



Reforms under the Energy Community Treaty

Verkhovna Rada Energy Committee

19 October 2016

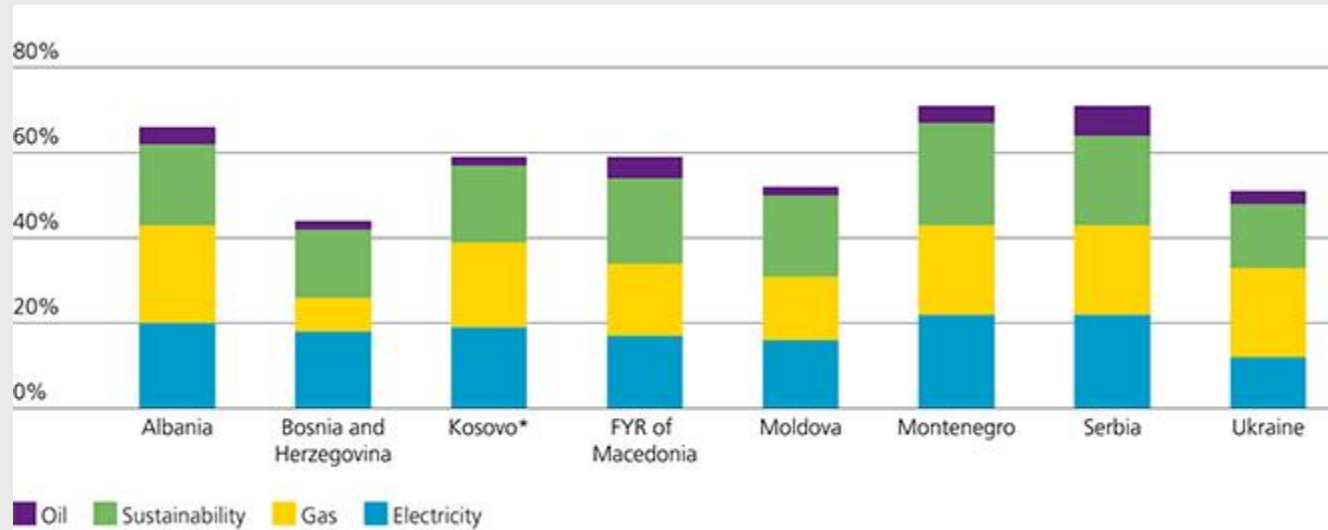
The common legal framework

- ▶ **Gas** (Third package) (3 Directives, 2 Regulations)
- ▶ **Electricity** (Third package) (2 Directives, 3 Regulations)
- ▶ **Environment** (7 Directives)
- ▶ **Competition** (some provisions of the Treaty)
- ▶ **Renewable energy sources** (RES Directive)
- ▶ **Energy efficiency** (4 Framework Directives, 12 Technical Regulations)
- ▶ **Antitrust and state aid** (some provisions of the Treaty)
- ▶ **Statistics** (1 Directive, 1 Regulation)
- ▶ **Oil** (1 Directive)
- ▶ **Infrastructure** (1 Regulation)

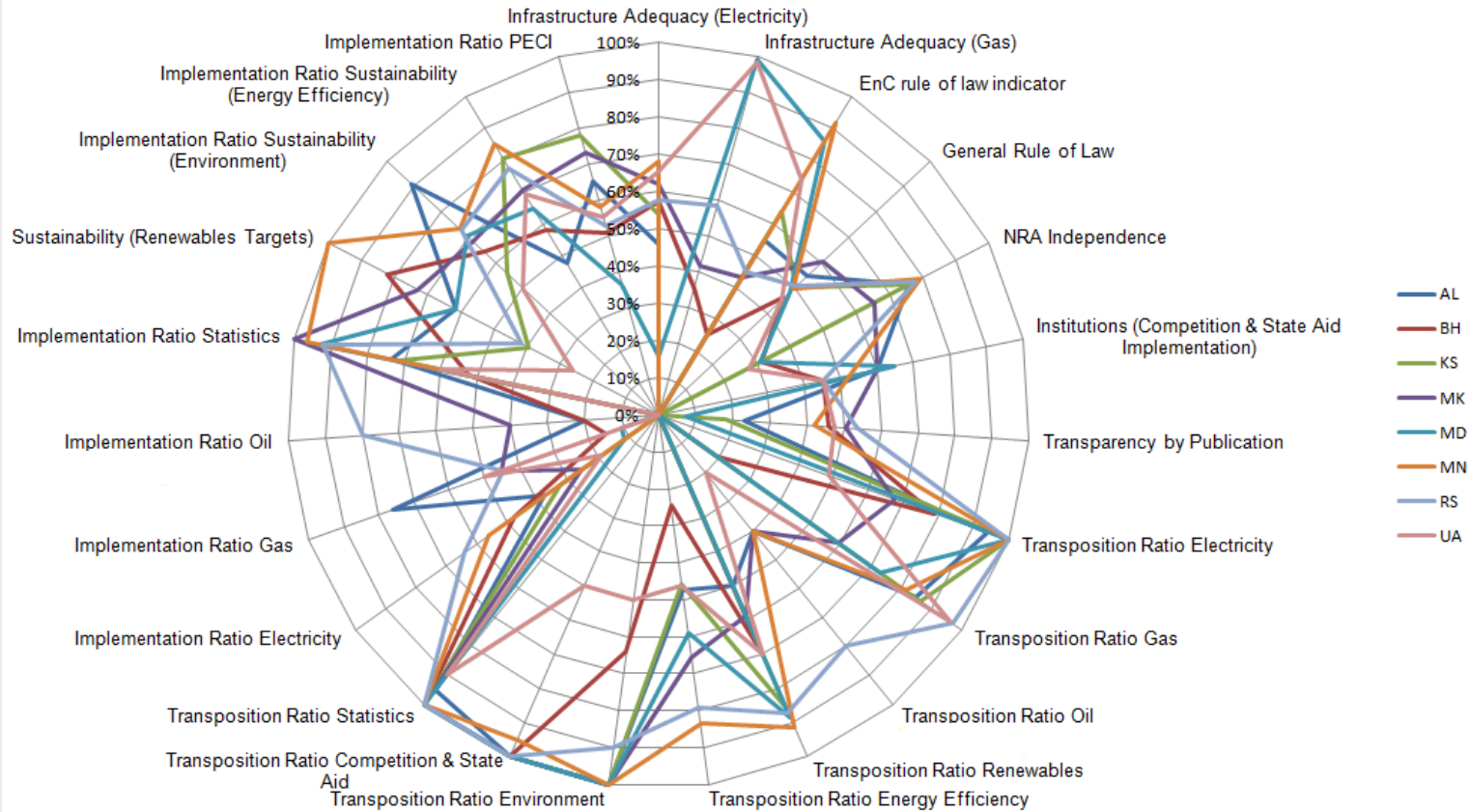


- The Secretariat has a legal obligation to monitor the implementation of the acquis and submit yearly progress reports to the Energy Community Ministerial Council (Energy Community Treaty Art. 67)
- 2016 Annual Implementation Report published on 27 September 2016 – available via https://www.energy-community.org/portal/page/portal/ENC_HOME/DOCS/4332394/3D790302C9FD5024E053C92FA8C0D492.pdf.
- Key findings:
 - Albania, Kosovo*, Moldova, Montenegro, Serbia and partially Ukraine transposed the Third Energy Package; Bosnia and Herzegovina and former Yugoslav Republic of Macedonia have not (dispute settlement procedures ongoing)
 - Montenegro and Bosnia and Herzegovina have already surpassed their 2020 renewable energy targets, while Serbia and Albania are closely following their indicative pathway to reach the final target, Ukraine is falling behind
 - Transposition is the weakest in the sphere of energy efficiency, several Contracting Parties are yet to transpose the Energy Performance of Buildings Directive (inc. Ukraine) and Energy Services Directive (inc. Ukraine)

Overview of Implementation Performance by Contracting Parties



Contracting Parties' Implementation Indicators Radar





- **Adoption of the draft Electricity Market Law** in compliance with the Third Package is still the highest priority – starting point for implementation of long-awaited reforms
- Approval of secondary legislation compliant with the third package – prerequisite
- Structural reforms depending on adoption of the Law:
 - TSO certification for Ukrenergo following the Third Package
 - establishment of new electricity market (Energorynok) structure and functions
 - unbundling of distribution **activities** from supply and generation (Oblenergos)
 - supplier switching to be available for the final customers in the retail market
- Regulated prices of electricity are still applied for state-owned generators and distribution companies – they limit the market environment and form a large chain of cross-subsidization
- New trading mechanisms and electronic platforms – to be developed for balancing, day-ahead and intraday trading and settlement in the electricity market
- Cross-border capacity auctions – coordinated rules and mechanisms to be applied

Implementation Report Conclusions – Gas



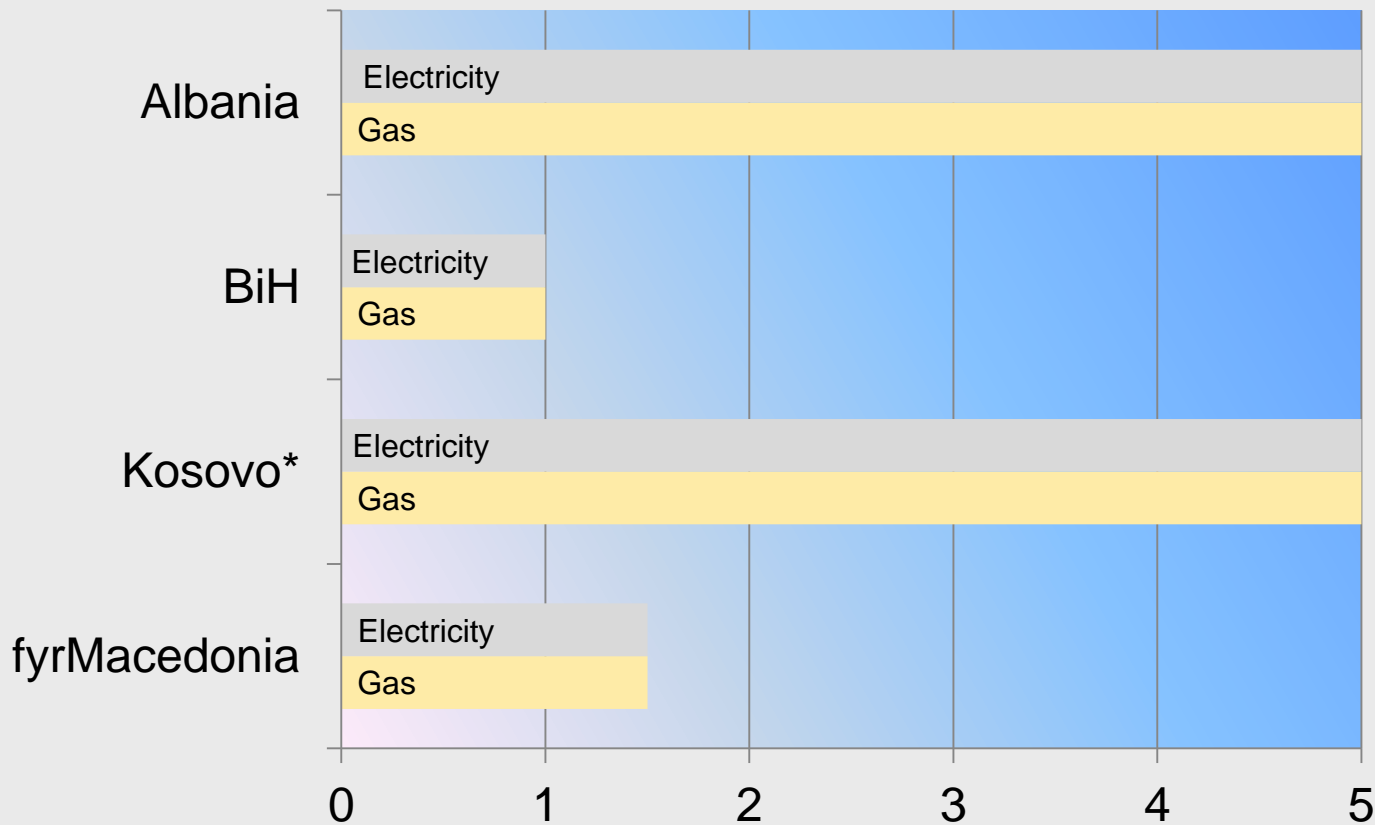
- Following entry into force of the Law on Natural Gas Market on 1 October 2015, secondary legislation was developed, adopted and assessed (Energy Community Secretariat called for improvements in some cases)
- The update of secondary acts is still on going
- Beside Naftogaz, around 20 new traders entered the Ukrainian gas market by importing gas from the EU using physical reverse flow via Slovakia, Poland and Hungary - signature of some interconnection agreements Ukrtransgaz – neighbouring TSO
- Naftogaz unbundling - conditional approval of the plan in May by the Secretariat, Government adopted the action plan in July
- **However, the unbundling process has been delayed in the last weeks, which risks tarnishing Ukraine's implementation record and having negative effects before the Stockholm court**



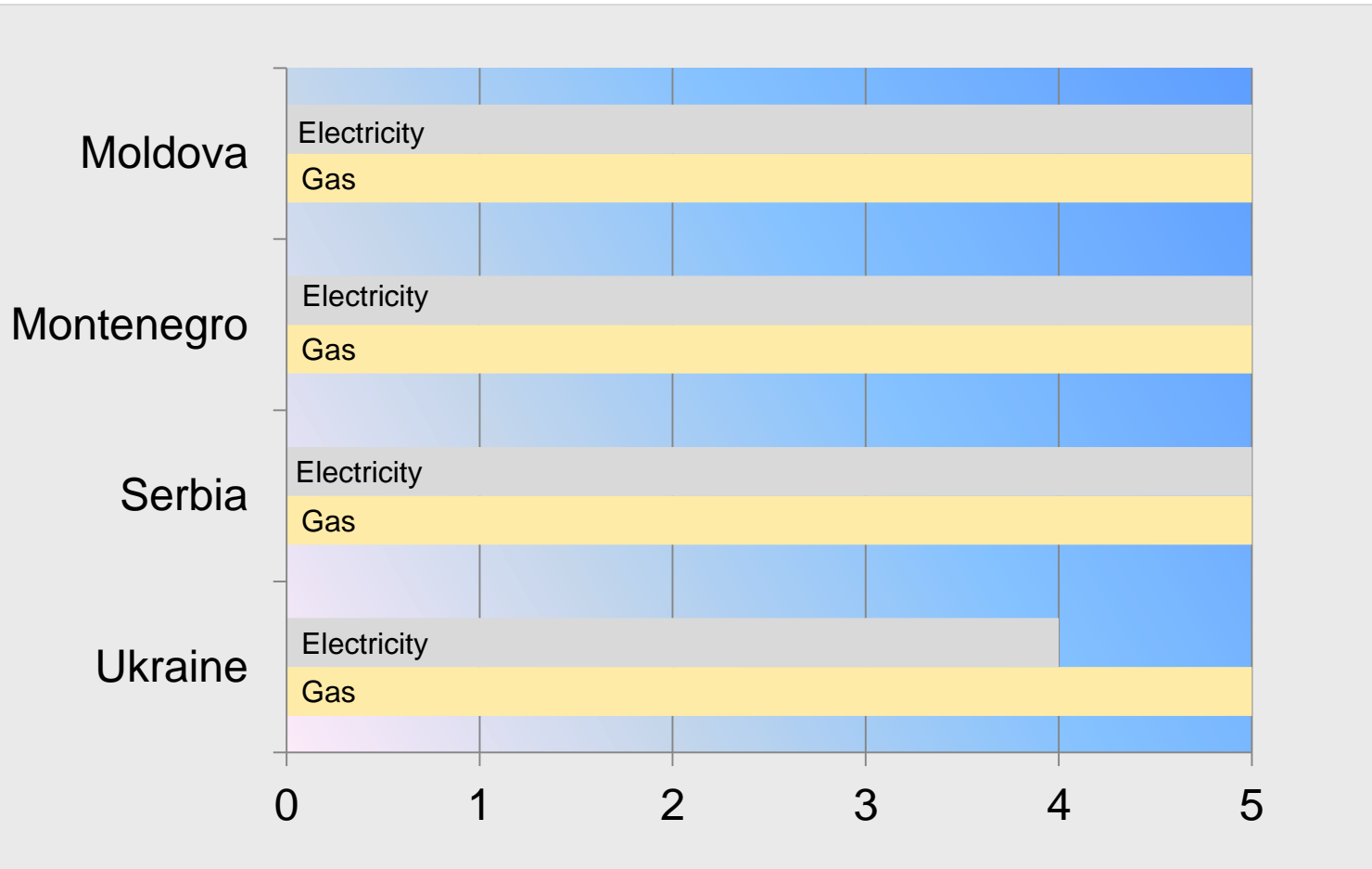


- **Independence, organisation and competences of NEURC ranked among the worst 3 performers in terms of Third Energy Package compliant laws in the Energy Community**
- **Adoption of the Law on the Regulator in September 2016 positively changed the situation**
 - Law review performed in close cooperation with Energy Community Secretariat
 - Major shortcomings addressed
 - Final confirmation of complete 3rd package compliance still subject to Secretariat's review upon availability of English translation
- **NRA competences part of the sector laws**

Third Package Transposition in Contracting Parties (I)



Third Package Transposition in Contracting Parties (2)



Implementation Report Conclusions – Oil



- There is no legal framework in place for the establishment of emergency oil stocks
- In 2015, the Government tasked the State Reserves Agency to lead a Working Group to develop the long term Action Plan (2016 – 2022) for creating an emergency oil stockholding system to meet the Directive’s obligations
- A model for projecting key calculations for Ukraine’s emergency stockholding and a preparatory paper for drafting the Ukrainian Action Plan were developed in Oct/Nov 2015
- Despite ongoing preparation for adopting a compliant oil stock holding regime, **no genuine progress can be reported so far**
- None of last year’s priorities were taken up, being delayed for an unspecified period of time



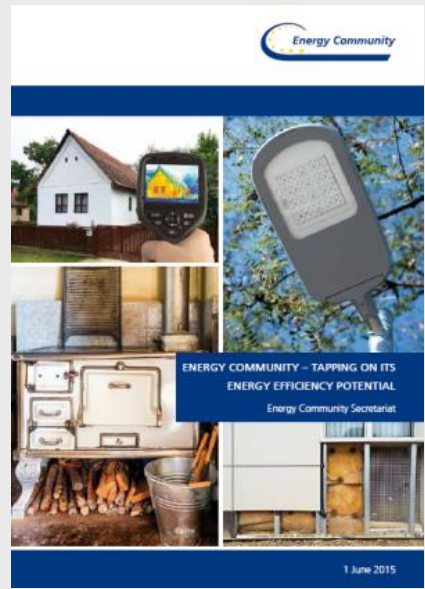
- Despite the existing legislation on renewable energy, the policy to promote energy from renewable sources is not consistent and the legislative gap in terms of compliance with the renewable energy acquis has widened

Priorities:

- **Introduce technology neutral auctions for granting support to renewable energy producers – it will allow the country to be on the trajectory in the most cost-effective way**
- Complete transposition of Directive on Renewable Energy
- A revised national action plan – NREAP - would be needed to ensure that new policy measures will bring Ukraine on track to meet the 11% target in 2020 - statistical data on biomass is still an issue
- Avoid any retroactive changes for existing renewable energy investors; a predictable, stable and investor-friendly renewable energy framework is needed
- Transpose the sustainability criteria and establish a certification system for biofuels and bioliquids



- 1st Energy Efficiency Action Plan (EEAP) adopted in November 2015
- **But many pieces of legislation are prepared but not adopted!**
- **Adoption of Energy Performance of Buildings Law** (compliant with Directive 2010/31/EU), **Energy Efficiency Law** (compliant with Directive 2012/27/EU) and **Metering Law are absolute priorities**
- Directive 2010/30/EU on Labelling of Energy-Related Products and implementing directives/delegated acts – partly in compliance (progress in adoption of technical regulation)





- **Environmental Impact Assessment Directive** – infringement case launched September 2016, new Law adopted in October 2016 - good result, Energy Community Secretariat to verify if all concerns addressed
- **Sulphur in Fuels Directive** - not transposed; Both thresholds (heavy fuel oil, gas oil) are not in line with Directive. Roadmap adopted in 2012 with deadlines up to 2017 not in line with Accession Protocol (open infringement procedure, Reasoned Request and MC Decision)
- **Large Combustion Plants Directive (deadline: end 2017)** - Preparations for implementation are ongoing, draft National Emission Reduction Plan submitted to Secretariat (deadlines for implementation were adjusted by 2015 Ministerial Council decision)
- **Industrial Emissions Directive (more stringent successor of the Large Combustion Plants Directive)** - deadline: 1 January 2018 for new plants exclusively and 1 January 2028 for existing plants



- Ukraine has transposed and implemented key obligations of Regulation (EC) 1099/2008 as regards energy annual statistics.
- In 2015 Ukraine has established official communication of the State Statistics Service of Ukraine (SSSU) with EUROSTAT. With the first submission of annual data for the year 2014, Ukrainian annual data are publicly available in the EUROSTAT database - fully compliant with the acquis.
- Ukraine has significantly improved its monthly statistics collections and key monthly collections are available, the communication with EUROSTAT is yet to be established in this respect.
- Directive 2008/92/EC on transparency of gas and electricity prices charged to industrial end-users has not been completed yet.
- **Completing the price reporting in accordance with the acquis is priority!**

New Environmental Acquis



- 2016: “Year of Environment”
- 2016 Energy Community Ministerial Council to adopt:
 - Strategic Environmental Assessment Directive
 - Environmental Liability Directive
 - Update of Sulphur in Fuels Directive
 - Update of Environmental Impact Assessment Directive
 - Recommendation on the adoption of Regulation (EU) No 525/2013 on a mechanism for monitoring and reporting greenhouse gas emissions



*Thank you
for your attention!*

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