spot Market Development

Remove major legal and contractual obstacles to establishing organised electricity markets and market coupling based on the reports of the Secretariat



Adhere to a power exchange or, if economically justified (considering liquidity and economic viability), create an own power exchange, enabling wholesale market trade



Ensure liquidity of the domestic electricity markets by appropriate regulatory measures such as contract reviews, capacity releases, virtual power plants etc.



Coupling of organised day-ahead electricity markets with at least one neighbouring country



#### Total for spot market development



## Cross-border Balancing

### Legal possibility for transmission system operators to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions (March 2016)

The legislation in force allows the transmission system operator to procure balancing services across borders using market-based and non-discriminatory procedures. Foreign companies can participate in the balancing market.

### Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services (March 2016)

Market rules, adopted in November 2016, allow for market-based procurement of balancing energy with an inter-transmission system operator model for cross-border exchange. With the transmission system operators of Bosnia and Herzegovina and Montenegro, a model for exchange of balancing energy from a manually activated frequency restoration reserve has been implemented on a bilateral basis.

Despite that the cross-border balancing project, financed un-

der the WB6 connectivity programme, showed a considerable savings potential, imbalance netting within the control block of North Macedonia, Montenegro and Serbia, has not progressed.

### Establishment of a functioning national balancing market based on above model (July 2016)

The price of balancing reserves will continue to be regulated

based on a report on the need for further regulation of these prices, published by the national regulatory authority in September 2018. Services are still provided by only one balancing service provider, the incumbent generation company EPS. The barriers to regional balancing market functioning and measures for their removal indicated by the regulator have not triggered any activities.

#### Cross-border Balancing

Legal possibility for transmission system operator to acquire balancing services from all operators in the national and in perspective of a regional market under competitive conditions



Adoption of a market-based balancing model allowing for the non-discriminatory cross-border exchange of balancing services



Establishment of a functioning national balancing market based on above model



#### Total for cross-border balancing



## Regional Capacity Allocation

### EMS (Serbia) and KOSTT (Kosovo) to implement the Framework and Inter-TSO Agreement (September 2015)

The contracts signed by the transmission system operators of Serbia and Kosovo in 2014 are still not implemented. They also failed to make progress in finalising agreements on compensation for past congestion management and the Inter-TSO compensation (ITC). This is subject to the Ministerial Council's decision in Case ECS-3/08 which required Serbia to rectify the breach of European law by the end of May 2019, and both Serbia and Kosovo\* to make their best efforts to find a solution. Negotiations between Serbia and Kosovo are facilitated by the Energy Community Dispute Resolution and Negotiation Centre. On 7 November 2018, the Kosovo Business Registration Agency registered a supply company Elektrosever, wholly owned by the Electric Power Utility of Serbia, EPS. The registration certificate was corrected in March 2019. Follow-up activities towards licensing of the registered company are yet to be taken. Licensing of a Serbian supplier in Kosovo is a precondition for the entry into force of the Connection Agreement between ENTSO-E and the transmission system operator of Kosovo, KOSTT.

### Binding agreement between TSO from Serbia with SEE CAO on coordinated allocation (November 2015)

Negotiations between the transmission system operator EMS and SEE CAO have stalled. EMS is allocating capacities on the borders with Bulgaria and Croatia through the Joint Auction Office (JAO), whereas on other borders the capacity allocation mechanism is not regionally coordinated.

### Introduction of a coordinated capacity calculation process for the allocation of day-ahead capacities based on a regionally coordinated congestion forecast (July 2016)

A methodology for coordinated capacity calculation in the so-called Shadow Capacity Calculation Region 10 (comprising WB6 and its neighbouring EU Member States) was developed under the WB6 regional energy market connectivity programme. According to the proposal, this methodology is to be applied in accordance with a currently discussed recommendation of the Energy Community Regulatory Board on early implementation of coordinated capacity calculation in the Energy Community. The recommendation is expected to be adopted in the course of 2019. The transmission system operator is a shareholder of the Security Coordination Centre (SCC), which was established together with the transmission system operators of Bosnia and Herzegovina and Montenegro in August 2015. The European Commission has expressed concern about SCC's legitimacy as regional security coordinator given the non-applicability of the System Operation Guideline in the Energy Community and in light of the EMS-KOSTT dispute.



**The Western Balkan countries to support signing of agreements between SEE CAO and relevant EU Member States (July 2017)**

There is no lack of support by WB6 countries. This task needs support from the European Commission.

**Regional Capacity Allocation**

EMS (Serbia) and KOSTT (Kosovo) to implement the Framework and Inter-TSO Agreement



Introduction of a coordinated capacity calculation process for the allocation of day ahead capacities based on a regionally coordinated congestion forecast



Binding agreements between TSOs from North Macedonia, and Serbia with SEECAO on coordinated allocation



The Western Balkan Countries to support signing of agreements between SEE CAO and relevant EU Member States



**Total for regional capacity allocation**



**Cross-cutting Measures**

**Eliminate price regulation of generation and for other than small enterprises and household customers, and adopt national action plans for phasing out price regulation in general (January 2016)**

Prices of generation and supply were deregulated as of 1 January 2015, except the price of electricity supplied to households and small customers entitled to universal service. In its report on the need for further regulation of the price of guaranteed supply, published in September 2018, the regulator considers that deregulation is not an acceptable option having in mind a considerable gap between regulated and market prices and the share of the population falling within the status of absolute poverty and energy poverty. The report recommends to improve the protection scheme and decrease the gap between the market price and the regulated price of supply, but no measures have been taken in this regard.

**Legal and functional unbundling of distribution system operators and supply companies (March 2016)**

While legal unbundling of distribution system operators from supply has been finalized, functional unbundling has not been completed yet. The annual compliance report of 30 June 2017 concludes that independence of the EPS' distribution subsidiary in terms of organisation and decision-making still does not exist and that the compliance programme is still not implemented. Rectifying this breach requires amendments to the founding

act of the distribution system operator. No progress has been reported on aligning the statute of the distribution system operator with the Law on Public Enterprises and the Energy Law. A follow-up compliance report has neither been published by the distribution system operator nor by the regulator, despite the respective legal obligations.

**Ensure independence of national energy regulatory authorities based on pre-defined indicators (January 2016)**

Insufficient autonomy and uncertainty over its budget and internal organisation due to limitations stemming from the Law on Maximum Number of Employees in the Public Sector are jeopardizing the authority's independence.

**Apply for observer status in ACER based on a positive opinion of the European Commission (July 2016)**

The regulatory authority AERS submitted the application for observer status in ACER Working Groups in May 2016 but was rejected. The Secretariat provided ACER with an analysis related to the requirements for ACER Working Group participation of AERS that did not confirm compliance with the necessary conditions established by ACER.

**Unbundle and certify transmission system operator in line with the Third Energy Package (June 2016)**

Unbundling of the transmission system operator has not yet been finalised in compliance with the Third Energy Package, according to the Opinion of the Secretariat, and affirmed by the European

Commission. The regulator certified the transmission system operator as compliant with ownership unbundling rules of the Third Energy Package in August 2017, despite the Secretariat's Opinion. AERS failed to reopen the certification procedure in order to let the Secretariat take into account an amendment to the Law on Ministries, made after the issuance of the Secretariat's Opinion. The European Commission asked ENTSO-E to contact EMS and the Secretariat to solve the identified problem in order to avoid a potential suspension of the participation and/or voting rights of EMS in ENTSO-E.

**Increase effectiveness of national administrative authorities, including for competition and State aid, by strengthening their independence and financial means and requiring them to notify the Secretariat of pending proceedings, and take due account of the Secretariat's opinion (July 2016)**

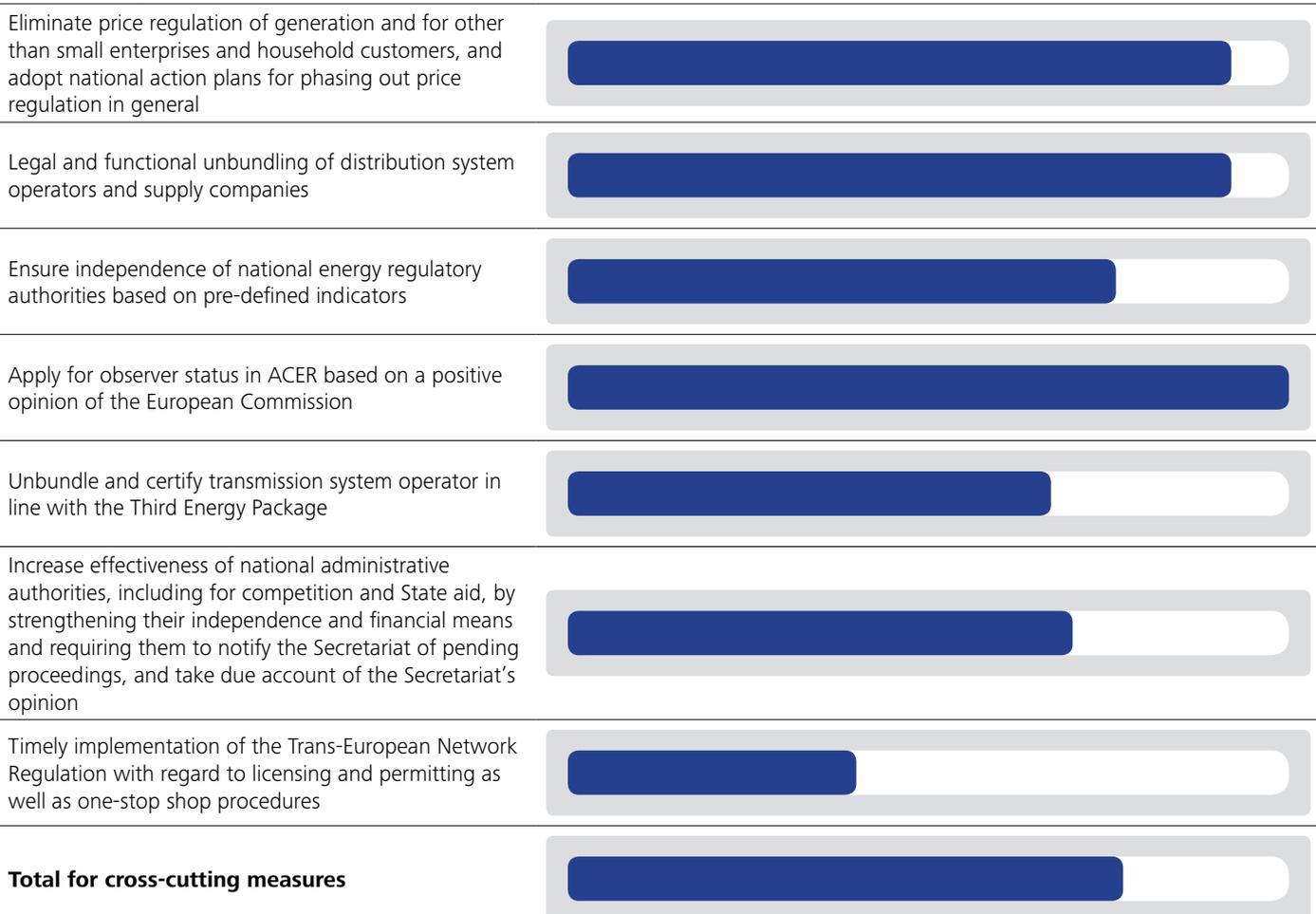
The Commission for State Aid Control started to cooperate with the Secretariat effectively. The Secretariat assisted in the

assessment of state support for the Kolubara B power plant project and, following the adoption of a compliant decision by the Commission for State Aid Control, the Secretariat closed the related infringement case. The structure of the Commission for State Aid Control, which is closely linked to the Ministry of Finance, prevents the Commission from applying the State aid rules independently.

**Timely implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures (January 2017)**

In October 2017, the Government adopted the Programme for the Implementation of the Energy Development Strategy by 2025 for the period 2017-2023, by which the Regulation is transposed in the national legislation. Additional activities are needed to implement the Regulation, including designation of the National Competent Authority. The Strategy stipulates that a new regulation shall be adopted every time a new infrastructure project is commenced.

**Cross-cutting Measures**





## The Regional Activities

Regional activities to create a regional electricity market in the Western Balkans were focused on putting in place the framework necessary to enable an early implementation of market coupling and cross-border balancing in line with the commitments made under the WB6 Memorandum of Understanding on Regional Electricity Market Development (WB6 MoU). WB6 MoU signatories, namely ministries, transmission system operators, national regulatory authorities and power exchanges from WB6 and 15 stakeholders from neighbouring EU Member States, agreed to proceed with the market integration process by starting with the market coupling of national organised day-ahead markets with at least one neighbouring WB6 or EU Member State by July 2018 and the development of cross-border balancing cooperation among WB6 countries by December 2018. According to the current state of play, neither the first phase of market coupling nor regional cross-border balancing cooperation is likely to be implemented before 2020.

Activities on market coupling were organised around two ongoing projects, namely the coupling of Bulgaria and North Macedonia (BG-MK) and of Albania, Italy, Montenegro and Serbia (AIMS). According to the roadmap adopted in November 2018, BG-MK coupling is expected to go live in early 2020, whereas a timeline for AIMS coupling is yet to be defined. As both initiatives include borders between WB6 and EU MSs, cooperation between the WB6 structures and Multi-Regional Coupling (MRC) was established in November 2018 in order to explore the possibilities for WB6 to take part in MRC. The establishment of a legal framework harmonised with the Third Energy Package, a power exchange and a market coupling project with an MRC member, as well as a clarification on the applicability of the Capacity Allocation and Congestion Management Guideline (CACM), were identified as the main requirements for the WB6 to join MRC.

Market coupling and cross-border balancing cooperation in WB6 is closely interlinked with the development of the European platforms for single day-ahead market coupling and balancing cooperation. The WB6 roadmaps for both market coupling and cross-border balancing are to a large extent based on the presumption that the WB6 parties can be integrated into the European platforms, without any additional barriers. However, the absence of a robust legal basis for the integration of EU and WB6 markets adds a further layer of uncertainty to the early implementation of the integration processes. This can only be overcome by the adoption of European Network Codes and Guidelines in the Energy Community and their application on the borders between the Contracting Parties and EU Member States. In the meantime, for the purpose of the early implementation, the conditions under which WB6 parties can become members of the European platforms should be clarified and agreed.

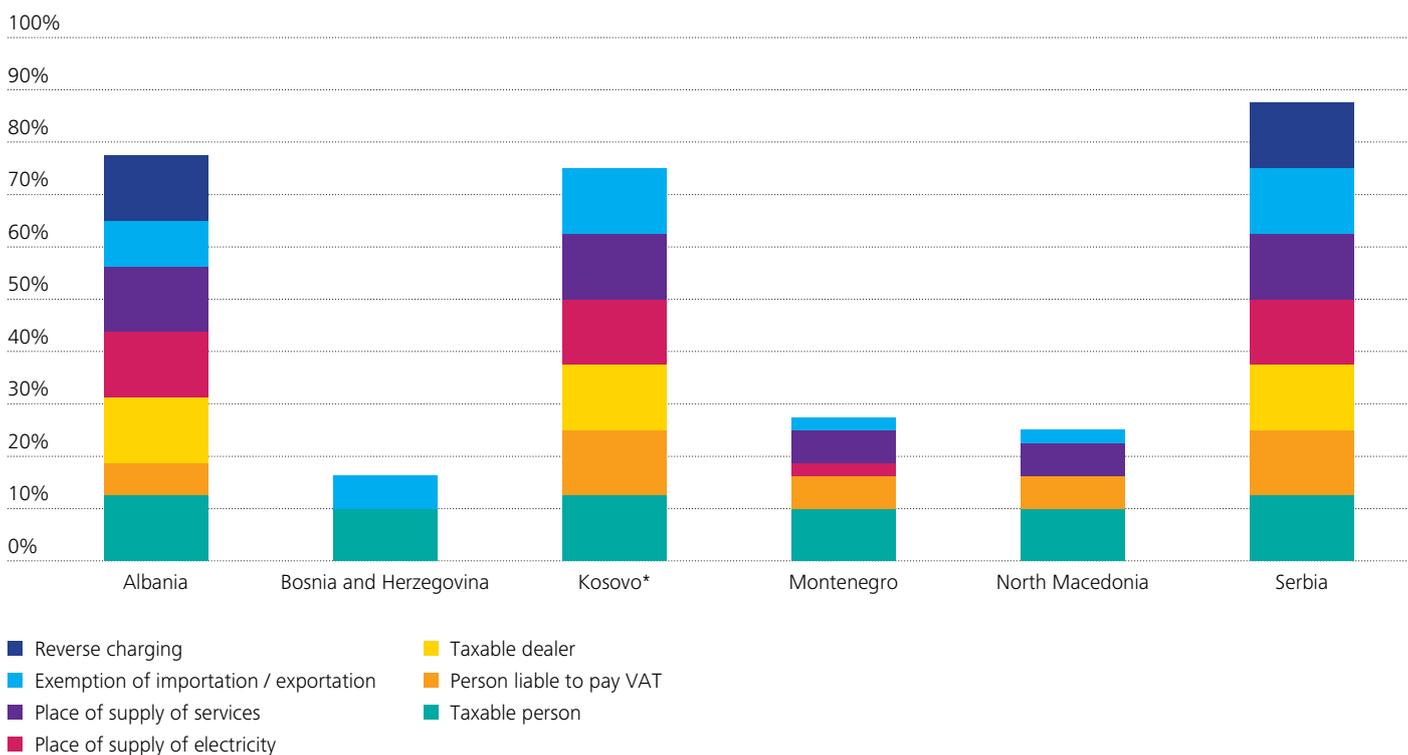
To bridge the gap until the CACM is fully applied in the Energy Community, an early CACM implementation toolkit was developed, addressing the CACM provisions that are decisive for market coupling pilot projects to take off. Two recommendations on establishing the necessary regulatory framework for market coupling were also developed. The first concerns the designation of a nominated electricity market operator (NEMO) and a shipping agent. The second calls on regulators to trigger the process of adoption of the methodology for coordinated capacity calculation in the so-called Shadow Capacity Calculation Region 10 (comprising WB6 and its neighbouring EU Member States).

In line with the commitments made under the WB6 MoU, coordinated integration roadmaps for imbalance netting and cross-border exchange of balancing energy from a manually activated frequency restoration reserve (mFRR) were developed under the project for cross-border balancing in WB6. The proposed roadmap for imbalance netting is based on the assumption that the control blocks between Serbia, Montenegro and North Macedonia (SMM) and Slovenia, Croatia and Bosnia and Herzegovina (SHB) will continue to exist, in particular due to the identified benefits of this cooperation. On that basis, the roadmap suggests the development of pre-netting at the level of the control block, and possibly among the control blocks, and in parallel their full integration into the European imbalance netting platform (IGCC) by the end of 2020. For the transmission system operators of Albania and Kosovo, which are currently not members of any control block, integration into IGCC is to be finalised by the end of 2021.

The roadmap for the cross-border exchange of balancing energy from the mFRR envisages intermediary cooperation at the level of WB6, prior to integration into the European mFRR platform (MARI). The roadmap envisages an upgrade of the current bilateral cross-border exchanges of the mFRR between the transmission system operators of Bosnia and Herzegovina, Montenegro and Serbia, to trilateral cooperation on the basis of a common merit order list, by the end of 2019. The WB6 mFRR platform, planned to go live by the end of 2021, would serve as an interim solution until full integration into the future European platform. The implementation of these roadmaps would require the WB6 parties to comply with the requirements of the Electricity Balancing Guideline and System Operation Guideline, in line with the findings and recommendations of the gap analysis performed under the cross-border balancing project.

Implementation of all regional activities was realised under the regional projects for day-ahead market integration, cross-border balancing and coordinated capacity calculation in WB6, financially backed-up by the contract for technical assistance to regional energy market connectivity in the Western Balkans, signed between the European Commission and the Energy Community Secretariat.

## Harmonization of value added tax regimes for electricity related cross-border transactions



Diverging regimes governing value added tax on cross-border electricity transactions have a deterring impact on market integration, increasing the risks of double taxation, non-taxation and tax fraud and distorting competition<sup>1</sup>. If an organized market is to be established, pertinent taxation rules must be harmonized within the Western Balkans and with neighbouring EU Member States, as a precondition for market coupling and cross-border balancing.

Albania, Kosovo and Serbia have already aligned their legislation to a great deal with EU rules and practices<sup>2</sup>. In North Macedonia, an expert team was established with the aim of proposing

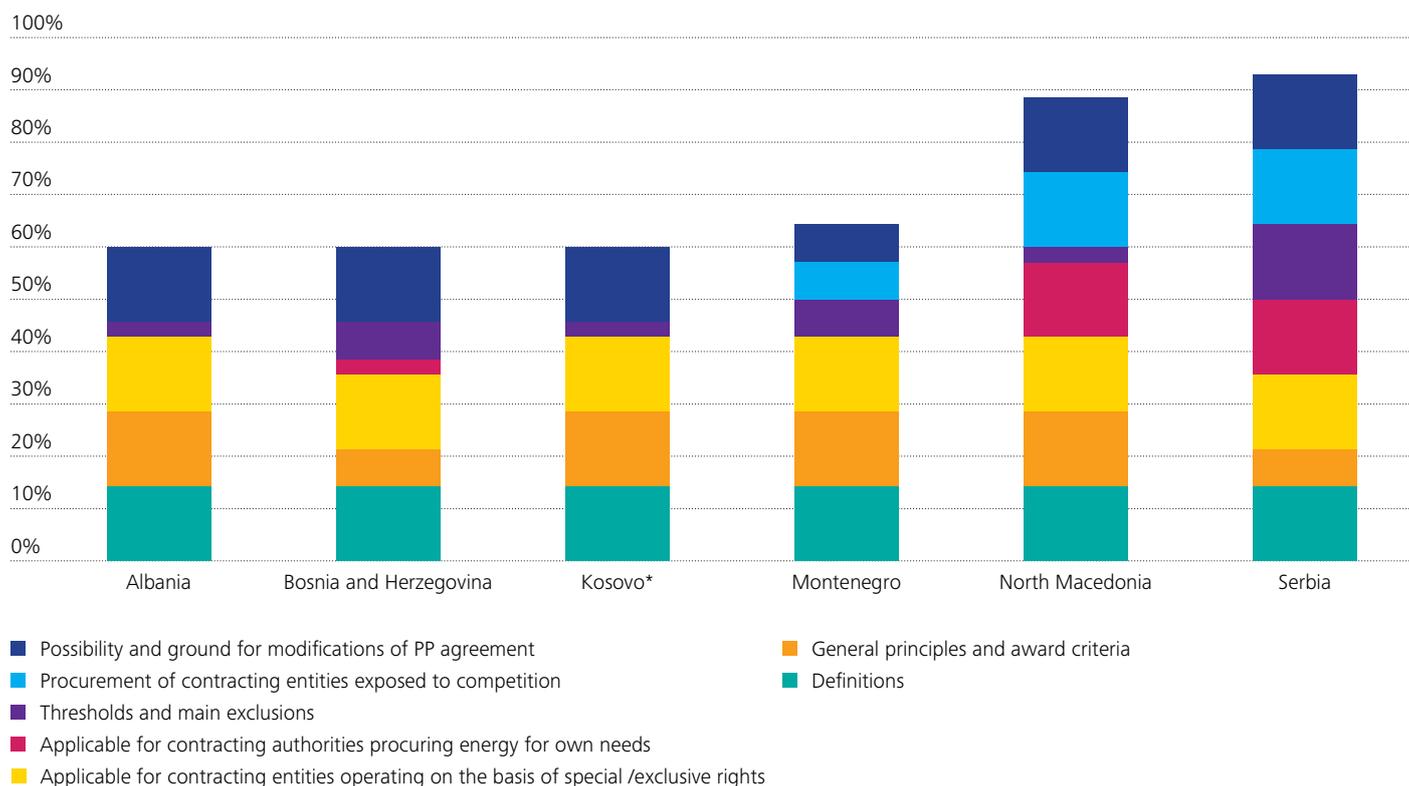
the necessary amendments to the national VAT Law in order to enable the functioning of the day-ahead market and its coupling.

Bosnia and Herzegovina is preparing a new VAT Law to transpose the relevant provisions enabling cross-border trade and market coupling, compliant with the VAT Directive. Montenegro, although ahead in the process in terms of setting up a power exchange, has not begun aligning the VAT legislation. To ensure timely adaptations, the Ministry of Economy is advised to proceed with the amendment of the VAT Law as proposed by the Secretariat during the ongoing VAT Law consultation.

1 The key provisions relevant for cross-border transactions in electricity include: the definition of a taxable person, a person liable to pay tax, a taxable dealer, a place of taxable transactions in wholesale and retail supply of electricity, a place of taxable transaction in cross-border supply of electricity related services, taxation of importation and exportation, reverse charging and reporting of fraudulent activities.

2 This assessment was conducted by the Secretariat, building on a 2017 Study on examining the implementation of EU acquis on Value Added Tax in the Energy Community legal order. The study assessed compliance of the relevant laws governing value added tax in the Contacting Parties with Directive 2006/112/EC on the common system of value added tax with the aim of identifying any missing or non-harmonised provisions which could represent an obstacle to the development and functioning of the electricity market.

## Implementation of harmonized public procurement rules for specific energy-related procurement



Opening of the electricity markets and their regional integration requires a level playing field for all participants. The proper implementation of public procurement rules is of importance for the development of competition in the WB6 electricity markets and for obtaining quality services and goods at fair prices.

In general, the public procurement laws of the WB6 apply the same principles as the EU acquis<sup>3</sup>. However, in the majority of cases, the problem lies in their implementation<sup>4</sup>. Implementing acts and transitional measures do not encourage competition at the wholesale level.

Across the WB6, particularly problematic is the procurement of electricity by contracting authorities; the procurement by energy undertakings performing a service of general interest/entrusted with a public service obligation/ granted a special or exclusive right; and the procurement by state-owned energy undertakings dealing with wholesale or retail sale of electricity in a competitive market.

There is also a need to improve procurement techniques and instruments in all WB6 parties in order to reflect the market development in the sectors of public interest and allow efficient competition while ensuring protection of public interest.

Preferential treatment of domestic bidders is still present in Bosnia and Herzegovina, as a transitional measure until 2019, and in Serbia. Domestic preferences are not applied with respect to bidders from countries that are party to the Central European Free Trade Agreement (CEFTA) and, in the case of Serbia, bidders from EU Member States from September 2018 onwards. Contracting authorities are obliged to apply public procurement rules to procure electricity for their own needs in Serbia, and to a certain extent in North Macedonia, subject to the eligibility threshold.

In Bosnia and Herzegovina and North Macedonia, public procurement laws are currently in the process of revision.

In Albania, Kosovo and Montenegro, the improvement of procurement practices is primarily needed as a vehicle to develop the currently missing competition at the retail level.

3 Directive 2014/24/EU on public procurement and Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors.

4 This assessment was conducted by the Secretariat, building on a 2017 Study on extending the Energy Community Treaty to include the rules on public procurement. Assessment of compatibility of public procurement rules and practices with the EU acquis relevant for the electricity market includes: the main concept, definitions, scope and applicability (with focus on procurement of contracting entities exposed to competition and of entities operating on the basis of special or exclusive rights), general principles and award criteria (especially introduction of environmental and sustainability criteria), thresholds and exclusions, possibility and ground for modifications.







This project is supported by the European Union. The contents of this publication are the sole responsibility of the Energy Community Secretariat and can in no way be taken to reflect the views of the European Union.



