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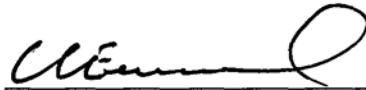
**Regulatory Benchmarking Report
For the Athens MoU signatory Parties and Observers**

**Final Version
08-10-04**

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Acknowledgement

The preparation of the Report took more than one year. The questionnaire used to gather information for this Report was prepared with the intent to extract the conditions in each country in order to reflect precisely the position of each country vis-à-vis the level of development in meeting the regulatory benchmarking standards. The questionnaire contained hundreds of questions. Since the energy market has a dynamic nature, responses of participants to the questionnaire needed to be circulated several times for necessary updates and corrections, and material set forth in this Report has been vetted by participants on several occasions. Given the breadth of the data accumulated, a time consuming study needed to be done under the pressure of time constraints. At the end of the day, the Report is precisely on time, as envisaged. Hence, we would like to thank thank Dr. Robert Ichord from USAID for the support of this effort, Ms. Isabel Bjork and Catherine Connors from Pierce Atwood for their major contribution and continuous involvement to the preparation of this report; Dr. Michael Thomadakis from RAE; Mr. Fabio Tambone from AEEG; Ms. Edith Hofer from CEER and Ms. Fulya Bas, Mr. Fakir Erdogan and Ms. Defne Gencer from EMRA for their hardwork and patience.

A handwritten signature in black ink, appearing to read 'Murat Erenel', is written over a horizontal line.

Murat Erenel,
EMRA
Leader of the Institutional
Compliance Subgroup

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REGULATORY BENCHMARKING REPORT FOR THE EC-SEE MOU SIGNATORY PARTIES AND OBSERVERS 2004

I. BACKGROUND

This Report is the second, expanded Regulatory Benchmarking Report for the Energy Community of South East Europe (“EC-SEE”), and includes the signatory parties and observers to the Athens Memoranda of Understanding (“Athens MOU”).

The purpose of the Report is to assess regulatory development in the region, in support of the objectives of the Athens MOU, the Stability Pact, and Directives 2003/54/EC and 2003/55/EC on the Internal Market in Electricity and Natural Gas, among other regional initiatives. The Report is intended to contribute to benchmarking efforts of the European Commission on energy market opening and regional energy market development, with an emphasis on the regulatory authority’s¹ role in achieving this objective. While all fields within the energy sector are addressed in the context of discussing the regulatory role, the Report concentrates primarily on electricity, in light of international agreements to develop a regional electricity market.² It is anticipated that the scope of future regulatory benchmarking reports may broaden to include regional natural gas market developments.

The Report expands on the first Regulatory Benchmarking Report, issued in May 2003. Five participants have been added this year. The participants now covered by this Report are: Albania, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, FYR of Macedonia, Greece, Hungary, Italy, Moldova, Romania, Serbia and Montenegro, Slovenia and Turkey, along with UNMIK.³ All are signatories to the Athens MOU, either as direct participants or observers.

¹ For the purposes of this Report, “regulatory authority” refers to the institution/commission, and not individuals; “regulator” refers to the members/commissioners/Board/Directors of the regulatory authority; regulators do not include staff members, who are defined as personnel working for the regulatory authority and subordinate to the regulators.

² The second Athens MOU addresses the regional energy market, which represents an expansion from earlier concentration on the regional electricity market. We note, however, that while energy includes electricity and gas, among other energy areas such as petroleum, this Report looks primarily to electricity in its assessment of regional development. For example, Romania has separate regulatory authorities to govern the electricity and gas sectors. While this Report makes some reference to the other regulatory authorities, its focus is the electricity regulatory authority, ANRE.

³ The new countries covered in this Report and not covered in the May 2003 Regulatory Benchmarking Report are: Austria, Hungary, Italy, Moldova and Slovenia.

Content has also expanded since the date of the first Regulatory Benchmarking Report. The Institutional Compliance Sub-Group of the Council of European Energy Regulators South East Europe Energy Regulators Task Force (“CEER WG SEEER”) prepared, in conjunction with CEER, a Discussion Paper, presented by CEER at the 2003 October Forum in Sofia. The Discussion Paper sets forth basic principles summarizing standards to be used in benchmarking an independent regulatory authority, and is attached hereto as Appendix 2. The structure, data and analysis of this Report are based on these basic principles.⁴

This Report has been produced by Pierce Atwood/USAID, in cooperation with the CEER WG SEEER. The Institutional Compliance Sub-Group has been led by the Turkish regulatory body, EMRA, with substantial input from a leadership team from the Austrian, Greek and Italian regulatory bodies.

The material provided in this Report comes in large part from answers to a questionnaire issued to all covered regulatory authorities. The questionnaire was developed in conjunction with the CEER WG SEEER, and is attached hereto as Appendix 3. The questionnaire, in turn, is based primarily on the principles included in the CEER WG SEEER Discussion Paper (Appendix 2), the EU Directives and Athens MOU requirements, and is informed by the draft specific WG SEEER standards (Appendix 4). In addition to the questionnaire, the information included herein is based upon follow-up interviews with representatives from the EC-SEE MOU signatory parties and observers (also referred to herein as “participants”),⁵ as well as analyses of the existing or pending legislation and practices in each country. This Report is thus the product of extensive collaboration with CEER and the CEER WG SEEER.

We would like to thank all the CEER, CEER WG SEEER, EC and USAID representatives who have provided us with invaluable direction and input during the production of this Report, from its inception stage and onward, as well as all the regulators and staff of the surveyed participant regulatory authorities who provided the extensive information included herein.

II. EXECUTIVE SUMMARY

The Report is intended to allow readers to assess with ease the status of the participant regulatory authorities and identify any areas where additional reform would assist the development of a regional market. The cooperative effort by all participants in putting together this Report has resulted in the gathering of important and comprehensive data. The challenge has been to present this material and its analysis in the most accessible manner to the reader.

⁴ The CEER WG SEEER also continues to explore more detailed specific standards to assist in benchmarking regulatory reform. This work resulted in a draft paper, referred to herein as the “draft specific CEER WG SEEER standards.” The authors of this Report reviewed these detailed draft standards in putting together this Report, and the draft specific standards are attached hereto as Appendix 4.

⁵ The authors worked directly with those contacts and their designees in the SEE MOU signatory and observer participants identified by the CEER WG SEEER and CEER.

Given the breadth of the data provided by participant regulatory authorities in response to the questionnaire and follow-up, this Report offers the data in a Data Annex, preceding the Appendices. The main text of the Report provides an overview Analysis of the sector regionally and targeted for each participant. In this way, the body of the Report offers regional and participant summaries, which the reader may then supplement with specific information via the Annex on areas of particular interest. Thus, information regarding regulatory authority structure (e.g., how many regulators, the type of voting practice, appointment powers, etc.) as well as the scope of regulatory competencies and processes is found in this Annex. The Analysis of the data, contained *infra*, Section III, includes both (A) a General Discussion, organized by the subject matters addressed in the Discussion Paper (e.g., Independence), and (B) participant-by-participant Summary in which developments in each participant are assessed in light of regional goals.

The data contained in the Report shows, as a threshold matter, that each participant and its regulatory authority are faced with a unique set of conditions, requiring individualized responses. While the participants strive for similar goals pursuant to regional agreements, each has adhered to its own pace and avenue for reform, affected by geographic, natural resource, institutional and political factors, among others. The data summarized in the Annex sets forth in detail various differences among participants, in light of specific conditions unique to each.

Despite the varying circumstances affecting reform and the consequential differing stages of reform in which each participant finds itself, certain general observations can be made.

Generally speaking, regulatory bodies can be described as moving through two basic phases. In the first phase, the regulatory authority is created and organized, and licenses sector participants. The majority of participants have passed through this phase (although a significant minority have not). Many of these have adequate resources, at least minimally appropriate self-governing rules and exist as viable elements in the sectors. As a group, the majority meet many of the minimum requirements of the MOUs and the Directives regarding basic structure, operation and competencies.

In the second phase of development, the regulatory authorities need to assume an active role in promoting competition and general market development. This phase requires qualitatively more sophisticated information systems, training, explicit rules and regulations focusing on specific market issues. At this stage, the regulatory authority may also meet some resistance from entrenched interests that seek to promote domestic or individual agendas to the detriment of an overall objective of creating a transparent, fully functional regional electricity market.

Many of the participants are now entering or have been in this phase for some time. It is at this stage, once an adequate institutional predicate of a competent, well-run regulatory authority has been established, that the objective manifestations of the market development are observed. It is also at this stage that adjustments beyond generically minimum requirements may be needed in the legal and regulatory framework to advance market reform goals. For some participants, best, as opposed to minimum, regulatory practices may be needed in order to dislodge entrenched interests or otherwise implement difficult market decisions geared toward long-term benefits and away from short-term political expedencies.

The best practice adjustments required would appear at this point to be highly case-specific, no doubt in large part due to a lack of experience on which to form conclusions. In simplest terms, where objective data, such as lack of supply switching, shows that market goals have not been reached, changes in the regulatory framework and more aggressive regulatory performance may be needed to provide one prong of a multi-pronged effort to move reform forward. A host of factors may influence the type and extent of the changes needed, such as the attitude and actions of the system operator, ministries, utilities and other influential sector participants.

The data included in this Report may be summarized, from a regional perspective, as the following⁶:

A. Legal Status

- All participants now have laws in place creating a regulatory authority as a separate legal entity.
 - The majority of participants have only one regulatory authority for the energy sector.
 - About one-third have regulatory authorities that are still in the early formation stages or have not yet been formed.

B. Independence

- The majority have budgets and funding sources separate from the central budget.
 - A minority of regulatory authorities currently receive funds from international donors and may continue to do so for a formation period, with the duration of grant or donor funding generally not specified. The laws in these participants for the most part provide that the budget and funding sources for the regulatory authorities will be separate, although it may be unclear when such separation will take place.
 - While funding may be separate from the general budget in most participants, the governments still have considerable direct and/or indirect authority over the regulatory authority's budget through, e.g., in many instances, the power to set the level of fees that the regulatory authority may charge.
 - In approximately half of the participant regulatory authorities, the budget is subject to governmental approval at the allocation stage.
 - A minority have budgets that are subject to ongoing governmental approval for use and size of funds during the course of executing regulatory responsibilities.
- A majority may issue decisions without the approval of a governmental body.
 - Governments can review and reject or revise regulatory decisions in a minority of the participants.

C. Competencies

⁶ Categories identified are consistent with those in the CEER WG SEER Discussion Paper (Appendix 2).

- The regulatory authority approves tariffs in a majority of participants, and plays some role in monitoring balances, future capacity and quality of service.
 - For most participant regulatory authorities, the monitoring role is unclear.
- Review of investment plans is typical.
 - Such review is generally limited to the tariff process.
- The majority of regulatory authorities have some dispute settlement power.
 - In about half of the participants, the regulatory competence to resolve such decisions is limited, *e.g.*, decisions are non-binding; recourse to the regulatory authority decision-making process is optional; and/or decisions do not remain in effect pending appeal.
- The majority of regulatory authorities have some rulemaking power, *i.e.*, in addition to individual adjudicatory decisions they can issue statements of general import and application within the sector.
 - A minority of regulatory authorities lack rulemaking power, particularly in key regulatory areas, such as tariffs and pricing.
- The majority of regulatory authorities have some role regarding interconnections, technical rules, quality standards, congestion management, and connections and repairs.
 - In some participants, this role is not clearly defined.
- The regulatory authorities' role in determining the pace and degree of market opening is limited.
 - The degree of market opening varies in each participant.
 - Most participants are adopting a gradual approach, in which the regulatory authority's role is typically narrow or undefined.
 - In some participants there is a marked difference between what percentage of the market is open in theory and what is open as a practical matter, *i.e.*, while the general law may declare a percentage of customers eligible, the secondary legislature grid codes, unbundled tariffs and other requirements are not yet in place to allow a customer to bypass the incumbent, previously monopoly provider.⁷
- The majority have accounting systems for unbundled activities.
 - Regulation over functional and management unbundling is incomplete, and clarification has not yet emerged as to the regulatory authorities' role with respect to this issue and the protection and promotion of competition in general.

D. Internal Organization

⁷ In evaluating the status of market opening, we have distinguished between this type of situation, *i.e.*, where market rules are not yet in place, and the situation where the market is fully open but not all eligible customers are participating.

- The size of the regulatory authority varies from a one-leader (president and vice-president) structure to a multi-member authority of three to nine.
- Staff size ranges from three to two hundred eighty-two, with most in the range of fifteen to sixty.
 - A minority lack sufficient staff resources to carry out their duties adequately.
- Salaries in the majority are generally comparable to ministry/industry officials and above other civil servants, varying as a percentage of the budget from 12% to 60%.
- In most participants, the regulatory authority has adequate technical resources and support.
 - A minority lack sufficient technical resources and support to carry out their duties adequately.
 - Some newly created authorities are dependent on donor resources.
- The majority participate as members of institutional and regional institutions, with a smaller number actively involved in the decision-making processes of these institutions.
 - A minority lack the resources to plan sustainable, long-term participation in international and regional institutions.

E. Regulatory Processes

- The majority have procedures in place for some level of public participation in specified types of regulatory hearings.⁸
 - In general, public participation has been constrained, and only a minority of regulatory authorities have full access to the public during hearings involving rulemaking and/or individual adjudications.

F. Enforcement

⁸ By hearings, we refer broadly to sessions during which the regulatory authority makes decisions. A regulatory body can hold “hearings” on either individual adjudicatory decisions or general regulations (*e.g.*, secondary legislation on third-party access, where potentially affected groups – customers, suppliers, system operation, for example – may be asked to attend and comment as desired). For the purpose of this Report, public participation is the threshold goal for all rulemaking decisions by the regulatory authority. There are several lines of thought regarding the appropriateness of public participation in these two levels of hearings. The most common view – and that taken in this Report – among regulatory reformers is that stakeholders and consumers should have the right to participate in rulemaking processes (decisions involving regulations, secondary legislation), but individual adjudications may be restricted to the parties. A smaller group of regulatory reformers would seek public participation in all regulatory decision-making, including individual adjudications, on the grounds that such participation enhances accountability and protects against abuse or favoritism. Even for the latter group, it is understood that the public should not have access to those hearings or portions of hearings involving confidential information.

- The majority of regulatory authorities have enforcement power – most commonly *via* fines and license revocation.
 - On paper and/or as a practical reality, however, these powers have been constrained or are not utilized. For instance, in only a minority can the regulatory authority reduce rates of return in tariffs based on infractions or poor performance.

G. Accountability

- Regulatory authorities uniformly issue annual reports.
- In a majority, the regulatory authority must report regularly or on request to a governmental body, and is subject to audit.

III. ANALYSIS

A. Introduction

In order to benchmark sector activity accurately, several perspectives must be considered. Accordingly, the Analysis offered in this Report takes into account the following:

Writing v. Reality

A regulatory authority may have a less optimal legal and regulatory framework, but perform more effectively than other bodies whose laws and regulations include better practices in the abstract. Such differentials can often be traced to the individual personalities of the regulators, their working relationships with other governmental institutions, or the political context. Reliance on individual talents and relationships or on transient political support may be risky for the sustained success of the regulatory authority. To be effective over the long term, and as an institution, it is critical that the legal and regulatory framework maximize the potential of the individuals within the regulatory authority to perform well.

Attribution of Success

It is generally easy to identify objective measures for progress in the sector, such as the percentage of market opening coupled with the number of customers who have actually switched suppliers; the price of power; and so on. It is more difficult to determine how much of a participant's success in reform (or lack thereof) should be attributed to the performance of the regulatory authority. A participant may have an optimal legal and regulatory structure, and hard-working and skilled regulators and staff, but factors outside the regulators' control could nevertheless be retarding overall performance of the sector itself and the pace of reform.

Need to Coordinate

For the reasons given immediately above, and for multiple other reasons, it is important to benchmark other institutions affecting the sector, and examine the relationships among all these actors. For example, at least after initial structural reform, market development may be

measurable by the active participation, governance and effectiveness of the system operator; generally speaking, the importance of the role of the system operator increases over time as the market develops. It is critical that the regulatory authority not only be a contributing partner *vis-à-vis* the system operator, but that it have the power and motivation to curb aggressively any effort, whether from within the operator, the government, entrenched utilities or other domestic political influence, to hinder the development of a full-functioning competitive market that is non-discriminatory in structure and practice.

B. General Discussion

This section looks at the region as a whole, assessing the most important characteristics of the regulatory authority.

Legal Status

All participants have now enacted primary legislation establishing a regulatory authority. In a few participants, the regulatory authority was created so recently that it is difficult to evaluate the adequacy of its framework in light of the overall legislative and political context, or its performance under that framework. In these instances, it is only possible to report upon the potential adequacy of the establishing legislation and to note any significant concerns that have been raised in the establishment process.

The remaining (and majority of) participants have detailed primary and, in most cases, secondary legislation establishing the regulatory authority and defining its functions and responsibilities.

Independence

In each participant with a regulatory authority, while the contours and structure of the authority differ, that regulatory authority is established outside the Ministry or Government.⁹ Hence, at least as an abstract concept, each participant accepts the goal of an “independent” regulatory authority.

Whether one can deem these authorities truly independent depends on how one defines the concept. For example, in a broad panoply of participants, the regulatory authority can only make proposals regarding certain secondary legislation and certain regulatory decisions. Given that the Directive does not expressly prohibit some of these limitations, the question focused on here is whether these frameworks, or other constraints, are in fact impairing the regulatory authority’s ability to function independently in the common sense of the word.

In most situations, the answer is yes. Many regulatory authorities are under multiple limitations making it difficult for them to function. Such limitations include explicit budgetary, resource and reporting control by the Ministry, or some other governmental body. The practice of objective

⁹ A caveat must be expressed with respect to UNMIK, in that the authority remains within the scope of UN reserved powers, and so it cannot be deemed as fully independent of the Government in this respect.

decision-making in the face of difficult economic issues, including price increases and resisting monopoly power that impedes competition and limits customer choice, is endangered when regulators are vulnerable to recriminations from government authorities or sector participants for decisions made in the proper exercise of their duties.

Subtle, unwritten governmental pressures can also play a part in limiting the regulatory authority's ability to act independently as a practical matter. An initial question must be whether this is necessarily a bad thing. Governmental checks and balances can be positive influences, and it would be naïve and counterproductive to suggest that regulatory authorities should turn a blind eye to political realities. Nevertheless, checks and balances and acceptance of political constraints work best to maintain the status quo or achieve compromises. If the status quo is acceptable, or experience shows that compromises over time have moved in the direction of reform, then this situation may not be a concern. When, however, the status quo is not optimal, but instead the regional objective is market development, governmental pressures that limit the regulatory authority's ability to act independently may be detrimental. If the existing market situation is not meeting Athens MOU and Directive requirements or other regional objectives, then the importance of the regulatory authority to drive change and reform is more acute, as is the need for that authority to act independently in order to be a catalyst and strong promoter of reform.

As a consequence of limitations imposed and subtle pressures, true independence is lacking in many of the regulatory authorities in the region. A comparison between the varying abilities of the participants' regulatory authorities to act independently and the objective reform achievements in each participant suggests that the minimum levels of independence may be not acting optimally. Where reform is lagging (and this situation is not necessarily limited to non-EU member participants), one step to consider is adjusting the framework to increase the regulatory authority's independence beyond the minimum, *e.g.*, removing the need for Ministry approvals or the ability of the Ministry to reverse decisions, or changing the regulatory authority's consultative role into that of a substantive decision-maker. In such participants, further empowerment of the regulatory authority, while not expressly required under the literal language of the Directives, could nevertheless act as an element in advancing the Directives' and MOUs' ultimate market reform objectives.

Competencies

As experience accumulates after the creation and establishment of a regulatory authority, the scope and authority of competencies become more important. While a newly formed regulatory authority cannot be expected to contribute substantially to market development, expectations rise as time goes on, and the regulatory authority needs to become an effective agent for change. Focusing on those regulatory authorities that have been established and acting for a substantial time, one factor can be cited as impeding their ability to champion the nuts-and-bolts changes required for market reform. Specifically, there is a lack of clarity and strength in the legal and regulatory framework as to the role of the regulatory authority with respect to market-specific operations and activities. In terms of the subject matters governed by the regulatory authority, it appears that reform could be expedited by clarifying and strengthening the authority's role in direct market reform and market operation areas.

As a general (but not uniform) matter, most regulatory authorities in the region have at least minimal general powers. For most of those established for two years or more, the sector has been issued appropriate licenses, and the regulatory authority is in operation. In other words, the first steps of regulation – creation and issuance of the oversight documents – have been achieved, and operation has begun. As to the specifics of market reform, however, the regulatory authorities' role has remained somewhat opaque, hindering their ability to push aggressively for reform.

For example, with respect to dispute resolution as to third-party access, and the overarching issue of promoting competition, the role of many regulatory authorities is unclear and/or undeveloped. The details of necessary market structure regulations also appear in need of clarification and development. Clear and specific regulations regarding functional and management unbundling and the corresponding role of the regulatory authority need to be established and implemented in most participants. Few regulatory authorities currently have any power to participate in the resolution of cross-border disputes. The regulatory authorities' role with respect to security of supply could also be clarified and appears limited in many participants.

Generally speaking, the system operator owns a natural position of strength – it normally emerges from the former vertically bundled monopoly and retains close associations with what remains of that monopoly. It is government-owned; and some political sympathies may lie with promoting domestic entities in any regional competition, *i.e.*, to make the existing domestic sector participants as large or as “strong” as possible in order to compete in a regional market.

It is therefore a key to regional market development for the regulatory authority, both as a matter of legal framework and performance, to have and to exercise the power to regulate the system operator effectively. The regulatory authority needs the authority to impose true unbundling; to require effective adoption and implementation of market, connection, metering and other rules; to set/approve tariffs; and to be a full partner, with substantive powers to impose changes in the market. At present, most participant regulatory authorities need more authority in this area.

Internal Organization

With notable exceptions, most regulatory authorities that have passed through the very beginning stages of reform report that they have adequate resources and appropriate structures. When the issue of resources is probed, some of the newer authorities may be largely supported by donor resources, as opposed to having independent, long-term institutional support in the domestic legal framework. With respect to these participants, sustainability could be a concern, particularly as, for most relying on donor funds, plans for transitioning to a self-financing regime lack specifics. Also, as noted above with respect to independence, budget control by the government remains a potentially powerful tool to restrain unpopular regulatory activity.

Resources are also reported more limited when one expands beyond domestic activities to participation and leadership in regional and international activities. Establishment of the

regional electricity market is the ultimate objective; thus, this diminution in support of regional activities could hamper the harmonization of internal structures and removal of impediments at the border needed to facilitate transparent, non-discriminatory cross-border activity.

Finally, as the regulatory authority moves beyond fundamental start-up requirements to the more sophisticated needs of market monitoring, additional resources are not yet uniformly in place. For example, many of the participants' regulatory authorities do not yet have an IT system that allows them to monitor data from regulated entities.

Processes

As a general matter, it appears that the preferred framework is to allow the regulatory authority to issue general regulations. A minority of participants lack this ability, most commonly in the area of tariffs and pricing. An inability to act directly not only reflects on the independence of the regulatory authority, but can create inefficiencies and time lags.

Unsurprisingly as a matter of ordinary evolution, development of avenues for public participation in regulatory activities remains relatively undeveloped. Even where rules permitting public participation are generally in place, specific procedures making such participation possible are lacking or in need of revision. Similarly, rules regarding *ex parte* communications remain generally non-existent.

Enforcement

Enforcement mechanisms appear undeveloped and somewhat unused. First, as a matter of legal frameworks, constraints have been imposed on some regulatory authorities in their ability to directly fine or sanction; instead, they can only propose such efforts to others. While the Directives do not expressly require the regulatory authority to have the power to impose fines, lack of such tools can hamper the regulatory authority's ability to aggressively promote its agenda, including market reform.

Second, use of quality of service standards in tariffs, with concomitant erosion of profits for poor performance, appears not to have been fully exploited. As a practical matter, if the only enforcement mechanism open to a regulatory authority is revocation of a license, and the offending licensee is, for example, the distribution company also serving as the captive customer supplier, the regulatory authority rarely will want to use that weapon. In order to more effectively promote proper regulatory objectives, such as high quality and open access, less draconian methods should be available to the regulatory authority to impose its will.

Accountability

While codes of ethics are similarly undeveloped in some participants, generally speaking, the accountability of the regulatory authority and its members does not appear to have been a major issue to date – with the caveat that issues of corruption and similar unwarranted influences are by their very nature the most difficult aspects of regulatory activity to unearth and report. Accountability, however, becomes an issue as the regulatory authorities assume increasing

independence and authority. For those participants with regulatory authorities in the very early stages of development or reform (and this amounts to about a third), mechanisms for accountability will be critical to the establishment of public trust in the regulatory process. Thus, for these participants, clear reporting mechanisms, publication of decisions and accompanying explanations, open hearings, updated websites, and other such measures will prove important parts of the reform process.

C. Participant-By-Participant Summary

1. Albania

Albania's regulatory authority ("ERE") was established relatively early in the reform process, in 1996. It has not, however, charged ahead beyond other regulatory authorities formed after it, in terms of development, or contribution toward reforming Albania's electricity sector. The reason for this may be external forces, such as an inefficient, vertically integrated electric monopoly highly dependent upon hydroelectric resources that vary annually; high non-technical losses; an overall struggling economy; and political divisions.

Since the date of the last benchmarking report (May 2003), however, important strides have been made in strengthening ERE and expanding its role, including the enactment of new primary legislation and the drafting of major secondary legislation. Because much of that secondary legislation has yet to be prepared or enacted, and only a short period has passed since this development, it is difficult to determine whether a corner has been turned. Many procedures for the operation of ERE, such as a Code of Ethics or even a website, are not yet in place. These procedures are critical not only to the effective functioning of ERE, but also to making ERE accountable to the public and perceived as a major player in the sector.

The key to progress in Albania would appear to be the coordination of improvement in the establishment of the regulatory framework, institution building and other efforts to build the competency of the regulatory authority, with reform of the sector structure itself, *i.e.* adopting and implementing a market structure that gradually brings diversity into the sector.

In sum, despite the fact that the regulatory authority was established in 1996, Albania is still relatively behind in improving its ability to participate in a regional electricity market, and that includes in the establishment of its regulatory authority. In the last year, with the enactment of a new legislative framework, it has restarted the reform effort. It will need to work fast to catch up with some of its neighbors, but appears pointed in the right direction.

2. Austria

Austria's regulatory authority, E-Control, has a unique two-body regulatory structure, with a private Corporation ("E-Control Corporation") performing most regulatory activities, and a three-member Commission handling regulatory oversight. E-Control Corporation (a) appears to be a leader in terms of expertise and communications to the public through its website, press releases and other mechanisms, while (b) in terms of pushing sector participants toward meaningful change, its ability to impose rather than persuade is limited.

As a threshold matter, as a longstanding member of the European Union with a healthy economy, Austria does not face some of the fundamental challenges of some of its EC-SEE neighbors, and thus in some respects should be held to a higher standard of progress and development.

In most respects, and as a relative matter compared with the other participants, E-Control meets these higher standards. It functions well and has adequate resources, highly trained personnel and a legislative framework that, while complex and on paper vulnerable to intervention, appears to suffer few debilitating constraints in practice. For example, the Minister of Economics and Labor appoints the director of E-Control Corporation, and has the power to impose binding instructions on E-Control Corporation. Such power is a potentially troubling framework limitation on the independence of the regulatory authority. The limitation leaves the regulatory authority open to undue interference by governmental bodies. But, as a practical matter, the Ministry has never imposed such instructions, making this to date only a theoretical restriction. In addition, while there can be distinct advantages within a country's overall legal framework in using a private corporation construct (e.g., an ability to compensate personnel higher than the normal civil servant level and thus attract valuable staff), care must be taken over the long term to avoid any institutional pitfalls accompanying this model (e.g., conflict of interest, corporate policies, long-term commitment). Although the model appears to be working well in Austria today, it may not transplant well to jurisdictions with shorter histories of well-functioning democratic institutions.

Other limitations on power include the fact that E-Control has no authority to impose sanctions for license infractions itself, but can only report infractions to the Minister or other authorities with the power to impose sanctions. It only issues certain licenses, while the Minister and state authorities issue others.

To the extent market development has been impeded, it would appear to be due to the structure of the sector and resistance from some sector participants. While a recent merger could be deemed as potentially retarding competition and E-Control did not emphatically oppose the merger, the EC itself approved the combination, so it would be difficult to conclude that E-Control is not performing in full compliance with EU Directives and jurisprudence.

One potentially troubling event in the last year has been E-Control's inability to implement price caps. Although blessed with abundant hydroelectric resources, Austria has some of the highest electricity rates in the EU. E-Control has properly examined the implementation of incentive regulation as a means of lowering rates, particularly at the distribution level. To date however, it has been unable to establish those rates. On the other hand, prices have gone down over all customer groups and customer switching has increased in Austria in the last year.

To date E-Control has also been unable to convince the TSO to implement auctions at the border, and, while gas is not the focus of this Report, proposals for bold steps in the area of natural gas have not yet been forthcoming.

Given the high level of knowledge of E-Control personnel, its adequate resources and the lack of obvious external restraining factors on market development (such as low collection rates, lack of competitive generation capacity and so on), it appears that further strengthening the legal and regulatory framework for E-Control's authority, allowing it room to impose and enforce market reforms rather than relying upon persuasion, could enhance sector development. For example, compared to some EU Members, network unbundling in Austria has been described as "minimal;"¹⁰ perhaps progress could be expedited by further strengthening of E-Control's ability to advance and police in the unbundling area. Given the high quality of the regulatory authority and Austria's key location as an interface in EC-SEE, E-Control could play an important role in developing the regional market if given a vigorous domestic mandate and the legal authority to advance its decisions.

3. Bosnia and Herzegovina

Bosnia and Herzegovina suffers from unique problems, and the fact that it is behind some of its neighbors in terms of regulatory development reflects this fact.

There is a legal and regulatory framework in existence in Bosnia and Herzegovina. For political reasons, three regulators have been formed, one to regulate transmission on the State level and two to regulate generation, distribution and supply on each of the two Entity levels. The framework has been established over the last couple of years.

More specifically, the regulatory regime in Bosnia and Herzegovina has been constructed according to the broad regulatory standards of independence and transparency; however, as with many agreements that reflect important compromises resulting from the Dayton Peace Accords, Bosnia and Herzegovina faces several difficulties in harmonizing three regulatory authorities. It is a small country of four million people, and the three enabling electricity laws for the State of Bosnia and Herzegovina and each of the two Entities have several regulatory gaps and overlaps. While the State Act on Transmission states that the electricity market in Bosnia and Herzegovina is a single unified economic space, the law only provides for jurisdiction of the SERC over transmission and a to-be-formed Transmission Company and Independent System Operator. In contrast to the unified market idea, the Entity electricity laws appear to create a market bounded by the geographic boundaries of the Entities.

Specifically, areas that will require attention to ensure sufficient coordination to allow an effective market to develop are the regulation of competition and market power, conflict of law, definition of market opening, regulation of supply, and licensing. There is discussion within the country on how to meet any requirements for a unified economic space and capitalize on existing resource capacity.

Given that its three separate regulatory bodies have yet to engage in any meaningful regulatory activity, it is difficult at this time to conclude whether such a three-body framework will function efficiently. The structure will make it harder to implement reform and is apt to create

¹⁰ Second EU Benchmarking Report at 13.

complications in dividing functions. The small size of the sector means that a three-body structure is also likely to create unnecessary and potentially time-consuming bureaucratic delays and costs. Because the secondary legislation has not yet been completed, it is unknown whether efficient coordination can be achieved. However the regulatory authorities are ultimately structured, it is critical that a cohesive regulatory structure is in place. This will be the sector's greatest challenge as it seeks to capitalize on its generating capacity to become a meaningful part of the regional market.

4. Bulgaria

As a large country centrally located within the EC-SEE region, Bulgaria's development and implementation of market principles are key to the creation of a functioning regional electricity market.

The regulatory body, SERC, was established in September 1999. SERC suffered from start-up difficulties but recently has seen improvements to its independence and authority. A troubling early turnover occurred within its ranks, officially due to resignation, and several of its decisions were judicially invalidated as too vague or illegal on the grounds of exceeding administrative authority. By contrast, in the last two years, no regulators have been replaced and two have recently been reappointed; although it is worth noting that, in 2003, before the passage of the new energy legislation, an attempt was made to terminate the terms of the existing regulators. No SERC decision has been invalidated in the last year, and the Supreme Administrative Court has recently ordered SERC to provide full written justification for each decision.

The primary energy legislation was replaced in December 2003 with an energy law that moves closer to harmonizing the country's energy sector legislation with the EU Directives and, focusing on SERC, strengthens some of the regulatory body's authority and autonomy in terms of providing SERC with greater rulemaking authority and financial independence. SERC has been updating its secondary legislation to reflect changes in its authority.

The Law gives the regulatory authority full power to issue, amend and withdraw licenses and monitor license compliance, settle disputes among licensees and between licensees and consumers, set and monitor compliance with service and energy quality indicators, mandate change in accounting practices and set reporting requirements, and approve business plans and investment plans of licensees.

Under the Law, SERC has the authority to draft, but not to approve, key secondary legislation, such as tariff ordinances, licensing regulations, the regulatory fee schedule and SERC's rules of organization. The Council of Ministers has approval authority, which includes the right to request that SERC amend its drafts. In the first half of 2004, the Council of Ministers adopted tariff ordinances based on drafts produced by SERC; and the changes made by the Council were limited to procedural rules for public hearings in tariff review cases, and the treatment of bad debt for revenue purposes. Other pieces of secondary legislation required by the Energy Law for adoption by July 2004 were developed by SERC and were adopted by the Council of Ministers in the spring and summer of 2004. To date, SERC has involved the public in the

development of ordinance and rules and in the rate application process, and publishes on the internet its draft legislation and responses to written requests.

The Ministry of Finance appears as a practical matter to be able to impose restrictions on SERC's budgets to a non-optimal extent. Financial withholding was an unfortunate past practice under previous primary legislation; it is too early to assess whether, going forward, the Government will exercise such power.

While SERC's role with respect to new capacity is limited, where tendering is used (and by law this is only when the open authorization process fails to produce the capacity needed to guarantee the security of supply) SERC organizes the tendering, with the Minister of Energy responsible for composing a list of needed generation capacity following detailed proposals by the national transmission company and distribution companies. The Ministry of Energy, however, recently approved the construction of a 2000MW nuclear power without following these procedures. This power plant has been grandfathered under the old rules as its construction began in the late 1980's, was postponed in the early 1990's and approved for renewal in 2002 by the Council of Minister. The Government of Bulgaria is soliciting proposals for the construction of the 2000MW power plant and has indicated that it will give preference to the least cost option for the desired capacity.

SERC has authority over cross-border disputes only upon the opening of the export-import market. Discussion to expedite such opening is occurring at the government level; at present, and subject to revision if discussion is successful, the government has stated that any opening is not scheduled to occur until Bulgaria formally joins the EU in 2007.

One key for moving forward will be for a well-trained and informed SERC to aggressively promote market development through implementation and enforcement of workable market regulations.

5. Croatia

Croatia has potential to make great strides in a short amount of time: It has a well-functioning electric utility, HEP, and a western-oriented perspective in which a rising economy may help all sectors.

Unfortunately, the development of its regulatory body ("CERC") has not proceeded at a rapid pace since its establishment in March 2002. Three fundamental problems appear to impede its growth and ability to function.

First, the existing legal structure requires CERC to use a separate, government-owned body, the state-owned Energy Institute, as its staff. CERC members have no control over who does what work by the Institute. The Institute performs work for other clients as well, such as the regulated sector participants, creating, at minimum, the appearance of a conflict of interest. This situation is unacceptable under the Directive, as it undermines the independence of the regulatory authority and its ability to perform its required tasks.

Second, perhaps because of continuing debate as to whether the system operator should be separate from HEP or a transmission system operator within HEP, little progress has been made in making the system operator functional. As such, CERC has no partner in which to promote market reform.

Third, given the impediments noted above, a legal and regulatory framework that brings best, as opposed to minimally acceptable practices would appear important, along with strong impetus within the government to support regulatory autonomy. Under the existing energy laws, however, CERC cannot issue regulations; its ability to act within the licensing area is narrowly circumscribed by the licensing secondary legislation enacted by the Ministry (which authority is much reduced from that proposed by CERC); and CERC licensing decisions are subject to *de novo* review and reversal by the Ministry. Although CERC sets transmission and distribution fees, it can only give its opinion with respect to end-user tariffs and methodologies. While CERC enacted a Rulebook for the data, methodology and criteria to be adopted for calculation of the transmission and distribution fee, CERC had difficulty obtaining data from HEP, HEP's tariff proposal did not follow the Rulebook, and CERC approved the fees in any event. The Ministry has failed to approve CERC's budget for the last two years.

In sum, it appears that CERC could benefit from important structural changes to its legal and regulatory framework, in tandem with similar structural and practical development in terms of the electricity market structure itself.

6. FYR of Macedonia

Because the regulatory body ("ERC") was created through an amendment to the existing Energy Law in December 2002, with the regulators first nominated by Parliament in July 2003 but just chosen and established as a body in January 2004, it is too soon to discern how well ERC can and will perform its role. Key secondary legislation has yet to be drafted, and changes to the primary legislation, among other things, to establish an electricity market structure (and presumably further define the regulatory authority's role in policing that market) are under way.

7. Greece

Greece's regulatory body, RAE, is a leader in international and regional activities. At home, however, despite its extensive expertise, its powers are limited in many respects. This limitation may be responsible for slowing market reform.

For example, the Minister of Development has the sole authority to approve the network code. The Ministry of Development in most cases makes regulatory decisions, after obtaining RAE's opinion. The Minister also decides what the tariff should be for system use. The Ministry sets salaries both for the regulators and their staff. RAE's participation in market regulation from a preventative perspective is primarily consultative; thus, RAE lacks the power of a fully autonomous body.

RAE's limited ability to act independently may be one factor in its lack of success to date in unbundling the incumbent service provider. RAE also has no role in resolving cross-border

dispute issues. While RAE is responsible for setting rules and the methodology for accounting unbundling, no other unbundling is required under Greek law. As the Second EU Benchmarking Report¹¹ indicates, Greece has been lagging in certain aspects of market reform.¹² Hence, strengthening RAE's authority could be one mechanism needed to trigger reform. Unfortunately, the trend is the opposite. A law was passed in July 2004, terminating the terms of the senior members of the Greek administration, including the regulators.

8. Hungary

Hungary has a well-established and well-functioning regulatory authority (the "HEO"). Certain aspects of its governing legal framework need adjustment to meet Directive requirements; for example, the Government, not the HEO, currently establishes tariff methodologies, and the HEO has a limited dispute settlement role. Primary elements that appear responsible for slowing the development of a market do not appear traceable to any performance deficiencies in the regulatory authority, but rather to market structure limitations and lack of will from other entities (e.g., congestion at the border slows regional market development, and little release of domestic power contracted to the government-owned captive customer supplier retards internal competition).

Focusing on the HEO's role and performance, perhaps because Hungary was among the first to privatize its distribution companies, the HEO is a leader in developing quality of service standards. It has acted aggressively to maximize its ability to oversee the sector and promote reform within the constraints of its legal framework.

On the structural front, the HEO is one of the few regulatory authorities led by a single president, as opposed to a multi-member commission or council. To date this has not appeared to hinder the HEO's ability to act transparently and promote change. Over time and in the abstract, multi-member bodies are considered preferable in terms of developing institutional continuity, transparency and opportunity for presentation of multiple perspectives. Also from an independence perspective, any governmental pressure to replace individual leaders is obviously more difficult with a multi-member council than if only one person needs replacement. Thus, while to date conscientious staff has made the HEO one of the leading regulatory authorities in the region in terms of quality and performance, structural and framework changes might make retention of that leadership role easier in the long run as an institutional matter.

In sum, while some framework changes are required, and Hungary faces challenges in meeting certain Directive and market reforms (e.g., it has a potential stranded cost issue, and it is unclear whether the public supplier market model it has chosen will function in a way that meets market reform objectives), these potential reform obstacles are not linked to deficiencies in the performance of the HEO. Last year, the HEO approved a commercial code that introduces auctions for allocation of cross-border capacity, consistent with EU requirements for market-

¹¹ Commission Staff Working Paper on the Second EU Benchmarking Report on the implementation of the internal electricity and gas market (dated 7 April 2003).

¹² E.g., zero customers have been able to switch suppliers. (See – Second EU Benchmarking Report at 16, table 7.)

based methods for cross-border capacity allocation, and is vigorously pursuing all available avenues for promotion of both internal and external market development.

9. Italy

Like Austria, Italy's position as a longstanding EU member without certain of the structural obstacles facing some of its EC-SEE counterparts requires a higher standard of scrutiny in evaluating both the legal framework for and performance of its regulator (the "AEEG").

Focusing on the legal framework, the AEEG only can propose to the Ministry amendments or decrees with respect to key subjects such as licensing and market rules (although it has final decision-making authority with respect to other forms of secondary legislation). The Ministry issues licenses, not the AEEG. The law provides, however, that the Ministry can only accept or reject the AEEG's proposals, and, if the Ministry rejects a second proposal, the issue goes to the Prime Minister. In turn, the Prime Minister may deviate from AEEG's decision "exclusively for weighty and significant motives of general interest." Thus, the AEEG has more than persuasive authority with respect to market rules and licenses, although its powers are limited.

The key question is whether any limits acceptable within minimum Directive requirements but not deemed best practices in the abstract, are preventing the AEEG from properly performing its functions, and, focusing on the ultimate objective of the MOU and Directives, advancing regional market development.

Looking at the objective data reported in the Second EU Benchmarking Report, balancing conditions favorable to market entry are described as "moderate" (versus unfavorable or favorable). The largest three generators' share of capacity amounts to 69%, in a spectrum of membership countries that ranges from 97% for one generator (Greece and Ireland) to 36% (the UK). The EU Report comments favorably on progress made in Italy with respect to market concentration (p. 5), and states that significant switching of suppliers has occurred among large eligible industrial users (small commercial and domestic users remain ineligible, but Italy did expand market opening to 0.1 GWh/year customers). Some measures have been taken to unbundle the TSO, and the Report (p. 13) states that "[t]he most rigorous unbundling conditions for networks can be found in Finland, Sweden, the UK and Italy." Some release of generation capacity from the dominant supplier has occurred (*id.* at 14). Balancing service mechanisms are under review accordingly, and Italy lags behind in terms of fulfillment of the 6th Florence Forum congestion management guidelines (see Annex E, Section 3.1, table). The Report states, "The implementation of a market-based method for congestion management at the borders has been delayed by the failure to create a more transparent electricity market within Italy." (*id.*, Section 4.1).

In sum, while no radically serious relative deficiencies appear to exist in the regulatory authority, there is room for improvement in the development of the market in Italy, to which further strengthening of the AEEG could contribute.

10. Moldova

The Moldovan electricity regulatory authority (“ANRE”) was established in 1997, and since that date it has struggled to establish and maintain its independence in a difficult political and economic climate. Several regulators have left before their terms ended; in one recent instance, the Government dismissed a regulator for increasing heat tariffs. No regulator’s term has been renewed. In individual instances, the Minister of Energy has failed to adhere to ANRE-approved transmission tariffs, and, commencing in 2001, the Minister has exerted substantial pressure on ANRE tariff decisions. Hence, significant impediments to reform and the use of the regulatory authority as an impetus to reform appear to exist.

Focusing on the last year, despite these difficulties, ANRE achieved several development milestones, including new regulations for electric and gas network extension and restoration; amendments to the electric service rules regarding supplier and consumer obligations and rights, fraudulent electricity consumption and stealing of metering equipment; new methodologies for calculation of tariffs for electricity generation, transmission, dispatch, distribution and supply; and development of a new heat and make-up water tariff methodology for district heating enterprises. Drafting is in process for gas service performance standards and revised gas service rules; a high-voltage grid code and a metering code; and updated procedures for tariff review and for evidentiary hearings. The ANRE website was significantly updated for content and revised to include Romanian, Russian and English language capability. Additional computer hardware, software and other electronic equipment were procured for staff utilization. The Electricity Law was amended to stipulate the conditions and schedule for liberalization of the electricity market, with coordination and oversight by ANRE.

In sum, ANRE appears to be doing its best in the face of undue interference in its independence, such as significant government pressure for tariff decisions, questionable dismissal of a director and lack of timely appointment for vacant director positions.

11. Romania

Romania’s electricity authority is generally considered one of the best in the EC-SEE region. After operating for many years pursuant only to a Governmental Ordinance, primary legislation was enacted in 2003. A panoply of secondary legislation has been issued, and ANRE is currently revising its grid code to respond to further market opening. While external difficulties (including payment issues) remain, generally speaking, ANRE seems on track in terms of its own development.

In terms of framework, Romania reported in response to the questionnaire associated with this Report that ANRE is a legal entity separate from the government, and an independent public institution. ANRE has no power under the existing legal framework to set or approve methodologies for the end-user retail tariff; this authority remains with the Ministry, and may be acting as a significant impediment to reform. Finally, it is unclear whether recent changes at the head of ANRE avoided political influence.

In sum, while ANRE’s framework appears to meet many Directive and MOU requirements, and ANRE is performing well as compared to many of its neighbors, changes could be made to improve its independence and role in market decisions, which could advance market reform.

12. Serbia and Montenegro

Serbia

Serbia recently enacted new primary energy legislation in late July 2004. The successful passage is a sign of progress, as the effort to enact new legislation has been lengthy. The Energy Law provides for the establishment of a regulatory authority (“RAE”) within 30 days from the date of the appointment of all regulators.

As the regulatory authority is not yet in place, it is too soon to assess its performance. Under the Law, while the regulatory authority has some competencies (such as establishing the tariff methodology, determining the tariff and connection costs, license issuance and revocation power, approval of market rules and technical codes, adopting its Statute (organizational rules of practice and procedure)), the Ministry in charge of energy and the Government of Serbia also have broad powers that are regulatory in nature and encroach on RAE’s independence. For example, the Government has the authority to approve RAE’s Statutes and its tariff decisions; the Ministry issues permits and passes rules regarding criteria for permit issuance and licensing; the Government decides whether there should be a public tender, while the Ministry or local self-government unit issues invitations for public tender; and while the regulatory authority gives its opinion on prices of energy, it is the Government which has the authority to consent to the prices.

With respect to the market, the Law provides for a Market Operator, which is responsible for issuing market operation rules, after approval by RAE. The vertically integrated utility, EPS, may remain integrated; the Law requires only account unbundling. The eligibility threshold is determined by the regulatory authority.

Montenegro

Primary energy legislation in the form of the Energy Law was enacted in June 2003. Based on this Law, Montenegro’s Energy Regulatory Agency (“ERA” or the “Agency”) was established in January 2004. The regulatory authority is thus in its initial phases, with several key structural issues in transition. For instance, in these initial phases, while all regulators are and will be ultimately appointed by Parliament, the Director and Deputy Director were selected by the Government; however, the law provides that all subsequent selections of the Director and Deputy Director will be made by ERA’s board of regulators. At present, a reduced staff of nine is in place, with a forecast of twelve for the future.

Under the Law, ERA is responsible for issuing a wide scope of secondary legislation, including tariff methodology, tariff approval and rules on unbundling. Since its formation, the regulatory authority has issued some secondary legislation, beginning with rules for electricity, petroleum and gas (Montenegro has LPG not LNG) and licensing rules. Work on the tariff methodology is in the early stages – and the Law expects ERA to assume tariff-setting responsibilities by July 2005. Interim grid and distribution codes were approved in August 2004. It is expected that official codes will be in effect at the same time as the official licenses. At present, the sector is

operating according to interim licenses, which were issued in June; license issuance for the petroleum sector is anticipated in September. The Law requires functional unbundling of utility by the end of 2004; thus, ERA must work quickly to produce cogent rules that provide safeguards and accounting and management separation in the unbundling process.

While the Law provides for public participation in regulatory activities, in practice such participation has not occurred. Enforcement powers of the regulatory authority are limited to interim or permanent revocation of licenses – a tool that, as discussed above, is used infrequently because of potential harm to the sector – and other enforcement powers, such as fines, may only be applied through a judicial procedure, thus potentially limiting the effectiveness of the regulatory authority.

Montenegro is challenged by lack of competitors in the internal market. Presently, one company owns three generators, and the average price of electricity from them is relatively low for the region. Montenegro suffers from a deficit of energy in the country, with production lagging behind nearly one third of the consumption rate. The Law enables consumers to purchase electricity outside Montenegro as long as the electricity may be achieved at lesser cost, or to address the shortfall. As a practical matter, as a result of the price differential, only the shortfall amount is purchased outside of Montenegro. No suppliers currently exist, and only the largest consumers, aluminum companies who use 48% of total consumption in the country, purchase electricity on the external market. It is anticipated that steel companies will purchase on the external market in the next year; but there is little expectation that other consumers will do so.

Thus the regulatory authority, while ahead of the situation in Serbia, is in its infancy and the early stages of development, much like FYR of Macedonia.

13.

Slovenia

The Energy Agency of the Republic of Slovenia (the “Agency”), which became operational in 2001, appears generally to be on track in fulfilling its responsibilities and able to perform its role in establishing and policing a viable electricity market. But it may to some extent be under-resourced, some recent legal framework changes could potentially constrain the Agency’s independence and ability to act, and more active participation in regional and international activities could benefit both the domestic and regional dialogue.

The initial primary legislation was enacted in 1999; significant modifications were passed in May 2004; and secondary legislation is currently being developed in response to these modifications.

On the positive side, the 2004 legislation amended existing law in order to implement the new Directives, and indicates, among other things, that the Agency shall determine third-party access tariffs for electricity networks. The new law increases the Agency’s powers with respect to market monitoring and data acquisition and widens the range of settlement dispute responsibilities from network access and pricing disputes to include balancing and connection issues.

Both under the initial law and as modified, however, the Agency's authority is constrained to some extent. For example, its tariff methodologies and tariffs must be approved by the Government, and the Government has in fact prevented a network price increase. The 2004 modifications to the law increase the ability of the Government to block all decisions of the regulatory authority. The Government has final authority over technical rules, and the Agency can only provide non-binding opinions on secondary legislation relating to market rules, grid codes and similar rules. Like many participants, the Agency also lacks electronic access to monitor sector participant data.

The new law also changes the structure of the Agency from one with a single director to a five-member council. This has the potential to reduce undue interference from the government in the Agency's decision-making processes.

While a retreat from providing independence to the regulatory authority could be troubling, examining the Slovenian situation from a relative perspective, it would be difficult to attribute any systemic retardation of market development to any flaws in the legal framework or regulatory authority performance. The Second EU Benchmarking Report (p. 11) states that, among the 13 then-candidate countries, "[p]rogress has been fastest to date in Slovenia in terms of degree of market opening."

14. Turkey

The Turkish energy (electricity, gas and petroleum) regulator ("EMRA") has substantial resources and has developed rapidly as an institution since it was established in November 2001.

Some difficulties have been experienced in setting tariffs, with regulated entities failing to unbundle accounts accurately and governmental resistance to regional differences in end-user prices. Since its inception, EMRA has made extensive efforts to take views and opinions of stakeholders during the legislative process. It has sought to collect data from regulated entities in order to facilitate accounting separation. EMRA has not, however, received full cooperation on either front. With respect to data, it has not received all the data that it requires to proceed. EMRA has no powers with respect to cross-border disputes, and no regular mechanisms are yet in place with respect to cross-border trade.

In short, as with several other authorities discussed in this Report, EMRA has passed the first hurdle of creation, and does so with flying colors in terms of its resources,¹³ organization and internal institutional development. Development of stakeholder communications may need improvement.

Beyond these institutional issues, EMRA is now faced with the next stage of development – taking substantive steps to impose market reform. It is too early in this stage to report on level of success – many of the difficult steps needed to result in competitive changing of suppliers

¹³ While EMRA's budget decreased in the last year, this appears to be due to a need to install IT infrastructure last year and not a concerted effort to curb ongoing regulatory activities.

and other objective manifestations of a fully functioning market have not yet been resolved. For example, the eligibility threshold was decreased in the last year from 9 GWh to 7.8 GWh, which in theory increases market opening from 23% to 29%. Actual exploitation by eligible customers to in fact switch, however, has occurred slowly. The majority of the capacity is either under long-term power purchase agreements or the state-owned capacity reserved for offsetting the price of long-term power agreements. As a result, the amount of free energy to be negotiated is limited. It is premature to trace this to any limitations in either the legal framework relating to the regulatory authority or EMRA's performance. A financial settlement system was activated in 2003 as a basis of interim regulation until enactment of a balancing and settlement code. New regulations have been enacted, with others in draft form, filling in other needed secondary legislation. Given the current significant concentration in generation and supply, combined with limited import capacity, aggressive regulatory implementation may be needed to foster a well-functioning competitive domestic market.

In sum, EMRA's framework and activities appear pointed in the right direction. The Government of Turkey approved a Strategy Paper regarding electricity market reform and privatization. That road map now needs fleshing out in the legal framework, including EMRA's role in achieving its objectives. EMRA will need to act independently to promote aggressive market reform.

15.

UNMIK

The Central Regulatory Unit ("CRU"), part of the United Nations Mission in Kosovo ("UNMIK"), is the existing regulatory authority, and the Energy Regulatory Office ("ERO") within the CRU bears responsibility for the economic regulation of the energy sector in Kosovo. In the past year, the CRU and the Assembly have taken significant steps in developing a new package of energy legislation that envisages developing the regulatory authority into an independent institution over time. The Assembly approved three laws, notably the Law on the Energy Regulator, the Law on Energy and the Law on Electricity on April 29, 2004. In accordance with the legal procedural requirements in Kosovo, these were promulgated in June by the Special Representative of the Secretary General ("SRSG") of UNMIK.

The ERO will be reformed in the coming months, in accordance with the provisions of the Law on the Energy Regulator. One of ERO's main areas of concentration will be the restructuring of the Kosovo energy sector (the liberalization of the market and the unbundling of the vertically integrated utility, KEK).

The new legal framework grants ERO expanded competencies and allows it to, *inter alia*, issue rules, resolve disputes, set tariffs, issue and monitor licenses, apply performance-based rates, monitor legal and accounting unbundling, and impose fines. Relevant secondary legislation is currently in preparation. As part of reforms in Kosovo, the policy-making division of ERO will become the Office of the Prime Minister and will become a local ministerial body.

It should be noted, however, that the SRSG has significant powers that encroach in certain respects on ERO independence and authority. The SRSG is empowered to review the market structure (upon consultation with the government) and assess the degree of liberalization of the electricity market (within 12 months of the appointment of the initial members of the board).

Based on the result of this review, the SRSG may decrease or increase the length of the terms of the initial members of the board. The SRSG also has broad removal power – in addition to for-cause criteria, it may remove the regulators serving the initial terms (all also appointed by the SRSG) for seemingly subjective criteria, *i.e.*, “failing to perform his or her professional duties in a satisfactory manner.” Moreover, in passage of the Law on the Energy Regulator, the SRSG removed language passed by the Assembly requiring that ERO perform tasks given to it under international agreements to which Kosovo is a member or an associated member. Some concern therefore exists as to whether SRSG control over the regulatory authority may unduly limit ERO’s autonomy.

In sum, while large strides have been made recently, it is too soon to evaluate the regulatory body, as it does not yet exist as a fully independent body and its governing legal framework has not yet been finalized.

IV. CONCLUSION

The primary goal of the Athens MOU, the Directives and supporting documents is to create a regional electricity and gas market. In analyzing the activities and degree of reform within each participant in this Report, and prioritizing steps that should be taken to speed reform and market development, it is important to identify measures that help achieve this regional objective.

Phrased differently, a rising tide can lift all boats, or the weakest link can break the chain. Aside from focusing support upon individual participants to respond to their specific needs, strategies should be followed to help the region as a whole to progress, in order to avoid the less developed participants from slowing the overall achievement of reform, and to stimulate progress among these participants.

As noted above, there generally seem to be two phases of development: institutional establishment and, thereafter, growth to meet market reform objectives. Those participants whose authorities are in the first phase of development could generally benefit from support in creation of the regulatory framework, including secondary legislation, and training. Those in the second phase might accelerate reform through amendment to the existing legal and regulatory framework to include best, as opposed to minimum, regulatory practices, and to strengthen and clarify the regulatory authority’s role with respect to key market development issues.

More specifically, focusing only on the regulatory authority, it appears that attention should be given to the following areas:

- Secondary legislation, general regulation and iterative amendment to the laws.
 - All the pieces of the legal and regulatory framework need both to meet updated developments (such as the requirements of the new Directives), and to fit together in harmony.
 - In making this effort, care should be taken to respect and enhance the independence and the competencies of the regulatory authority as an institution, and to respond to the individual needs that have appeared within each participant.

- Particular focus should be placed on the regulatory authority's role in market development – specifying and strengthening the regulatory authority's ability to act. For example, with respect to unbundling, the regulatory role should be clarified and enhanced, particularly with respect to the specifics of functional and management separation.
- Public participation in the regulatory process and accountability.
 - Access and participation in public hearings should be enhanced.
 - In the later stages of the process, attention should be directed to how the sector participants (public and private; companies and consumers) view the performance of the regulatory authority in regulating the sector and its responsiveness to participants' concerns.
- Institutional strengthening.
 - Training should include the development of management skills and communication with the public and other governmental bodies.
 - Ethical codes should be adopted.
 - The regulatory authority's role in market operation oversight should be expanded.
 - Regulatory decisions should be enforceable pending appeal.
 - Effective enforcement powers should be developed and applied by the regulatory authority.
 - Persuasion is not a sufficient regulatory tool; powers to act must instead be given to the regulatory authority.

DATA ANNEX

REGULATORY BENCHMARKING REPORT FOR THE EC-SEE MOU SIGNATORY PARTIES AND OBSERVERS 2004

Material in this section is provided in two parts – tables and text. Each subject area has a Table, followed by textual explanation, where appropriate. The information in the Tables is meant to be concise and to provide a snapshot of sector activity. Text is provided below the Tables only where needed for clarification or where respondent EC-SEE MOU Signatories and Observers have provided additional information that we have deemed may be interesting to the reader and useful in the furtherance of reform efforts. The order and organization of this data follow the CEER standards set forth in the Discussion Paper, referenced in the body of this Report and attached as Appendix 2.

For the most part, each participant has one regulatory authority, made up of three to seven regulators and a much larger group of staff members; the regulators vote on decisions, while the staff members assist the decision-making process. Where the regulatory authority structure is significantly different from this general model, background explanation is provided as an introduction, at the beginning of the textual description for Section A, below. This is the case for five participants: Austria, Bosnia and Herzegovina, Hungary, Serbia and Montenegro and UNMIK.

A. LEGAL STATUS

1. LEGISLATION

Unless otherwise specified, all primary legislation referred to herein covers electricity and the establishment of the applicable regulatory authority.

**Table 1
LEGISLATION**

COUNTRIES	PRIMARY LEGISLATION	SECONDARY LEGISLATION	DRAFT LEGISLATION	REGULATORY AUTHORITY PROVIDED FOR IN LAW	FORMATION DATE
Albania	Yes.	No.	Yes, 5 are being developed.	Yes.	1996.

COUNTRIES	PRIMARY LEGISLATION	SECONDARY LEGISLATION	DRAFT LEGISLATION	REGULATORY AUTHORITY PROVIDED FOR IN LAW	FORMATION DATE
Austria	Yes.	Yes.	No.	Yes.	23 February 2001.
Bosnia and Herzegovina	Yes. 3 Electricity laws; 1 in BiH and 1 for each Entity.	No.	Yes.	Yes.	SERC. 30 June 2003. FERC. 7 October 2003. RSERC. 8 October 2003.
Bulgaria	Yes.	Yes.	Yes.	Yes.	10 September 1999.
Croatia	Yes.	Yes.	Yes.	Yes.	March 2002.
FYR of Macedonia	Yes.	Yes.	No.	Yes.	January 2004.
Greece	Yes.	Yes.	Yes.	Yes.	June 2000.
Hungary	Yes.	Yes.	No.	Yes.	1994.
Italy	Yes.	Yes.	Revised energy law pending in Parliament since 2002.	Yes.	14 November 1995.
Moldova	Yes.	Yes.	Yes.	Yes.	11 August 1997.
Romania	Yes.	Yes.	No.	Yes.	March 1999.
Serbia and Montenegro	Serbia – Yes. Montenegro – Yes.	Serbia – No. Montenegro – No.	Serbia – Pending; various pieces of secondary legislation must be passed in 2004 & 2005, pursuant to the new Energy Law. Montenegro – Yes.	Serbia – Yes. Montenegro – Yes.	Serbia – Not yet in place; Law requires the establishment within 30 days of the appointment of the regulators. Montenegro – 22 January 2004.
Slovenia	Yes.	Yes.	No.	Yes.	June 2000.
Turkey	Yes.	Yes.	Yes.	Yes.	19 November 2001.

COUNTRIES	PRIMARY LEGISLATION	SECONDARY LEGISLATION	DRAFT LEGISLATION	REGULATORY AUTHORITY PROVIDED FOR IN LAW	FORMATION DATE
UNMIK	Yes.	No.	Yes.	Yes.	Predecessor org. on Sept. 2003; passage of Law of Energy Regulator on 30 June 2004 established ERO. Full Board not yet in place.

Albania

Establishment of the Regulatory Authority. The Electricity Regulatory Authority of Albania (“ERE”) was formally established in 1996, in accordance with the previous electricity law. The new law strengthens and expands the role of the regulatory authority.

Applicable Legislation. The electricity market is addressed by the Law on the Power Sector, No. 9072, dated 22 May 2003, which provides that the Government, upon the proposal of the regulatory authority, shall adopt the market model, while the regulatory authority shall develop and approve the market rules. The Government approved a Transitional Market Model in August 2004, and market rules are under discussion. This new Law repealed the former Law on Regulation of the Power Sector and the Law on the Electricity Sector (both passed in 1995).

Other related energy sector laws dealt with the hydrocarbons sub-sector or other energy sub-sectors. ERE Rules of Practice and Procedure are approved and will be effective when officially published later in 2004. Four other pieces of draft secondary legislation are in the process of development: ERE Code of Ethics, ERE Licensing Procedure, ERE Tariff Methodology Procedure, and Market Rules.

Austria

Background. The responsibility for regulating the electricity and natural gas sectors in Austria is divided among a number of bodies (from Ministry to local government levels). The national regulatory bodies are the Energy Control Corporation (“E-Control Corporation”) and the Energy Control Commission (“E-Control Commission”) – interacting bodies created by the same law but with distinct responsibilities. Essentially, E-Control Corporation performs the supervisory functions of the regulatory authority, such as monitoring compliance with market rules and environmental rules, supervising unbundling, issuing ordinances and the like, while E-Control Commission performs the adjudicating functions, such as approving terms and conditions of network service, determining tariffs, resolving disputes, and handling appeals from E-Control

Corporation decisions. The highest federal authority is the Minister of Economic Affairs and Labor, which is charged with supervising the E-Control Corporation.

Establishment of Regulatory Authority. E-Control Corporation was incorporated on 23 February 2001. The members of E-Control Commission were appointed in spring 2001.

Applicable Legislation. The following pieces of primary legislation cover the energy sector in Austria:

- Electricity Act (Federal Act providing new rules on the organization of the electricity sector), Federal Law Gazette I no. 143/1998 [Article 1], as amended by Federal Law Gazette I no. 121/2000 [Article 7 of the Energy Market Liberalization Act]; Federal Law Gazette I no. 149/2002 [Article 2]; recent amendment BGBl 36/2004;
- Energy Regulatory Authorities Act (Federal Act on regulatory authorities in the electricity and natural gas sector and the establishment of Energie-Control GmbH and Energie-Control Commission), Federal Law Gazette I no. 121/2000 [Article 8 of the Energy Market Liberalization Act], as amended by Federal Law Gazette I no. 148/2002 [Article 2 of the 2002 amendment to the Natural Gas Act];
- Federal Act regulating the preconditions for operation, the tasks and powers of clearing and settlement, agencies for transactions, and price formation with regard to balancing energy, Federal Law Gazette I no. 121/2000 [Article 9 of the Energy Market Liberalization Act];
- Green Electricity Act (Federal Act enacting new rules in the area of electricity generation from renewable energy sources and in the area of combined heat and power), Federal Law Gazette I no. 149/2002 [Article 2]; and
- Non-electricity primary legislation for the energy sector is: Natural Gas Act – GWG (Federal Act enacting new rules for the natural gas sector), Federal Law Gazette I no. 121/2000 [Article 1 of the Energy Market Liberalisation Act] as amended by Federal Law Gazette I no. 148/2002 [Article 1 of the 2002 amendment to the Natural Gas Act].

Legislation amending the Electricity and Natural Gas Acts to provide for legal unbundling of integrated undertakings is planned this year.

Bosnia and Herzegovina

Background. Bosnia and Herzegovina (“BiH”) has a unique federated structure, requiring explanation to understand the legal and regulatory framework set forth in this Report. The country – which is referred to herein as the “State” – is divided into two parts, each known as an “Entity.” One Entity is the Federation; the second is the Republika Srpska (“RS”).¹⁴ For the purposes of this Report, it is important to understand that the regulatory structure is divided along three lines:

¹⁴ The Entities are comprised of three ethnic groups, the Serbs, Muslims and Croats. The Federation, as a general but not exclusive rule, is made up of the Muslim and Croat populations, and the RS is made up of the Serb population. Exceptions apply, and ongoing efforts at reintegration and repatriation will continue to mix the populations over the years.

- The State level, which encompasses the entire nation, and in the energy sector means a country-wide regulatory authority covering transmission and related issues (“SERC”);
- The Federation level, which in the energy sector means a regulatory authority covering distribution and generation for the Federation Entity (“FERC”); and
- The RS level, which in the energy sector means a regulatory authority covering distribution and generation for the RS Entity (“RSERC”).

Despite this general division of authority in the energy sector, overlap exists. This is the combination of expected overlap resulting from splitting up the energy structure along federated lines, and overlap in the existing legislation due to lengthy negotiations involving concessions on certain issues at different times of passage. The existing intersection of jurisdictions and responsibilities is an ongoing issue. The newly created regulatory authorities and the Ministries governing the sector (three regulatory agencies; three Ministries) are confronting this and related issues as reform moves forward.

Establishment of the Regulatory Authority. Each law creates a separate regulatory authority and each regulatory authority is in the early stages of formation. While the three regulatory authorities have issued various formation decisions, full secondary legislation, such as tariff and licensing rules, have not yet been drafted, and the regulatory authorities are not yet fully functional.

SERC has authority over transmission and transmission-related issues and jurisdiction extending over the entire country of BiH. The Bosnia and Herzegovina Parliamentary Assembly issued a decision in 2002 that acknowledged SERC as a legal entity; thus, no further registration is required. SERC regulators were appointed 30 June 2003, and the regulators are in the process of selecting staff members. The three Elektroprivredes have pre-paid license fees, which has given SERC formation funds. SERC has rented permanent office space in Tuzla and has hired its staff, which began working formally on 1 August 2004. SERC has issued a Rule for Temporary Licenses and has required the three current integrated utilities to file for a temporary transmission license; this process has been completed, and SERC has been fully funded. After 1 August 2004, work will commence on developing procedural rules through a public, transparent rulemaking process.

FERC has authority over distribution and generation and related issues. FERC’s jurisdiction extends only to the Federation Entity. The FERC regulators were appointed on 8 October 2003, and FERC’s budget and bylaws were approved by the Federation Parliamentary Assembly on 3 March 2004.¹⁵ FERC has been fully funded. In addition, all staff members have been hired; work will formally begin on 16 August 2004.

RSERC has authority over distribution and generation and related issues in the RS. The RSERC regulators were appointed on 9 October 2003, and its budget was approved on 5 March

¹⁵ The Federation Ministry of Justice has determined that FERC is not required to register in the Courts.

2004. Court registration occurred on 25 March 2004. RSERC has been funded. It will officially commence operations on 1 August 2004, in permanent office space with staff.

Applicable Legislation. The three pieces of primary legislation are:

- Act on Transmission of Electric Power, Regulator and System Operator of Bosnia and Herzegovina (“Act on Transmission”), State of BiH, Official Gazette of Bosnia and Herzegovina, 7/02, 10 April 2002;
- Electricity Law, Federation (“Federation Electricity Law”), Official Gazette of Federation of BiH, 41/02, 23 August 2002; and
- Law on Electricity, Republika Srpska (“RS Electricity Law”), Official Gazette of Republika Srpska, 66/02, 23 October 2002.

Each of these laws established the respective regulatory authority. Two other pieces of integral legislation, the Transmission Company Law and the Independent System Operator Law became effective on 6 August 2004 (published in the Official Gazette, 29 July 2004). These laws, respectively, create the unified Transmission Company for BiH and the State-level Independent System Operator. Both of these bodies are required under the Act on Transmission.

Bulgaria

Establishment of the Regulatory Authority. The State Energy Regulatory Commission (“SERC”) was established 10 September 1999, pursuant to Decree Number 181 of the Council of Ministers (“COM”), and in compliance with Article 11(2) of the Energy and Energy Efficiency Law of 2002 (repealed and superseded by the current Energy Law). Article 11 of the current Energy Law of December 2003 provides for regulation by SERC.

Applicable Legislation. Two pieces of primary legislation cover the energy sector:

- Energy Law, promulgated in State Gazette No. 107 of 9 December 2003, effective 12 December 2003; and
- Energy Efficiency Law, promulgated in State Gazette No. 18 of 5 March 2004, effective 8 March 2004.

Secondary legislation adopted pursuant to the Energy Law of December 2003 includes:

- Electricity Tariff Ordinance – adopted by the COM 20 February 2004;
- Rules of Organization (Charter) of SERC – adopted by the COM 4 June 2004;
- Licensing Ordinance – adopted by the COM 11 June 2004;
- Heating Tariff Ordinance – adopted by the COM 15 June 2004;
- Natural Gas Tariff Ordinance – adopted by the COM 15 June 2004;
- Distribution Grid Code – adopted by SERC 31 May 2004;
- Tariff Instructions for Distribution Price Modeling – adopted by SERC 2 June 2004;
- Transmission Grid Code – adopted by SERC 4 June 2004;
- Rules on Metering – adopted by SERC 4 June 2004;

- Rules on Open Access to Electricity Transmission and Distribution Networks – adopted by SERC 4 June 2004;
- Rules on Electricity Trade (Market Rules) – adopted by SERC 4 June 2004;
- Energy Quality Indicators in the Electricity Sector – adopted by SERC 30 June 2004;
- Energy Quality Indicators in the Heating Sector – adopted by SERC 30 June 2004; and
- Energy Quality Indicators in the Natural Gas Sector – adopted by SERC 30 June 2004.

At the time of writing of this report, several pieces of secondary legislation are at different stages of drafting or await formal adoption, including:

- Code of Ethics – final draft developed in July 2004 and awaiting adoption;
- Rules on Trade with Natural Gas (Market Rules) – initial draft developed in July 2004;
- Uniform System of Accounts for the Electricity and Gas Sectors;
- Tariff Instructions for Price Modeling in the Natural Gas Sector;
- Ordinance on Green Certificates; and
- Rules on Open Access to Gas Networks.

Croatia

Establishment of the Regulatory Authority. The Law on Regulation of Energy Activities (Official Gazette No. 68/01 and 109/01) establishes the Croatian Energy Regulatory Council (“CERC”). CERC was formed in March 2002 and began operations in the middle of 2002.

Applicable Legislation. In June 2001, the energy law package was passed (published in Narodne Novine – Official Gazette No. 68/01 and 109/01). The package includes five laws:

- The Energy Law;
- The Law on Electricity Market;
- The Law on Gas Market;
- The Law on Regulation of Energy Activities; and
- The Law on Oil and Oil Derivatives Market.

In addition to the package of energy laws passed in 2001, two other pieces of primary legislation are important for sector reform in Croatia:

- The Privatization Act for HEP, the electricity utility (Official Gazette No. 32/02); and
- The Privatization Act for Industrija nafte d.d. (“INA”), the oil company (Official Gazette No. 32/02).

With respect to secondary legislation, numerous regulations integral to the energy sector have been enacted, including:

- Regulation on conditions for carrying out an energy activity;

- Regulation on data to be submitted by energy undertakings to CERC;
- Tariff system for public services in electricity sector (not available in English from CERC website); and
- Market code-electricity (not available in English from CERC website).¹⁶

In addition, several pieces of secondary legislation are in draft form. The most relevant of these are:

- Grid code for electricity – currently under revision;
- General conditions for supply of electricity;
- Rulebook on minimal proportion of renewables in energy mix; and
- Rulebook defining criteria for granting a status of eligible producer.

FYR of Macedonia

Establishment of the Regulatory Authority. The existing Energy Law contains regulatory provisions, recently added by amendment in December 2002. Prior to this, no regulatory framework existed. The amended law provides for the creation of the Energy Regulatory Commission (“ERC”). The regulators were nominated by the Parliament on 23 July 2003.

Applicable Legislation. Primary legislation for the sector is the Energy Law. The December 2002 amendments created a legal framework for the regulatory authority. A new energy law is expected by the end of the year. This new law is intended to comport with the requirements in the regional market design and the regional market rules, as well as in the EU Directives for electricity and natural gas. Similarly, new secondary legislation or updated secondary legislation is also projected. The changes are directed at harmonizing the primary and secondary legislation with new market requirements. Secondary legislation in the sector includes in relevant part:

- Pricing methodology for different types of energy;
- General conditions for energy supply;
- General conditions for supply of natural gas;
- General conditions for supply of heat energy in the district of the city of Skopje (electricity, natural gas, heat energy);
- Tariff system for the sale of electricity; and
- Tariff system for the sale of geothermal energy.

¹⁶ Non-electricity sector secondary legislation includes:

- Regulation on gas distribution;
- Tariff system for natural gas supply (not available in English from CERC website);
- Executive order on obligation to keep necessary oil and oil derivatives reserves (not available in English from CERC website);
- Rulebook on general conditions and tariff for storage of obligatory oil and oil derivatives reserves (not available in English from CERC website); and
- Grid code for gas sector (not available in English from CERC website).

Greece

Applicable Legislation. Primary legislation in the energy sector includes:

- Electricity: Law 2773/1999 and new Law 3175/2003, which amends a number of provisions of Law 2773/1999. (Law 3175/2003 is not yet implemented because secondary legislation is still being developed.);
- Gas: Law 2364/1995 and provisions for the eligibility of power generators in the new Law 3175/2003 (not yet implemented); and
- Oil: Law 3054/2002.

Secondary legislation in the area of electricity is provided for by Law 2773/1999.¹⁷ The relevant codes and regulations include:

- The Grid Code;
- The Power Exchange Code;
- The Supply Code;
- Regulation for Granting Generation and Supply Licenses;
- Regulation for Granting Transmission System Operation License; and
- Regulation for Granting Exclusive Ownership of Grid License.

Another piece of secondary legislation, the Network Code, is provided for by Law 2773/1999, but has not yet been passed. In addition, the Regulatory Authority for Energy of Greece (“RAE”) has developed draft secondary legislation pursuant to the new Law 3175, which is currently open for public comment. The Minister of Development has the sole authority to approve this legislation, and no approval has been granted yet. These drafts are available at RAE’s website (in Greek only).

Hungary

Establishment of the Regulatory Authority. The Hungarian Energy Office (“HEO”) was created pursuant to the Electricity Act of 1994 (Act XLVIII).

¹⁷ Non-electricity sector secondary legislation includes:

- Gas: No secondary legislation has been developed for natural gas, since Greece has received a derogation from the application of Directive 98/30, and Law 3175 provides for the eligibility of electricity producers from 1 July 2005 onwards. However, a new legislative framework for liberalization of the Greek Gas Market, which aims to import the EU Gas Directives into the Greek legislative framework, is in the final stage of preparation by RAE and is not yet public. At present, RAE is acting in a consulting capacity on this work, as the responsibility to introduce a Gas Law to the Greek Parliament lies with the Government; and
- Oil: The secondary legislation related to Law 3054/2002 has not been drafted yet.

The above legislation is not available in English.

Applicable Legislation. Primary legislation is the Act on Electricity (2001:110).¹⁸

Applicable secondary legislation includes various governmental and ministerial decrees and governmental decisions, including Governmental Decrees 111/2003 (VII.29), Governmental Decree 180/2002 (VIII.23) on Enforcement of the Electricity Act; Governmental Decree 181/2002 (VIII.23) on eligibility of electricity customers; Governmental Decree 182/2002 (VIII.23) on the regulation of non border transmission of electricity; and Governmental Decree 183/2002 (VIII.23) on stranded costs.

Italy

Establishment of the Regulatory Authority. The Regulatory Authority for Electricity and Gas (“AEEG”) was established pursuant to Law no. 481 in November 1995, and became fully operational in April 1997.

Applicable Legislation. Law 481 established principles for the liberalization of the Italian energy markets and created two regulatory authorities, one for electricity and gas and one for telecommunications. Each authority functions independently. AEEG is empowered to issue secondary legislation or regulations on most energy sector issues, *see, e.g.*, Decision 127/2002 (rules for setting of tariffs for transportation and dispatch of natural gas), Decision 26/02 (rules for setting tariffs for storage of natural gas), and Decision 190/02 (terms and conditions for allocation of transmission capacity for import, export and transit of electricity at northern electricity border). On other issues, such as licenses, contracts or market rules, AEEG proposes amendments or decrees to the relevant Ministry (usually the Ministry of Productive Activities, or Industry and Trade).

Moldova

Applicable Legislation. The energy sector is governed by the following primary legislation:

- Electricity Law, adopted 17 September 1998 (Amendments 26.07.2000, 17.11.2000, 28.02.2003, 13.06.2003);
- Gas Law, adopted 17 September 1998;
- Energy Law, adopted 19 February 1998 (Amendments 13.07.2000, 27.02.2003); and
- Petroleum Products Market Law, approved 31 July 2001 (last amendment 31.10.2003).

Establishment of the Regulatory Authority. The National Agency for Energy Regulation (“ANRE”) was established under Governmental Resolution no. 767 of 11 August 1997.

Romania

¹⁸ Non-electricity primary legislation is:

- Act on District Heating (1998:18); and
- Act on Gas Supply (2003:42).

Applicable Legislation. Applicable primary legislation includes the Electricity Law, 318/2003, and Government Decisions on restructuring the electricity sector, including degree of market opening, granting authorizations (*e.g.*, permission to construct or expand a new facility, line or station) and licenses (*e.g.*, right to engage in trade), and connection to the network. Secondary legislation includes regulations issued by the Romanian Electricity and Heat Regulatory Authority (“ANRE”), including technical codes, metering codes, tariffs methodologies, commercial and technical regulations, performance standards, and monitoring reports and procedures.

Establishment of the Regulatory Authority. ANRE was established in March 1999, pursuant to an Emergency Ordinance, now superseded by the new Energy Law.

Serbia and Montenegro

Background. Serbia and Montenegro are presented together in this Report. Serbia reports that while some overlap exists in some sectors, the energy sector is not among these. A subsection addressing the status of energy regulation in each State provides information for Serbia and Montenegro independently. Each State has energy legislation and regulations completely separate from the other. Serbia is in the process of passing a new Energy Law, which will establish a regulatory authority, and Montenegro has a new Energy Law in place and has recently established a regulatory authority. Information specific to each is presented below.

Serbia

Applicable Legislation. The new Energy Law was passed in late July 2004 and at the writing of this Report, no official English translation is available. The information in this Report is gathered from the unofficial English translation and from comments provided by the CEER designated representative in Serbia prior to the issuance of the new Law. As comments were based on information in the draft Law, which defers slightly from the Law, additional review by the Serbia representative to CEER is necessary before information on Serbia is considered final. In the interim, the authors of this Report have done their best to accurately update the information in this Report to reflect the new Law, but acknowledge limitations of the translation and review process.

The legal framework in the energy sector in Serbia, as a result of significant political changes in the country over the past decade, continues to evolve. As a consequence, all information regarding the sector reflects a developing environment, with little experience to gauge its operation in practice.

The Law addresses electricity, natural gas, oil and oil derivatives, and district heating sub-sectors. Basic elements of its contents are:

- Energy development planning;

- **The establishment of a regulatory authority;**
- **Electricity (including security and protection of captive customers);**
- **Oil and oil derivatives;**
- **Natural gas;**
- **District heating; and**
- **A timetable for the implementation of reform (as part of transitional provisions).**

Montenegro

Applicable Legislation. A new Energy Law (Zakon o energetici, Sl. List. RCG br. 39/03) is currently in place. Passed on 25 June 2003, it provides for a regulatory agency. The Energy Regulatory Agency (the “Agency”) issued licensing rules for the electricity sector in March 2004, and also began developing the rules for unbundling of the only vertical integrated electricity company in Montenegro (the Law charges the Agency with responsibility to provide for the rules for unbundling). Six interim licenses for separate electricity-delivery-related functions were issued in June; ordinary licenses will be issued eighteen months later.

Rules for licensing petroleum and gas sectors were published in July. No unbundling in these sectors is necessary in Montenegro. Petroleum and gas interim licenses are expected to be issued in autumn 2004.

The Law anticipates that the Agency will be able to resume its electricity tariff-setting responsibilities by 8 July 2005. Before that date, the Agency expects to issue regulations concerning the rules and process for setting the tariffs for energy undertakings. As there is no LNG, but only LPG delivered in bottles, and as there are more than 15 companies in this sector, the Agency is not tasked with approving tariffs for the petroleum and gas sectors.

Interim technical codes (grid and distribution) submitted by the electricity company were approved in August, and approval of final technical codes are targeted to coincide with the application for ordinary licenses.

Establishment of a Regulatory Authority. The Energy Regulatory Agency was established on 22 January 2004. Although not yet fully equipped, the Agency is functional. In summary, the following initial tasks in terms of the organizational stage are largely completed:

- All five key managerial positions in the Regulatory Agency have been filled and the regulators are acting according to their responsibilities;
- The Agency has moved into permanent office space and requisite IT equipment is operative; and
- A fair and transparent employment procedure has been put into operation. So far, nine staff members have been hired; twelve are anticipated in the future, although only nine are projected to serve during this initial formative period.

Slovenia

Applicable Legislation. The governing law is the Energy Law passed 15 September 1999 (the latest modifications of the law were made on 7 May 2004), followed by the government ordinances on:

- Conditions and procedures for issuing and revoking licenses;
- The mode of undertaking public services in electricity transmission and transmission system operation;
- The mode of undertaking public services in electricity distribution and distribution network operation;
- Conditions for qualified generation of electricity;
- Conditions for supporting the qualified generation of electricity;
- Transmission system operation (the transmission network code);
- Distribution network operation (the distribution network code);
- Determination of the energy infrastructure; and
- Tariff system for the tariff customers.

Apart from these, there are the general conditions for supply of electricity from the networks, the rules for operating the organized electricity market, and some other related secondary legislation. The new law expands the regulator's authority to resolve disputes, monitor markets and access licensee data. The regulator, *i.e.*, Energy Agency, issues its own regulations, a code of rules on determination of the use-of-network prices, and criteria for justification of costs. Secondary legislation will be developed as a result of the recent modifications to the Law.

Establishment of a Regulatory Authority. The Energy Agency of the Republic of Slovenia was established in June 2000 and became operational in 2001.

Turkey

Applicable Legislation. The Electricity Market Law (enacted 3 March 2001), the Natural Gas Law (enacted 2 May 2001) and the Petroleum Market Law (enacted 20 December 2003) are the three relevant pieces of primary legislation for the sector. A comprehensive set of secondary legislation has been adopted. This legislation includes:

- Electricity Market Licensing Regulation;
- Electricity Market Tariffs Regulation;
- Electricity Market Import and Export Regulation;
- Electricity Market Eligible Consumer Regulation;
- Electricity Market Customer Service Regulation;
- Regulation Concerning the Principles and Procedures for Conveying Inspections and Audits in Electricity Market;
- Electricity Market Grid Code;
- Electricity Market Distribution Code;

- Regulation Regarding the Supervising and the Procedures and Principles to be Followed During the Preliminary Investigation and the Inquiry in the Electricity Market; and
- Regulation of Auditing any Real Person or Legal Entity Operating in the Energy Market by Auditing Firms.¹⁹

Establishment of the Regulatory Authority. The Energy Market Regulatory Authority (“EMRA”) was established on 19 November 2001.

UNMIK

Background. The United Nations Interim Administration Mission in Kosovo (“UNMIK”) is the interim administration for Kosovo, pending a final political settlement. As a UN protectorate, Kosovo has a unique legal and regulatory structure. It is therefore addressed separately from Serbia and Montenegro in this Report. Fundamental to understanding the Report data regarding the energy sector in UNMIK is comprehension of the role of the United Nations with respect to the local government.

¹⁹ In addition, the electricity sector communiqués and natural gas sector secondary legislation include:

- Communiqué Regarding Determination of Transmission and Distribution Connection Charges;
- Communiqué Regarding Regulation of Distribution System Revenue;
- Communiqué Regarding Regulation of Retail Service Revenue and Retail Prices;
- Communiqué Regarding Regulation of Transmission System Operation Revenue;
- Communiqué Regarding Regulation of Transmission System Revenue;
- Communiqué Regarding Wind and Solar Measurements;
- Communiqué Regarding Regulatory Accounting Guidelines;
- Communiqué Regarding Meters;
- Communiqué Regarding Connection to and Use of System of Transmission and Distribution Systems in the Electricity Market;
- Communiqué Regarding the Principles and Procedures of Financial Settlement in the Electricity Market;
- Communiqué Regarding the Principles and Procedures for Selection in Case of More Than One Application for the Same Source and Same Place;
- Communiqué Regarding Preparation of Retail Sale Agreements;
- Communiqué Regarding Regulation of Auditing Any Real Person or Legal Entity Operating in the Energy Market by Auditing Firms;
- Natural Gas Market Licensing Regulation;
- Internal Installations Regulation (Gas);
- Certificate Regulation;
- Tariffs Regulation;
- Transmission Network Operation Regulation;
- Facilities Regulation;
- Distribution and Customer Services Regulation;
- Communiqué Regarding LNG Transmission;
- Communiqué Regarding Implementation of Gross Calorific Value in Retail Sales of Natural Gas Distribution Companies; and
- Communiqué Regarding Accounting Implementations and Financial Reporting.

While the UN is the final governing body in Kosovo, the Constitutional Framework established by the UN, along with subsequent UN decisions, has transferred certain powers to the Provisional Institutions of Self-Government (“PISG”), while reserving other powers. At present, legislation for the energy sector falls under the reserved status, and includes a series of regulations issued by an arm of the UN. In the past year, the Assembly has taken a critical role in reforming the energy sector. The Assembly and the Central Regulatory Unit (“CRU”), part of the EU Pillar of the UN, have cooperated in the completion of a package of energy legislation (the Energy, Electricity and Regulatory Laws. These Laws were adopted by Assembly of Kosovo on 29 April 2004 and promulgated by the Special Representative of the Secretary General (“SRSG”) on 30 June 2004.

The Energy Regulatory Office (“ERO”) was formerly part of CRU, which, among other regulatory tasks, was responsible for economic regulation of the energy sector. With promulgation the Law on Energy Regulator the ERO was established as an independent regulatory authority. Because of the reserved status and current governing structure under the UN, the regulatory authority remains subject, in certain respects, to authority from the UN, specifically, the SRSG. The full board is not in place at the writing of this Report, and appointment of all regulators is the trigger date for the passage of all critical secondary legislation.

The power utility remains at present a vertically integrated publicly-owned company under trust of Kosovo Trust Agency. Incorporation and unbundling efforts in line with the EU Directives and promulgated legislation are under way. It is envisaged that a separate TSO will be established in 2005.

Applicable Legislation. In addition to the new package of legislation, the reserved powers of UNMIK are exercised through various regulations, laws and administrative directions (guiding the implementation of Regulations) issued by UNMIK. The existing relevant regulations, laws and administrative directions in the energy sector include:

- Regulation Nr. 2000/49 On the Establishment of the Administrative Department of Public Utilities;
- AD Nr. 2000/19 On Payment of Debts for Electricity Services (associated with Reg. No. 2000/49);
- AD Nr. 2000/20 On Disconnection of Electricity Services (associated with Reg. No. 2000/49);
- Law No. 2004/8 On the Energy Regulator – UNMIK Regulation 2004/20;
- Law No. 2004/9 On Energy – UNMIK Regulation 2004/21;
- Law No. 2004/10 On Electricity – UNMIK Regulation 2004/22; and
- Following the passage of the above ADs, the predecessor of ERO (named PURCK which operated under the Reg. Nr. 2000/49) issued several Orders.

In addition, primary legislation on district heating and on energy efficiency is pending.

Relevant secondary legislation is currently in draft form, and is being prepared by ERO. As part of reforms in Kosovo, the energy policy-making office of CRU has been transferred to Energy Office under the Office of Prime Minister.

The Law provides the following timetable for passage of draft secondary legislation and rules:

The Board shall adopt, not later than (counting from the date of appointment of the Board members):

- 60 days – ERO shall adopt a Code of Professional Conduct;
- 60 days – ERO shall adopt the Statutes of the ERO (*i.e.*, procedures);
- 90 days – ERO shall adopt Dispute Settlement Procedures;
- 90 days – ERO shall implement a Fee Schedule;
- 4 months – ERO shall develop and approve secondary legislation on licensing;
- 4 months – ERO shall develop and approve secondary legislation on pricing and tariffs;
- 4 months – ERA shall prepare and approve General Terms and Conditions for Energy Supply;
- 4 months – ERO shall prepare Rule on Disconnection (which shall substitute AD Nr. 2000/19 and AD Nr. 2000/20); and
- 12 months – SRSG, in consultation with PISG, shall review the market structure and assess the degree of liberalization of the energy market. Based on the result of such review, the SRSG may decrease or increase by one year the length of the initial members of the Board.

Establishment of the Regulatory Authority. The Law provides for the establishment of the regulatory authority; however, because the Law has been promulgated so recently, ERO is still in the initial stage of development and functioning.

2. STRUCTURE

**Table 2
STRUCTURE OF THE REGULATORY AUTHORITY**

COUNTRIES	NUMBER OF REGULATORY AGENCIES IN THE ENERGY SECTOR	FIELDS COVERED	OTHER BODIES WITH REGULATORY DECISION-MAKING POWER
Albania	1.	Electricity.	No.
Austria	2.	Electricity, gas and energy from natural resources.	Yes. Federal Minister of Economics and Labor; local state authorities.
Bosnia and Herzegovina	1.	Electricity.	No – For electricity. Ministry – Oil and gas.
Bulgaria	2.	Electricity, natural gas, district heating.	SERC adopts some secondary legislation. The COM and Ministries adopt others. Ministry of Energy – Oil, petroleum products, pipelines. Energy Efficiency Agency – Energy efficiency.

COUNTRIES	NUMBER OF REGULATORY AGENCIES IN THE ENERGY SECTOR	FIELDS COVERED	OTHER BODIES WITH REGULATORY DECISION-MAKING POWER
Croatia	1.	Electricity, oil, gas, heat.	No. Other regulatory body exists; the Government and Ministry issue secondary legislation.
FYR of Macedonia	1.	Electricity, gas, oil and oil derivatives, district heating geothermal energy.	No.
Greece	1.	Electricity, oil gas, heat.	Yes. Ministry of Development.
Hungary	1.	Electricity, gas, district heating.	Yes. Ministry.
Italy	1.	Electricity, gas.	Ministry of Productive Activities; Ministry of Environment.
Moldova	1.	Electricity, gas, petroleum products, heat generation from CHP, and centralized heat supply from state companies.	No.
Romania	4.	ANRE – Electricity and heat. ANRGN – Natural gas. ANRSC – District heating. ANRM – Oil, coal, etc.	No.
Serbia and Montenegro	Serbia – 0 at present; Law envisions 1. Montenegro – 1.	Serbia – Electricity, oil, gas, heat have one regulatory authority. Montenegro – Electricity (licensing and tariff setting), gas, and petroleum (only licensing).	Serbia – Yes. Ministry of Mining and Energy, Government of Republic of Serbia, and National Parliament of Republic of Serbia. Montenegro – No.
Slovenia	1.	Electricity, gas and district heat.	Yes. Tariff methodologies and tariffs established by the Agency must be approved by the Government.
Turkey	1.	Electricity, natural gas, oil.	No.
UNMIK	1.	Electricity and district heating at present, natural gas (if/when applicable in the future), oil (in the area of strategic reserves only).	Yes – UN/SRSG through rule-making powers.

Albania

In August 2004 the Government approved a Transitional Market Model for the electricity market. Subject to certain conditions being met, the Albania market will evolve toward full compliance with the EU Directives and the regional market contemplated by the Athens MOU. It is anticipated that the initial phase would be in place in approximately two to three years.

Austria

Number of Regulatory Authorities. There are two related regulatory authorities covering the energy sector, E-Control Corporation and E-Control Commission (see “Background” after Table 1). Following this original concept of two distinct authorities, their competencies are distinct to each other; e.g., the E-Control Commission is the appeal authority for rulings of E-Control Corporation, and E-Control Commission determines grid use tariffs and other tariffs in accordance with § 25 E1WOG, along with tariffs and billing principles for deliveries of electric energy across regulatory zones.

Energy Sector Regulatory Activities Covered by Other Bodies. Other than the E-Control, the Federal Minister of Economics and Labor and the state authorities are involved in the regulatory decision-making process, and an Electricity Advisory Board within the Ministry serves in a consulting role.

Bosnia and Herzegovina

Energy Sector Regulatory Activities Covered by Other Bodies. Currently, the regulation of gas and oil remains with the Entity and State Ministries. Drafting of a State gas law and expanding SERC jurisdiction to include gas is in the planning stage.

Bulgaria

Energy Sector Regulatory Activities Covered by Other Bodies. Within its areas of competencies – electricity, gas and heat – SERC shares regulatory responsibilities with government bodies, particularly in the area of rulemaking. SERC issues rules on access to networks, market rules, grid code and rules on metering. Several key secondary laws, however, such as the tariff ordinances (electricity, gas and heat), licensing regulations, the regulatory fee schedule and the rules of organization for the regulatory authority, are developed by SERC but are formally adopted by the COM. The COM may amend the draft submitted to it by SERC. MEER has the authority to adopt regulations dealing with technical issues, such as technical safety standards and plant operation and maintenance standards. MEER also adopted regulations on trade with Green Certificates, and together with the Ministry of Urban Development and Public Works (“MUDPW”) adopts regulations on design of electricity installations.

In the case of draft secondary legislation developed by SERC and recently adopted by the COM, such as the tariff ordinances, licensing ordinance, SERC rules of organization and SERC licensee fee schedule, the amendments requested by the COM were limited to procedural rules and editorial changes.

Croatia

Energy Sector Regulatory Activities Covered by Other Bodies. CERC's ability to make regulations of general import is limited; it can only issue rulebooks governing its own operations. Most other general regulations, e.g., regarding licensing conditions and terms, are issued by the Government or the Ministry of Economy, Labor and Entrepreneurship. CERC provides its opinions on certain secondary legislation, such as the end-user tariffs and tariff systems, but such tariffs are ultimately determined by the Government.

CERC establishes electricity transmission fees and distribution fees based on the proposals of the transmission and distribution entities, respectively.

Greece

Energy Sector Regulatory Activities Covered by Other Bodies. The Ministry of Development is in most cases empowered to make the regulatory decisions, after obtaining RAE's opinion.

Hungary

Energy Sector Regulatory Activities Covered by Other Bodies. The Minister of Economy and Transport is the electricity and gas price authority, and issues price decrees as well as some regulations (such as data requirements). District heating prices are set by local governments. Market participants take part in consultation with various bodies depending on the issue at hand. For example, the HEO is the consultation partner on issues related to licensing, license monitoring, technical and economic questions, collection of data, setting of prices and tariffs, and consumer complaints; the Ministry of Economy and Transportation is the consultation partner on issues related to investments in the energy sector and the adoption or the amendment of laws; the Ministry of Environmental Protection is the authority taking part in consultations on issues related to emissions and site rehabilitation; and the Competition Authority is the partner for consultations on competition and cartel issues. Market participants can consult on dispatch, load and capacity allocation, as well as technical and commercial issues, with the System Operator. The System Operator is also responsible for preparing the commercial code, which is then approved by the HEO.

Environmental Role of Regulatory Authority. The Electricity Act does not authorize or obligate the HEO to address environmental issues.

Italy

Energy Sector Regulatory Activities Covered by Other Bodies. The Ministry for Productive Activities is responsible for security of supply, and issues concessions for certain distribution activities, as well as agreements, licenses and authorizations covering sector activity. AEEG provides comments and proposals on licensed activities and on regulations governing the form of the market, and proposes amendments to individual agreements, licenses and authorizations to the Ministry. If the Ministry does not accept AEEG's proposal, it must request a new

proposal from AEEG, and if it does not accept the second proposal, must refer its decision to the Prime Minister, who can only deviate from AEEG’s decision “exclusively for weighty and significant motives of general interest.”

Romania

Number of Regulatory Authorities. Four regulatory authorities cover the energy sector. These are:

- ANRE – Romanian Electricity and Heat Regulatory Authority – electricity and heat produced in cogeneration;
- ANRGN – National Regulatory Authority in Natural Gas Sector – natural gas;
- ANRSC – National Regulator of Communal Services – district heating; and
- ANRM – National Agency for Mineral Resources – oil and coal.

This Report focuses primarily on electricity; thus, answers to the Report refer to ANRE unless otherwise specified.

Serbia and Montenegro

Serbia

Number of Regulatory Authorities. The Serbian Energy Law envisages one “regulatory authority” (for electricity, natural gas, oil, oil derivatives, and partially for district heating). The Law also establishes an Energy Efficiency Agency, but this body will not have regulatory powers.

Energy Sector Regulatory Activities Covered by Other Bodies. The draft Energy Law defines new roles for the key other actors in the energy sector – namely, the Ministry of Mining and Energy, the Government of the Republic of Serbia, and the National Parliament of the Republic of Serbia. Certain roles, such as the Ministry’s authority to prepare and issue energy-related legislation or defining conditions for license issuance and revocation, or the Government’s authority to adopt key secondary legislation, are regulatory functions.

B. INDEPENDENCE

1. LEGAL INDEPENDENCE

**Table 3
LEGAL INDEPENDENCE OF REGULATORY AUTHORITY**

COUNTRIES	SEPARATE LEGAL ENTITY FROM GOVERNMENT	LEGAL STATUS
Albania	Yes.	Independent Public Agency.

COUNTRIES	SEPARATE LEGAL ENTITY FROM GOVERNMENT	LEGAL STATUS
Austria	Yes.	E-Control Corporation is a public limited liability company, which is fully state-owned.
Bosnia and Herzegovina	Yes – For all 3.	Independent Government Agency – For all 3.
Bulgaria	Yes.	State Energy Regulatory Commission – An independent governmental body pursuant to the Law on Administration.
Croatia	Yes.	Agency.
FYR of Macedonia	Yes.	Independent Legal Entity.
Greece	Yes.	Independent Administrative Authority.
Hungary	Yes.	Public Administration Body.
Italy	Yes.	Independent Public Institution.
Moldova	Yes.	Permanent Public Administration Authority.
Romania	Yes.	Independent Public Institution.
Serbia and Montenegro	Serbia – As planned; yes. Montenegro – Yes.	Serbia – No regulatory authority is in place, but EA will be an independent legal entity when established. Montenegro – Independent Public Authority.
Slovenia	Yes.	A public agency according to the law on public agencies.
Turkey	Yes.	Autonomous Body.
UNMIK	Partial.	UN Regulatory Body; ERO is envisaged to become an Autonomous Body in 2005 after CRU is dissolved.

Austria

Regulatory Authority Status. E-Control Corporation is a private corporation whose shares are fully owned by the Republic of Austria and managed by the Ministry of Economic Affairs and Labor. E-Control Corporation has administrative powers in accordance with federal statute. The E-Control Commission is a federal commission consisting of three members – a federal judge, a member with relevant technical experience, and a member with legal and economic experience.

Bosnia and Herzegovina

Regulatory Authority Status. SERC is an independent State body, and RSERC and FEREC are independent entity government bodies. They were established by law and are subject to limited legislative oversight by the respective State and Entity legislative entities, but retain significant independence in decision-making.

Croatia

CERC is an independent agency; by law, however, it must use a government-owned, nonprofit institution, the Energy Institute, to perform most staff activities.

Greece

Regulatory Authority Status. RAE is an independent administrative authority that enjoys, by the express terms of the law establishing it, financial and administrative independence. RAE belongs to the public domain, and the legality of its actions can be controlled by the Minister of Development. RAE is a separate legal entity from the Government, but not with a fully independent legal personality.

Hungary

Regulatory Authority Status. The HEO is a national, public administration body. It has independent powers and competence, acting under the Government’s control and the Minister’s supervision.

Moldova

Regulatory Authority Status. Pursuant to the Electricity Law, ANRE is a permanent public administration authority with the status of a legal entity. It is not subordinated in its activity to another government body, private agency or institution.

Serbia and Montenegro

Montenegro

Regulatory Authority Status. Pursuant to the Energy Law, ERA is an autonomous, functionally independent non-profit organization with public authorization. The Agency is a legal entity with final decision-making power that can be appealed only to a court.

UNMIK

Regulatory Authority Status. ERO is an independent regulator. At present, ERO still operates under CRU of the EU Pillar, which may be dissolved in 2005.

2. FINANCIAL INDEPENDENCE

**Table 4
FINANCIAL INDEPENDENCE**

COUNTRIES	BUDGET PROCESS ESTABLISHED IN LAW	SEPARATE FROM STATE BUDGET	SOURCE OF FUNDS	APPROVAL FOR BUDGET REQUIRED	TIMING FOR OBTAINING FUNDS
Albania	Yes.	Yes.	License and regulatory fees.	No.	No fixed time.

COUNTRIES	BUDGET PROCESS ESTABLISHED IN LAW	SEPARATE FROM STATE BUDGET	SOURCE OF FUNDS	APPROVAL FOR BUDGET REQUIRED	TIMING FOR OBTAINING FUNDS
Austria	Yes.	Yes.	Fees charged to operators of ultra-high voltage grid (electricity) and to Control Area Managers (gas).	No.	Quarterly.
Bosnia and Herzegovina	Yes – For all 3.	Yes – For all 3.	Electricity sector – for all 3.	No for SERC. Yes – For Entity regulators.	Not yet determined.
Bulgaria	Yes.	Yes.	License fees; other fees that SERC assesses from licensees/applicants.	Yes.	Quarterly.
Croatia	Yes.	Yes.	Fees and consumer bills.	Yes.	Quarterly for the amount of 0.07% of utility income. Bills, pursuant to formal procedure set by CERC.
FYR of Macedonia	Yes.	Yes.	Income fees and license fees.	Yes.	Biannually: April and September.
Greece	No explicit provision in law; the Hellenic General Accounting Plan is followed.	Yes.	Income fees, license fees and research programs.	No.	Annually.
Hungary	Yes.	Yes.	From licensees in the forms of regulatory fees and administrative fees.	Yes.	Biannually: January and July.
Italy	Yes.	Yes.	Regulated companies.	No.	Annually: by 31 July.
Moldova	Yes.	Yes.	License fees.	Yes.	Gas and electricity licenses: semi-annually. Petroleum licenses: monthly.

COUNTRIES	BUDGET PROCESS ESTABLISHED IN LAW	SEPARATE FROM STATE BUDGET	SOURCE OF FUNDS	APPROVAL FOR BUDGET REQUIRED	TIMING FOR OBTAINING FUNDS
Romania	Yes.	Yes.	License and authorization fees; other fees and charges.	Yes.	Throughout the year.
Serbia and Montenegro	Serbia – Yes. Montenegro – Yes.	Serbia – Yes. Montenegro – Yes.	Serbia – License fees, a part of the tariff for access to systems and use of systems, as well as other revenues obtained from performing activities within its competency in compliance with the law; donations. ²⁰ Montenegro – Initially from the government, thereafter from license fees.	Serbia – Yes, by Parliament. Montenegro – Yes, by Parliament.	Serbia – Law does not specify. Montenegro - Quarterly.
Slovenia	No.	Yes.	From regulated companies.	Yes.	Monthly.
Turkey	Yes, both in law and subsequently in related regulations.	Yes.	License fees, publications and other revenues, grants, fines, surcharges and participation fees.	No.	Annually (from participation and annual license fees) and at the time of the incident for initial licensing fees and fines.
UNMIK	Yes.	Not at present.	Fees (initial and annual); EU Pillar, donations; Kosovo Consolidated Budget.	Yes.	Annually, or quarterly installments.

Albania

Budget Autonomy. No later than 30 March of every year, the regulatory authority reports to the Parliament and the Government on its financial activities. While the regulatory authority, ERE, does not need to have its budget approved, it must file an Annual Report of its activities,

²⁰ The authors note that the CEER representative for Serbia indicated that details regarding allocation of funds for the regulatory authority may be found in the Feasibility Study for establishment of the Agency, which is in draft form.

including financial activities that will be made public. In practice, ERE has received the amount requested. If Parliament determines that any incurred expenses during a financial year are not appropriate, it may decide to change the amount of funds allocated for the next budget period. (In practice, this has not occurred.)

Fee Source. The law envisages that the regulatory authority shall be financed from license and regulatory fees set by the regulatory authority based on volume of electricity, gas or petroleum supplies.

The regulatory authority does the forecasting for the next year's budget. Based on total budget, ERE allocates the amount of funds to be paid by each licensee according to their annual turnover. Any funds in the regulatory authority account not used in one year shall be carried forward to the next year, and the next year's regulatory fees reduced accordingly. ERE must keep precise accounts of its expenditures and fees are deposited in a separate account, which can then be audited.

Timing of Receipt of Funds. There is no fixed time for when the regulatory authority receives funds during a financial year. In general, ERE receives funds quarterly per year.

Austria

Budget Autonomy. The Minister of Economics and Labor has the right to supervise how funds are used by E-Control. Budget approval is provided by the supervisory board only; no governmental body must approve the budget.

Fee Source. The regulatory authority has its own budget, separate from the central budget. Funds for its operation come from fees. Participant fees (charges) are set by the Minister of Economics and Labor, pursuant to an ordinance issued by said Ministry. The Energy Regulatory Authorities Act requires that fees are set in accordance with agency costs. E-Control Corporation charges fees to the operators of ultra-high voltage grids (electricity) and to the Control Area Managers (gas) in accordance with an ordinance of the Minister of Economics and Labor. In practice, E-Control has no difficulty meeting costs.

Bosnia and Herzegovina

Budget Autonomy. The budget process is established in the laws. The State Act on Transmission provides that the BiH Parliamentary Assembly will review the SERC budget, while the Entity laws provide that the Federation Parliamentary Assembly and the RS National Assembly, respectively, approve the Entity regulator budgets.

There is no experience yet regarding the use of funds to determine whether the legislatures, Ministries or other Government bodies will interfere with the regulatory authority's use of funds in practice. The law does not allow such interference after approval of the budget. With respect to the budget approval process, experience is minimal. In 2004, the State Parliamentary Assembly commented on the budget amount requested and made no changes to the budget proposed by SERC. By contrast, the RS Government significantly altered the budget proposed

by RSERC. The RS Government recommended that the amount requested by RSERC be reduced by approximately 50%, and the National Assembly approved the budget by the reduced amount. The FERC Parliamentary Assembly also recommended a reduction in the budget, although a smaller one (6%). The Federation Parliamentary Assembly approved the 6% reduced budget. Although the regulatory authorities have not yet had the necessary experience to gauge whether they will have difficulties meeting financial costs, it is anticipated that RSERC will have more expenditures than it can cover from its budget, given the 50% cut.

Fee Source. All three regulators will be funded by the electricity sector, initially through allocation to the three Elektroprivredes, *i.e.*, the integrated utilities. Plans for unbundling are under way. In the future, it is anticipated that the Transmission Company and ISO will fund SERC, pursuant to the draft laws, but the permanent mechanism through which this will take place has not yet been determined. Similarly, it is anticipated that the Entity regulators will be funded by generation and distribution companies in their respective Entities, but the permanent funding mechanisms have not yet been determined. The timelines for regulatory fee payments by license holders and other obligated parties are not yet developed. On an initial basis, the three regulators have invoiced their respective Elektroprivredes to obtain formation funds, and the Elektroprivredes has submitted payment.

Bulgaria

Budget Autonomy. The SERC budget is a separate item in the overall State budget and is submitted by the COM for approval by the Parliament. The COM cannot change line items once the budget is approved by Parliament. But prior to approval, the COM and the Ministry of Finance (“MOF”) can – and often do – make recommendations as to how the budget should be submitted and the extent of the funds that should be included in each of the line items. If SERC submits a budget that contradicts the recommendations of the MOF, the MOF has the power to advise the COM not to approve the SERC budget proposal. The MOF’s recommendations to SERC, and other similar bodies, are based on laws and regulations on the appropriation and spending of State funds, and not on provisions set forth in the Energy Law.

Even though under the Energy Law, neither the COM nor the MOF on its behalf has legal authority to instruct SERC as to how it spends its budget, in practice both do so instruct, generally through other available mechanisms. For example, one of the tools used by the MOF is to withhold money dedicated to salary supplements for the SERC staff members. Under the guidelines for civil servants (applicable to all civil servants, and not exclusive to SERC), the payment of funds for salary supplements, currently 25% of the base salary in addition to salary, is contingent on the availability of funds from the budget. The MOF has discretion to determine such availability. The MOF’s withholding power has proven a powerful influence on staff members and, indirectly, on the regulators themselves. Pursuant to the Law on Organization of the State Budget, SERC is to receive funds quarterly, in accordance with the budget disbursement plan agreed upon with the MOF.

SERC has the highest possible budgetary authority. This means that SERC receives its funds directly from the Treasury, rather than through the MEER, administers its own budget and draws upon interest-free credits from the budget if it is short on funds. The MOF, acting as the

treasurer, provides the funds to SERC on a set schedule and as need arises. While the Parliament may approve a lesser amount than that requested in the proposed State budget, the MOF may not provide a lesser amount to SERC than that appropriated by Parliament except as a result of delay or insufficiency of funds. The MOF may delay disbursements by denying SERC requests when SERC fails to justify the purpose of the expenditure, or alternatively, the MOF may approve the request but deny disbursement due to lack of funds.

Not providing the funds allotted to SERC by the Parliament was common practice under the old Energy and Energy Efficiency Act, the predecessor to the current Energy Law. There is insufficient information to determine whether this practice will continue under the recently adopted Energy Law.

Fee Source. SERC sets the licensing and other fees that it assesses. It develops a fee schedule, which is then submitted for formal approval by the COM, pursuant to guidelines. The new fee schedule, submitted for formal approval by the COM incorporates a three-part tariff for assessment of fees including a small fixed fee, a percentage of corporate turnover and a percentage of rate asset base. According to the Energy Law, licensing fees must be different for each licensing activity, and must be in accordance with the Law on State Taxes and Takings. The MOF is authorized to review and comment on fees under the Law on State Taxes and Assessments.

Croatia

Budget Autonomy. CERC prepares its budget and plan of activities, and then submits these to the Government for approval. If the Government views these as too high or in some other way inappropriate, the Government can limit the envisaged items or not approve the budget.

CERC has experienced some budget difficulties thus far. The 2002 budget was approved, and surplus funds remained at the end of the year. Pursuant to a governmental decision, the surplus was redirected to the State budget. In November 2002, CERC submitted to the Government its budget request for 2003, which was never approved. The governmental coordinating body and the governmental office for internal control have repeatedly asked CERC to lower some of the budget items, but have not provided CERC with any clear criteria for lowering cost. In December 2003, CERC submitted its budget request for 2004. In its 2004 request, CERC specifically voted for funding to hire its own staff of six employees in addition to the three it has now. It also provided for more space for its own staff and work, through acquisition of a new building. (At present, CERC is housed with the Energy Institute and uses its staff and facilities, an arrangement that limits its independence and autonomy.) CERC does not have the authority to purchase space on its own; thus, the Government must approve any such move. CERC has difficulty meeting financial costs and needs, and the Government's failure to approve CERC's budget makes the legal status of any spending by CERC open to question.

Fee Source. No funding comes from the central budget. Fees are set by a Government resolution; additional income from its own activities comes from CERC's bill issuance, pursuant to a formal procedure (giving an opinion based on provisions of the grid code, for instance).

Croatian Government Regulation (Official Gazette No. 60/02) sets forth how funds will be granted. The funds for financing work of the CERC are to be secured from the following sources:

- Income from its own activities (based on charging non-recurring fees and compensations – licensing, dispute settlement, opinions and other CERC documents or actions); and
- 0.07% from total annual income realized in the previous year by the energy subjects that perform one or more energy activities, based on the license for performing energy activities issued by CERC.

Difficulties in collecting fees have been minimal thus far. CERC receives funds from regulated undertakings quarterly. Other fees are to be paid upon a request for CERC action.

FYR of Macedonia

Budget Autonomy. ERC must receive approval from the Parliament for its budget. The draft budget shall be proposed by ERC to the Parliament no later than 1 October of each year. The proposed budget must contain all of the anticipated expenditures of the ERC, including salaries for the regulators and their staff members. In addition, during the review of the Annual Report for the work of ERC (this report includes a financial report), submitted to the Parliament towards the end of March for the previous year, the Parliament members may give comments and remarks regarding the manner in which ERC funds were used during the previous year.

Fee Source. Funds for the budget – which is not part of the central budget – come from income fees and license fees of energy undertakings. The ERC establishes fees that Parliament then approves. The fees are set out on the basis of the planned expenses and revenue of the energy undertakings. In accordance with the Law, companies are obligated to pay the Parliament-approved fees to ERC's account in two equal installments, the first payment being no later than 30 April and the second no later than 30 September.

Greece

Budget Autonomy. RAE independently establishes its budget in accordance with the Hellenic General Accounting Plan (there is no explicit provision in the Electricity Law on this issue). RAE's accounts are published after being validated by auditors. RAE has the obligation to inform the Greek Parliament of its budget allocations, but does not have to seek approval for the budget. However, decisions to increase fees lie with the Minister of Development; RAE must request an increase.

Fee Source. The funds for the budget of RAE come from fees imposed on undertakings of the energy sector. These fees are calculated and imposed on undertakings on the basis of sales of electricity, gas and oil products, as well as for the grant, modification and extension of licenses. In addition, RAE may participate in research programs or other activities (e.g., national CSF Framework, etc.) and may have additional incomes from these sources. The fees are

determined by a common decision of the Minister of Development and the Minister of Economics, following an opinion by RAE.

Hungary

Budget Autonomy. The HEO must receive approval from the Ministry of Economy and Transport, the supervisory body of the HEO. Although governmental bodies have no direct say with respect to the manner in which funds are used, governmental bodies do exert indirect influence on spending, such as through limitations on salaries of civil servants. In practice, the HEO has received the funds requested.

Fee Source. The Law on the State Budget establishes the budget process, identifying a budget separate from the central budget, with funds coming from the licensees in the form of regulatory and administrative fees. The scope, amount and payment terms of fees are regulated in a decree issued by the Ministry, issued in agreement with the Ministry of Finance.

Currently, licensees are charged a regulatory fee amounting to 0.05% of the net sales revenues of the previous year. In addition, an administrative fee is set to cover the HEO's administrative obligations. The HEO has not had difficulties meeting financial costs.

Italy

Budget Autonomy/Fee Source. Funds received from regulated companies first go to the Ministry of Treasury, which then distributes a fixed percentage to AEEG. Fees are set by law, currently a contribution not in excess of one thousandth (0.1%) of the income of the preceding financial year. This contribution is payable by 31 July of each year, pursuant to the terms and conditions established by decree issued by the Minister of Finance in concert with the Treasury Minister. AEEG's expenditures are reviewed and audited by *Corte dei conti* (National Auditing Office), an arm of the Ministry of Treasury. The Ministry of Finance is authorized to adjust the amount payable by the energy undertakings in proportion to the costs so as to cover the effective operating costs.

Moldova

Budget Autonomy. ANRE submits its annual financial reports to the Government and Parliament, and seeks budget approval for the following year's fiscal cycle from the Government. Thus far, ANRE has received the full budget amount it has requested. Some minor problems have arisen during the budget approval process relating to budget levels and coordination with the Ministry of Finance. The Ministry checks that the proposed budget is in compliance with accounting rules, and also approves the intended use of the proposed budget items.

Fee Source. The budget process is specified in the electricity, gas and petroleum products laws. ANRE's budget comes from annual license fees applied to regulated companies, and the Government cannot interfere with use of funds. Fees range between .006% and .009% of

energy sector revenue. ANRE is limited by the Electricity, Gas and Petroleum Products Market Laws to setting fees within this range.

Romania

Budget Autonomy. ANRE's budget is approved via Government Decision. In practice, ANRE has received the funds requested.

Fee Source. ANRE is entirely financed from funds outside the central budget. The methodology for establishing the budget is issued by the Ministry of Public Finance and the rules are the same for all public institutions. Funds come from fees for licenses, authorizations and other regulatory activities, charges and contributions from economic agents and individuals or companies. Fees are set by Government Decision and updated each year in accordance with the recommendation of ANRE. In practice, ANRE has not experienced difficulty in meeting costs.

Timing of Receipt of Funds. ANRE receives funds on an ongoing basis throughout the year.

Serbia and Montenegro

Serbia

Budget Autonomy. The National Parliament approves the Annual Financial Plan, which encompasses the budget. The Annual Financial Plan for the following year is submitted to the National Parliament by the end of October of the current year.

Fee Source. The Law prescribes that the funds for the founding and operation of the Agency are provided from revenues obtained from license fees, a part of the tariff for access to systems and use of systems, as well as other revenues obtained from performing activities within its competency in compliance with the Law. The first two years of operation are to be funded through a donation obtained from EAR (European Agency for Reconstruction).

Montenegro

Budget Autonomy. The budget needs to be adopted by the Parliament of Montenegro but does not form a part of the State budget. The regulatory authority creates a detailed budget by 30 September prior to the year for which the budget applies. While the regulatory authority submits the budget directly to the Parliament for approval, it also provides the budget to the Government for information purposes only. In addition, the budget is made available to the public in accordance with rules established by ERA. The Agency is currently funded largely by donor funds. As donor funding expired by the end of August, the budget for the rest of the year 2004 has been submitted to the Parliament for approval. Similarly, in September, the Agency will apply to the Parliament for funding for the year 2005.

Fee Source. The Law envisions that the initial funding for the regulatory authority will be provided by the Government. Once the regulatory authority establishes itself as a viable, self-sustaining entity, the budget will be made up from license fees collected by ERA. Fees are set by calculation of forecast costs of servicing sector participants. When ERA becomes funded through license fees, it is expected to collect yearly fees in four installments.

Slovenia

Budget Autonomy. The regulator proposes the budget to the Government in the form of an annual plan of activities and annual financial plan. They are assessed by the government according to the same rules as the state budget. In practice, the Agency has received the funds requested, although at one time certain growth plans had to be postponed because of a six-month delay in the budget approval.

Fee Source. The Agency sets fees paid by regulated entities based on a portion of the use-of-electricity network prices.

Turkey

Budget Autonomy. The board of EMRA approves EMRA's budget.

Fee Source. The budget for EMRA is separate from the central budget. Funds come from license fees, publications and other revenues, grants from international organizations, 25% of administrative fines imposed, transmission surcharges equal to 1% of the electricity transmission tariff at most, and participation fees collected from natural gas market and petroleum participants. Fees are set by EMRA. Some restrictions apply, as set forth in the Electricity Market Law and the Natural Gas Market Law. For instance, the transmission surcharge can be 1% of transmission tariff at most, pursuant to restrictions placed by the Electricity Market Law. In practice, EMRA has not had difficulty meeting costs.

Timing of Receipt of Funds. Funds come in as the fee revenue source is activated. For example, the licensing fee comes to the regulatory authority at the point of license issuance; annual and participation fees are provided to EMRA from the undertakings on an annual basis.

UNMIK

Budget Autonomy. The Law on Energy Regulator provides that funds for ERO will come from three sources (fees, donations and the Kosovo Consolidated Budget ("KCB")). At the last stage of passage, language that limited central budget contributions for one year was changed, so that the Law currently allows ERO costs to be financed from the central budget for an unspecified period of time. The ERO budget line is separate but within the overall

CRU budget line. Following the standard common procedures defined by the Ministry of Economy and Finance (“MoEF”), the ERO budget is proposed through the CRU and eventually approved by MoEF, on an annual basis with further breakdown by quarter of a year. The regulatory authority is subject to constraints arising from the central budget, in accordance with general constraint-guidelines of MoEF, if such a situation occurs.

Fee Source. According to the Law on Energy Regulator, ERO has the power to set sector participant fees to meet budgetary needs. The first licensing, which will begin the fee receipt for ERO, is likely to start in the first half of 2005, after ERO produces the Fee Schedule.

3. FUNCTIONAL INDEPENDENCE OF THE REGULATORY AUTHORITY

**Table 5
FUNCTIONAL INDEPENDENCE OF THE REGULATORY AUTHORITY**

COUNTRIES	GOVERNMENTAL POWER TO APPROVE, REJECT OR CHANGE DECISIONS	MECHANISM FOR APPEALS	APPELLATE BODY	SCOPE OF REVIEW	DECISION REMAINS IN EFFECT PENDING APPEAL
Albania	No.	Yes.	Tirana District Court.	Procedures, legal error.	Law silent.
Austria	No.	Yes.	Decisions of E-Control Corporation can be appealed to E-Control Commission.	Full scope of review for decisions of E-Control Corporation. Decisions of E-Control Commission cannot be appealed to the government but are reviewable in court.	No, unless public interests are endangered.

COUNTRIES	GOVERNMENTAL POWER TO APPROVE, REJECT OR CHANGE DECISIONS	MECHANISM FOR APPEALS	APPELLATE BODY	SCOPE OF REVIEW	DECISION REMAINS IN EFFECT PENDING APPEAL
Bosnia and Herzegovina	No – For all 3.	Yes – For all 3.	Aggrieved parties may sue in the court system.	SERC – Procedures, legal error, new facts. FERC & RSERC – Laws silent.	SERC – Law silent. FERC & RSERC – Yes.
Bulgaria	No.	Yes.	Supreme Administrative Court.	Procedures, legal error.	Yes.
Croatia	Yes, under limited circumstances.	Yes.	Ministry – Only with respect to license approval. Administrative Court – Other regulatory decisions.	Unlimited.	Yes.
FYR of Macedonia	No.	Yes.	The Complaints Commission; then Court.	Errors of procedure or fact.	Yes.
Greece	Yes.	Yes.	The Athens Administrative Court of Appeals, the decision of which is contested by appeal before the Council of State.	Errors of procedure or fact.	Yes.
Hungary	No.	Yes.	Metropolitan Court.	Legal error only.	Yes.
Italy	No.	Yes.	Regional Administrative Courts and Council of State (Appellate body of the RAC).	Mainly technical and economical matters.	Depends – Determined by tribunal.
Moldova	No.	Yes.	Administrative Court.	Procedures, legal error.	Yes.

COUNTRIES	GOVERNMENTAL POWER TO APPROVE, REJECT OR CHANGE DECISIONS	MECHANISM FOR APPEALS	APPELLATE BODY	SCOPE OF REVIEW	DECISION REMAINS IN EFFECT PENDING APPEAL
Romania	No.	Yes.	Bucharest Court of Appeals.	Errors of procedure and fact.	Yes.
Serbia and Montenegro	Serbia – Yes. Montenegro – No.	Serbia – Yes. Montenegro – Yes.	Serbia – Minister for appeals of license issuance or revocation; for other decisions, Administrative Court. Montenegro – Court of Montenegro.	Serbia – Errors of procedure, fact, and incorrect application of material law. Montenegro – To be determined by ERA rules and procedures.	Serbia – Yes where EA acts as an appellate body (exceptions in Law on Admin. Disputes); No, where EA acts as a body of first degree. Montenegro – Yes, except in special cases.
Slovenia	Yes.	Yes.	Ministry.	Errors in fact or procedure; misapplication of material law.	Yes.
Turkey	No.	Yes.	Council of State.	Merits and procedures of acts or decisions of regulatory authority.	Yes, unless a motion for stay is granted by court.
UNMIK	No.	Yes.	Internal administrative review; then review by a Court.	Technical procedures only.	Yes.

Albania

Appeal of Regulatory Authority Decisions. The law provides that the decisions of the regulatory authority may be appealed to the Tirana District Court within 30 days after the decision is published in Albania’s Official Journal. The Law on the Power Sector is silent as to whether the regulatory decision remains in effect during the course of an appeal, but the Code of Civil Procedure indicates that in certain instances, it may not remain in effect. Based on the

provisions of the Code of Civil Procedure, the person who has appealed an administrative act – in this case a decision of the regulatory authority – may ask the court to suspend enforcement of the act. Such suspension is permissible only in the event that there is a risk for considerable damages to the appellant.

Appeals are limited to legal and regulatory grounds of the decision by the regulatory authority. The Court may rule to cancel the decision partially or wholly.

In practice, one appeal has been raised. The decision of the regulatory authority regarding tariffs was appealed by a nongovernmental organization, which alleged that a former regulator acted outside his authority after his term was due to expire. The appeal was not sustained after the State Prosecutor determined that there were insufficient grounds to proceed.

Austria

Appeal of Regulatory Authority Decisions. Decisions of the E-Control Corporation can be appealed to the E-Control Commission. Decisions of the E-Control Commission must be unanimous and aggrieved parties may file an application to the Federal Supreme Administrative Court (“SAC”) and to the Federal Constitutional Court. In 2003, for example, numerous appeals were taken from E-Control Corporation orders assessing stranded cost contributions to grid operators, which are currently pending decision of the Constitutional Court.

For the most part, a decision of the E-Control Corporation does not remain in effect while an appeal is pending. Under special circumstances, such as where public interests are otherwise endangered, the decision will remain in effect during the appeal. During an appeal, the decision of the E-Control Corporation can be fully reviewed, and the decision upheld or reversed.

Autonomy of Decision-Making. The Minister of Economics and Labor has the right to give binding instructions to E-Control Corporation, but not to the Commission. These instructions have to be in written form and will be published. As of yet, no instructions have been issued.

Bosnia and Herzegovina

Appeal of Regulatory Authority Decisions. With respect to SERC, decisions are appealed to the Court of BiH. The SERC regulators are required to make unanimous decisions. Thereafter, aggrieved parties may sue in the appropriate court to obtain redress. In such suit, the Court can only consider (i) whether SERC acted in violation of this Act or procedure; (ii) whether SERC wrongly applied applicable rules and regulations; or (iii) whether new facts are in evidence that were not known at the time of the previous decision and that, if known, would have changed the outcome of that decision. Where SERC fails to make a decision due to lack of unanimity, the case is arbitrated. Suit for redress of arbitration decisions can be brought in the same fashion.

No criteria are described in the Entity laws with regard to the scope of review during a suit concerning FERC or RSERC decisions. The court system in BiH is undergoing a significant reform process, and these reforms are expected to affect any appeal of the regulatory decision.

Both the Federation Electricity Law and the RS Electricity Law specifically provide that the regulatory decisions remain in effect during subsequent legal action. The Act on Transmission provides that the SERC's decision is final but may be pursued in court, implying that the decision will remain in effect during the court action.

This structure has not been used thus far, as the regulatory authorities have only recently issued substantive decisions.

Bulgaria

Appeal of Regulatory Decisions. Regulatory decisions are administrative acts and can be appealed before the Supreme Administrative Court. Appeals can be brought by the entity negatively affected by a SERC decision. Appeals are limited to legal error (*i.e.*, review of whether the SERC decision conflicts with constitutional principles or primary and secondary laws and whether proper procedure was violated). The court's decision is final.

In practice, several SERC regulations have been invalidated by the SAC for being too vague or illegal due to exceeding its administrative authority. For example, the SAC invalidated a SERC rule subjecting licensees to "other terms and conditions" without defining the conditions. At present, a SERC resolution on awarding two gas distribution licenses is being challenged before the SAC on the grounds that SERC did not follow proper procedure.

Croatia

Appeal of Regulatory Authority Decisions. Appeals may be brought on issues of law and fact. In the field of licensing, the Ministry has the power to change individual regulatory decisions, such as the denial of a license. An energy undertaking denied a license can appeal to the Ministry of Economy, Labor and Entrepreneurship. If the license for carrying out energy activities is revoked before its expiration (temporarily or permanently), the energy undertaking may also appeal to the Ministry against CERC resolutions. For instance, an energy operator refused a license for carrying out energy activity may appeal the denial to the Ministry, pursuant to Article 17.4 of the Energy law (Official Gazette No. 68/2001). Other regulatory decisions are appealed to the Administrative Court, including some licensing issues, such as duration of the license.

Only one case to date has been appealed to the Administrative Court, which determined that CERC's decision was made with factual error. CERC amended its original decision in accordance with the decision of the Administrative Court.

Autonomy of Decision-Making. The Ministry, or any other Government body, does not have the authority to approve or reject regulatory decisions. However, there are certain areas over which the Ministry or Government has jurisdiction (and over which, in other EC-SEE States, the regulatory authority might have jurisdiction). The Ministry or Government, with CERC responsible only for providing an opinion, decides on some matters in the first instance (such as tariff systems, for example).

FYR of Macedonia

Appeal of Regulatory Authority Decisions. Parties aggrieved by certain ERC decisions may first submit complaints to the Complaints Commission in the energy field, and from there may submit a complaint to the Court. Decisions remain in effect pending appeal. In practice, no appeals have occurred yet.

Greece

Appeal of Regulatory Authority Decisions. With respect to regulation of the market through measures of a preventive nature, the legislature has entrusted to RAE responsibilities mainly of a consultative nature. De jure, this hinders effective intervention in the market by the regulatory authority as most decisions by RAE are not enforceable, which would ensure their implementation in practice. There is a mechanism for appeal, but it applies only to decisions of RAE and not to its opinions, which are most common. In accordance with Article 5, par. 6, L. 2773/1999, requests for appeals of RAE decisions may be made within 30 days. RAE reviews the legality as well as the substance of the contested act. The Minister of Development has authority on almost all matters except the imposition of fines to authorization holders. An appeal against the decisions of RAE may be raised to the Athens Administrative Court of Appeals, the decision of which is contested by appeal before the Council of State. To date, there have been three cases of sanctions imposed on the grid owner, Public Power Corporation SA (“PPC”), the national electrical utility in Greece.

Hungary

Appeal of Regulatory Authority Decisions. Appeals of a decision by the HEO may be lodged by a party whose interests have been prejudiced. The party may commence an appeal for judicial review of the HEO decision at the Metropolitan Court (the administrative court) within 30 days of the publication of the HEO decision. A decision may be challenged on an issue of law, but not of fact. In response to an appeal, the Court may:

- Overturn the decision without taking further action;
- Overturn the decision and order the HEO to instigate new proceedings; or
- Alter the decision.

In practice, the HEO issued 280 decisions in 2003 and 12 were appealed to the Court. The majority of these cases involved licenses, and are still under consideration.

Italy

Appeal of Regulatory Authority Decisions. Appeals of AEEG binding decisions go first to the local courts (Regional Administrative Court or “RAC”) and then the national courts (Council of State). The court determines whether to suspend AEEG’s decision pending the hearing on the complaint.

In practice, many distribution companies have appealed the gas distribution tariff order (237/00). The RAC upheld the basic principles underlying the order, but asked that a different (current cost approach) valuation method be introduced alongside the existing cost approach. This resulted in a significant rate increases for distribution companies.

Moldova

Appeal of Regulatory Authority Decisions. Any party or consumer disagreeing with ANRE decisions may appeal to the Administrative Court. In practice, several ANRE decisions have been appealed. Termoco, the district heating company, appealed to the Court regarding disagreements with ANRE's established methodology for a water loss factor. ANRE's initial decision was upheld. Another example is a claim by the Association of Energy Consumers of Moldova challenging ANRE's alleged failure to provide requested public information related to a tariff increase. Although the Consumer NGO initially prevailed, ANRE subsequently appealed to the highest court, resulting in reversal of the lower court. As a result, ANRE was not required to provide the requested information.

Romania

Appeal of Regulatory Authority Decisions. The final order and decisions are signed by the President of ANRE, but these orders and decisions are first issued by a committee consisting of all regulators. During the process of review, the committee discusses pending issues with market participants (via comments and meetings). Final orders and decisions can be appealed in the Administrative Litigation Division with the Bucharest Court of Appeal within 30 days following publication in Romania's Official Gazette, Part I. The appeal may address factual and procedural errors. In practice, in the last two years more than 70 orders and decisions have been appealed. All the appeals were denied.

Serbia and Montenegro

Serbia

Appeal of Regulatory Authority Decisions. The Ministry of Mining and Energy acts as an appellate body in cases involving refusal of a license (for energy activities), or revocation of licenses by EA. All other decisions (e.g., decisions of the transmission operator on access, connection approval, etc.) are appealed before EA, while the decisions of EA may be contested before the Administrative Court in an administrative dispute procedure (the scope of which is limited to checking the legality of the procedure conducted by EA).

In the cases where EA is making the decision as a body of first degree, its decision does not go into effect if an appeal is lodged, until the procedure before the body of appeal is final. In dispute settlement cases, where EA acts as a body of appeal, its decisions remain in effect even if an administrative dispute procedure has been initiated.

In cases where EA is making decisions as a body of first degree, the scope of review is wider and includes errors of fact and procedure and incorrect application of material law. On the other

hand, in cases where EA is the body of appeal and its decisions are contested before an Administrative Court, the scope of review is limited to the legality of the procedure only. The General Administrative Procedures Act sets forth mechanisms for appeal.

Montenegro

Appeal of Regulatory Authority Decisions. Parties may appeal an ERA decision to the Court of Montenegro. The decision of the Agency is effective immediately, and only in special cases is appeal granted (e.g., the possibility of producing cost which cannot be reimbursed, negative impact on security of people and electricity sector). In practice, a few decisions have been issued by ERA, but none has been appealed.

Slovenia

Appeal of Regulatory Authority Decisions. Under the recently enacted law, the Government may approve or reject all general acts of the Agency as well as decisions covering specific operator prices, tariffs and methodologies. The Government has intervened once, based on a “price control law,” preventing a determined and agreed network price increase, which was set in an open consultation procedure in 2002. The rationale for intervention was the higher-priority goal of limiting inflation.

Appeals of Agency decisions are to the Ministry (prices, tariffs, and methodologies) or the courts (other decisions). The Ministry may approve or reject a decision but may not modify it. In practice, an appeal of a network access case was taken to the Court, which ruled in favor of the Agency. This ruling has been appealed again and is pending a decision.

With the recent changes/amendments made to the Energy Law, the Government now has the power to block all decisions of the regulator. It is unclear how this will affect current practice, since the new law was introduced only two weeks ago.

Turkey

Appeal of Regulatory Authority Decisions. Appeals of EMRA decisions relating to fines and other regulatory issues are made to the Council of State as the court of first instance. The Council of State is the highest administrative court. EMRA’s decision remains in effect during this period unless a motion for stay is given by the court. The scope of review includes both the merits and the procedure of acts or decisions of the regulatory authority. In practice, there have been 35 appeals against regulations (29 motions for stay were dismissed by the Court), and 14 appeals against EMRA decisions (six appeals and three motions for stay were dismissed by the Court). The rest of the appeals remain under consideration.

UNMIK

Appeal of Regulatory Authority Decisions. No appeals have been raised yet.

4. PROCEDURES FOR APPOINTMENT AND REMOVAL

**Table 6A
APPOINTMENT POWER AND CRITERIA**

COUNTRIES	APPOINTMENT POWER	NON-EXPERIENCE APPOINTMENT CRITERIA	EXPERIENCE APPOINTMENT CRITERIA	LIMIT ON # WHO HAVE WORKED IN INDUSTRY
Albania	Parliament.	No other requirements.	Chair – 15 yrs state admin., judicial or electric energy system. 2 regulators – 10 yrs gen., trans. and distribution. 2 regulators – 5 yrs econ., finance, trade, accountancy, law, judicial, public admin.	No.
Austria	Minister of Economics and Labor (E-Control Corporation) and Federal Government (E-Control Commission).	Law is silent.	Chairman of Commission – Federal Judge. One from Commission – Relevant technical experience. Director of Corp. – Sufficient knowledge.	No.
Bosnia and Herzegovina	SERC – Entity Gov. recommend, Entity Parliaments nominate, the COM of BiH recommend; State Parliament appoints. FERC/RSERC – Entity Gov., respectively, nominates; Entity Parliament appoints.	SERC – Training in law, economics, or engineering; citizen of BiH. FERC – University Bachelors Degree. RSERC – Knowledge of engineering, economics, law, or environmental studies; RS citizenship.	SERC – Law, econ., engineering. FERC – Multi-year experience in sector, working background in power, especially technology econ., law, and environment. RSERC – Econ., law, engineering, environmental studies.	No.
Bulgaria	Prime Minister. Nominated by the COM.	At least a Masters degree; Bulgarian citizenship.	1 must be a lawyer; another must be an economist.	No.

COUNTRIES	APPOINTMENT POWER	NON-EXPERIENCE APPOINTMENT CRITERIA	EXPERIENCE APPOINTMENT CRITERIA	LIMIT ON # WHO HAVE WORKED IN INDUSTRY
Croatia	Parliament, upon Government's proposal.	University education in law, economics, or technical science. Croatian citizenship with permanent residence in Croatia. English proficiency.	Working experience in law, economics, or technical science.	No.
FYR of Macedonia	Parliament, upon Government's nomination.	High-level graduate studies. Citizenship. Minimum of 3 recommendations from experts (PhD) with 5 years experience in energy field/general managers of undertaking.	1 must be a lawyer, another must be an economist, and others must be engineers – Energy experts. 10 years experience.	No.
Greece	Minister of Development; President and Vice President by Parliament Committee.	None.	All regulators must be "distinguished for their scientific authority and their professional competence and experience on relevant issues."	No.
Hungary	Prime Minister, upon proposal of the Minister, for President and Vice-President; others by President.	Law is silent.	Law is silent.	No.
Italy	President of Republic, after approval by Council of Ministers upon proposal by Minister responsible.	Law is silent.	Highly qualified, acknowledged professionals who are experts in the sector.	No.
Moldova	Government of the Republic of Moldova; designates one as Director General.	A university degree in energy, economics, or law. Republic of Moldova Citizenship.	At least 3 years in the field as a manager.	No.

COUNTRIES	APPOINTMENT POWER	NON-EXPERIENCE APPOINTMENT CRITERIA	EXPERIENCE APPOINTMENT CRITERIA	LIMIT ON # WHO HAVE WORKED IN INDUSTRY
Romania	Prime Minister, upon proposal of the Coordinating Minister, appoints Chairman and Vice-Chairman. Coordinating Minister appoints the other three regulators.	N/A.	N/A.	No.
Serbia and Montenegro	Serbia – National Parliament of Republic of Serbia, on proposal of Government of Republic of Serbia. Montenegro – Parliament upon nomination by Gov. from those chosen by Selection Commission.	Serbia – University degree in law, econ., or technical field. Serbia Citizenship. Montenegro – Advanced university degree in engineering, law, or econ. Mont. Citizenship and permanent residency.	Serbia – At least 10 years of relevant working experience. Montenegro – Minimum of 7 years of experience in chosen field.	Serbia – No. Montenegro – No.
Slovenia	Government members of the Council (direct appointment), who propose Director to Government for nomination.	Citizenship; university degree in related field (technical, law, economics); energy expert.	10 years of service.	No.
Turkey	Council of Ministers.	Undergraduate degree in law, political and admin. sciences, public admin., econ., engineering, management, public finance. Turkish Citizenship.	Minimum of 10 years experience in public or private sector and distinguished in the profession.	No.
UNMIK	SRSG (for the initial members) and later, by Assembly of Kosovo.	University degree. Except for the Chairman in initial mandate, the other 4 members must be habitual residents of Kosovo.	5 years of work experience in engineering, economy, management, accounting or law.	No.

Austria

Appointment Power. The Director of the E-Control Corporation is appointed by the Minister of Economics and Labor, in accordance with the Private Companies Act. The Members of the E-Control Commission are appointed by the Federal Government. The Chairman of the Commission is a federal judge, and the appointment process therefore differs from that of other regulators. In the case of the Chairman of E-Control Corporation, the Federal Government must take account of a slate of three names proposed by the President of the Austrian Supreme Court. The other two members are proposed by the Minister of Economics and Labor.

Bosnia and Herzegovina

Appointment Power. The three regulatory authorities have slightly different appointment structures. For SERC, upon the recommendations of the respective Entity Governments, the Parliament of the Federation nominates two regulators, and the Parliament of the RS nominates one regulator. These nominations are submitted to the COM of BiH. The COM proposes the appointment of the regulators nominated by the Entity Parliaments to the Parliament of BiH, which in turn may accept or reject these nominations. The Federation Government nominates and the Federation Parliamentary Assembly appoints the FERC regulators. Similarly, the RS Government nominates and the National Assembly appoints the RSERC regulators.

Croatia

Appointment Criteria. The criteria are general and the five council members appointed to date (originally appointed to two-year terms and reappointed last year for five-year terms) come from varying backgrounds.

FYR of Macedonia

Appointment Criteria. There are no restrictions on the number of regulators who have previously worked in the industry.

Hungary

Appointment Power. All working for HEO, including President and Vice President, are civil servants. The President and Vice President are appointed by the Prime Minister at the proposal of the Minister, and all others are appointed by the President. Provisions on the employees of the HEO are governed by the Act on Civil Servants. In addition to this, special provisions on the President and Vice President can be found in the Electricity Act.

Appointment Criteria. There is no regulation specifying criteria for appointment of employees of the HEO.

Italy

Appointment Power. AEEG consists of a three-member board comprised of a chairman and two others appointed by decree of the President of the Republic, after the Council of Ministers

approves a proposal from the responsible Minister. Government nominations are first submitted to the competent parliamentary commission for scrutiny. Under no circumstances are appointments made in the absence of a favorable majority of two-thirds of the members of the aforesaid commissions, which may proceed to interview the persons nominated. At the moment of first implementing the present law, the parliamentary commissions reach a decision within 30 days of being requested to do so. Upon expiration of this period, approval must be expressed by an absolute majority.

Serbia and Montenegro

Montenegro

Appointment Power. The Law provides for a Selection Commission, made up of one member from each of the following: the Government; the Montenegrin Academy for Science and Arts; the Chamber of Commerce of Montenegro; and two representatives from the University of Montenegro. The Selection Commission nominates three primary as well as other alternate candidates for ERA commissioners. The Selection Commission submits its list of nominees to the Government, which selects three candidates to submit to the Parliament for final approval. In the future, the Director and Deputy Director will be selected by the Agency, with approval of the Government.

Appointment Criteria. Technical requirements, such as sector background experience, are not in place.

Turkey

Appointment Criteria. Regulators must be in compliance with other regulations regarding employment and the related provisions of the law of Civil Servants (Law No. 657), such as being a Turkish citizen. Regulators are not required to have technical backgrounds in the sector per se, but the regulators do have such backgrounds in practice.

UNMIK

Appointment Criteria. UNMIK has an interim appointment structure, which specifies appointments for the terms of the initial members of the Board; for subsequent members of the board, regulators shall be proposed by the Government and appointed by the Assembly.

For the initial members, the following appointment criteria apply:

- Three members shall be appointed by the SRSG after consultation with the DSRSG of the EU Pillar and the Assembly of Kosovo (Chairman for 2 years; one member for 2 years and one member for 3 years); and
- Two members shall be proposed by the Government, approved by the Assembly and appointed by the SRSG.

The Law also allows the SRSG to extend or reduce by one year these initial terms pursuant to decisions on market liberalization.

**Table 6B
REMOVAL POWER AND CRITERIA**

COUNTRIES	REMOVAL POWER	FOR CAUSE REMOVAL CRITERIA
Albania	Parliament.	Yes.
Austria	E-Control Corporation – Minister of Economic Affairs and Labor. E-Control Commission – E-Control Commission.	Yes.
Bosnia and Herzegovina	SERC – State Parliament. FERC – Gov. proposes to Parliament, with approval of President and Vice President. RSERC – Gov. proposes to RS National Assembly.	Yes – For all 3.
Bulgaria	Prime Minister.	Yes.
Croatia	Parliament.	Yes.
FYR of Macedonia	Parliament.	Yes.
Greece	None.	Yes.
Hungary	Prime Minister, upon proposal of the minister, for President and Vice President. For other employees, the President.	Yes.
Italy	Official court for specific public or private responsibilities.	Yes.
Moldova	Government.	Yes.
Romania	The appointing body – The Prime Minister or Coordinating Minister, as appropriate.	Yes.
Serbia and Montenegro	Serbia – National Parliament of Republic of Serbia, upon proposal of Government of Republic of Serbia. Montenegro – Parliament for all regulators other than the Director and Deputy Director, who are appointed by the regulators.	Serbia – Yes. Montenegro – Yes.
Slovenia	Government.	Yes.
Turkey	Council of Ministers.	Yes.
UNMIK	The authority who appoints them (initially SRSG) and later the Assembly.	Yes.

Albania

Removal Criteria. The Law on the Power Sector envisages that a regulator may be dismissed only in the following situations:

- Restricted or removed by a final court decision;
- Incapable of fulfilling the duties and responsibilities of a regulator for a period of more than six months;
- In contravention of provisions of the Law;
- Running for membership in Parliament, an employee in state administration or in any local authority; and
- Punished for committing a criminal act by a final court decision.

Procedurally, Parliament acts to remove a regulator based on the specified grounds (except in the first example when removal is a direct result of a final court decision).

In practice, no regulator has been removed before his or her term has ended.

Austria

Removal Criteria. The Director of the E-Control Corporation serves for a five-year term. Removal prior to that can only be performed in accordance with the Private Companies Act, and in cases where the Director fails to comply with written instructions of the Minister of Economics and Labor. Members of the E-Control Commission are also appointed for five years. They can be removed by the other members of the Commission if they fail to comply with the invitation to three successive meetings without a reasonable excuse, or subsequently become ineligible to hold office because of a disqualifying relationship (e.g., becoming a member of another government entity).

Bosnia and Herzegovina

Removal Criteria. The Act on Transmission provides that the State Parliament has the authority to dismiss a SERC regulator before the completion of the assigned term due to (i) illness rendering the regulator incapable of performing his or her duties; (ii) conviction of a crime punishable by imprisonment; (iii) a conflict of interest; (iv) resignation; (v) non-performance of duties, as reflected by failure to participate in SERC proceedings for a period longer than six weeks; or (vi) violation of SERC's Code of Ethics.

With respect to the removal of FERC regulators, the Government may propose removal to the Parliamentary Assembly; any decision to remove can be made only with the approval of the President and the two Vice Presidents. The Federation Electricity Law provides that a regulator may be removed under the following circumstances: (i) absence without excuse for more than three consecutive meetings; (ii) resignation; (iii) violation of the Code of Ethics; (iv) complete or partial incapability of performing duties; or (v) a finding that one or more conditions that would bar a regulator from appointment exist.

The RS Electricity Law provides that a regulator can be dismissed for reasons of illness or other condition rendering the member incapable of performing his or her duties, specifically:

(i) absence from more than three meetings in a row without the approval of other members; (ii) resignation; (iii) violation of the Code of Ethics; or (iv) a finding that one or more conditions that would bar a regulator from appointment exist. The RS Government submits a proposal to remove, which then must be approved by the RS National Assembly.

In practice, no regulator has been removed before his or her term has ended; however, the regulatory authorities are too new to judge whether this reflects autonomy.

Bulgaria

Removal Criteria. The Prime Minister has the sole authority to remove regulators, and is authorized to do so only in the following circumstances:

- Factual impossibility to discharge their duties for more than six months;
- Sentencing for committing a criminal offense; or
- Failure to meet the qualification requirements, *i.e.*, loss of qualification criteria: disbarment, revocation of educational qualifications by educational institutions, etc.

In the past, several regulators have not completed their terms; the official reason given is resignation. There has not been a change of regulators for the last two years, and the Chairman and another regulator were recently reappointed in September for five-year terms.

Croatia

Removal Criteria. The regulators may only be removed from office under the following circumstances:

- Serious breach of duty, as set forth in CERC's Statute (*e.g.*, breach of confidentiality, repeated unjustifiable absence, undertaking a legal business of value over 250.000 HRK (HRK – kuna – Croatian national currency, 1 Euro = 7,5 HRK) without consent of CERC, or a business of over 5.000.000 HRK without the consent of the Government);
- Failure to fulfill the criteria necessary for appointment;
- Conviction of a criminal offense by competent Court; or
- Incapability of carrying out the duties for a period in excess of six months.

FYR of Macedonia

Removal Criteria. Regulators can be removed only for the following reasons:

- Due to illness where the regulator is unable to fulfill his duties;
- Conviction of criminal act for which the member is sentenced to prison for more than six months; or
- Violation of the law.

The ERC determines by majority vote whether a regulator should be removed. If it votes for removal, it submits a request for the removal to the Parliament, which is then empowered to remove and appoint a new regulator to ERC.

Greece

Removal Criteria. RAE members are dismissed in the event of irrevocable conviction for an offense that constitutes a bar to appointment or that calls for the dismissal of a civil servant, in accordance with the Civil Service Code. No regulators have been removed.

Hungary

Removal Criteria. The HEO President or Vice President may be removed if he or she is found:

- To have committed a crime pursuant to a court judgment;
- Permanently unfit for filling the position;
- To have failed to terminate a conflict of interest with his office within three months; or
- To have jeopardized the HEO's operations.

The President and Vice President are employees and civil servants, but they are also generally subject to different rules than all other members of the HEO. The removal grounds for employees other than President and Vice President include mutual agreement, transfer, resignation or exemption.

Recently, the HEO President was removed on the ground of change of law. The new Gas Act also modified the provisions of the Electricity Act governing the legal status of the President and the Vice President so that application has to be submitted for these two positions, and the successful applicants are appointed as President and Vice President.

Italy

Removal Criteria. Regulators may be removed if they carry out, either directly or indirectly, any professional or consultant activity, are administrators or employees of public or private bodies, or hold another public office of any kind whatsoever, including being elected or representing political parties; or if they retain interests, either directly or indirectly, in enterprises operating in the sector for which the Authority itself is responsible.

Moldova

Removal Criteria. Only the Government is entitled to remove the regulators. The Director General of ANRE serves at the pleasure of the Government; the other regulators have set terms pursuant to the law. The Director General may be removed from the Director General position and remain a Director, or may be dismissed completely from ANRE. Pursuant to Article 8, ¶4 of the Law on Electricity, the grounds for removal may be: resignation, loss of Moldova citizenship, failure to fulfill his or her duties by reason of health, appointment to another position, conviction by court, or systematic violation of duties or the law.

In practice, several regulators have left before their terms ended. In the first instance, the regulator resigned for personal reasons; the second was dismissed by the Government for failing to protect consumers by increasing the heat tariffs; the third Director was dismissed due to expiration of term; and the fourth Director was dismissed based on his letter of resignation.

Romania

Removal Criteria. The mandate of the Regulatory Committee members shall cease upon:

- Termination of appointment;
- Resignation;
- Death;
- Determination of inability to fulfill his or her tasks as a result of an unavailability exceeding 60 consecutive days;
- Determination of a violation of duties (e.g., the exertion of any trading activities and other civil servant or dignitary functions, with the exception of the academic position, according to the law). The Prime Minister makes these determinations for the President and the Vice President; the Minister makes these determinations for the other three regulators (the procedure is not written in the law); or
- Criminal prosecution on the grounds of a Court's final decision.

Only one regulator left office before his term had expired. He resigned to become the general manager of the transmission company of Romania.

Serbia and Montenegro

Serbia

Removal Criteria. The National Parliament can, upon the proposal of the Government, remove a regulator only in cases of inability to perform duties for longer than six months; sentenced (without possible appeal) to more than six months in prison or for specified crimes such as fraud, theft, corruption or other similar crimes which make him/her unworthy of performing his/her office; provision of false or misleading information about qualifications for position; refusal to perform duties without good cause and in excess of three months consecutively or in excess of six months within one year; and conflict of interest.

Montenegro

Removal Criteria. The Law sets forth the following removal criteria: disability to perform duties for a period in excess of three months; loss of permanent residence in Montenegro; falsifying qualification data; performing a criminal act; written resignation; conflict of interest; absence from board sessions; improper behavior/declaring false data on private property. (Conflict of interest is defined as relating primarily with energy utilities.)

Slovenia

Removal criteria. If the regulator demands to be removed, does not fulfil the requirements for appointment, commits a serious disciplinary offense, commits a crime, starts any kind of employment relationship with a regulated company, or becomes (or his/her spouse becomes) a shareholder of a regulated company.

Turkey

Removal Criteria. The COM may remove regulators before the expiration of their terms of office only in cases where, through a Court decision, it is confirmed that the Chairman or other regulators are:

- In violation of the prohibitions set forth in the Electricity Market Law;
- Committed a crime connected to the duties assigned to them by the laws;
- Ineligible to be a civil servant;
- Incapacitated for a period exceeding three months due to illness, accident or otherwise;
or
- Unable to continue to fulfill his/her duties in the remaining term of office.

UNMIK

Removal Criteria. The body that appoints the regulatory authority Board members (initial regulators are appointed by the SRSG and subsequent regulators are appointed by the Assembly) has removal authority. Removal is permitted only if the regulator:

- Offers his or her resignation;
- Seriously breaches his professional duties;
- Is convicted of a criminal offense under this Law or another Law;
- Is mentally or physically incapable of performing his duties for a period longer than three months;
- Breaches the Code of Ethics established pursuant to this Law;
- Does not meet qualifications for the post; or
- Fails to attend more than three consecutive meetings, or five meetings in a calendar year, for reasons other than justified medical reasons.

In addition to these criteria, a final provision of the Law on Energy Regulator states that the SRSG shall have the authority to review the performance of the initial members of the Board (all appointed by the SRSG and to dismiss a Board member who fails to perform his or her duties in a satisfactory manner.

5. MANDATE

Table 7 MANDATE OF THE REGULATORS

COUNTRIES	FIXED TERMS	TERM LENGTH	STAGGERED INITIAL TERMS	POSSIBILITY OF REAPPOINTMENT
Albania	Yes.	5 years.	Yes.	Yes.
Austria	Yes.	5 years.	No.	Yes.
Bosnia and Herzegovina	Yes.	SERC, FERC & RSERC – 5 years for all 3.	SERC, FERC, RSERC – Yes for all 3.	Yes.
Bulgaria	Yes.	5 years.	Yes.	Yes.
Croatia	Yes.	5 years.	No.	Yes.
FYR of Macedonia	Yes.	5 years.	Yes.	Yes.
Greece	Yes.	5 years.	Yes.	Yes.
Hungary	Yes.	6 years.	No.	Yes.
Italy	Yes.	7 years.	No.	No.
Moldova	Yes.	6 years.	Yes.	Yes.
Romania	Yes.	5 years.	No.	Law is silent.
Serbia and Montenegro	Serbia – Yes. Montenegro – Yes.	Serbia – 5 years. Montenegro – 4 years.	Serbia – Yes. Montenegro – Yes.	Serbia – Yes. Montenegro – Yes.
Slovenia	Yes.	5 years.	No.	Yes.
Turkey	Yes.	6 years.	Staggering ongoing; not limited to initial terms.	Yes.
UNMIK	Yes.	Initial terms (2, 2, 3, 4, 5); subsequent terms, 5 years.	Yes.	Yes.

Albania

Terms. Initial terms are staggered as follows: two regulators for four years, and two for three years.

Reappointment. Terms have been renewed in two instances; there are no limitations on how many terms a regulator may serve.

Austria

Terms. There is no limit on the number of terms, consecutive or otherwise, served by a regulator.

Bosnia and Herzegovina

Terms. The initial terms are staggered as follows, for all three regulatory authorities: three, four and five years.

Reappointment. Reappointment is possible under the laws; for all three regulatory authorities there is a two-term limitation.

Bulgaria

Reappointment. Reappointment is possible under the Energy Law; there is a two-term limitation.

Croatia

Reappointment. The regulators may be reappointed no more than twice consecutively. All of the regulators' terms have been renewed once – at the same time, in November 2003.

FYR of Macedonia

Terms. The initial terms are staggered as follows: one, two, three, four and five years.

Reappointment. A regulator may serve two consecutive terms, not more.

Greece

Terms. The initial terms of the members were staggered: five years for the President and Vice President, four years for two members and three years for the fifth member.

Reappointment. A regulator may serve only two consecutive terms. With the exception of one member, all other members still serve their initial terms.

Hungary

Terms. The HEO employees have no minimum terms, although the President and Vice President do have set terms of six years each. Employees have no term restrictions other than mandatory retirement at the age of 70.

Moldova

Terms. Term lengths of six years apply to the Chairman and other Directors. The initial terms were staggered, so that the first regulator was appointed for six years, the second for four years and the third for two years.

Reappointment. Two consecutive terms are permissible. Pursuant to Article 8, ¶2 of the Law on Electricity, no person shall serve as a Director of the Administration Council for more than 12 years and no person shall be appointed a Director after having served as a Director for more than six years, including any time remaining on the current term of the Director. In practice, no regulator's term has been renewed.

Romania

Terms. The law has no provision regarding reappointment. The Prime Minister makes these determinations for the President and the Vice President; the Minister makes these determinations for the other three regulators. The procedure is not written in the law.

Serbia and Montenegro

Serbia

Terms. The initial terms of office are staggered as follows: the first term of two Council members is three years; the first term of two other Council members is four years; and the first term of the President is five years.

Reappointment. The Law provides for the possibility of reappointment for another five-year mandate.

Montenegro

Terms. While the standard term is four years for a regulator, the initial terms are staggered as follows: two, three and four years, respectively. Particular terms were set by drawing lots.

Reappointment. The Law provides the possibility of reappointment for more than one mandate.

Turkey

Terms. The Chairman serves for six years. For others, including the Vice Chairman, the terms are staggered, with two members replaced every two years, to be determined upon drawing of lots. There are no limits on how many consecutive terms a regulator may serve. In practice, the term of a regulator has not been renewed.

UNMIK

Terms. The Chairman's initial term is two years; like other regulators, the subsequent term is five years.

Reappointment. Regulators may be reappointed for a maximum of two mandates.

6. ETHICAL CRITERIA

Table 8 ETHICAL CRITERIA – REGULATORS

COUNTRIES	CODE OF ETHICS/ CONDUCT	EMPLOYMENT RESTRICTION ON REGULATORS	EMPLOYMENT RESTRICTION ON STAFF MEMBERS	OWNERSHIP RESTRICTION ON REGULATORS	OWNERSHIP RESTRICTION ON STAFF MEMBERS
Albania	Planned – Draft exists.	Yes – Law on Power Sector.	Yes – Law on Power Sector.	Yes – Law on Power Sector.	Yes – Law on Power Sector.
Austria	No.	Yes.	Yes.	Not in the law. Restrictions are established in the private employment contract.	Not in the law. Restrictions are established in the private employment contract.
Bosnia and Herzegovina	Yes, but only SERC and FERC have adopted it so far.	Yes.	No.	Yes.	No.
Bulgaria	Planned – In drafting stage.	Planned – Code of Ethics.	Planned – Code of Ethics. Yes: Law on Civil Servants.	Planned.	Yes. Planned – Code of Ethics. Yes: Law on Civil Servants.
Croatia	No.	Yes.	No.	Yes.	No.
FYR of Macedonia	Yes.	Yes.	Yes.	Yes.	Yes.
Greece	No.	Yes.	Yes.	Yes.	No.
Hungary	No. Ethical standards only regulated in general in Act on Civil Servants.	Yes.	Yes.	Yes, although may inherit.	Yes, although may inherit.
Italy	Yes.	Yes.	Yes.	Yes.	Yes.
Moldova	No.	Yes.	No.	Yes.	No.
Romania	Yes.	Yes.	Yes.	No.	No.
Serbia and Montenegro	Serbia – No. Montenegro – No.	Serbia – Yes. Montenegro – Yes.	Serbia – No. Montenegro – Yes.	Serbia – Yes. Montenegro – Yes.	Serbia – No. Montenegro – Yes.
Slovenia	Yes, in general law for civil service.	Yes.	No.	Yes.	No.
Turkey	No.	Yes.	No.	Yes.	Yes.
UNMIK	Planned – Draft exists.	Yes.	No.	Yes.	Yes.

Albania

Persons Covered by Ethical Standards. The Code of Ethics, now in draft form pending the approval by ERE, applies to regulators and their staff. Employment and ownership restrictions

are set forth in the Law on the Power Sector and laws for public administration, not the Code of Ethics. The Code of Ethics will address the relationship between the regulators and their staff, as well as among regulators, staff and third parties (licensees, customers).

Ethical Standards. According to provisions of the Law on the Power Sector, ethical standards prohibit regulators and staff members from being:

- An owner, shareholder or holder of assets property of any licensee;
- A member of the boards or supervisory boards or other relevant governing bodies; or
- A director or president or other manager of any licensee, nor shall he or she have a material interest or other interest in the energy area.

The law does not explicitly say whether family members of regulators are similarly prohibited from ownership. Staff members are not subject to ownership restrictions.

The Law on the Power Sector prohibits a regulator from having any form of employment relationship with any licensee in the electricity sector. For one year upon ceasing to serve as a regulator, no regulator may accept remunerated employment or be compensated in any way by any entity that was, or applied to be, a licensee during the time that he or she was a regulator, without prior approval of the COM.

No parallel time restriction applies to staff members. However, the law “On Ethical Rules in the Public Administration” prohibits staff members, for a period of two years after ceasing to work for the regulatory authority, from managing any person or organization with a conflict or business relationship with the Albanian public administration for the duty he has performed. “Managing,” means holding the position of a manager or an executive director, or being a member of a board or a director, or having the power of attorney from any person to represent it in Albania.

Sanctions. The Law on the Power Sector does not provide for any penalty or sanction for staff members, but does provide for removal of Board members who act in contravention of the provisions of this Law. In addition, according to the law “On ethical rules in the public administration,” the staff member may be punished with disciplinary sanctions in accordance with the legislation governing the status of public servant.

Austria

Ethical Standards. There are no restrictions in the Law on employment and ownership relationships with electricity sector participants (for regulators or their families), but there may be restrictions on individuals in the private employment contract terms. The prohibition also is applied to staff members. Department heads are prohibited from having employment relationships with an employer in the electricity sector, during their term with E-Control and six months thereafter. There are no restrictions on the number of regulators that have previously worked in the power industry.

These persons are ineligible for membership in the E-Control Commission:

- Members of the government;
- Persons legally or otherwise connected to persons availing themselves of any of the services of E-Control Commission; or
- Persons who are not eligible to be elected to the National Council.

Sanctions. Failure to comply with ethical standards could mean a penalty of 12 months of salary.

Bosnia and Herzegovina

Persons Covered by Ethical Standards. All three commissions have adopted a Code of Ethics; the substance of each is the same with slight variations. The Codes of Ethics apply to the entire regulatory authority, although certain provisions only apply to the regulators. RSERC has one in draft form only, to be adopted in the very near future.

Ethical Standards. The Code of Ethics covers, among other things, prohibitions on (i) conflicts of interest; (ii) accepting gifts; (iii) use of regulatory authority property for personal reasons; (iv) nepotism; (v) membership in certain political parties; and (vi) communications with parties while a matter is pending before the regulatory authority. It also includes requirements to treat all persons who interact with the regulatory authority properly, maintain confidentiality of information and improve competence levels.

Only the regulators are prohibited from holding another government position or from performing other work for compensation outside of the regulatory authority. Examples are that a regulator may write, lecture, teach and speak on non-electricity-related subjects and engage in arts, sports and other social and recreational activities, but the regulator may not accept compensation for such activities. A regulator may participate in civic and charitable activities that do not reflect adversely upon his or her impartiality or interfere with the performance of his or her official duties. In addition, employment of a regulator's or employee's spouse or family or household members may give rise to a real or apparent conflict of interest, and is therefore prohibited. Only regulators are forbidden from directly or indirectly holding stocks, bonds or shares of companies in the electricity sector or entering into any financial or business dealings that tend to reflect adversely on his or her impartiality.

Regulators are admonished to refrain from financial and business dealings that reflect adversely on his or her impartiality, interfere with the proper performance of his or her official duties, exploit his or her position, or involve him or her in frequent transactions with persons likely to come before the regulatory authority. Regulators are to disqualify themselves when impartiality is questioned. In addition, regulators and staff members should not allow family, social or other relationships to influence his or her official conduct or judgment, and should not use the prestige of office to advance the private interests of others. Also, regulators and staff members are prohibited from being a member of any political party or actively participating in political activities. Thus, they cannot be a representative of legislative, executive or judicial authorities, hold any elective office or campaign for or against a political candidate or political campaign.

There is no time restriction on employment or ownership after the regulator leaves his or her position.

Sanctions. Violation of the Code of Ethics is a ground for removal of any of the regulators by the BiH Parliamentary Assembly, Federation Parliamentary Assembly or the RS National Assembly.

Bulgaria

Persons Covered by Ethical Standards. The draft Code of Ethics applies to regulators and to staff members.

Ethical Standards. It is anticipated that areas to be covered will include: independence; impartiality and neutrality; and conduct restrictions such as prohibitions on holding interest in regulated entities, on accepting gifts or benefits from prohibited sources (regulated entities, applicants), and on *ex parte* communications.

Regulators may not perform duties in political parties, or act in any government official role, pursuant to the law on responsibilities and rights of government officials. With respect to employment and ownership relationships, if a commission staff member (or family) has an employment or ownership relationship with an enterprise while serving on the regulatory authority, that staff member must resign. Such restrictions are pursuant to the September amendments to the Law on Civil Servants and are mirrored in the Draft Code of Ethics currently under review by SERC.

After the regulator or staff member leaves his or her position, there is no restriction on employment or ownership for any period of time. While such limits were considered, they were ultimately rejected on the ground that they constituted employment discrimination.

Sanctions. Possible disciplinary measures include: notice, reduced pay and termination. These may be imposed on staff only. Disciplinary measures cannot be taken against regulators.

Croatia

Ethical Standards. The regulators may not: perform duties in political parties; be government officials; be employees of, or perform assignments for, regulated entities; or be owners, co-owners or members of management or supervisory boards of regulated entities. Would-be regulators cannot be appointed if they meet any of the above restricted duties or status.

Sanctions. If, during their tenure, regulators engage in activities that violate the ethical standards, any breach could be grounds for dismissal.

FYR of Macedonia

Persons Covered by Ethical Standards. Ethical standards do not distinguish between regulators and staff members.

Ethical Standards. A separate regulation/instruction is not in place that would constitute a Code of Ethics, nor are there plans to develop one. However, the Energy Law does contain ethical rules that regulators and staff members must follow. These rules limit regulators and staff members from holding shares in companies possessing or applying for licenses, from performing intermediary or direct services in a licensed company, and from being a member in the management body of the licensed company. The regulators and staff members are prohibited from having any employment relationship with a licensed company for one year after terminating employment with the regulatory authority.

Greece

Persons Covered by Ethical Standards. The employment relationships restriction is applicable only to the regulators and their spouses.

Ethical Standards. During their term of office, regulators are not allowed to be partners, shareholders, members of the board of directors, managing directors, employers, technical advisers or consultants, or members of a study team of any enterprise engaged in the energy sector. If members of RAE were partners or held shares in an above-mentioned enterprise before their appointment or obtained such partnership or shares during their term of office by inheritance, they must submit to the Ministry of Development a statement by which they undertake to abstain, during their term of office, from exercising any of their voting rights of participation in the administration, management or auditing of these enterprises. The same applies to their spouses. After the regulator leaves his or her position, there is no time restriction before the regulator may be employed by an energy undertaking, and there is no ownership restriction prohibiting ownership interest in the energy undertaking.

Sanctions. Disciplinary control at the initiative of the Minister of Development.

Hungary

Persons Covered by Ethical Standards. All employees, including the President and the Vice President.

Ethical Standards. All ethical standards for the HEO employees are set forth in the Act on Civil Servants. The Electricity Act prohibits the employees, but not their families, from employment relationships – or any other legal relationships – with energy sector licensees while holding their positions. Similarly, they may not acquire, except by way of inheritance, ownership in any energy sector company subject to licensing by the HEO. No regulation limits employment or ownership for any time period after the employee leaves the HEO.

Other relevant ethical standards include:

- No participation in an activity unworthy of his official status, or which jeopardizes his impartiality;

- No role as an executive officer or member of a supervisory board in business organizations; and
- Stating full assets (to prevent and monitor corruption).

Italy

Ethical Standards. The regulators may not be employed or hold office elsewhere, nor carry out any other professional activity, even on an occasional basis. No such prohibition exists after leaving the regulatory authority. Moreover, like the regulators, they may not, either directly or indirectly, retain interests in enterprises in the sector. Upon pain of forfeiture of office, they may not carry out, either directly or indirectly, any professional or consultant activity; be administrators or employees of public or private bodies; hold other public office of any kind whatsoever, including being elected or representing political parties; or retain interests, either directly or indirectly, in enterprises operating in the sector for which the regulatory authority itself is responsible.

Restrictions. For at least four years after holding office, regulators may not maintain, either directly or indirectly, relationships of collaboration, consultancy or employment with firms operating in their specific sector.

Sanctions. Violation of the four-year restriction shall be punished, unless the deed constitutes a criminal offense, by a fine ranging from a minimum of 25,000 Euros, or the amount of money received, whichever is greater, to a maximum of 250,000 Euros or the amount of money received, whichever is greater. The entrepreneur who violates the employment ban shall pay a fine amounting to 0.5% of the turnover and, in any case, no less than 150,000 Euros and no more than 1 million Euros, and in more serious cases, or when the unlawful behavior is repeated, the entrepreneur's concession or authorization shall be revoked. The amount of these fines shall be reassessed according to the annual variation in the price of consumer goods for the families of white- and blue-collar workers as surveyed by the Central Institute of Statistics ("ISTAT"). Violation of "during employment term" bans causes forfeiture of the post held, and should the deed not constitute an offense, shall be punished by a fine ranging from a minimum of 2,500 Euros to a maximum of 25,000 Euros or the amount of money gained, whichever is greater. (Note: Amounts in Euros are approximate, based on recent conversion rates.) Civil Service employees are suspended from their positions for their entire term of office. There are penal sanctions for violating ownership prohibitions.

Moldova

Persons Covered by the Ethical Standards. The regulators, but not the staff, are covered.

Ethical Standards. Ethical standards for the regulators are set forth in the Electricity Law rather than in a separate Code of Ethics. Pursuant to Article 7 of the Electricity Law, Directors are prohibited from holding any office or position at one or more of the regulated enterprises; they are similarly prohibited from being a shareholder, debtor or creditor of one or more of the regulated enterprises. The Directors may not receive or expect to receive any compensation or

other financial consideration or use his or her position to obtain employment with another organization.

Consumer groups have raised concerns regarding the scope of ethical standards and have indicated that they would like to see enhanced ethical provisions in place.

Romania

Persons Covered by the Ethical Standards. The Code of Ethics applies to regulators and staff members, but not all restrictions cover both groups (the ethics-based appointment and removal criteria differ, for instance).

Ethical Standards. Areas covered by the Code of Ethics include alternative employment and interest, acceptance of gifts and use of official position or information gained from employment. While there are no restrictions on the amount of time after the regulator's position expires for seeking employment or ownership with a licensed entity, the Code of Ethics does provide that a regulator or staff member is required to maintain the confidentiality of any information gained via employment with the regulatory authority for three years after their departure.

A new Code of Conduct for ANRE is in drafting stage at the writing of this Report.

Serbia and Montenegro

Serbia

Persons Covered by Ethical Standards. Regulators are covered, but not staff members.

Ethical Standards. These are set forth in the Energy Law; there is no separate Code of Ethics. Regulators cannot be members of the Federal Parliament, the Republic Parliament, the Autonomous Provinces Parliaments, municipal assemblies, other elected and nominated positions, nor members of bodies of political parties. The President and members of the regulatory authority, as well as their spouses or children or direct relatives, regardless of the degree of relationship, cannot be owners or co-owners of energy-related entities, nor members of management of an energy-related entity. The President and members of the regulatory authority cannot have earnings from energy related entities. Persons with a non-appealable imprisonment sentence of longer than six months for criminal acts against official duty, corruption, fraud or other criminal acts that make them inadequate to perform functions for which they are nominated, cannot be elected president or members of the regulatory authority. Limitations on employment and ownership relationships with regulated utilities do not apply to staff members.

There is no time restriction on assumption of ownership or employment relationships with regulated utilities after a regulator has departed.

Montenegro

Persons Covered by Ethical Standards. While the staff members are covered by ethical standards set forth in the Law, the requirements placed on them are not as strict as those placed on regulators.

Ethical Standards. The Law sets forth certain ethical criteria, including conflict of interest provisions that prohibit a regulator from:

- Holding a position as member of Parliament;
- Holding a position as member of any city council;
- Being convicted of a crime that is punishable by imprisonment of a minimum six months;
- Declaring bankruptcy or insolvency;
- Holding a personal, spousal or direct family interest up to the third order of heirs in a License awarded under the provisions of this Law; or
- Being a major stakeholder or shareholder, current member of a managing body, current employee or person under contract that has a legal interest in any energy undertaking in Montenegro.

The regulators and staff members are restricted from employment or ownership relationships with the licensed entities for one year following termination from the regulatory authority.

Sanctions. Dismissal is one consequence of failure to comply with ethical standards.

Slovenia

Persons Covered by Ethical Standards. Regulators and staff are covered by the same ethical standards applicable to all civil servants.

Ethical Standards. The general ethical standards address corruption, loyalty to the employer, confidentiality of information, conflicts of interest and professional impartiality.

Turkey

Persons Covered by Ethical Standards. While ethical standards cover regulators and staff members, the greater number and extent of restrictions are placed on regulators.

Ethical Standards. Although there is no special Code of Ethics/Conduct, EMRA regulators and staff members are bound by 11 different laws and regulations relating to conduct, personnel and employment issues, and are subject to a conflict of interest policy with penalty provisions. The areas covered include: human resources, organization, discipline, conduct, performance appraisal and other regulations regarding employment and the related provisions of the electricity and natural gas/petroleum market laws and the Law on Civil Servants. Regulators and/or their family members are prohibited from having employment relationships with electricity, natural gas and petroleum sector participants while holding their positions, but staff members are not so prohibited.

The Electricity Market Law provides that the regulators cannot accept any duties in a public or private institution during their membership, unless permitted by a specific law. Within two years of the termination of their terms of office, regulators may not be employed by, or hold shares in, any legal entity subject to civil law and engaged in electricity, natural gas and oil market activities or any affiliate of any such legal entities, and may not have any direct or indirect relation that will or might yield an income from any such legal entity or its affiliates, and may not deal with trading of electricity, natural gas and oil.

Except for the securities issued by the Treasury Undersecretariat for borrowing, the regulators must sell or transfer any shares or other securities that they possess in legal entities engaged in electricity, natural gas and oil market activities or in their affiliates within 30 days from the commencement of their term of office, to persons other than those with kinship relationships up to the third level, and marriage-born relationships up to the second level.

The spouses of the regulators and their kinship relatives of the first level may not be employed by, or hold shares in, any legal entity other than public institutions engaged in electricity, natural gas and oil market activities or any affiliate of any such legal entities after appointment of regulators and during their terms of office, and may not have any direct or indirect relationships that will or might yield an income from any such legal entity or its affiliates, and may not deal with trading of electricity, natural gas and oil.

Regulators and staff members may not disclose, personally benefit from, or help third parties to benefit from, any confidential information about EMRA, or any confidential information about the persons or legal entities in the electricity, natural gas and oil markets, even after termination of their terms of office.

Restrictions on employment extend for two years after the regulator leaves his or her position.

UNMIK

Persons Covered by Ethical Standards. The Law requires that ERO approve a Code of Professional Conduct within 60 days of the appointment of the initial members of the Board. This code shall apply to regulators and their staff. The Law specifies that it shall prohibit regulators and their staff from accepting financial gain from any energy enterprise and owning an interest or exercising management control over the operations of any energy enterprise. Additional conflict of interest provisions are envisioned but details are not specified.

7. EMPLOYMENT POWERS

**Table 9
EMPLOYMENT POWERS OF THE REGULATORY AUTHORITY**

COUNTRIES	STAFF HIRING CRITERIA	STAFF HIRING AUTHORITY	STAFF REMOVAL / PENALTY AUTHORITY	STAFF SELECTION PROCEDURE
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COUNTRIES	STAFF HIRING CRITERIA	STAFF HIRING AUTHORITY	STAFF REMOVAL / PENALTY AUTHORITY	STAFF SELECTION PROCEDURE
Albania	Same as required for civil servants generally.	ERE.	ERE.	Open competition.
Austria	Experience in the electricity sector or in any other regulatory authority.	CEO of Energy Control Corporation.	CEO of Energy Control Corporation.	Recruitment agencies and advertisements in Austrian newspapers.
Bosnia and Herzegovina	SERC, FERC and RSERC – Rules of Work apply.	SERC and FERC – Selection process by team of 5, with regulators making final selection. RSERC regulators will select and hire.	SERC – Disciplinary Committee. This is unclear at this time for FERC and RSERC.	SERC – Public announcement in the Official Gazettes and at least 3 daily regional papers. FERC and RSERC will advertise in newspapers.
Bulgaria	Set by Law on Administration.	Chairperson.	Chairperson.	Public tendering.
Croatia	CERC Internal Rules – For CERC Staff. Government Internal Procedures – Energy Institute.	CERC hires from nominations by commission created by Chairman – For own Staff. Government for Energy Institute.	CERC – For own Staff. Government for Energy Institute.	Public announcement and tendering procedure – For CERC Staff.
FYR of Macedonia	ERC regulations.	ERC.	ERC.	Public tendering.
Greece	Set by RAE in the relevant public position announcements. For the Heads of Departments, criteria are set in Art. 12 of PD 139/ 2001.	RAE (under the supervision of ASEP, regarding the fulfillment of the terms of the relevant competition procedure).	RAE and a Committee according to law on public servants.	Competition procedure organized by RAE, following a public tendering procedure.
Hungary	Criteria depend on the position.	President.	President.	Advertisement and in the case of directors, president and vice-president, public tendering.
Italy	Ability, required professional qualifications, and experience.	President and two other regulators.	President and two other regulators.	Public competition, except for positions that require a different procedure as decreed by law.

COUNTRIES	STAFF HIRING CRITERIA	STAFF HIRING AUTHORITY	STAFF REMOVAL / PENALTY AUTHORITY	STAFF SELECTION PROCEDURE
Moldova	Education, professionalism, experience.	Director General hires, in coordination of at least 1 other Director.	Director General in coordination with at least one other Director and in compliance with Labor Code.	Public tender or direct hiring.
Romania	Competitive hiring; education, professional experience, and specific experience.	President.	President.	Interviews.
Serbia and Montenegro	Serbia – To be stipulated in secondary legislation of EA. Montenegro – Higher education, work experience, and experience in the sector.	Serbia – President of Agency Council. Montenegro – Director of the regulatory authority.	Serbia – President of Agency Council. Montenegro – Director of the regulatory authority.	Serbia – The Council is free to decide what procedure to use. Montenegro – Public advertising, interviewing, and scoring.
Slovenia	Professional competence and relevant experience.	Chairman.	Chairman.	Public tender.
Turkey	Those new to the field: nation-wide written examination score. Those already in the field: 5 years experience, degree, and foreign language requirements.	EMRA regulators.	The Chairman, in conjunction with other regulators.	In accordance with exam and application requirements and regulations of the Law of Civil Servants and related provisions of applicable energy laws.
UNMIK	To be set forth in ERO Statute, which by law must be adopted 60 days after appointment of all initial members of the Board.	To be set forth in ERO Statute.	To be set forth in ERO Statute.	To be set forth in ERO Statute.

Austria

Hiring Authority. The CEO of the E-Control Corporation makes the hiring decision, in conjunction with input from the head of departments.

Hiring Criteria. The hiring criteria depend on which kind of position E-Control has to fill. The most important criterion for looking for technical, juridical or economic specialized staff is experience in the electricity sector or in any other regulatory authority. For administration jobs, experience in the same line of business is not necessary.

Bosnia and Herzegovina

Hiring Criteria. SERC, FERC and RSERC Rules of Work and related documents set forth the requirements for each staff member position and the hiring procedure. According to such rules, SERC shall ensure that the principles of legality, transparency, responsibility, efficiency and economy, and professional impartiality are followed with regard to hiring employees. Advertisements for SERC vacancies shall be published in the Official Gazettes and in at least three daily papers distributed throughout BiH. FERC and RSERC will advertise vacancies in newspapers. The selection process is to be completed by a team, with the regulators making the final selection.

Salaries. SERC regulators set salaries according to certain coefficients.

Penalties/Sanctions. The Rules of Work do not set penalties for staff members nor do they indicate which persons have final decision-making authority to remove staff members. In SERC, disciplinary actions are determined by an internal Disciplinary Committee, consisting of three members appointed by SERC for four years. This issue has not been addressed in FERC and RSERC.

Bulgaria

Hiring Criteria. Educational qualifications, experience and other requirements are set under the Law on Administration and defined in the Uniform Classifier of Positions within the Administration. Criteria differ based on rank in the administration, *i.e.*, junior, senior, and type of administrative body.

Croatia

Hiring Authority. The Regulatory Law requires that CERC is staffed primarily through a nonprofit legal person (institution, corporation). By the Resolution of the Government (Official Gazette No. 147/02), the chosen institution is the Energy Institute Hrvoje Pozar. Only the Government and manager/management board of EIHP have a say with respect to these hires.

CERC does have the authority to select and hire certain administrative-technical personnel, via public announcement and tendering procedure. These staff members are chosen by the commission created by the Chairman. CERC only has three of its own staff members, a lawyer (a counsel), a secretary and an accountant.

Hiring Criteria. CERC defines positions and requirements for each position of the CERC's administrative-technical department staff in an internal rulebook.

Penalties/Sanctions. CERC has control over penalties or incentives for its own administrative-technical staff members. CERC has no control over penalties or incentives for the Energy Institute staff members.

FYR of Macedonia

Hiring Authority. ERC has the power to hire and to terminate or sanction employees.

Hiring Criteria. Criteria for the hiring of each staff member individually are set forth in the ERC act “Regulations for internal organization and systematization of employees and their duties in ERC.”

Greece

Hiring Authority. RAE hires pursuant to a competition and public tender procedure that it organizes. The procedure is supervised by the Independent Council for the Selection of Civil Servants.

Hiring Criteria. The hiring criteria of staff members are set by RAE in the relevant public announcement of the positions. For the Heads of Departments, criteria are set in Art. 12 of PD 139/ 2001, which is the Internal Operation and Management Regulation of RAE. Minimum qualification criteria for the Heads of RAE’s Operational Departments are University degree in Engineering or Economics, a post-graduate degree, professional experience of at least ten years in the private or public sector, knowledge of the energy sector, and good knowledge of two languages other than Greek. The scientific staff qualification criteria are at least a University Degree in Engineering or Physics, Maths, Economics, Social Sciences, Law and coherent specialties, and a post-graduate degree, that is relevant to the work subjects of RAE. For the administrative staff, the general provisions for staff hiring criteria in the Public Sector apply. For both the scientific and administrative staff, very good knowledge of English language and computer use is also required.

Penalties/Sanctions. Determined by RAE and a committee according to the law on public servants.

Italy

Hiring Authority. AEEG’s three regulators have the authority to hire and terminate employees. During the initial implementation period of the present law, AEEG selected, in a neutral and impartial process based on professional qualifications, up to 50% of its planned staff personnel.

Hiring Criteria. The engagement of permanent personnel for the posts in each Authority’s staffing plan is made pursuant to a public competition, with the exception of the categories where appointments are to be made according to Article 16 of law n. 56 of 28 February 1987 and subsequent amendments (providing certain labor market restrictions and preferences).

Romania

Hiring Criteria. Hiring is made on a competition basis. Each position has specific requirements for the candidates: academic curricula and professional experience. The Prime Minister hires the President and Vice President; the Minister hires the other three regulators. The law does not require anything specific in hiring criteria, but both the Prime Minister and the Minister try to seek diversity of skills in candidates (skills, knowledge in law or economics) and they try to have more than one person with dedicated skills.

Serbia and Montenegro

Serbia

Hiring Authority. The President of EA has the final decision-making authority to select and hire staff members, and responsibilities related to the employment of staff. For now, four staff members (two attorneys and two economists) are trained and ready to begin work.

Hiring Criteria. This will be set forth in secondary legislation of EA – the Rule Book on Internal Organization and Job Classification.

Penalties/Sanctions. The President of EA has the final decision-making authority.

Montenegro

Hiring Authority. The Director appoints staff, pursuant to ERA rules.

Turkey

Hiring Authority. EMRA has full authority to hire employees; the Chairman, in conjunction with other regulators, has the authority to remove and set penalties for staff members.

Hiring Criteria. Those who have been employed in public institutions and organizations for at least five years, possess an undergraduate degree and have scored an “A” in the state personnel language tests, or those who have worked in the private sector for more than five years and have the same qualities in terms of higher education and foreign language and whose service is deemed necessary, may be appointed as experts to the appropriate vacant posts, and without being subject to the exam and application requirements of Civil Servants Law. For the recruitment of staff members who have not been part of the public system, a nationwide general written examination score is sought. Persons are hired in accordance with the exam and application requirements and regulations of the Law of Civil Servants and the related provisions of the electricity, natural gas and petroleum market laws.

C. AREAS OF RESPONSIBILITY

1. SECURITY OF SUPPLY

**Table 10
SECURITY OF SUPPLY**

COUNTRY	PARTICIPATE IN MONITORING MEDIUM AND LONG TERM BALANCE	PARTICIPATE IN MONITORING FUTURE DEMAND/ CAPACITY	PARTICIPATE IN NETWORK MAINTENANCE	PARTICIPATE IN MEASURES TO COVER DEMAND/ SHORTFALL	PARTICIPATE IN TENDERING FOR GENERATION
Albania	No.	No.	No.	No.	No tendering procedures exist.
Austria	Yes.	Yes.	No.	Yes, in emergency situations.	No.
Bosnia and Herzegovina	Unclear.	Unclear, details will be clarified when ISO is formed and procedures are developed.	SERC – Yes; establishes, monitors, and enforces quality standards; plan approval. FERC – Indirectly, monitors via its licensing and distribution. RSERC – No.	SERC – Yes. FERC – Nothing specific on this issue, but implied through other regulatory powers. RSERC – Yes.	Laws are silent.
Bulgaria	Indirectly.	Indirectly.	Yes establishes, monitors, and enforces quality standards; plan approval.	No.	Yes.
Croatia	Indirectly.	Indirectly.	Indirectly.	No.	Yes.
FYR of Macedonia	Yes.	Yes.	No.	No.	No.
Greece	Yes.	Yes.	Yes.	No.	No.
Hungary	Indirectly.	Yes.	Yes.	Yes.	Yes.
Italy	No.	No.	No.	No.	No.
Moldova	Yes.	Yes.	Yes.	Yes.	No.
Romania	Yes.	Yes.	Yes.	No.	N/A.
Serbia and Montenegro	Serbia – No. Montenegro – No.	Serbia – No. Montenegro –Yes.	Serbia – Yes. Montenegro – Yes.	Serbia – No. Montenegro – No.	Serbia –No. Montenegro – Procedures to be developed.

COUNTRY	PARTICIPATE IN MONITORING MEDIUM AND LONG TERM BALANCE	PARTICIPATE IN MONITORING FUTURE DEMAND/ CAPACITY	PARTICIPATE IN NETWORK MAINTENANCE	PARTICIPATE IN MEASURES TO COVER DEMAND/ SHORTFALL	PARTICIPATE IN TENDERING FOR GENERATION
Slovenia	No.	No.	Yes, through quality of service monitoring.	No.	No.
Turkey	Yes.	Yes.	Yes.	No.	No.
UNMIK	Indirectly.	Indirectly.	Yes, through quality of service monitoring.	Yes, through licensing monitoring powers.	Yes.

Albania

Supply/Demand/Additional Capacity. Licensees are responsible for monitoring in this area, not ERE.

Network Maintenance. Licensees are responsible for monitoring in this area, not ERE.

Shortfalls. Licensees are responsible for monitoring in this area, not ERE.

Investigations. No investigation has been done on the security of supply.

Austria

Supply/Demand/Additional Capacity. One of the duties of the regulatory authority is to publish a medium- to long-term (ten years) forecast of electricity demand and supply, based on security of supply studies. Within the Energy Steering Act, monitoring of the supply and demand in view of crisis management is provided by E-Control. Consumption and production are collected on a quarter-hourly base.

Network Maintenance. The authorities issuing network licenses are responsible for monitoring. These are the local state authorities.

Shortfalls. In emergency situations, E-Control Corporation organizes load shedding and issuing of orders to producers and customers in cooperation with the Ministry and local state authorities.

Tendering. No tendering of new generating capacities in Austria is foreseen at the moment.

Investigations. One investigation about the reliability (failure and disturbance – HV, MV and LV) of the transmission and distribution has taken place. The security of supply is described by using the system average interruption duration index (“SAIDI”), the system average interruption frequency index (“SAIFI”) and the customer average interruption duration index (“CAIDI”).

Bosnia and Herzegovina

Supply/Demand/Additional Capacity. The Act on Transmission provides that the SERC will approve the development plans for the transmission network, and the Entity electricity laws provide for permitting the construction of electricity facilities. These provisions are indirect indicators that the regulatory authorities will be monitoring electricity supply and demand. Nonetheless, the details of how the Independent System Operator (“ISO”) and three regulators will interact to monitor the supply balance, expected future demand and envisaged additional capacity is unclear at this time. Clarity is anticipated when the ISO is formed and the three regulatory authorities have developed their procedures. As the regulatory authorities are relatively new, there is little experience regarding how provisions in this area are applied.

The RS Electricity Law contains some detailed provisions with regard to the supply/demand balance. The Law also specifies that the RS Government issues the long-term and annual electricity balance, explaining that the total consumption of electricity and the supply are planned in the medium and long term, in cooperation with the ISO. The Law defines electricity balance as inclusive of consumption structure, supply requests regarding environmental protection and responsive measures, the structure and characteristics of new customer consumption and existing customers, electricity surplus, and plans and forecasts in cooperation with the ISO. The long-term electricity balance is for a five-year period. The role of the RSERC is to supervise the efficiency of mechanisms and procedures providing systematic middle-term and long-term balance between consumption and delivery of electricity.

A similar role is envisioned for FERC under the Federation Electricity Law, *e.g.*, to oversee the effectiveness of the mechanisms and processes at play in order to ensure a reasonable balance between demand for electricity and supply.

SERC is charged with licensing and monitoring activities of the ISO, including the efficiency of mechanisms and methods to secure a system balance between demand and supply of electricity. Its role appears to be broader than those of FERC and RSERC.

Network Maintenance. With respect to participating in the monitoring of quality and level of maintenance of the networks, the Act on Transmission gives SERC the responsibility for establishing, monitoring and enforcing quality standards for electricity transmission and ancillary services. SERC also is responsible for coordinating and approving investment plans of the Transmission Company, including those plans related to the quality of electricity transmission. The transmission license will contain conditions that include standards for the quality of electricity supply, maintaining frequency and voltage control, and reducing interruptions to service.

By contrast, the RS Electricity Law gives the Government authority over quality of electricity supply issues. The Law further references a competent electric power inspectorate, in line with a special law, that supervises implementation of the law regarding the design, construction, reconstruction, maintenance and use of electric power facilities. Implementation of this provision and any possible role of RSERC are unclear.

The Federation Electricity Act only indirectly addresses the issue of quality of electricity and maintenance by indicating that these are distribution issues. FERC would monitor such via its licensing of distribution.

Shortfalls. Two of the three laws indicate that the regulatory authority will participate in the implementation of measures to cover peak demand and to address any shortfalls of one or more suppliers. The Act on Transmission indicates that the SERC will be involved in this issue through its licensing of the ISO, including the efficiency of mechanisms and methods to secure a system balance between demand and supply of electricity. The RS Electricity Law indicates that various facets of supply, including the obligations of the supplier in the continuous supply of electricity to the end user, will be regulated by RSERC. The Federation Electricity Law only implies regulation of issues of supply via regulatory control over licensing provisions.

Tendering. The Act on Transmission does not address procurement issues; the draft legislation does.

The Entity regulatory commissions monitor the construction process for new generating capacity. Those businesses in the Federation that have a license for generation can build facilities for generation for non-qualified/tariff customers based on an implemented bidding process and approval from FERC. The RS Electricity Law provides that RSERC shall issue electric power permits for electric power facilities, both distribution and generation. Regarding generation, the provisional electric-power permit is a confirmation that the planned power plant is consistent with the development plans, technical standards and RS urban plan conditions. A provisional permit is needed in order to get an urban permit and construction permit. The permanent permit contains all technical conditions connected to the operations of the plant, the manner and conditions of management of the plant, and the conditions regarding the use of the public infrastructure.

Investigations. No supply investigations are reported. Generally, BiH has capacity surplus.

Bulgaria

Supply/Demand/Additional Capacity. The Ministry has the exclusive authority to monitor medium- and long-term supply/demand balance on the national market; monitor expected future demand and envisaged additional capacity, along with the implementation of measures to cover peak demand; and address any supply shortfalls. SERC is authorized by law to review all information and give an opinion on all matters that may affect the licensee's ability to perform the licensed activity and that may negatively impact the quality and continuity of energy supplies to consumers.

The Ministry sets the technical standards, but may delegate control functions to other bodies, including SERC. In practice, this occurs often. For example, it is current common practice that during regular inspections, SERC staff members review compliance with technical standards specified by MEER. As the technical standards are secondary legislation adopted by MEER, SERC can request that the licensee cure the technical violation to comply with the law or face administrative fines imposed by SERC, in addition to sanctions imposed by MEER.

Network Maintenance. SERC has the responsibility for establishing, monitoring and enforcing energy and quality standards for electricity transmission and ancillary services. SERC also is responsible for approving investment plans of the transmission company, including those plans related to the quality of electricity transmission. The transmission license is subject to Rules on Service and Energy Quality Performance, which include standards for the quality of electricity supply, maintaining frequency and voltage control, and reducing interruptions in service.

Tendering. According to the Energy Law, the Minister of Energy composes a list of needed generation capacity following detailed proposals by the national transmission company and distribution companies. Licenses for such new generation capacity are awarded via a tendering process and after evaluation of least-cost alternatives to create the needed generation capacity. The tendering is then handled by SERC, which is responsible for organizing the tender and issuing the license to the winning bidder. Tendering of new capacity can be done only where new capacity cannot be created using the general authorization process, *i.e.*, either by current licensees or by third parties following regular procedures for the issuance of a generation license by SERC.

The Ministry has recently recommended the construction of a 2000MW nuclear power plant to ensure the security of supply, but did not follow the procedure set in the Energy Law.

Croatia

Supply/Demand/Additional Capacity. The regulatory authority indirectly participates in the monitoring of medium- and long-term supply/demand balance on the national market through the setting of fees for transmission and distribution licensees, based on three-year development plans submitted to CERC by the energy undertakings (no undertaking can receive a license unless it submits an audited plan to CERC). In all other respects, the law provides that the Parliament, Government, Ministry and system operator (envisioned as an Independent System and Market Operator (“ISMO”), but not yet in place) engage in planning. With respect to gas, the Ministry of Economy approves the development plan of a gas transport network and makes decisions regarding year/seasonal gas quantities for customers (eligible customers, distribution companies) without any participation of CERC.

The Energy Strategy provides that the Government drafts an action plan, and the regional and local authorities draft regional plans, based on which energy undertaking should make their own plans. In practice, however, although the Strategy was adopted by Parliament in 2001, there are no operational plans on a national and regional level.

Network Maintenance. CERC participates in the monitoring of quality and level of maintenance of the networks by approving the distribution and transmission fee, and by providing an opinion on the grid code (currently under revision).

Connection to the Network. The law provides that the Croatian Government shall, upon proposal by the Minister and based on the opinion obtained from CERC, prescribe the general conditions of energy supply to customers. These include granting connection to the network.

Currently, there is only one supplier: the state-owned power utility, HEP d.d. (consisting of HEP Trade, HEP Generation, HEP Transmission, HEP Distribution, HEP Supply), which balances itself. There are no eligible customers buying outside HEP.

Tendering. With respect to new generating capacity, the law provides for two possible approaches:

- An energy operator with a license for carrying out power generation activities may construct plants for power generation for eligible customers based on its free decision; or
- An energy operator with a license for carrying out power generation activities may construct plants for power generation for tariff customers upon public tendering and approval issued by CERC.

Only CERC has the authority to organize the tendering procedure. The terms of reference must contain at least the location where the plant is to be constructed; the type of primary energy source to be used for power generation; the manner and conditions of power generation and taking; the conditions to be met after cessation of the plant's operation; the conditions related to environmental protection and health and safety of citizens; the required energy efficiency level; and the conditions for the use of common and public goods. Based on the tender's result, CERC shall issue the approval for the plant construction to an energy operator that meets the requirements prescribed in the tender and that offers the lowest price of produced electricity.

Investigations. While CERC has not conducted any security of supply investigations/assessments in Croatia, HEP and the Energy Institute have conducted a few.

FYR of Macedonia

Supply/Demand/Additional Capacity. Annual Energy Balance is created by the Ministry of Economy and adopted by the Government. ERC participates by giving its opinion to the Ministry.

Network Maintenance. This is the responsibility of enterprises exercising activities for transmission and distribution of energy, as well as appropriate technical inspection. At present, the regulatory authority has no role in this area.

Shortfalls. ERC currently has no authority to participate in the implementation of measures to cover peak demand and address shortfalls, but it is expected to have jurisdiction shortly, pursuant to new legislation.

Tendering. The Ministry of Economy has authority over tendering procedures; ERC has no role.

Investigations. The current Law on Energy provides that the Ministry of Economy and the Government are obliged to create a long-term strategy for energy supply.

Greece

Supply/Demand/Additional Capacity. The regulatory authority participates in the monitoring of medium- and long-term supply/demand balance on the national market by formulating, as an opinion to the Minister of Development, the Greek Long-Term energy planning. In addition, the recent amendment of the law 2773/1999 (Law 3175/2003) allows possible development of mechanisms that would ensure capacity adequacy (in comparison with demand) in both the short and longer term. The mechanisms could involve capacity obligations on suppliers (load serving entities), the development of a market for tradable capacity certificates or direct capacity payments. Such mechanisms would be controlled and operated by the Transmission System Operator (“TSO”) under the supervision of the regulator, but upon the decision of the Minister of Development. The TSO establishes and publishes, at least every two years, a five-year estimate of the generation and transmission capacity that is likely to be connected to the transmission system, the interconnection needs to other systems or networks, the transmission capacity needs and the electricity demand. The manner in which these estimates shall be published, as well as any other necessary detail to the implementation of the plan, are defined by a decision of the Minister of Development, after opinion by RAE. Finally, RAE also approves the Distribution System Operators’ (“DSO”) plan for the non-interconnected islands and recommends its opinion within tenders for new capacity, upon the decision of the Minister of Development.

Network Maintenance. According to the grid code, the Hellenic TSO (“HTSO”) is responsible for developing the five-year plan for the maintenance and renewal of the transmission system. This plan is approved by the Minister of Development following the opinion of RAE. There is an investment and maintenance obligation for PPC (which is the owner of the grid).

Shortfalls. TSO has this authority.

Tendering. According to the Greek Law 2773/1999, a generation license for non-interconnected Islands is granted under the condition that the generator has been selected according to a tendering procedure. The Minister of Development, following an opinion of RAE, publishes the call for tender describing the tendering procedure, the terms and conditions for participation and the criteria to be applied in the selection of the bidders. RAE evaluates all the proposals submitted and issues an opinion to the Minister of Development for the granting of the generation license. According to Greek Law 3175/2003, HTSO is allowed, following a call for tenders, to enter into a contract for the sale or purchase of electricity for the provision of ancillary services and the needs of balancing the generation-demand imbalances during the operation of the system in real time, as well as generation capacity contracts, in order that the availability of sufficient capacity and adequate reserve capacity margins is secured on a long-term basis. The call for tenders procedure, their terms and conditions for participation, the selection criteria for choosing the most economically advantageous offer, the maximum and minimum bounds on offers, and other necessary detail are set by the Minister of Development following a System Operator’s study and RAE’s opinion.

Investigations. Studies about capacity adequacy carried out by RAE and the TSO are submitted for consultative purposes.

Hungary

Supply/Demand/Additional Capacity. The regulatory authority does not directly participate in the monitoring of medium- and long-term supply/demand balance on the national market, as this is the responsibility of the system operator. But in the case, for instance, of monitoring expected future demand and envisioned additional capacity, the system operator makes proposals and the HEO determines the scope of necessary investment.

HEO resolutions establish the minimum quality requirements and the expected level of supply for licensed undertakings, which must submit the required data on quality and the level of supply annually, on the basis of which the HEO prepares the annual evaluation. Relevant resolutions and evaluations can be found on the home page of the HEO.

Tendering. The HEO may invite tenders in the case of supply shortage. The system operator is in charge of capacity reserves.

Investigations. A report on generation capacity adequacy is being prepared by the system operator, and is expected to be finished by the end of November 2004.

Italy

Supply/Demand/Additional Capacity. The TSO, in cooperation with the Ministry for Productive Activity, has this authority.

Network Maintenance, Shortfalls, Tendering. The TSO has this authority.

Investigations. The AEEG may advise the Ministry in cases where it foresees any possible supply problems, but it is not responsible for approving transmission or generation plans.

Moldova

Supply/Demand/Additional Capacity. *With respect to the monitoring of medium- and long-term supply/demand balance on the national market, ANRE and the Ministry both play roles. The Government, through the Minister of Energy, is responsible for energy security and strategy for the development of power sources covering long-term supply/demand, while the Agency is responsible for monitoring the short- and medium-term supply/demand, requiring the licensee for transmission and dispatch activity to perform studies on short- and medium-term development of power systems.*

Network Maintenance. ANRE and the Office of State Energy Inspection share authority for monitoring the quality and level of maintenance of the networks. The Office of State Energy Inspection is responsible for the design and technical configuration of the electrical systems and equipment, and also communicates with network owners regarding poor maintenance of the

facilities. Through quality and performance standard rules, ANRE may require the respective licensee to comply with existing technical and safety rules for maintenance.

Shortfalls. With respect to the implementation of measures to cover peak demand and to address any shortfalls of one or more suppliers, the Ministry of Energy and ANRE are informed monthly, pursuant to power market rules, about projected possibilities for power suppliers to cover the demand for next month. While the Ministry of Energy may assist the process of finding solutions to identified problems, it is the responsibility of the distribution companies to cover their entire load through contracts for supplemental power (additional power), emergency power (unplanned outages) and backup power (planned outages).

As a result of power supply interruptions that took place in September and October 2003 due to shortages of supplies to cover peak demand, ANRE required the distribution companies to sign contracts for peak power supply; licensees complied with the requirement.

Tendering. The Government has full responsibility for tendering for new generating capacity. According to Government Resolution 436 (26 April 2004), the development of new power plants may be done through a tendering process or as a result of direct negotiations. A 2003 Government Regulation regarding public acquisitions by the Government specifies the procedure and requirements (transparency, minimum qualifications, eligibility to participate) for the tendering process.

Romania

Supply/Demand/Additional Capacity. ANRE participates through electricity market monitoring group activity. Monitoring means observing whether market participants are behaving properly (to prevent collusion and to provide necessary capacity). The TSO and the Ministry of Economy and Trade also have authority in this area. The TSO prepares a five-year plan regarding supply and demand for determining if new measures need to be taken. This is given to the Ministry of Economy and Trade, which issues measures to assure proper supply as necessary.

Network Maintenance. The level of maintenance is monitored through the information included in the financial reports of the license holders regarding the way the funds allocated for maintenance have been spent. The maintenance quality is monitored indirectly through the performance standards (planned/unplanned interruptions). Utilities are also obliged to establish a maintenance management program.

Investigations. The TSO has the obligation to issue prospective energy transmission plans according to the current stage and the future evolution of the energy consumption and of the resources, including the import and export of energy. The plans shall include the financial and investment means provided for the transmission installations, taking also into account the urban and regional planning for the area crossed by the transmission installations, in compliance with the environmental protection norms. These plans are subject to endorsement by ANRE and shall be approved by the coordinating ministry.

Serbia and Montenegro

Serbia

Supply/Demand/Additional Capacity. The Ministry of Mining and Energy has authority to monitor in this area, not the regulatory authority.

Network Maintenance. The regulatory authority participates in the monitoring of quality and level of maintenance of the networks via compliance monitoring and pricing, in accordance with licensing.

Shortfalls. The TSO has authority to take measures to cover peak demand to address shortfalls of one or more supplier. In addition, the Government of the Republic of Serbia has the right to impose short-term measures in order to overcome disturbances in supply due to heavy outages endangering the security of supply.

Tendering. The Government decides whether a tender is needed; the Ministry or local self-government issue the invitation to such tenders, and make the decision as to the winner. At present, there is a need for supply and no pending applicants for supply authorizations.

Montenegro

Supply/Demand/Additional Capacity. The regulatory authority does not have a role in these areas, except through anticipated participation in the tendering or authorizations of new capacities. The Ministry of Economy has jurisdiction.

Tendering. The Agency's role in the tendering process is to issue authorizations, but no procedures are currently in place.

Investigations. The interim licenses provide that security of supply is the duty of licensees; however, no investigations related to security of supply have taken place or are planned.

Slovenia

Supply/Demand/Additional Capacity. For planning purposes, the Ministry for environment and spatial planning (responsible for energy) has responsibility for monitoring supply/demand balance, generation capacity and energy shortfalls. The Agency is currently conducting a study to investigate supply security issues.

Tendering. The Law envisions that the Ministry for environment and spatial planning has responsibility for issuing tenders for new generation capacity.

Turkey

Supply/Demand/Additional Capacity. The regulatory authority participates in these areas through the regular reports submitted by the TSO, such as Generation Capacity Projection, Ten Years Statement and Demand Forecast, as well as via internal monitoring mechanisms. Those

regular reports are subject to EMRA approval. For the natural gas market, every January EMRA prepares and issues demand forecast for the current year. The Ministry of Energy and Natural Resources has the ultimate responsibility of securing energy supply.

Network Maintenance. The standards for those are set in the grid code and the distribution code. The TSO and the DSO are obliged to report to EMRA periodically on these matters. Furthermore, complaints from customers are also used as a part of monitoring of quality and level of maintenance.

Shortfalls. The TSO has authority in this area.

Tendering. The state-owned generation company, namely EUAS, is responsible for commissioning new generation units deemed necessary by the EMRA. EUAS is subject to special regulations for tendering.

Investigations. The total consumption and peak demand in 2003 was 140.7 TWh and 21729 MW, respectively. The installed capacity in 2003 has reached to 35587 MW. According to the latest studies, in the midterm, current capacity meets the forecasted demand.

UNMIK

Supply. The Law gives ERO the responsibility to monitor security of supply via licensing. No procedures or details regarding the regulatory role have been adopted at the writing of this Report.

Tendering. ERO shall conduct the tendering procedure for new capacity (tendering is allowed only where the authorization procedure has not resulted in building sufficient capacity). The Law specifies that the terms of the tendering procedure shall comply with the Law on Public Procurement. Pre-qualification procedures shall be set forth in the invitations to tender.

2. MARKET OPENING AND MONITORING

**Table 11
MARKET OPENING AND MARKET MONITORING**

COUNTRIES	NATIONAL TIMETABLE FOR MARKET OPENING	REGULATORY ROLE
Albania	No.	Propose model of electricity market; develop and adopt market rules; Government makes final decision on timetable.
Austria	100%. Electricity since 1 October 2001. Gas since 1 October 2002.	No.

COUNTRIES	NATIONAL TIMETABLE FOR MARKET OPENING	REGULATORY ROLE
Bosnia and Herzegovina	No.	Only RSERC is explicitly given jurisdiction over market opening. The other two laws are silent on market opening.
Bulgaria	Electricity market opened on July 1, 2004 for very large electricity consumers. Full – 2007.	Set the quantity of electricity trade and time schedule for opening of the market.
Croatia	Partial.	No.
FYR of Macedonia	No.	Specific provisions not provided in present law.
Greece	No.	N/A.
Hungary	All non-household – 2004. Full – 2007.	Government responsibility: eligibility level declaration; HEO responsibility: market monitoring; EU directives are governing.
Italy	Gas market: Full – 1 January 2004. Electricity market: Full – 1 January 2007.	Formulate comments and proposals and propose Government amendments.
Moldova	10 March 2005.	Establishing the schedule for market opening in coordination with Government.
Romania	Partial (55%) – 31 December 2004. Partial (80%) – 31 June 2006. Full – Non-households – 1 January 2007. Full – Households – 1 July 2007.	Market opening is approved by Government decision.
Serbia and Montenegro	Serbia – No clear timetable. Montenegro – Every customer is treated as eligible, but in practice only 13% of the energy is directly purchased from suppliers.	Serbia – Set eligibility threshold (initially, at 25 GWh). Montenegro – Set the design and timing of the market opening and approve market rules submitted by the market operator.
Slovenia	1 July 2004 for all non-household customers. 1 July 2007 for households.	No.

COUNTRIES	NATIONAL TIMETABLE FOR MARKET OPENING	REGULATORY ROLE
Turkey	<p>The most recent Government Strategy Plan contemplates market opening for customers below 7.8 GWh beginning in 2009, with full opening by 2011.</p> <p>Electricity: Partial opening at this time – 29% (eligible threshold at 7.8 GWh).</p> <p>Natural Gas: Partial opening at this time – 78% (by 2009 expected to reach 80%).</p>	<p>Electricity: EMRA Board determines thresholds for eligible customers by assessing the market and metering infrastructure conditions.</p> <p>Natural Gas: Timetable set by law.</p>
UNMIK	Not yet defined.	<p>No. Role belongs to the Energy Office, within the Prime Minister Office, which sets the threshold criteria for eligible customers, in consultation with local government. SRSG also may have a role.</p>

Bosnia and Herzegovina

Schedule for Market Opening. No date is set for market opening by any of the three laws. Provisions addressing market opening are not coordinated. The Act on Transmission provides that the market opening will be decided in the future, with subsequent laws and regulations defining the scope, terms and conditions and time schedule of the market. The Federation Electricity Law provides for a gradual introduction of the electricity market in accordance with rules issued by SERC. However, the RS Electricity Law states that buyers with the annual consumption of electricity bigger than 10 GWh may be qualified customers and RSERC may prescribe the progressive market opening for end users.

Bulgaria

Schedule for Market Opening. The Energy Law mandates complete opening of the electricity market for all consumers based on reciprocal treatment of eligible consumers. Under the transitional and final provisions of the Energy Law, the opening is scheduled for January 2007, when Bulgaria is targeted to become a full member of the European Union. The Energy Law also provides for the opening of the Bulgarian energy market for regional and Europe-wide trade – targeted for the date of EU membership.

Croatia

Schedule for Market Opening. The Law on Electricity Market provides that consumers of over 40 GWh/year gained the status of eligible customer upon the Law’s enactment. This is 9% of the total market or a total of 15 eligible customers. As a practical matter, however, the market is not yet open to them.

Decision-Maker for Market Opening. CERC has no role in determining the further pace of the market opening to eligible customers.

FYR of Macedonia

Schedule for Market Opening. A national timetable for market opening will be a subject of regulation in the framework of a new law on energy. Specific provisions with regard to market opening are not provided in the present law; no secondary legislation has been passed in this regard.

Greece

Schedule for Market Opening. Currently the eligibility threshold for electricity consumers is 1 kV. This corresponds to a market share of 34%. As of 1 July 2004, eligible customers are all customers except households, with the exception of the non-interconnected islands; and after 1 July 2007, all customers will be eligible, with the exception of the non-interconnected islands. All customers on the non-interconnected islands are not eligible.

Serbia and Montenegro

Serbia

Schedule for Market Opening. The Energy Law stipulates that the status of an eligible customer shall be granted to a customer of power, i.e. natural gas or heat, whose total energy consumption in the course of the previous 12 months was higher, on all measuring points, than the energy consumption determined as the minimum annual energy consumption for acquiring the status of an eligible customer (initially set by the Law on 25 GWh, 50 million cubic meters of gas, i.e. 5000 GJ of heat – these threshold are to be changed/set by EA in the future). The status of an eligible customer is acquired on the basis of fulfilling the above-mentioned conditions in accordance with thresholds determined by EA. Also, changing the tariff customer status to or from eligible customer status cannot be made prior to 12 months from the date of the last status change.

Montenegro

Schedule for Market Opening. The Energy Law broadly defines “eligible consumer” to include any person with an ability to obtain cheaper electricity. In practice, there are no competitive suppliers for smaller customers and only the three largest consumers (industrial companies) are connected directly to the transmission network, which enables them to buy electricity directly from suppliers. Although these companies consume about 50% of the total consumption in Montenegro, because of lower domestic energy prices, only the largest one purchases on the external market (the purchase amount is about 30% of its needs, which amounts to about 13% of total Montenegrin consumption).

Turkey

Decision-Maker for Market Opening. EMRA has the power to set the eligibility threshold. The timetable for the market opening for natural gas market is set by law.

UNMIK

Decision-Maker for Market Opening. The Energy Office, which is currently within the Office of the Prime Minister, has the power to set eligibility threshold. The timetable for the market opening is not yet set. In addition, it is anticipated that the SRSG will play a role in market opening. The Law on Energy Regulator includes an article in the transitional provisions (Chapter 16) stating:

Not later than twelve months after the appointment of the initial members of the Board, the SRSG, in consultation with the Provisional Institutions of Self-Government, shall review the market structure and assess the degree of liberalization of the electricity market. Based on the result of such reviews, the SRSG may decrease or increase by one year the length of the initial term of the members of the Board.

3. TARIFFS

**Table 12
TARIFFS A**

COUNTRY	POWER TO ISSUE TARIFF RULES	AUTH. FOR T&D TARIFFS	AUTH. FOR BALANCING AND ANCILLARY TARIFFS	AUTH. FOR SETTING CONNECTION COSTS	POWER TO REQUIRE TO MODIFY	MONITOR ACCESS CHARGES TO NETWORK
Albania	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.
Austria	Yes.	Yes.	Shared collaboration with the responsible company.	Yes.	Yes.	Yes.
Bosnia and Herzegovina	Yes, for all 3.	SERC – Has authority for methodology and criteria for transmission tariffs. FERC and SERC have authority for distribution/ generation tariffs methodology	Yes, for all 3.	SERC – Yes. FERC & RSERC – Laws are silent.	SERC – Yes, principles incorp. in the methodology FERC & RSERC – Laws are silent.	SERC – Yes principles incorp. in the methodology. FERC & RSERC – Laws are silent.

COUNTRY	POWER TO ISSUE TARIFF RULES	AUTH. FOR T&D TARIFFS	AUTH. FOR BALANCING AND ANCILLARY TARIFFS	AUTH. FOR SETTING CONNECTION COSTS	POWER TO REQUIRE TO MODIFY	MONITOR ACCESS CHARGES TO NETWORK
Bulgaria	No. Develops, does not issue.	Yes.	Yes.	Yes.	Yes.	Yes.
Croatia	No.	Yes.	No.	Not clear.	No.	No.
FYR of Macedonia	Yes.	No (process of creating a electricity tariff system is ongoing).	Not yet regulated.	Yes.	Yes.	Not yet regulated.
Greece	No.	Indirectly.	No.	Yes.	Indirectly.	Indirectly.
Hungary	No.	No, proposes to Minister.	Indirectly.	No, proposes to Ministry.	Yes, proposes to Minister.	No, proposes only.
Italy	Yes.	Yes.	Yes.	Yes, in cooperation with the TSO.	Yes.	Yes.
Moldova	Yes.	Yes.	N/A.	Yes.	Yes.	N/A.
Romania	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.
Serbia and Montenegro	Serbia – Yes. Montenegro – Yes.	Serbia – Yes. Montenegro – Yes.	Serbia – Yes. Montenegro – Yes.	Serbia – Yes. Montenegro – Yes.	Serbia – Yes. Montenegro – Yes.	Serbia – Yes. Montenegro – Yes.
Slovenia	Yes.	Yes, subject to government approval.	Yes, subject to government approval.	Yes.	Yes.	Yes.
Turkey	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.
UNMIK	Yes.	Yes.	Yes.	Yes.	Yes.	Law is silent.

Albania

Rule Issuance. The Law on the Power Sector provides that the regulatory authority must issue regulations setting forth the procedures and standards through which it will approve, modify or disapprove the tariffs, terms and conditions of electric power services. In the Rules of Practice and Procedure adopted in mid-2004 there is a chapter addressing the rate proceedings.

T&D, Balancing and Ancillary Tariffs. All terms and conditions, tariffs, rules and methodologies are set and approved by the regulatory authority. The Rules of Practice and Procedure contain provisions on rulemaking proceedings. If the regulatory authority verifies that any term, condition, tariff, rule or methodology discriminates against any stakeholder, it has the power to alter or change the discriminating action, applying the above-mentioned rules.

The regulatory authority provides a detailed evaluation of the tariffs and the reasons for its decision. Thus far, the regulatory authority has used a cost-based methodology in evaluating and approving the electricity rates.

Connection Costs. The regulatory authority approves procedures setting forth charges that a customer shall pay to the supplier for connection to the network; no such rules have been developed or adopted yet.

Access Charges. As Albania has a vertically integrated utility, there are no parties that require access to the transmission and distribution networks. The Law, however, requires the TSO and DSOs to provide access to third parties according to regulations and rules adopted by the regulatory authority. The regulatory authority is working to develop and adopt the market rules, grid and distribution codes that will provide the right to network access to all market stakeholders (generators, eligible customers).

Austria

T&D, Balancing and Ancillary Tariffs. In the last tariff-setting process, the regulated companies resisted a change in the tariff. One reason was the attempt to switch from a rate-of-return to a price-cap regulation, where companies feared that the efficiency offsets would be too high and they would not be able to cover their costs. Although the change in the regulatory system did not take place, some companies brought the last tariff ordinance to the Supreme Court, which has not decided on the cases yet. The companies also argued that the cost base accepted by the E-Control Commission is too low in order to sustain the present quality of supply in the medium run.

The Energy Control Corporation, on behalf of the Energy Control Commission, is preparing the economic foundation for the tariff. Using figures from the data entry form and the financial statements, it calculates a preliminary cost base. In the last tariff-setting process, the cost base was corrected by four measures: (i) Some cost increases were not accepted; (ii) some cost items were reallocated from the network unit to other units; (iii) adjustment for efficiency changes; (iv) adjustment of the cost base by an input price index. The proposal of the E-Control Corporation is approved or rejected by the E-Control Commission.

Balancing Services. The E-Control Corporation worked out and approved a methodology for calculating the balancing services in collaboration with the responsible company. There is an ongoing process to revise this methodology.

Connection Costs. The E-Control Corporation, on behalf of the E-Control Commission, is calculating fixed prices for the grid provision charge per KW, which are approved or rejected by the E-Control Commission. The fixed prices are set by ordinance.

The charge for admission to the grid is set individually by companies. The charge has to be calculated in a cost-reflective manner and should be comparable. In the case of excessively

high costs, the E-Control Corporation has the ability to stop the abuse of the company by appropriate measures.

Bosnia and Herzegovina

Rule Issuance. SERC is charged with issuing rules and regulations establishing a tariff methodology that incorporates a number of principles, such as: (i) tariffs shall be just, reasonable and non-discriminatory, based on objective criteria and determined in a transparent manner; (ii) tariffs shall be primarily dependent upon the justified costs of operation, maintenance, replacement, construction and reconstruction of facilities, including a reasonable return on investment, amortization and taxes, with consideration of environmental and consumer protection; (iii) establishment of performance-based tariffs; (iv) interruptible tariffs, load balancing tariffs, and other mechanisms to improve energy efficiency and demand-side management shall be encouraged, including consideration of the development and dispatch of renewable sources of energy; (v) season and time-of-use tariffs are permitted, and tariffs may be adjustable according to the cost of peak and off-peak services; (vi) cross-subsidies of different customer classes shall be eliminated; (vii) connection fees that are cost-justified may be included for connection to the transmission network or substantially increasing load; (viii) regarding ISO tariffs, such tariffs, terms and conditions shall reflect prevailing international practices; and (ix) regulated third-party access principles shall be applied as to electricity transmission networks. FERC and RSERC also have rule and procedure issuance authority for tariffs.

T&D, Balancing and Ancillary Tariffs. Tariffs for transmission, ancillary services and ISO operations shall be regulated and approved by SERC. SERC approves tariffs that meet the tariff methodology, in accordance with procedures and criteria set by SERC under its rules and regulations. These procedures and criteria will require the transmission company and ISO (and any other parties regulated by SERC) to prepare and submit to SERC for approval tariff schedules consistent with the tariff methodology.

FERC and RSERC are charged with: (i) prescribing the methodology and criteria for establishing tariffs for unqualified customers for electricity supply; (ii) establishing tariffs for distribution system users and tariffs for unqualified customers; and (iii) establishing the price of electricity at the electricity plant bus-bars.

The three regulators have informally agreed to set a tariff methodology as a joint activity to ensure that the tariff regime for the entire sector fits together seamlessly.

Connection Costs. SERC sets the fee to connect to the transmission system. It is tasked with establishing for the transmission company connection fees that are cost-justified. No such procedures are currently in place. As of yet, there is no existing timetable for putting such procedures in place.

The Federation Electricity Law is silent on this issue. RSERC sets the criteria for and amount of the connection fee for end-users in the form of a one-time fee to meet the requirements for the connection to, or increasing the connection power of, the existing connections.

Bulgaria

Rule Issuance. The COM is vested with the sole authority to issue/adopt ordinances on setting tariffs, though SERC is responsible for drafting such ordinances. The ordinances provide the guidelines on tariff setting, but no specific methodologies. SERC is authorized to issue instructions which provide the detailed tariff methodologies for each licensed service.

T&D, Balancing and Ancillary Tariffs. The tariff ordinance on electricity, formally adopted by the COM on 20 February 2004, defines the general framework and principles for methodologies on the setting of prices and tariffs in the electricity sector. Under the electricity tariff ordinance, SERC is authorized to develop the detailed methodologies for the fixing of tariffs. The same model is followed under the tariff ordinances on heat energy and natural gas.

The tariff instructions approved by the SERC include specific tariff methodologies for transmission and distribution wheeling services, ancillary services and network connections.

Connection Costs. With respect to setting connection costs, the rules are currently in drafting stage. The draft envisions that SERC approves the connection procedures and fees.

Croatia

Rule Issuance. CERC has the power to issue the rulebook on data, methodology and criteria for calculation of power transmission and distribution fees; other tariffs and tariff systems are set by the Government, after CERC provides an opinion.

T&D, Balancing and Ancillary Tariffs. CERC's Charter, approved by the Government, provides that CERC has ex-ante authority for fixing and approving methodologies used to calculate transmission and distribution network access tariffs. While CERC has no formal authority to define the methodology used to calculate balancing and ancillary services, in practice it recently approved the initial methodology to calculate balancing energy through the market code, which CERC must approve. Regarding the transport of gas, the tariff system was approved by the Government; the regulatory authority has the right to make annual revisions/checking of the elements applied in calculation of tariffs (including operating costs, capital costs, depreciations, rate of return, etc.).

The regulatory authority does not provide a detailed evaluation of the tariffs and the reasons for its decision, but its Rulebook does indicate that CERC uses a cost of service methodology for transmission and distribution fees.

More specifically, according to the Energy Law, CERC has the right to provide its opinion on the proposed tariff systems prior to their approval by the Government. CERC is to monitor the tariff system, which should be based on reasonable costs of operation, maintenance and development. The meaning of "system" is not clear; the scope of such monitoring is not clearly defined; and CERC is unclear as to what extent it should check the appropriateness of tariffs. The Government sets tariff systems, including the structure and amount of tariffs. The

Government approved the valid Tariff System (Official Gazette No. 101/02, 121/02 and 129/02) with all inclusive electricity tariffs.

In practice, CERC has encountered problems during the tariff-setting process, including acquisition of relevant data from the regulated utilities. Because CERC only approves the transmission and distribution fee, not the end-user tariffs, the relationship between its fee setting and the general tariff system is diluted. Even as to the transmission and distribution fee viewed in isolation, external pressures have made setting transparent, cost-based, efficient fees a challenge.

To date, as a matter of practice, the Government approved a tariff system, meaning everything: the regulation (document), methodology, procedure and tariff rates (structure and amount). An all-inclusive power tariff system was approved in August/September 2002. In this case, the role of CERC was not clear (regarding the above-mentioned components as well as how to deal with production, transmission, distribution, supply and other electricity activities, *i.e.*, which rates or fees were valid, or which portion was attributed to each activity).

By law, the following energy prices shall be set by application of tariff systems:

- Generation of electricity, apart from electricity generation for eligible customers;
- Transmission of electricity;
- Distribution of electricity; and
- Retail supply of electricity, apart from retail supply of electricity for eligible customers.

There should be no distinction between transmission and distribution fees and tariffs; the procedure and methodology of their calculation and adjustment should be contained in respective, separated tariff systems for transmission and distribution, then incorporated in the overall end-user tariff for ineligible customers. CERC has the right under the law to approve these transmission and distribution rates/fees following the prescribed methodologies/ procedures. To fulfill this duty, CERC issued the Rulebook on data, methodology and criteria for calculation of transmission and distribution fee; HEP was to follow the provisions set forth in this Rulebook when proposing the tariff to CERC. HEP's proposal for 2003, however, did not follow the Rulebook. CERC nevertheless approved the fees.

There are cases regarding the tariff systems for wholesale and transport of gas. A first step was approval of a tariff system including rates. A second step was transfer of responsibility for the rate adjustment/approval to CERC.

Connection Costs. Two provisions in the laws regarding connection charges are in conflict. One states that tariff systems shall determine the elements for setting the prices of the connection to the energy system or of an increase of connected capacity/load. The other provision states that conditions and the manner of calculating connecting costs and their distribution on users that benefit from such connection shall be regulated by the rules to be passed by the Minister (rules not yet passed).

Access Charges. The law provides that charges applied to network operators for access to networks should be defined by secondary legislation. The draft is in its initial phase. In the meantime, a HEP decision, brought by the management board in 1990s, is applied.

FYR of Macedonia

T&D, Balancing and Ancillary Tariffs. The Energy Law provides that the regulatory authority shall create tariff systems “for specific types of energy,” but there are no provisions on access or cross-border tariffs or stranded costs. A tariff methodology has been prepared, and it is anticipated that tariffs will be recalculated with appropriate separation of charges in the near future.

Currently, there is an all-inclusive tariff. No schedule for a separate transmission tariff has been set, and cross-subsidies exist. A tariff methodology study has been completed to facilitate calculation of a separate transmission tariff.

Greece

T&D, Balancing and Ancillary Tariffs. Access tariffs are calculated according to the methodology described in the grid code. Based on this methodology, the HTSO submits for approval to the regulator the annual cost of the system. The Minister of Development decides, after opinion by RAE, the annual revenues of PPC as owner of the system. After this ministerial decision, HTSO submits its proposal for the use-of-system tariffs to the regulator for final approval. In summary, although RAE is responsible to set the annual cost of the system, the Minister of Development makes the decision regarding the tariff to be paid by the system users.

The costs for the use of the grid are based on the Regulated Asset Basis (“RAB”) of the grid, the regulated rate of return (“WACC”) and the costs for the operation of the grid. RAE submits its opinion on balancing services costs to the Minister of Development for approval, and in doing so, RAE provides the reasons for its opinion. The regulatory authority issues an opinion to the Minister of Development regarding the supply prices of suppliers with large market share (more than 70%) in the eligible customers market. RAE also provides its opinion to the Minister of Development regarding the modification of supply prices of suppliers with a market share greater than 40%. The major problem encountered is that the Greek incumbent has not performed the unbundling of accounts.

Connection Costs. HTSO proposes the general terms and conditions (including costs) for the connection of the users, which are approved by the Minister of Development, following the opinion of RAE. RAE provides an opinion, ex-ante, and can propose the imposition of fines to the operators in case of abuse.

Hungary

Rule Issuance. The HEO does not have the power to issue secondary legislation in the area of tariffs. It only prepares price regulation and makes proposals for prices. Final decision on pricing, as well as issuance of secondary legislation in this area, is the province of the Minister

of Economy and Transport. In practice, price proposals of HEO are not always accepted by the Ministry.

T&D, Balancing and Ancillary Tariffs. Methodologies used to calculate transmission and network access tariffs are prepared by the HEO and set by the Ministry; methodologies used to calculate balancing and ancillary services are included in the commercial code, which is approved by the HEO. As part of its tariff evaluation, the HEO uses a mixture of rate of return, rate of depreciation and operating costs.

Connection Costs. The HEO makes a proposal to the Ministry, which has final authority in this area. Charges applied to network operators for access to network tariffs are proposed by the HEO and approved by the Minister in the form of Ministerial decree; such charges are designed to be transparent and reflective of actual costs.

Italy

T&D, Balancing and Ancillary Tariffs. For the purposes of the law 481/95, *tariffs* mean the maximum unit prices of the services net of taxes, and AEEG sets basic tariffs for the regulated sectors. This includes maximum prices net of tax, and tariff adjustments based on a price-cap mechanism (defined as a “*ceiling on price variations on a multi-annual basis*”) that sets a limit on annual tariff increases corresponding to the difference between the target inflation rate and the increased productivity attainable by the service provider (along with any other factors allowed for in the tariff, such as quality improvements). AEEG has the power to establish and update, in relation to market developments, the basic tariff, the parameters and other terms of reference for deciding the tariffs and the method for recouping any possible costs. AEEG strives to guarantee the quality and efficiency of the service and its adequate distribution nationwide, and to achieve the general objectives of a social nature, environmental protection and the efficient use of resources, keeping separate any undue taxes or charges from the tariff. AEEG also verifies that the annual proposals for revising the tariffs conform to the above criteria, if need be, through hearings. To determine the tariff using the price-cap method, defined as the maximum limit of price variation tied to a period of several years, AEEG applies the following parameters: the average annual variation, over the previous 12 months, in the prices of consumer goods for the families of white- and blue-collar workers according to ISTAT, and the targeted variation in the annual productivity rate, set for a minimum period of three years. Other considerations include improving the quality of the services in relation to set standards for a minimum three-year period; costs arising from unforeseeable and exceptional events, such as changes in the law or variations in obligations incurred in providing the universal service; and costs arising from measures directed at controlling and managing demand through the efficient use of resources. AEEG must verify that the conditions and mode of access for the parties operating the services, howsoever agreed, are established in compliance with the principles of free competition and transparency, even with regard to individual cost items, and also to fulfill the obligation to provide the service under equal conditions, so as to satisfy all reasonable needs of the users, including the elderly and disabled, and likewise guarantee respect for the environment, the safety of the equipment and the health of those employed in the services.

Moldova

T&D, Balancing and Ancillary Tariffs. ANRE drafts and approves the methodologies for calculation, approval and application of tariffs for transmission and dispatch and for distribution and supply of electricity. The regulatory authority provides a detailed evaluation of the tariffs and the reasons for its decision. It applies rate of return, pursuant to the adopted methodology set forth in tariff regulation, and applies depreciation in accordance with international accounting standards.

Balancing services do not yet apply, as Moldova does not yet have the required generation facilities to manage the balancing of its network. Instead, Moldova relies on its interconnections and disconnections of customers to balance its national dispatch.

Problems encountered by the regulatory authority during the tariff-setting process include how to treat prior bad debts and calculating the current book value of fixed assets to be depreciated. The starting point for such calculation was established in accordance with a revaluation value calculated by KPMG. All energy assets are past their nameplate lives.

ANRE approves the methodology for calculation of auxiliary services provided by distribution companies. The methodology must specify acceptable cost items for calculation of connection fees. Distribution tariffs are approved by ANRE and apply to all consumers without discrimination. Transmission tariffs are approved by ANRE and also apply to all distribution companies, suppliers and consumers connected to the transmission network. ANRE requires the transmission licensee to apply the same tariff for all power market participants. In practice, however, the same tariff is not always applied – there has been at least one instance where an off-tariff and reduced transmission tariff have been granted for a Minister of Energy-approved export transaction.

In practice, beginning in 2001, the Minister of Energy has exerted substantial input into the decisions of ANRE. The latest example was in February 2004 when the Ministry requested that ANRE decrease tariffs below the actual costs for natural gas supplied to combined heat and power plants, and increase tariffs for consumers that use natural gas for heating purposes. ANRE subsequently issued a decision in accord with the Ministry position.

Romania

T&D, Balancing and Ancillary Tariffs. ANRE is responsible for issuing the methodology, and approving the tariffs that result.

Connection Costs. The rules for connection to the network are proposed by ANRE and approved by a Governmental Decision. The methodology for setting up connection tariffs is issued and approved by ANRE and the connection tariffs are approved by ANRE.

Serbia and Montenegro

Serbia

Rule Issuance. The regulatory authority issues secondary legislation that establishes pricing methodologies, however, the Government has the authority to approve acts issued by EA approving prices.

T&D, Balancing and Ancillary Tariffs. The Law provides that the regulatory authority is responsible for the following:

- Passing the tariff systems for power and natural gas for tariff consumers, as well as tariff systems for access to and use of the energy transmission, transportation, *i.e.* distribution systems and of natural gas storage facilities and other services;
- Setting methodologies for calculation of and giving its opinion on the level use of system charges for transmission/transport, distribution networks and gas storages (subject to approval by the Government);
- Setting methodologies for calculation of connection charges for transmission/transport and distribution networks;
- Giving its opinion on retail prices for electricity, gas and district heating for captive customers (subject to approval by the Government);
- Setting methodologies for calculation of the generation prices for electricity and heat generators (CHP only) with public service obligation, based on justified cost and rate of return approved by the Government; and
- Monitoring energy undertakings in performing energy-related activities.

The tariff system and the methodologies are enacted by EA. These decisions are considered general legal acts of EA and a type of secondary legislation. The tariff system is a framework paper. It gives the structure of the various categories for which certain prices are to be calculated (for example: categories on the basis of voltage-levels at which power is consumed, the time of day the power is consumed at, etc.). Once the methodologies passed by EA are applied to the tariff system, the price for each such category can be calculated and (after obtaining an opinion from EA) approved by the Government.

Access Charges. The regulatory authority sets the methodology for transmission and distribution access charges. Prices for system access and use are determined by the system operator, in conformity with the methodology and opinion from EA. The Government approves the Act on prices issued by EA.

Montenegro

T&D, Balancing and Ancillary Tariffs. ERA has full authority to establish separate transmission and distribution tariffs, but the procedure has not yet been defined. The Law also provides that the regulatory authority may define the methodology regarding balancing services.

Slovenia

Rule Issuance. According to the recently amended Energy law, the Agency issues the methodology and approves the tariffs through its own general acts (codes of rules). However these are subject to government approval.

T&D, Balancing and Ancillary Tariffs. The regulatory authority sets the methodology and tariffs. For electricity, aspects of the evaluation are: return on assets, operation and maintenance cost, depreciation, and cost of technical losses. For gas, the regulatory authority checks if the tariffs comply with the methodology.

Turkey

T&D, Balancing and Ancillary Tariffs. Transmission and distribution system operators are obliged to offer “a tariff methodology” at the beginning of the each implementation period that includes terms, conditions and a mechanism to meet its revenue requirements. Since network regulation envisages “a performance-based regulation,” transmission and distribution operators are free to change their tariff, methodologies, terms and conditions during the implementation period, as long as they reflect real costs and are approved by EMRA. A transitional Balancing and Settlement Regulation is being developed by the transmission company and is scheduled for approval and issuance by EMRA in the third quarter of 2004.

The applicable principles of the tariff structure can be summarized as follows:

- Costs not directly related to market operations shall not be included;
- Cross-subsidies are not allowed;
- Cost-reflective tariffs are employed; and
- If need arises, direct subsidy shall be applied to consumers in need, without deteriorating the structures of the regional tariffs.

A price cap methodology is used for retail tariffs (non-eligible consumers). EMRA has the authority to request TSO and DSOs to modify transmission and distribution tariffs if it considers that they are discriminatory and do not reflect the cost of services for every customer group, or are not in compliance with other provisions of the Tariff Regulation.

In practice, EMRA has encountered some difficulties in the tariff-setting process. The companies failed to unbundle the accounts for distribution and retail activities and, therefore, to provide cost-reflective data to EMRA. This was due in part to technical and accounting-related issues. Also, the government was against having regional differences between end-user prices (which would result from the tariff structure originally envisaged).

A mandatory balancing market exists (in which the regulator predetermines prices), and an unregulated balancing market is planned. TEIAS (Transco) will manage the balancing and settlement mechanisms.

Connection Costs. The regulatory authority has the authority to set connection charges and methodologies used to calculate them. Connection charges are limited to costs incurred in relation to connection (and do not include grid investment costs).

Access Charges. All charges applied by network operators for access are subject to approval by EMRA at the beginning of the implementation period, periodically reviewed at the beginning of each tariff period, published in order to ensure transparency, and adjusted if necessary according to the secondary legislation. EMRA published regulatory accounting guidelines (“RAG”), which describe the method by which costs incurred by TSO and DSOs must be kept, and requests that every activity have different accounts to prevent any subsidization between consumer groups and activities. For the calculation of revenue requirements and control of yearly incomes, those accounts kept in accordance with RAG will be taken as a basis of comparison between the initially forecasted and actual results.

UNMIK

T&D, Balancing and Ancillary Tariffs. The Law gives ERO control over the issuance of methodologies and approval of T&D tariffs and balancing services. ERO drafts and adopts pricing secondary legislation, and has monitoring authority over the implementation of tariffs and prices.

Connection Costs. The regulatory authority approves technical codes prepared by the licensed utilities, and these codes include provisions on connection costs.

**Table 13
TARIFFS B**

COUNTRIES	POWER TO APPLY PERFORMANCE-BASED COMPONENTS	POWER TO PENALIZE VIA REDUCED RATE OF RETURN	POWER TO REMOVE SUBSIDIES	POWER TO ADDRESS NEEDS OF VULNERABLE POPULATIONS	EXPLANATION FOR DECISION
Albania	No.	No.	Yes.	No.	No.
Austria	Yes.	No.	No.	Indirectly.	Yes.
Bosnia and Herzegovina	SERC – Yes through methodology. FERC & RSERC – Laws are silent.	SERC – Unclear. FERC and RSERC – Laws are silent.	SERC - Unclear. FERC and RSERC - Laws are silent.	SERC – Unclear. FERC and RSERC – Laws are silent.	N/A – No tariff decisions have been made; no tariff rules have been passed.
Bulgaria	Yes.	Yes.	Yes.	Yes.	Yes.
Croatia	Law is silent.	No clear provision.	No.	No.	No.
FYR of Macedonia	Will be subject to regulation.	Will be subject to regulation.	Will be subject to regulation.	Will be subject to regulation.	Yes.
Greece	Yes.	Indirectly.	No.	No.	Indirectly.

COUNTRIES	POWER TO APPLY PERFORMANCE-BASED COMPONENTS	POWER TO PENALIZE VIA REDUCED RATE OF RETURN	POWER TO REMOVE SUBSIDIES	POWER TO ADDRESS NEEDS OF VULNERABLE POPULATIONS	EXPLANATION FOR DECISION
Hungary	Yes.	Yes.	No.	No.	Yes.
Italy	Yes.	No.	No.	Yes.	Yes.
Moldova	No.	Yes.	Yes.	Yes.	Yes.
Romania	Yes.	Yes.	Yes.	Yes.	Yes.
Serbia and Montenegro	Serbia – Law does not specify. Montenegro – Targets and incentives are not yet defined.	Serbia – Law does not specify. Montenegro – Targets and incentives are not yet defined.	Serbia – No. Montenegro – No.	Serbia – No. Montenegro – No.	Serbia – Yes. Montenegro – Yes.
Slovenia	Yes.	Yes.	No.	Yes.	Yes.
Turkey	Yes.	Yes.	Yes.	No.	Yes.
UNMIK	Yes.	Yes.	Law prohibits cross-subsidies.	Law is silent.	Yes.

Albania

Subsidies/Vulnerable Populations. The Law on the Power Sector provides that the regulatory authority, while setting rates, shall take into account any policy of the Government prohibiting the subsidization of any category of consumers by the licensee or any other category of consumers. The needs of vulnerable populations in terms of electricity tariffs are the responsibility of the Government, which may apply different subsidizing schemes. For the last tariff increase, the Government provided subsidies to vulnerable residential customers. The regulatory authority may establish different tariffs for each customer category, taking into account the season, the time of day (day or night), the time of peak, medium or base usage, or similar parameters.

Explanation for Decisions. The Law on the Power Sector requires that all decisions be supported by facts, analysis and deliberations, but no specific requirements are stipulated for publication of the explanations together with the decision.

Austria

Performance-Based Rates/Rate of Return. There is the possibility to set a price cap using an efficiency offset, which has not yet been used.

Subsidies/Vulnerable Populations. The undertaking has the duty to connect any customer. By setting the network tariffs, it's possible to take "social" aspects into account (e.g., through the

relationship between fixed charge and variable charge). Because the market is liberalized, there is no direct influence on the energy prices.

Bosnia and Herzegovina

Performance-Based Rates/Rate of Return. SERC, RSERC and FERC each have broad authority to set tariffs, to monitor the effectiveness of tariffs, and to protect consumers, but there is no specific reference to a punitive revision of tariffs. SERC may set performance-based rates; prices are based on the justified costs of operation, with consideration of environmental and consumer protection. RSERC and FERC have similar provisions authorizing regulation of the quality of service and tariffs, keeping in view both the interests of consumers and the needs of the electricity supply industry.

Bulgaria

Subsidies/Vulnerable Populations. The Energy Law prohibits cross-subsidies. SERC has the authority to deny a proposal that incorporates any subsidies, with the exception of state subsidies to vulnerable consumers. In addition, secondary legislation on licensing, currently in drafting stage, provides that SERC may place special requirements on licensees regarding energy supplies to vulnerable populations. Any such requirements will be part of the individual license and subject to monitoring of licensee compliance with such SERC conditions.

Explanation for Decisions. The Supreme Administrative Court ruled in July 2004 that the SERC must expand, via adding explanation, its decisions, especially relating to tariff levels. The Court found that the SERC decisions must be accompanied by a clear and justified explanation for the change in tariffs.

Croatia

Performance-Based Rates/Rate of Return. The current Rulebook on transmission and distribution fees does not yet include any performance-based components, and the law does not speak to whether CERC has the authority to issue performance-based rates. Similarly, there is no clear provision allowing CERC to penalize a non-performing undertaking via a reduced rate of return. CERC is only responsible for setting transmission and distribution fees; it does not have the authority to address the needs of vulnerable populations. Rather, the Government sets end-user tariffs and has the power to address the needs of vulnerable populations.

Greece

Performance-Based Rates/Rate of Return. RAE has the discretion to set the rate of return tied to the cost of the system.

Subsidies/Vulnerable Populations. Only the Minister of Development has the power to address the needs of vulnerable populations.

Hungary

Performance-Based Rates/Rate of Return. The HEO has the authority to require performance-based components within the tariff methodologies of quality of supply standards, but not other tariffs. It also has the power to penalize a non-performing undertaking via reduced rate of return where the quality of supply is decreased. Only the Government has the authority to address needs of vulnerable populations.

Italy

Subsidies/Vulnerable Populations. AEEG issued a consultation document containing its proposals for reforming the “social tariff” for electricity. The document illustrates the method suggested by the regulator to modify the existing social tariff system, which is consumption-based but independent of household income. AEEG is proposing that the “discounted” prices should be applied to households in real economic disadvantage as identified through the *Indicatore della Situazione Economica Equivalente* (“ISEE,” or household income indicator), which is already used for the supply of other essential services. As the regime of “discounted” tariffs is part of the wider social policy framework, AEEG’s position is that the Government is the appropriate determining body concerning the extent to which the special rates should apply and by how much they will be “discounted.”

Explanation for Decisions. The regulatory authority issues a statement within 90 days of receiving the proposal.

Moldova

Performance-Based Rates/Rate of Return. The regulatory authority does not have the power to require performance-based components within the tariff methodologies. Instead, the electric supply service standards include a performance component. ANRE has the authority and power to reduce a future tariff for non-compliance with the electric supply service performance standards, which fall under the rulemaking authority of ANRE.

Subsidies/Vulnerable Populations. Before 2003, an average tariff was applied for all consumers. In 2003, ANRE instituted differentiated tariffs; the average tariff could be considered a kind of subsidy through cross-subsidization of classes. Specifically, ANRE has set a social tariff for state distribution companies for poor people. The threshold electricity demand must be lower than 50 kWh; few consumers have applied for this social tariff.

Explanation for Decisions. ANRE’s decisions are published in the Monitorul Oficial (Official Gazette similar to the US Federal Register) and ANRE’s editorial “Energia,” its official magazine. The publication provides general information only on the decisions; the basis for decisions is available in ANRE offices, but analyses are not written. Any person may request, in writing or verbally, information related to ANRE decisions.

Romania

Performance-Based Rates/Rate of Return. ANRE uses rate of return; beginning in 2005, CPI-X will be applied for a three- to five-year period for tariff evaluation. ANRE has the power to require performance-based components in the tariff methodology through its authority to change the regulatory control applied (for example, from rate of return to cap regulation for transmission and distribution tariffs). Penalties are not part of the revenue, so imposing penalties implies a reduction of RoR/profit.

Subsidies/Vulnerable Populations. ANRE has removed the subsidies between the industrial and residential consumers and between the electricity and heat produced in cogeneration. ANRE may assist vulnerable populations through the imposition of special tariffs issued for vulnerable populations, known as a “social tariff.”

Serbia and Montenegro

Serbia

Explanation for Decisions. The Energy Law does not specifically require that EA provide the parties with written explanations setting forth the grounds upon which its decisions have been passed. This is because this matter is governed by the Law on General Administrative Procedure, which EA must follow while passing its decisions. The Law on General Administrative Procedures applies to all decisions passed in the administrative procedure and is therefore applicable to EA's decisions as well.

Stranded Costs. There are no provisions in the Law concerning stranded costs. It is anticipated that such costs will be addressed as restructuring moves forward.

Subsidies/Vulnerable Populations. There are no provisions in the Law for the energy undertakings to bear social costs, which is the responsibility of the Government.

Montenegro

Stranded Costs. There is no explicit provision in the Law concerning stranded costs, but the regulator is expected to assess stranded costs for inclusion in the tariffs. The regulator is given broad authority to adopt its own rules and procedures and is fully expected to include stranded costs for inclusion in future tariff rates. No tariff proceedings have taken place yet.

Subsidies/Vulnerable Populations. Under the Law, the regulatory authority must establish tariffs in a fair, non-discriminatory, objective and transparent manner. Accordingly, ERA may not establish cross-subsidies for customer classes. Rather, any subsidization of consumers or customers shall be the responsibility of the Government, and may not be taken into consideration by ERA when establishing rates. Cross-subsidies currently exist. Under the Law, ERA may not issue cross-subsidies to customer classes, but rather, any subsidization of customers shall be the responsibility of the Government.

Slovenia

Performance-Based Rates/Rate of Return. The Agency has the power to set performance-based rates, but it did not do so in the first regulatory period. The Agency is planning to use performance-based components in the second regulatory period. The same is true of the power to reduce the rate of return.

Subsidies/Vulnerable Populations. The Energy Law provides basic rights for the needs of vulnerable populations; in cooperation with the government and the system operators, the Agency is involved in the process of issuing secondary legislation.

Turkey

Performance-Based Rates/Rate of Return. Performance-based components (benchmarking results of operational expenses, technical losses, service quality targets, etc.) of the tariff methodology are determined by the Board, and included in the calculation of revenue requirements.

The tariff regulation envisages an incentive-based approach depending on performance for both transmission and distribution activities. The most important performance criterion is the efficiency factor, which is determined by benchmarking national and international comparable companies' performances. The other performance criteria used for distribution activity are loss and leakage reduction targets and quality indices.

Evaluation of the tariff shall be incentive-based and dependent on performance. EMRA uses a hybrid model (rate of return and revenue cap together) in order to determine network tariffs (transmission and distribution) that cover a fair rate of return on capital, operating expenses and rate of depreciation, restrained by technical losses and quality targets. (Capital expenditures ("CAPEX"), operating expenses, return on CAPEX and amortization of CAPEX are evaluated.)

TSO and DSO tariffs are to be calculated on a multi-year basis, set at the beginning of the implementation period. Tariffs within the implementation period are modified only under extraordinary circumstances. If a company does not meet the defined targets, recovery of revenues will not be compensated, leading to a lower rate of return.

Stranded Costs. The wholesale tariff of the state-owned wholesale company, TETAS, is also subject to EMRA regulation. The reason for this regulation is the mitigation of stranded costs arising from the pre-existing market structure and avoiding TETAS to get use of its market-dominant position (long-term PPAs from BOT, BOO and TOOR-type contracts). Those stranded costs are subject to recovery through offsets with low-cost state-owned generation, with a maximum five-year period envisaged.

Retail prices for non-eligible customers and retail services are also regulated by EMRA.

Subsidies/Vulnerable Populations. The only acceptable way of applying subsidies is refunding to those consumers that are affected through price increases. Rules and methods of such a

subsidy mechanism shall be offered by the Ministry of Energy and Natural Resources and can be put in force upon the decision of the COM. EMRA does not have the power to address the needs of vulnerable populations; this belongs to the Ministry of Energy and Natural Resources.

UNMIK

Performance-Based Rates/Rate of Return. Setting benchmarks to licensees is part of ERO’s activities, although the details of doing so are not yet clear. ERA may penalize; however, the ERO has yet to approve any tariffs. Details on these and other issues related to tariffs, such as addressing vulnerable populations and subsidies, are expected to be set forth in secondary legislation.

4. LICENSES

**Table 14
LICENSES**

COUNTRIES	POWER TO ISSUE LICENSING RULES	POWER TO ISSUE LICENSES	POWER TO MONITOR COMPLIANCE	POWER TO MODIFY LICENSES	POWER TO PENALIZE
Albania	Yes.	Yes.	Yes.	Yes.	Yes.
Austria	No.	Yes.	Yes.	Yes.	No.
Bosnia and Herzegovina	Yes – For all 3.	Yes – For all 3.	Yes – For all 3.	Yes – For all 3.	Yes – For all 3.
Bulgaria	No.	Yes.	Yes.	Yes.	Yes.
Croatia	No.	Yes.	Yes.	No.	No.
FYR of Macedonia	Yes.	Yes.	Yes.	Yes.	No.
Greece	No.	No.	Yes.	No.	Yes.
Hungary	Yes.	Yes.	Yes.	Yes.	Yes.
Italy	No.	No.	Yes.	No.	No.
Moldova	Yes.	Yes.	Yes.	Yes.	Yes.
Romania	Yes.	Yes.	Yes.	Yes.	Yes.
Serbia and Montenegro	Serbia – No. Montenegro – Yes.	Serbia – Yes. Montenegro – Yes.	Serbia – Yes. Montenegro – Yes.	Serbia – No. Montenegro – Yes.	Serbia – Yes. Montenegro – Yes.
Slovenia	No.	No.	Yes.	No.	No.
Turkey	Yes.	Yes.	Yes.	Yes.	Yes.
UNMIK	Yes.	Yes.	Yes.	Yes.	Yes.

Albania

The ERE has the full authority to set the rules and requirements for granting, modifying and revoking licenses to companies for generation, transmission, distribution, supply, export and import of electric power. The ERE is authorized to adopt regulations to establish simplified and expedited licensing procedures for the establishment and operation of the power plants with a total capacity no greater than 5 MW.

Sanctions: Non-criminal, administrative offenses are fined by the ERE as follows:

- Lateness in filing financial and economic reports and technical indicators as requested – 150 000 Lek;
- Non-payment of financial obligations in time – 400 000 Lek;
- Non-compliance with ERE decisions on tariffs and prices – 300 000 Lek; and
- Non-compliance with terms and conditions defined in license – 350 000 Lek.

In cases of systematic and repeated violations of the Energy Law and regulations, the ERE may withdraw the license held by the offending person.

Austria

Licensing Powers. E-Control Corporation issues licenses for balance group managers (electricity and gas). E-Control Commission issues licenses for grid operators (only gas). Other licenses are issued by the Minister of Economics and Labor and by state authorities. While it does not have power to issue licensing rules, the regulatory authority may set license terms and conditions.

Sanctions. The regulatory authority may report infractions of license conditions to the Minister of Economics and Labor, state authority or police department. In turn, these bodies may impose fines and revoke licenses.

Bosnia and Herzegovina

Licensing Rules and Powers. All three regulatory authorities issue licensing rules and licenses, and can monitor compliance and penalize.

Sanctions. FERC can impose fines from 5,000 km to 30,000 km²¹ for business violations and can impose fines up to 5,000 km on the responsible individual. RSERC can impose fines “proportional to damages” and consistent with other laws. SERC can impose fines from 5,000 to 40,000 kms and disgorgement of any economic benefit in excess of the fine, and can order payment to the injured party up to three times the economic benefit.

Bulgaria

Rule Issuance. SERC does not have the power to issue the licensing ordinance. SERC does, however, draft the licensing ordinance. Draft regulations developed by SERC on licensing may be approved, rejected or amended by the COM.

Licensing Powers. SERC has exclusive authority to issue, revoke, modify, terminate and withdraw licenses, and monitor licensee compliance.

²¹ The km is set at a fixed rate of .51 Euros.

Croatia

Licensing Powers. The regulatory authority has the power to issue licenses. Energy undertakings can start carrying out an energy activity only on the basis of a license issued by CERC. CERC's discretion in this area, however, is circumscribed through secondary legislation (the Rulebook on Conditions for Carrying out of Energy Activities, Official Gazette No. 6/03, the Act on Period of Validation of License for Carrying Out Energy Activities, Official Gazette 116/02).

CERC is authorized to supervise and check the conditions (the technical and financial requirements as well as professional qualifications) throughout the license terms, in accordance with the Rulebook on Condition for Carrying Out Energy Activities. CERC may not modify the license, nor may it impose a fine on licensees for infractions. CERC may only withdraw the license from an energy undertaking if CERC has determined, either through its official duty or at the request of the State Inspectorate, that an energy undertaking does not fulfill the conditions (the technical and financial requirements as well as professional qualifications).

Sanctions. Although it lacks its own enforcement powers, CERC can issue complaints to the State Inspectorate and administrative courts, which in turn can impose penalties, such as fines. Since its creation, CERC has cited two violations; in both cases, the energy undertakings corrected their actions in accordance with CERC instruction. Recourse to the courts or inspectorate was not sought.

Greece

Licensing Powers. RAE gives its opinion to the Minister of Development regarding the granting of licenses in the electricity sector. The Minister of Development issues the licenses. RAE also gives its opinion on issuing secondary legislation in the area of licensing and license modification to the Minister of Development.

Sanctions. RAE has the power to impose a fine on licensees for infractions. The Minister of Development, following an opinion or proposal of RAE and in cases of a repeated and systematic breach of the legal framework and the other terms that determine the granting of the authorizations, may revoke the authorizations. The regulatory authority reports infractions to the Minister of Development and RAE has the power to impose fines.

Italy

Licensing Powers. The regulatory authority makes observations and recommendations to the Government and Parliament relating to licenses or authorizations, and to the Ministry of Productive Activities relating to licensing schemes, their renewal or any variation thereof. It proposes amending the terms of licenses and contracts, including those covering exclusive rights, authorizations, existing public policy implementation agreements and the conditions under which the services are provided, where this is required by market developments or the reasonable needs of the users, likewise defining the technical and economic conditions of

access and connection to the networks, where established by the laws in force. For license renewals and amendments, the Ministry must either accept AEEG's proposal or request a second proposal from AEEG, with the Prime Minister as the ultimate decision-maker in the event the Ministry does not accept any of AEEG's proposals.

Moldova

Sanctions. The regulatory authority has the power to impose a fine on licensees (the commercial entity and the responsible persons) for violations of license conditions.

Serbia and Montenegro

Licensing Powers. While EA may issue, suspend and revoke licenses, only the Ministry may issue or otherwise decide upon permits for new construction. In addition, the Minister defines license conditions, including the method of license issuance and revocation.

Sanctions. EA may revoke or suspend licenses, but as to other methods of enforcement, EA may report infractions to the Electric Energy Inspection Authority (a part of the Ministry charged with technical compliance of licensing conditions), which can issue fines or initiate trade offence procedures before the competent trade court.

Montenegro

Licensing Powers. The regulatory responsibilities include granting licenses under the Law. At the end of June 2004, the Agency issued six licenses to the utility company for: generation; transmission; transmission network operator; market operator; distribution and distribution network operator; and supply of electricity. Pursuant to the Law, licenses will also be issued in the petroleum and gas sector for: commercial transportation; storage; and distribution sale or supply.

Slovenia

Licensing Powers. A government ordinance determines the conditions for licenses; the regulatory authority can review and monitor licensee performance but cannot modify licenses.

UNMIK

Sanctions. ERO has the authority to penalize the infractions with fines.

D. COMPETENCIES

1. DISPUTE SETTLEMENT AUTHORITY

**Table 15A
DISPUTE SETTLEMENT AUTHORITY**

COUNTRIES	DISPUTE SETTLEMENT AUTHORITY	SCOPE OF DISPUTE EXTENDS TO THIRD PARTY ACCESS
Albania	Yes.	Yes.
Austria	E-Control Corporation is voluntary dispute settlement authority. E-Control Commission is binding dispute settlement authority.	Yes.
Bosnia and Herzegovina	SERC – Yes. FERC – Arbitrating role, if agreed by the disputing parties. RSERC – Upon request by a party, resolves certain disputes.	Yes – For all 3.
Bulgaria	Yes.	Yes.
Croatia	Yes, but limited.	Yes.
FYR of Macedonia	Yes.	Scope is not defined.
Greece	Yes.	Yes.
Hungary	Yes (limited).	Yes, but provisions limited. Draft amendment pending.
Italy	Yes.	Yes.
Moldova	Yes.	Yes.
Romania	Yes.	Yes.
Serbia and Montenegro	Serbia – Yes. Montenegro – Yes.	Serbia – Yes. Montenegro – Yes.
Slovenia	Yes.	Yes.
Turkey	Yes.	Yes.
UNMIK	Yes.	Yes.

Albania

Dispute Settlement Authority. ERE has authority to address third party access, consumer complaints and cross-border disputes.

Austria

Dispute Settlement Authority. Dispute settlement by E-Control Corporation is voluntary. E-Control Corporation can provide recommendations, which are not compulsory for the parties. E-

Control Commission has full dispute settlement authority, including the power to issue binding decisions. This authority extends to third-party access issues and cross-border disputes. If it is not possible to find an amicable solution within six weeks, the parties are required to seek recourse in the court system.

Bosnia and Herzegovina

Dispute Settlement Authority. The Act on Transmission specifies that SERC has the jurisdiction to resolve disputes among system users as set forth in secondary legislation. The Federation Electricity Law provides that FERC may act as an arbitrator in disputes between licensees, or between a licensee and a buyer, regarding the right to supply electricity, the duty to supply electricity, the tariffs at which the electricity is supplied, delays in or refusal to supply electricity, and the quality of electrical supply and related services.

With respect to third party access, the right for SERC and FERC to resolve TPA disputes is inferred from the various powers granted to them under the applicable laws. SERC resolves disputes among system users and has jurisdiction over the establishment, monitoring and enforcement of rules related to TPA and thus has jurisdiction to resolve disputes over TPA. With respect to FERC, a producer and customer denied access to distribution lines may appeal to the regulatory authority and can resolve disputes, upon agreement of the disputing parties, regarding right and duty to supply, tariffs charged, delay or refusal to supply, and quality and provision of services in connection therewith. Under either the right and duty to supply (implying a right to TPA) or the specific appeal of a producer and customer (which does not address issues of other suppliers), if agreed by the parties, FERC may hear the disputes.

The RS Law on Electricity provides that, upon request by a party, RSERC is obligated to resolve disputes concerning the right to electricity supply, the right to access on the distribution network, the obligation to deliver electricity, tariffs under which electricity is delivered, delays in supply of electricity, failure to supply electricity and quality of electricity supply. A legal or natural person can be appointed by the RSERC to collect facts.

Bulgaria

Dispute Resolution Authority. SERC has dispute resolution authority with respect to all disputes involving a licensee, with the exception that SERC will not be engaged in resolving cross-border disputes until the opening of the export-import market for electricity. SERC's dispute resolution authority does not limit the complainant's recourse through the courts if the complainant chooses that forum.

Croatia

Dispute Settlement Authority. CERC has explicit dispute settlement authority only with respect to access to the network for eligible customers and producers. CERC's resolutions on third-party access are legally binding and subject to appellate review only by the Administrative Court. CERC has had one third-party access case (involving an island distribution network) so

far. It utilized a mediator, which worked effectively. Where mediation is not effective, CERC must issue its own decision (this has never happened).

CERC procedures for resolving third-party disputes are not yet in place.

While the law defines CERC's role as ensuring "transparent and non-discriminatory conditions on energy markets," the law provides CERC with no specific implementation powers. The Consumer Protection Law defines procedures with arguably inconsistent provisions and constitutional rights to go to court.

FYR of Macedonia

Dispute Settlement Authority. The law broadly gives the regulatory authority the right to "participate in dispute resolution and proposing measures," but it does not define the scope of such disputes or measures, nor does it provide guidance regarding the dispute resolution process. Secondary legislation or revised primary legislation is anticipated to provide further detail.

Greece

Dispute Resolution Authority. An arbitration process can be set to resolve a dispute between Greek energy market participants concerning third-party access issues, but not cross-border issues.

Hungary

Dispute Settlement Authority. The Law provides that dispute settlement is an HEO function; however, in practice the HEO acts more as a mediator, playing a limited role.

In case of TPA issues, when the ISO refuses a request for access to the network and the parties are in dispute, the HEO has eight days to hear the matter and determine the issue. But this is not set forth as a dispute resolution procedure. Currently, an amendment to the law is pending, and amended provisions will track requirements in the Directives. The amendment is in preparation stages and will be put into effect in the beginning of 2005, at the earliest.

Italy

Dispute Settlement Authority. The AEEG assesses complaints made by consumers, either individuals or associations. If necessary, it may direct providers to modify services. It hears complaints, appeals and reports from users or consumers, individually or as a body, with respect to standards of quality and tariffs by the service operators, and where necessary, can require them to change their mode of operation or revise the service regulations. Such decisions are binding and may be appealed to the local court, and then the national court.

Moldova

Dispute Settlement Authority. ANRE's dispute settlement authority is complete, extending to access issues, including third-party access and cross-border disputes where such disputes result in the interruption of supplies to domestic consumers.

Romania

Dispute Settlement Authority. The regulatory authority is charged with resolution of pre-contractual disputes. Pre-contractual disputes involve access to the grid, access price, provisions in contracts, and starting conditions. After the company makes an offer, if there is disagreement, the individual can make a complaint to ANRE. ANRE will first offer advice, which is how more than 80% of disputes get resolved. If the ANRE advice is rejected, an ANRE decision can be requested – this is a judicial process with hearings, ending with a commission ruling. Less than 20% of complaints make it to the judicial stage.

Serbia and Montenegro

Serbia

Dispute Settlement Authority. According to the Law, EA decides upon appeals of access denial by a transmission or distribution system operator for power, or an energy entity for natural gas storage, and decides upon appeals of connection refusal by an energy entity, such as failure to pass a decision upon submitted application for connection to the system.

Montenegro

Dispute Settlement Authority. Under the Law, the regulatory authority establishes procedures to resolve energy sector disputes. Accordingly, ERA resolves disputes involving consumers and energy undertakings as well as appeals and/or disputes concerning third-party access to the distribution or transmission system. Parties also have the right to resolve their dispute through domestic or international arbitration.

Turkey

Dispute Settlement Authority. The regulatory authority's settlement authority includes overseeing activities, acting as intermediary to settle disputes prior to formal dispute settlement processes, and enforcing licensing standards for parties operating in the market. It extends to third-party access disputes, but not cross-border disputes.

UNMIK

Dispute Settlement Authority. The ERO establishes the procedures to resolve disputes; it may assign to an energy enterprise, an arbitration panel or another alternative dispute resolution body the authority to handle certain complaints. Alternatively, ERO may make a decision on a dispute or issue an opinion on the dispute, which contributes to the settlement of the dispute.

2. RULEMA

**Table 15B
RULEMAKING AUTHORITY**

COUNTRIES	RULEMAKING AUTHORITY RE INTER-CONNECTION CAPACITY	RULEMAKING AUTHORITY RE MARKET RULES	RULEMAKING AUTHORITY RE GRID CODES	RULEMAKING AUTHORITY RE METERING RULES AND CHARGES
Albania	Yes.	Yes.	Yes.	Yes.
Austria	No.	Yes, E-Control Corporation.	Yes, E-Control Commission.	Yes.
Bosnia and Herzegovina	SERC – Yes, implicit in authority to approve rules regarding international connections. FERC – Adopts grid code that defines interconnections. RSERC – No.	Yes. All 3 regulators have implicit authority.	Yes. All 3 regulators have approval authority.	The laws are silent.
Bulgaria	Yes.	Yes.	Yes.	Yes.
Croatia	No.	No.	Yes.	No.
FYR of Macedonia	Yes.	Will be subject to regulation.	Will be subject to regulation.	Will be subject to regulation.
Greece	No.	No except details of Code implementation.	No except details of Code implementation.	No.
Hungary	Yes, indirectly and based on the basic rules approved by government.	Yes.	Yes.	Yes.
Italy	Yes.	Yes.	Yes.	Yes.
Moldova	Yes.	Yes.	Yes.	Yes.
Romania	Yes.	Yes.	Yes.	Yes.
Serbia and Montenegro	Serbia – No. Montenegro – Yes; Agency authorizes new transmission capacities.	Serbia – Yes. Montenegro – Yes.	Serbia – Yes. Montenegro – approves codes submitted by transmission and distribution company.	Serbia – Law does not specify. Montenegro – Yes.
Slovenia	Yes.	Yes.	Yes.	No.
Turkey	No.	Yes.	Yes.	Yes.
UNMIK	Yes.	Yes.	Yes.	Yes.

Albania

Interconnection Rules. The Law on the Power Sector provides for operation of the electric power system in parallel with other power systems; interconnected power systems shall be carried out in accordance with multilateral or bilateral agreements in the field of electric power, as well as technical standards, safe operation requirements and other interconnection standards established by the regulatory authority. To date, no such rules have been drafted or adopted.

Technical Rules. ERE, in collaboration with other energy stakeholders, is working to develop and adopt market rules, a grid code, a distribution code and other technical rules as required by the Law on the Power Sector.

Metering Rules. The metering rules may be developed as separate secondary legislation or as part of a commercial code to be developed by the regulatory authority; the decision about which to choose has not yet been made. The Law on the Power Sector authorizes the regulatory authority to require that suppliers inspect the metering equipment of every category of customers. At the written request of a customer who doubts the accuracy of a meter or has observed failures in the meter, the regulatory authority may order the supplier to inspect the meter. When, upon inspection, a failure in the meter is observed, the expenses incurred for its repair or replacement are the responsibility of the supplier. When no failure is observed, the reasonable expenses of the inspection are billed to and paid by the customer.

Austria

Technical Rules. E-Control Corporation issues market rules and technical regulations in cooperation with the market participants. E-Control Commission approves the general terms and conditions of grid operators.

Metering Rules. Metering rules are part of the general terms and condition of grid operators, and of the market rules and technical regulations. Metering charges are part of the secondary legislation issued by the E-Control Commission. The Commission sets ceilings for metering charges (and for grid losses and charges to the system).

Bosnia and Herzegovina

Interconnection Rules. SERC has implicit authority to approve rules regarding international interconnections via the transmission grid code. FERC and RSERC have implicit authority to approve rules regarding the management and allocation of distribution interconnection capacity, via the grid codes. Grid codes determine the technical and other conditions for interconnecting; the regulatory authorities approve these, after the distribution companies develop them. Such rules must be consistent with the conditions set by the ISO.

Technical Rules. The Act on Transmission provides that SERC shall approve all grid codes, commercial codes and system operating rules and procedures, all of which are to be developed by the ISO.

Bulgaria

Rule Issuance. Under the Law, SERC has exclusive authority to develop, adopt and implement certain rules based on proposals by energy companies. These rules, some of which are recently adopted and others of which are under preparation, are:

- Rules on Access to Electricity Transmission and Distribution Networks;
- Rules on Access to Natural Gas Transmission and Distribution Networks;
- Rules on Service and Energy Quality Performance on Electricity Networks;
- Rules on Service and Energy Quality Performance on Natural Gas Networks;
- Rules on the Operation of the Electricity Transmission System, set forth in the grid code;
- Rules on the Operation of the Electricity Distribution System, set forth in the grid code;
- Rules on Metering of Electricity;
- Power Market Rules; and
- Natural Gas Market Rules.

The Energy Law also provides that certain secondary legislation be drafted by SERC, but the COM has authority to adopt the legislation, and to either approve or send back to SERC with instructions to amend. After adoption, SERC has full authority for implementation without government interference. Such legislation includes:

- **Ordinance on the Setting of Tariffs for the Electricity Sector;**
- **Ordinance on the Setting of Tariffs for the Natural Gas Sector;**
- **Ordinance on the Setting of Tariffs for the Heat Sector;**
- **Licensing Ordinance;**
- Rules of Organization (Charter) of SERC; and
- SERC License Fee Schedule.

SERC develops the Ordinance on Green Certificates and submits it for formal adoption by MEER. SERC is responsible for issuing and monitoring trade with Green Certificates.

Croatia

Interconnection Rules. The law does not precisely attribute the power to set or approve rules regarding the management and allocation of interconnection capacity. Rules on management, allocation and interconnection capacity are set forth in the grid code, currently in draft form. They are, according to the draft grid code, the obligation of the ISMO. Likewise, mechanisms to deal with congested capacity are to be defined by grid code and fall under the responsibility of the ISMO. CERC's role is limited to giving its opinion on the grid code.

In instances where CERC seeks to address issues governed by the ISMO, it may ask for appropriate analyses and data, or may influence activities through the process of approval of

the development plans of the transmission network. Further steps are not defined. As the ISMO is currently in development, no practices can be reported.

Technical Rules. Thus far, CERC has participated in grid code review meetings and has provided comments on provisions of the code. Based on the law, the ISMO, in cooperation with the energy undertaking carrying out transmission and distribution of electricity, is responsible for submitting a draft to the Ministry. Once the draft is submitted, CERC will have a final opportunity to issue its opinion to the Ministry, which has the authority to pass the grid code into secondary legislation.

Metering Rules. The regulatory authority has no specified role with respect to identifying metering rules and charges. Instead, this should be part of the tariff system, in which CERC should act as advisory body, but the provisions are general and vague.

Cooperation. CERC cooperates with the consumer authority/advisory body in certain cases. Examples of cooperation/assistance: CERC's committee (Board) for Monitoring of Application of the Tariff System for Energy and Services Prices, and its committee (Board) for Technical Issues, Regulations and Standards (each Board has up to 25 participants from different institutions, industry, customer protection organizations, operators, etc.). There are also customer protection associations with which CERC has no formal agreement, but closely cooperates through CERC committees, dispute settlement procedures, etc. Finally, CERC cooperates with the State Inspectorate with respect to its legally defined competencies.

Greece

Interconnection Rules. The rules are established in the grid code as decided by the Minister of Development after input from RAE. The TSO is responsible for managing allocation of interconnection capacity according to the grid code. RAE has the power to approve details of the management and allocation of interconnection capacity, which take place as prescribed in the grid code. In doing so, RAE collaborates with the relevant regulatory authority of the interconnected country.

Technical Rules. The HTSO and the DSO develop the grid code and network code, respectively. These are approved by the Minister of Development, following the opinion of RAE.

Hungary

Interconnection Rules. The system operator prepares rules regarding the management and allocation of interconnection capacity, based on the basic concept developed by governmental decree, and the HEO approves them.

Technical Rules. The HEO has final rulemaking authority. It prepares and approves market rules, grid codes, energy supply codes and the like.

Metering Rules. Metering rules and charges are defined in the distribution code, which is approved by the HEO. Charges are set by Ministerial decree, upon the proposal of the HEO.

Italy

Interconnection Rules. The regulatory authority has the power to set or approve rules, taking into consideration the general framework set by the Ministry for Productive Activities.

Technical and Metering Rules. The regulatory authority defines the general conditions of services within the principles of transparency and non-discrimination.

Moldova

Interconnection Rules. While the regulatory authority has the power to set or approve rules regarding the management and allocation of interconnection capacity, this power has yet to be put into effect, given the poor condition of the system.

Until ANRE determines that the sector is viable for competition, it has the sole authority under the law for the operation, rules and tariffs of the sector.

Technical Rules and Metering Rules. Pursuant to the Electricity Law, ANRE approves regulations and rules regarding all activity in the power system, including the market rules, licensing and tariff regulations, and metering code.

Romania

Interconnection Rules. The rules on management and allocation of interconnection capacity are established in the TSO's procedure, which is approved by ANRE. ANRE approves the TSO and distribution operator procedures.

Technical Rules and Metering Rules. ANRE approved the grid codes and issued and approved the commercial code, commercial and technical regulations, metering codes (electricity and heat) and connection rules to the network.

Serbia and Montenegro

Serbia

Technical Rules. The regulatory authority approves rules proposed by the Market Operator (market rules) or System Operator (grid code).

Cooperation with Other Bodies. The regulatory authority is obliged under the Energy Law to cooperate with bodies of the Republic, Autonomous Provinces and local self-government in conducting the tasks under its jurisdiction. EA's duties are broadly described in the law, which envisions cooperation with, for example, local governments in heating subsector issues.

Montenegro

Interconnection Rules. Regulatory responsibilities include setting the rules empowering the regulatory authority to authorize interconnections.

Technical Rules. The regulatory authority establishes the market framework and approves the market rules submitted by the market operator. The Law empowers ERA to establish and enforce rules to enhance development of the energy market. Specifically, the Law provides for the regulator to create rules necessary to facilitate competition by placing limits on ownership and to prevent the abuse of market power. It also requires that the regulatory authority establish these rules within two years after the law goes into effect. Finally, ERA approved the interim grid code and distribution code at the end of July 2004.

Slovenia

Interconnection Rules. The regulatory authority has consent power over interconnection rules, but does not draft or issue the rules. The interconnection rules are, pursuant to law, prepared by ELES, the national TSO. Prior to the official publishing of these rules, the TSO must send the draft rules to the line ministry and the Agency. Both the Ministry and the Agency have to agree with the proposed rules. The Agency is responsible for ensuring adequate network access criteria, contained in the rules. For this reason an official consent to the network access criteria, contained in the interconnection rules, must be issued by the Agency before publishing of the rules in the Official Journal of the Republic of Slovenia.

Technical Rules. The regulatory authority issues non-binding opinions on secondary legislation governing market rules, grid codes and other technical rules. The government has final authority over these rules.

Turkey

Metering Rules. EMRA is responsible for issuing legislation, *i.e.*, the Communiqué Regarding Minimum Requirements of Meters, which is currently in force, and the metering code, which is to be prepared by the end of 2004.

3. QUALITY

**Table 16
QUALITY OF SERVICE**

COUNTRIES	ROLE RE QUALITY OF SERVICE	SETTING, APPROVING, COMMENTING ON STANDARDS	POWER TO SANCTION	POWER TO INTERVENE
Albania	Yes – As planned. Standards not yet adopted.	Yes – As planned. Standards not yet developed.	N/A.	N/A.

COUNTRIES	ROLE RE QUALITY OF SERVICE	SETTING, APPROVING, COMMENTING ON STANDARDS	POWER TO SANCTION	POWER TO INTERVENE
Austria	No.	There is no explicit definition for quality of service standards.	No.	Serve as mediator up to 6 weeks, then matter is referred to court.
Bosnia and Herzegovina	Yes – For all 3.	SERC – Yes. FERC & RSERC – Issue guidelines and conditions.	Unclear.	Although the law is silent for all 3 regulators, presumed power.
Bulgaria	Yes.	Yes.	Yes.	Yes.
Croatia	No.	No.	No.	No.
FYR of Macedonia	Yes.	Specifications to be regulated.	Subject to regulation.	Subject to regulation.
Greece	No.	No.	No.	No.
Hungary	Yes.	Yes.	Yes, may set fines.	Yes.
Italy	Yes.	Yes.	Yes.	Yes.
Moldova	Yes.	Yes.	Yes.	Yes.
Romania	Yes.	Yes.	Yes.	Yes.
Serbia and Montenegro	Serbia – Yes. Montenegro – Yes.	Serbia – Yes, it monitors compliance with performance indicators. Montenegro – No direct standard setting authority.	Serbia – No. Montenegro – Yes.	Serbia – No. Montenegro – Yes.
Slovenia	Yes.	No.	Yes.	Yes.
Turkey	Yes.	Yes.	Yes.	Yes.
UNMIK	Yes.	Yes.	Yes.	Yes.

Austria

Quality of Service – Role of Regulatory Authority. There is no explicit definition for quality of service standards. As an example of responsibilities in this area, the TSOs or DSOs must inform the customer that there will be a temporary interruption due to maintenance work. The information has to be submitted at least 48 hours before the interruption.

Sanctions. The regulatory authority is a mediator for conflicts between market participants. If it is not possible to find an amicable solution for conflicts within six weeks, the involved market participants have to go to court.

Bosnia and Herzegovina

Quality of Service – Role of Regulatory Authority. The Act on Transmission states that the scope of SERC's jurisdiction and authority includes consumer protection to ensure high-quality service. The RS Electricity Law provides that RSERC is competent to regulate quality of service and mentions that RSERC shall provide conditions regarding the same in license conditions. No further parameters are discussed. The Federation Electricity Law provides that FERC will issue guidelines on quality of service and will publish the same in the Official Gazette of the Federation of BiH. License conditions for quality of service are covered by supply licensing.

Sanctions. No secondary legislation has been issued by any of the three regulatory authorities regarding quality of service. Given the provisions in the laws, it is logical to conclude that at a minimum, the Entity regulatory authorities have the power to sanction or intervene in cases where the quality of service standards are violated.

Bulgaria

Quality of Service – Role of Regulatory Authority. SERC sets the standards for security of supply for both licensing and tariff setting purposes. Detailed set of standards are provided in the license for each license type. The SERC monitors the compliance with the standards listed in the licenses through the license monitoring process specified in the Licensing Ordinance.

A small subset of key standards is used in performance-based tariffs for some of the energy companies. The standards measure the performance of the energy companies for energy quality, service quality and reliability.

Sanctions. Pursuant to its licensing authority, SERC can impose penalties for license violations, including violations of quality of service standards. Noncompliance with SERC requests to cure violation of these license conditions may negatively affect subsequent rate applications by the utility or, in exceptional cases, lead to license withdrawal or termination. For tariff setting purposes, the SERC approves the quality standards, approves the methodologies within tariffs to incorporate performance of the energy companies in meeting the standards, and adjusts tariffs if the energy companies fail to meet the standards.

Croatia

CERC has no formal role in establishing quality of service standards.

Hungary

Quality of Service – Role of Regulatory Authority. The HEO sets the minimum standards for quality of service. It uses the following indicators to measure compliance with the consumer service and quality of supply standards: (i) System Average Interruption Frequency Index; (ii) System Average Interruption Duration Index; (iii) Consumer Average Interruption Duration Index; (iv) restoration of supply within three hours if interruption was not planned; (v) restoration of supply within 24 hours if interruption was not planned; (vi) service standard indicator of Call Centre; (vii) justified consumer complaints received by the Office per 1,000 consumers; and (viii)

Outage Rate. Items 1, 2, and 8 are also categories for review under the Tariff Incentive Regime.

Sanctions: The maximum fine for violations of the standards set by the HEO is HUF fifty million (approximately 198,000 Euros).

Italy

Quality of Service – Role of Regulatory Authority. AEEG establishes guidelines for the production and distribution of services, as well as specific and overall service standards and automatic refund mechanisms for users and consumers in cases where standards are not met. Quality standards include the terms and conditions of contracts (such as response time to calls or complaints) and technical aspects of the service (such as service continuity and safety).

Setting, Approving, Commenting on Standards. AEEG establishes production and distribution service standards as well as overall and guaranteed service standards, with an automatic refund mechanism for consumers if these are not met. After hearing and comment from consumers and service providers, AEEG issues directives concerning the production and delivery of the services by the service providers, including overall standards for the entire complex of services and the specific standards guaranteed to the consumer.

Power to Intervene. The regulatory authority monitors the operation of the services, with powers of inspection, access and acquisition of documentation and relevant information, and may determine cases of automatic compensation by the service provider to the user where the former does not respect the terms of the contract or provides services of lower standards than those established by the service regulations.

Moldova

Sanctions. ANRE has approved performance standards for electricity supply; approval of performance standards for natural gas supply is anticipated in mid-2004. Violation of the standards may warrant sanctions, including reduction in tariffs by an established amount or requirement that a licensee pay damages to consumers.

Serbia and Montenegro

Serbia

Quality of Service – Role of Regulatory Authority. EA can address quality of service standards through market rules and grid codes.

Montenegro

Quality of Service – Role of Regulatory Authority. Quality of service is addressed through the grid code and market rules for the transmission and distribution code and the service improvement plan for distribution.

Slovenia

Quality of Service – Role of Regulatory Authority. Quality of service is a factor when calculating prices for use of the grid.

Turkey

Sanctions. EMRA may sanction or intervene in cases of violations of quality of service standards through the tariff-setting mechanism and periodic inspections.

UNMIK

Quality of Service – Role of Regulatory Authority. ERO approves service quality standards and monitors compliance by licensed companies.

Power to Intervene. The regulatory authority monitors the license obligations of the licensees, and violations could result in fines, or potential withdrawal, suspension or termination of the license.

4. CONGESTION

**Table 17
CONGESTION**

COUNTRIES	ROLE RE CONGESTION MANAGEMENT	SETTING, APPROVING, COMMENTING ON STANDARDS	POWER TO CORRECT CONGESTION DIFFICULTIES	MAINTAIN AUDITED ACCOUNT OF REVENUES COLLECTED
Albania	Indirectly.	No standards in place.	Indirectly, when ERE reviews/approves the operator's investment plan.	No.
Austria	Yes.	Setting standards.	No.	Yes.
Bosnia and Herzegovina	Yes – For all 3.	SERC – Approves. FERC & RSERC – Implicit authority to approve.	Unclear.	No – For all 3.
Bulgaria	Yes.	Adopts rules.	Yes.	No.

COUNTRIES	ROLE RE CONGESTION MANAGEMENT	SETTING, APPROVING, COMMENTING ON STANDARDS	POWER TO CORRECT CONGESTION DIFFICULTIES	MAINTAIN AUDITED ACCOUNT OF REVENUES COLLECTED
Croatia	Indirectly.	Provides opinion regarding threatened or limited access. Informs when the issues are under jurisdiction of the ISMO.	No.	No.
FYR of Macedonia	Not yet. Planned.	Not yet. Planned.	Not yet. Planned.	Not yet. Planned.
Greece	Yes.	Yes.	No.	No.
Hungary	Yes.	Yes, approves rules. Expresses expectations and conditions.	Yes. Instructs system operator and network companies.	No.
Italy	Yes.	Yes.	Yes.	Yes.
Moldova	Yes.	Adopts rules.	Yes.	Yes.
Romania	Yes.	Yes, sets, approves, and comments on standards.	Yes.	No.
Serbia and Montenegro	Serbia – Indirectly (via rules). Montenegro – Yes, via rules.	Serbia – Through approval of Market Rules and Grid Code. Montenegro – The law authorizes interconnections.	Serbia – No. Montenegro – No.	Serbia – N/A. Montenegro – No.
Slovenia	Yes.	Yes.	No.	No.
Turkey	Yes.	No concrete processes in place.	Yes.	No such mechanism in place.
UNMIK	Yes.	Yes, approves.	Yes.	Yes.

Austria

Congestion Management. The regulatory authority must develop market rules for congestion management together with market participants. The market rules do not concern the costs for congestion management (in case of control-area internal congestions). The regulatory authority maintains an audited account of revenues collected pursuant to the congestion management mechanism, in line with grid pricing procedures.

Bosnia and Herzegovina

Congestion Management. The Act on Transmission contains explicit provisions regarding the management of congestion. It provides that the ISO shall manage transmission constraints and will have the responsibility to identify, manage and relieve congestion on the transmission grid, and to coordinate dispatch of generators to relieve and manage congestion.

Rules. SERC will approve all grid codes, commercial codes and system operating rules and procedures, all of which are to be developed by the ISO. Congestion would presumably be addressed in such rules. FERC and RSERC also have implicit authority to approve rules regarding congestion as the grid codes determine the technical and other conditions, and the regulatory authorities approve the grid codes after they have been developed by the distribution companies. Such rules must be consistent with the conditions set by the ISO.

Bulgaria

Congestion Management. SERC can mandate that energy companies take specific action to correct congestion shortcomings. It also monitors the compliance of remedial actions.

Sanctions. SERC may revoke licenses (where appropriate) as a last resort measure for non-compliance. Under the Energy Law, SERC may impose administrative sanctions for noncompliance with rules and regulations. SERC may also issue mandatory instructions to energy companies addressing specific matters within its regulatory authority, and SERC may set fines for noncompliance. Noncompliance may negatively impact subsequent rate applications by the utility or lead, in exceptional cases, to license withdrawal or termination.

Croatia

Congestion Management. CERC is in charge of complaints regarding access to the network. Thus, it can provide its opinion on issues where access is threatened or limited. In instances where CERC seeks to address issues governed by ISMO, CERC may only inform the system operator. Further steps are not defined.

Sanctions. The regulatory authority does not have the power to require that transmission and distribution participants correct any congestion difficulties. It can only support needs of these participants through granting plans and fee requests.

FYR of Macedonia

Congestion Management. No secondary legislation has been passed in this area, but plans are that congestion will be regulated by ERA.

Greece

Congestion Management. The regulatory authority decides the details for implementation of the grid code in which, in the case of congestion in the interconnectors, a procedure for the application of auctioning (of the portion of capacity not directly allocated to the public supplier, PPC) is provided. Furthermore the regulatory authority supervises the implementation of such

mechanisms. In the event of system congestion, the TSO will endeavor to resolve this congestion through the rescheduling of generators, taking into account the daily offers submitted and the need to safeguard the system continuity.

Hungary

Congestion Management. The system operator is in charge of requiring market players to correct congestion difficulties. Where an undertaking is refused access, it may seek recourse from the HEO, which must investigate the matter within eight days.

Rules. Rules regarding congestion management are included in the commercial code, which are compiled by the market participants and approved by the HEO. In the course of the preparation of the code, the HEO provides an opinion regarding its expectations and appropriate conditions.

Italy

Congestion Management. The regulatory authority collaborates with TSO to require that transmission and distribution participants correct any congestion difficulties with respect to dispatching conditions.

Rules. The regulatory authority has a role in setting, approving and/or commenting on congestion management rules, with respect to the definition of dispatching conditions.

Moldova

Rules. Pursuant to the Electricity Law and the market rules, ANRE requires the transmission operator licensee to first serve domestic consumers and then transit/export transactions. It also requires the transmission licensee and the National Dispatch Facility to develop disconnection plans in case of congestion.

Revenue. The regulatory authority maintains an audited account of any revenues collected pursuant to connection management systems because these collected amounts should not be included in tariff calculations.

Romania

Congestion Management. The rules applied for congestion management are established in the commercial code, grid code and special regulations for cross-border transactions. The first document, currently under revision, is issued and approved by ANRE; the second one is proposed by TSO and approved by ANRE.

Turkey

Congestion Management. EMRA is tasked with “making necessary arrangements” to ensure reliable, stable electricity service. The regulatory authority can require correction of any congestion difficulties through approval of investment plans and tariffs of DSOs and TSOs. But there are no concrete processes in place with respect to congestion management now. Such arrangements would be included in the BSC.

UNMIK

Congestion Management. The regulatory authority approves the TSO codes. Where the TSO deviates from the agreed codes and practices, the regulatory authority has the power to require that transmission and distribution participants correct any congestion difficulties.

Revenue. Although not yet in place, it is anticipated that there will be an audited account of revenues collected pursuant to congestion management mechanisms.

5. CONNEC

**Table 18
CONNECTIONS AND REPAIRS**

COUNTRIES	POWER TO MONITOR	POWER TO INTERVENE	POWER TO SANCTION
Albania	Rules not yet adopted.	N/A.	N/A.
Austria	No.	No.	No.
Bosnia and Herzegovina	Unclear.	Unclear.	Unclear.
Bulgaria	Yes.	Yes.	Yes.
Croatia	Indirectly.	No.	No.
FYR of Macedonia	Subject to regulation.	Subject to regulation.	Subject to regulation.
Greece	Yes.	Yes.	Yes.
Hungary	Yes.	Yes.	Yes.
Italy	Yes.	Yes.	Yes.
Moldova	Yes.	Yes.	Yes.
Romania	Yes.	Yes.	Yes.
Serbia and Montenegro	Serbia – Yes.	Serbia – No.	Serbia – No.
	Montenegro – No.	Montenegro – No.	Montenegro – No.
Slovenia	Yes; procedures not yet established.	No.	No.
Turkey	Yes.	Yes.	Yes.
UNMIK	Yes.	Yes.	Yes.

Albania

Rules. Regulations regarding connection and repairs may become part of a commercial code or other secondary legislation within the purview of the regulatory authority; no final decision on this has been made.

Bosnia and Herzegovina

Rules. Repairs are not mentioned in any of the laws. The Law on Transmission provides that the market rules and grid code will be developed by the ISO and approved by SERC. Those technical rules and the grid code will set forth the terms and conditions for connection to the transmission network. The RS Law on Electricity provides that RSERC shall set the criteria for a new or expanded connection to the distribution network in the rules on general conditions for the supply of electricity. The Electricity Law of the Federation provides that the rules on supply conditions will set forth the criteria for connection to the distribution network. These criteria will be developed by the FERC and published in the Official Gazette of the Federation.

Regulatory Authority Role. The regulatory authorities can regulate, through secondary legislation, the time taken by the sector participants to make connections.

Bulgaria

Regulatory Authority Role. Energy and service quality indicators are set in the license, which is issued by SERC.

Sanctions. In addition to license revocation in extreme cases, SERC can mandate that energy companies take action and impose sanctions for non-compliance, including reducing rates in subsequent rate proceedings.

Croatia

Regulatory Authority Role. Although connections and repairs to the grid are obligations of the ISMO, CERC may use its general powers to ask for data in order to provide an opinion addressing such issues where it finds, based on the data that those issues relate directly to access.

FYR of Macedonia

Regulatory Authority Role. Connection and repairs will be subject to ERA regulation once rules are in place.

Greece

Regulatory Authority Role. Maintenance of the grid is the responsibility of the owner (PPC). According to the grid code, any user has the right to ask the regulatory authority's opinion when the user believes that correction time is excessive.

Hungary

Regulatory Authority Role. The regulatory authority has the power to monitor the time taken by sector participants to make connections and repairs in accordance with:

- Ministerial decree on the proposal of the HEO;
- Annual average standards issued by HEO, including requirements for connections;
- HEO resolution on guaranteed services, which also includes minimum requirements for the time of connection; and
- Annual average standards issued by HEO, which include requirements for repairs (SAIDI, CAIDI) (such data is collected in an annual survey on consumer satisfaction and published on the website of HEO).

Sanctions. Where the time taken for repairs is too lengthy, the HEO may issue resolutions to impose penalties, which may amount to 50-100m HUF in the case of average standards and 1mHUF in the case of individual standards.

Italy

Regulatory Authority Role. Through its control of the quality of service, AEEG monitors the operation of the services, with powers of inspection, access and acquisition of documentation and relevant information, and may determine cases of automatic compensation by the service provider to the user where the former does not respect the terms of the contract or provides services of lower standards than those established by the service regulations.

Moldova

Regulatory Authority Role. The regulatory authority has the power to monitor the time taken by sector participants to make connections and repairs. Established time for connection of a new consumer is seven days after request and fulfillment by a requester of all conditions as set in the Electric Service Rules. According to existing Performance Standards, the distribution company should resume the supply of electricity within 12 hours of any scheduled interruptions and within 24 hours of any unscheduled interruptions. This requirement does not apply to instances of force majeure. ANRE may reduce the tariffs due to non-compliance with set criteria and may order licensees to comply with the Performance Standards.

Romania

Regulatory Authority Role. ANRE monitors the time taken by participants to make connections and repairs through performance standards and rules for connection to the network. ANRE publishes findings and standards of performance (which ranks companies as best, second best, etc.), and this results in emulation, as each company wants to be the best or at least better than the other companies. Also, the price formula is based on performance of service, and this in turn is linked with regulation. ANRE wants to do incentive legislation linked with quality factors to continue to improve quality.

Serbia and Montenegro

Serbia

Role of Regulatory Authority. EA can only monitor performance indicators. Enforcement of technical performance deficiencies is the responsibility of the Ministry Inspection Authority. Customers dissatisfied with the TSO or DSO non-approval of connections can file a complaint (appeal) to EA.

Turkey

Role of Regulatory Authority. The role of the TSO is to ensure non-discriminatory third-party access, to be overseen by EMRA. Licensees submit service reliability, outage and performance related reports to EMRA periodically. The applicable procedure in the natural gas market is set out in natural gas market secondary legislation.

Sanctions. Customers (system users) can file complaints with EMRA in relation to these issues. EMRA has the duty to settle disputes regarding connection and use of system agreements.

6. UNBUNDLING

**Table 19
UNBUNDLING**

COUNTRIES	ESTABLISH GUIDELINES ON SEPARATE ACCOUNTS	ESTABLISH RULES REGARDING ALLOCATION OF COSTS	ESTABLISH GUIDELINES FOR COMPLIANCE REVIEW	POWER TO MANDATE CHANGES IN ACCOUNTING PRACTICES
Albania	Yes.	No.	No.	Yes.
Austria	No such provision.	No.	No.	Yes.
Bosnia and Herzegovina	SERC – Yes. FERC & RSERC – Laws are silent.	SERC – Yes. FERC & RSERC – Laws are silent.	SERC – Yes. FERC & RSERC – Laws are silent.	SERC – Yes. FERC & RSERC – Laws are silent.
Bulgaria	Yes.	Yes.	Yes.	Yes.
Croatia	No.	No.	No.	No.
FYR of Macedonia	Not yet. Planned.	Not yet. Planned.	Not yet. Planned.	Not yet. Planned.
Greece	Yes.	Yes.	No.	No.
Hungary	Yes.	No.	Yes.	No.
Italy	Yes.	Yes.	Yes.	Yes.
Moldova	N/A.	N/A.	N/A.	N/A.
Romania	Yes.	Yes.	Yes.	Yes.
Serbia and Montenegro	Serbia – Yes. Montenegro – Law silent as to role of regulatory authority with respect to account separation.	Serbia – Yes. Montenegro – No.	Serbia – Law does not specify but gives general power to EA to issue guidelines. Montenegro – No.	Serbia – Yes. Montenegro – No.
Slovenia	No.	No.	Yes.	No.

COUNTRIES	ESTABLISH GUIDELINES ON SEPARATE ACCOUNTS	ESTABLISH RULES REGARDING ALLOCATION OF COSTS	ESTABLISH GUIDELINES FOR COMPLIANCE REVIEW	POWER TO MANDATE CHANGES IN ACCOUNTING PRACTICES
Turkey	Yes.	Yes.	No.	Yes.
UNMIK	Law is silent.	Law is silent.	Law is silent.	Yes.

Albania

Unbundling/Restructuring Status. The Law on the Power Sector stipulates that no later than 12 months from the date it becomes effective (17 July 2004), any electric power company that carries out activities of electric power generation, transmission and distribution shall unbundle its financial accounts according to generation, transmission and distribution activities. KESH, the national electric utility, has legally unbundled the transmission activity as a subsidiary. Financial unbundling is behind schedule but is actively being planned.

Role of Regulatory Authority. No later than 17 July 2004, ERE must establish and adopt a uniform and standardized system of accounts for all the licensees in the electric power sector based on Albanian legislation and internationally accepted accounting standards. Since the law requires that all companies be unbundled, it is expected that the standardized system of accounts will comply with this requirement.

Austria

Role of Regulatory Authority. According to the Energy Regulatory Authorities Act, the regulatory authority supervises the unbundling process regarding electricity and gas grid operators. The recently published amendment to the Electricity Act contains similar competencies for the provincial governments.

The regulatory authority has no legal competence allowing the setup of binding rules concerning separation of accounts. This is set forth in secondary legislation.

Bosnia and Herzegovina

Unbundling/Restructuring Status. Currently, the country has three vertically integrated utilities – two in the Federation Entity and one in the RS Entity. The Transmission Company Law and Independent System Operator Law, which provide for a single transmission company and single Independent System Operator for transmission, were recently enacted. The two laws provide detailed timelines for formation of both companies. Both Entities have passed Action Plans that set forth the steps for unbundling and restructuring of the remaining Elektroprivrede. The passage of the Federation Action Plan by the Federation Parliamentary Assembly pursuant to the Federation Electricity Law, however, was challenged in the Constitutional Court. The Ruling by the Court required revision of the Electricity Law provision that provided how the Action Plan was to be passed by the Parliamentary Assembly. The Federation Action Plan is currently

making its way again through the Federation Parliamentary Assembly as directed by the Constitutional Court. The governments have authority over this process, not the regulators.

Role of Regulatory Authority. The Law on Transmission provides that SERC shall approve and monitor the unbundling of assets for the transmission company and its formation. The completion of the conveyance of the transmission assets to the single transmission company will leave the integrated distribution and generation companies. The Entity electricity laws do not address any unbundling issues with respect to these.

Bulgaria

Unbundling/Restructuring Status. At the time of the writing of this Report, the state-owned National Electricity Company (“NEK”) dominates the electricity sector, and the state-owned Bulgargaz dominates the natural gas sector. Private distribution companies are increasing; and SERC issued a tender for distribution service territories not served by the existing gas firms. Most district heating companies are state-owned, although the Sofia district heating system is owned by the municipality and a few other systems have been privatized. According to the Energy Strategy of the Bulgarian Government of 2002, the privatization of the energy sector will begin with the electricity distribution companies (“EDC”), followed by the power generation assets and the electricity transmission company. The Energy Strategy envisions that the majority of Bulgaria’s energy assets must be in private hands by the end of 2006.

NEK is the country’s electricity transmission company, transmission system operator, exclusive importer and exporter of electricity, owner of most of the country’s generation assets and retail supplier to high-voltage consumers. The Energy Law of 12 December 2003 requires complete unbundling of all activities, and the unbundling of NEK and Bulgargaz must begin in 2005 and must be completed before Bulgaria joins the EU, currently scheduled for 2007. NEK is currently undergoing major restructuring.

Two electricity distribution companies are privately owned. The other seven were separated from NEK and put up for sale through a tendering process. The State is finalizing the sales contracts at the time of writing this report and it is anticipated that ownership in all electricity distribution companies will be in private hands by January 1, 2005. Several generating plants have been privatized including hydroelectric plants, Maritsa East 3 TPP. A process is underway to privatize, Ruse, Bov Bodol and Varna power plants. The nuclear power plant is a state-owned entity, is not part of the NEK and is not scheduled for privatization.

Unbundling efforts are underway. The energy companies have made strides toward unbundling their accounts. The Energy Law of 12 December 2003 requires complete unbundling of all activities, and the final unbundling of NEK and Bulgargaz must begin in 2005 and must be completed before Bulgaria joins the EU, currently scheduled for 2007.

Role of Regulatory Authority. The Energy Law provides SERC with the authority to request energy companies to prepare separate accounting for different activities and to provide financial data for regulatory reporting purposes in a format and in the content requested by SERC. The SERC approves the license conditions for the unbundled undertakings such as generator,

distribution operator, transmission operator, and retail supplier. Apart from these authorities, SERC does not play a role in unbundling.

Croatia

Unbundling/Restructuring Status. Pursuant to INA's Privatization Act, privatization of the oil company has occurred. HEP has not yet been privatized in whole or in part. The Privatization Act of HEP contemplated sale of a minority interest in the electric utility as a whole, *i.e.*, a holding company with transmission, deliverability, generator and supply functions. Specifically, at present, the status of unbundling in the electricity sector is:

- Power sector – the Power Utility (“HEP”) has separated into separate legal units (subsidiaries). The accounts were formally unbundled, but since there is no income (tariff), the criteria that led to separation of accounts are not active and the assets remain with HEP d.d., the parent. The ISMO still operates under the Power Utility integrated structure.²²

Role of Regulatory Authority. CERC's authority extends to unbundling by virtue of CERC's role in monitoring and approving tariff applications.

FYR of Macedonia

Unbundling/Restructuring Status. The recently adopted law for restructuring ESM requires that it be separated into two legally independent companies: a shareholder company for transmission (transmission and system operation) (“MEPSO”), and a shareholder company for generation, distribution and supply. According to this law, restructuring of the ESM will take place in 2004, upon governmental decision.

Role of Regulatory Authority. Not yet clear, although ERA will be responsible for regulating account separation, allocation of costs, compliance review and the like.

Greece

Unbundling/Restructuring Status. EA is responsible for setting the rules and the methodology for account unbundling. No other unbundling is required by the law.

Hungary

²² In non-electricity energy sectors, the status of unbundling is the following:

- Gas transport system – unbundled from wholesale and gas distribution, independent distribution companies under different structure of ownership;
- Oil transport system – unbundled, market condition;
- Heat sector – not unbundled.

Unbundling/Restructuring Status. The electricity sector is unbundled in that there are six distribution companies with separate ownership from the previous vertically integrated monopoly (“MVM”). MVM now owns the transmission assets and some generation and is the public wholesale company from which the public suppliers (the distribution companies) serve public supply customers consisting of captive customers and eligible customers who choose to remain or return to public supply. Most generation has been privatized. To date, wholesale and transmission activities, and distribution and supply have not been functionally and legally unbundled.

Role of Regulatory Authority. The regulatory authority prepares detailed rules on accounting unbundling if required (guidelines). The guidelines are designed to help market players interpret rules and regulations. The guidelines issued by HEO are not mandatory. Where the HEO perceives a violation of its guidelines, it is not obliged to accept projected costs. HEO has no power to set unbundling rules on legal and management separation.

Italy

Role of Regulatory Authority. AEEG issues guidelines for the accounting and administrative unbundling of the various activities under which the electricity and gas sectors are organized.

Moldova

Unbundling/Restructuring Status. The power sector was unbundled in 1997, prior to establishment of ANRE. The unbundling process was implemented by the Government. The scope of unbundling (legal, functional, financial) resulted in separate generation, distribution, transmission and dispatch enterprises.

Romania

Role of Regulatory Authority. The obligation to keep unbundled accounts is foreseen by the license. General rules regarding allocation of costs are specified in the framework of the financial reports of the license holders. The regulatory authority can make specific requests for the regulatory accounting in order to mandate changes in compliance review, reporting and accounting practices where ANRE determines that the undertaking is not sufficiently unbundled.

Serbia and Montenegro

Serbia

Unbundling/Restructuring Status. The law envisions account separation within the vertically integrated utility, EPS. The Government plans to issue an ordinance on establishment of new companies, but no framework is in place yet, although some initial steps towards complying with the requirements of the new Energy Law have been taken.

Montenegro

Role of Regulatory Authority. The Law sets forth clear provisions for account, functional and legal unbundling, although it does not clearly define the role of the regulatory authority with respect to these functions, except with respect to the Agency’s authority to grant exemptions. More detailed rules on functional unbundling of the existing vertically integrated utility company are projected for issuance shortly, and the process of functional unbundling is targeted for finalization at the end of 2004. The Agency is tasked with determining the deadline for legal unbundling, and it is expected that this will be set together with the issuance of ordinary licenses (targeted for the end of 2005).

Turkey

Role of Regulatory Authority. Regulations envisage cost-reflective pricing and for each licensee to keep separate accounts for each licensed activity and for each facility. EMRA is responsible for supervising unbundling. Unbundling of activities was completed before the establishment of EMRA. Regulatory Accounting Guidelines (Communiqué Regarding Regulatory Accounting Guidelines) set forth the rules to be used during account separation and allocation of costs.

Unbundling/Restructuring Status. In the electricity market, the state-owned integrated utility undertaking has been legally unbundled, and separate generation, transmission, distribution and trading companies have been created. The state-owned transmission company is the transmission system operator, as well as the market operator. The TSO must report on both expected and realized usage.

UNMIK

Role of Regulatory Authority. The Law empowers ERO to monitor to ensure that unbundling (legal, accounting, functional) is done in a manner that is transparent and non-discriminatory. The Law makes reference to UNMIK legislation or guidance on effective legal and accounting unbundling, but does not refer to any specific document. It is unlikely that ERO will produce its own rules, procedures or guidelines in the area of unbundling.

7. INVESTMENT AND PLANNING

**Table 20
INVESTMENT AND PLANNING**

COUNTRIES	ROLE RE INVESTMENT PLANNING / COST RECOVERY	POWER TO APPROVE OPERATIONAL AND PLANNING STANDARDS RE CROSS-BORDER EXCHANGES	POWER TO GIVE EXEMPTION TO NORMAL RULES OF THIRD-PARTY ACCESS FOR NEW INVESTMENT
Albania	Yes.	Yes.	Yes.
Austria	Only with regard to setting tariffs.	No.	No.
Bosnia and Herzegovina	The laws are silent.	The laws are silent.	Unclear.

COUNTRIES	ROLE RE INVESTMENT PLANNING / COST RECOVERY	POWER TO APPROVE OPERATIONAL AND PLANNING STANDARDS RE CROSS-BORDER EXCHANGES	POWER TO GIVE EXEMPTION TO NORMAL RULES OF THIRD-PARTY ACCESS FOR NEW INVESTMENT
Bulgaria	Approves business & investment plans, power-purchase agreements.	No.	No.
Croatia	Yes.	No.	No.
FYR of Macedonia	Yes. Takes plans into account in its policy and tariffs.	Subject to regulation.	Subject to regulation.
Greece	Yes.	Yes.	No.
Hungary	Yes. May declare network element public, which guarantees investor justified cost will be recovered.	Yes. Within limits set by governmental decree.	Yes. Within limits set by governmental decree.
Italy	The regulator sets tariffs and methodology taking into account cost recovery.	No.	Yes.
Moldova	Yes.	Yes.	No.
Romania	Yes. Approves TSO plans.	Yes.	No.
Serbia and Montenegro	Serbia – Submits data to Ministry of Mining and Energy, if required. Montenegro – Indirectly.	Serbia – No. Montenegro - Responsibility of TSO but Agency reviews as part of tariff.	Serbia – No. Montenegro – Indirectly, via exemption from the tariff system.
Slovenia	Yes, indirectly.	No.	No.
Turkey	Yes. Approves TSO and DSO investment plans.	No such mechanisms in place.	No.
UNMIK	Yes, via tariff.	N/A.	N/A.

Albania

Regulatory Authority Role – Investment Planning. Every licensee, by 31 December of each year, is obliged to file with the regulatory authority its Investment Programs for the coming year. The regulatory authority shall issue a regulation on the procedures for submission of licensee investment programs. The Law on the Power Sector also provides that the electricity tariffs should be based on the cost of service, requiring that the costs be recovered from each customer category in proportion to the costs of serving that category.

The regulatory authority is authorized to grant the status of privileged producer of electric power to producers that meet certain criteria provided in this law, which will enjoy a prioritized treatment by the Transmission System Operator when dispatching the generated electric power. The manner, extent, terms and conditions under which the Transmission System Operator gives the prioritized treatment to the electric power producers will be defined in the grid code.

Austria

Regulatory Authority Role – Investment Planning. The E-Control Commission only has the power to set tariffs, which take investment plans under consideration.

Cross-Border Exchanges. The technical standards, including grid operation, are established in the Austrian grid code (“TOR”). TOR is a part of Austrian market rules, which are elaborated in cooperation with network operators and approved and published by the regulator. The Austrian regulatory authority does not have the power to approve standards for grid planning or TTC calculation.

Bosnia and Herzegovina

Regulatory Authority Role – Investment Planning. The Act on Transmission provides that SERC has jurisdiction and authority over the establishment, monitoring and enforcement of rules related to fair and non-discriminatory third-party access to the transmission network. The RS Electricity Law provides explicitly that the access to distribution will be provided according to the non-discrimination principle of third-party access as a policy by the RS Government. As RSERC will enforce the Government’s policy, it can be assumed that secondary legislation would be issued by RSERC requiring third-party access to distribution network lines. The Federation’s Electricity Law provides that it aims to enable third-party access to the grid (both transmission and distribution); as a result, the Law ensures a gradual introduction of the electricity market in accordance with rules issued by SERC. Thus, it appears that the FERC will derive authority to enforce the specific grant of authority to SERC to establish, monitor and enforce rules requiring non-discriminatory third party access.

Cross-Border Exchanges. Cross-border exchanges are not addressed in any of the three electricity laws. The Act on Transmission does grant SERC the jurisdiction over monitoring and enforcement of conditions related to international trade, in particular ensuring that international technical requirements are met. This appears to give SERC a role on calculation of total transfer capacity, such as the cross-border tariff mechanism.

Bulgaria

Regulatory Authority Role – Investment Planning. SERC has broad authority to review investment plans, power-purchase agreements and debt commitments of energy companies to assess how these may affect the performance of the licensed activity by the licensee, and whether plans could negatively impact the price, quality and continuity of energy supplies to consumers.

Cross-Border Exchanges. SERC does not play a role in reviewing or approving operational and planning standards regarding cross-border trade, nor does it have the power to exempt normal rules of third-party access for new investment.

FYR of Macedonia

Regulatory Authority Role – Investment Planning. The regulatory authority takes plans into account in its policy and tariffs.

Greece

Regulatory Authority Role – Investment Planning. Domestically, the role of RAE is to provide an opinion on the five-year transmission investment plan at least every two years. The plan is approved by the Minister of Development Generation; investment planning is not applied except for the non-interconnected islands for which RAE provides opinion to the Minister of Development. Regionally, the regulatory authority has no role.

Hungary

Regulatory Authority Role – Investment Planning. With respect to investment planning and cost recovery, the HEO may declare a network element public, which guarantees the investor that the cost will be recovered and justified in the network charge.

Cross-Border Exchanges. MAVIR, the system operator, pursuant to Governmental and Ministerial decrees and provisions set forth in the grid code (which is approved by the HEO), has the power to approve operational planning standards for the calculation of total transfer capacity for cross-border exchanges.

Italy

Regulatory Authority Role – Investment Planning. The regulatory authority is not responsible for approving the transmission or generation investment plans, nor is it responsible for approving supply contracts. It may, however, advise the Ministry if it foresees any possible supply problems.

Cross-Border Exchanges. The regulatory authority defines the conditions for third-party access.

Moldova

Regulatory Authority Role – Investment Planning. Prudent and reasonable investments made by licensees, domestically, are to be included in the regulated tariffs for production, transmission or distribution, as set by ANRE. ANRE will not involve itself in regional investments, however, if these investments do not improve the reliability or efficiency of energy supply to consumers.

Communications Strategy. ANRE used to publish its own newspaper, which was recently changed into a magazine. ANRE has hired a press attaché that informs mass media and the public on issues that relate to its activity. The magazine edition is limited in distribution and technical in nature; magazines generally reach the licensees but not consumers. Television and radio are the two primary media used by consumers to acquire information. ANRE has insufficient staff to inform all consumers.

Romania

Regulatory Authority Role – Investment Planning. ANRE approves prospective plans of the TSO and is involved in recovery of the cost through tariffs. ANRE issues rules and approves connection tariffs.

Serbia and Montenegro

Serbia

Role of Regulatory Authority – Investment Planning. The regulatory authority submits data to the Ministry of Mining and Energy, if required. EA is empowered to collect data upon request.

Montenegro

Regulatory Authority Rule – Investment Planning. The regulatory authority approves the transmission license, which in turn includes a requirement that the applicant submit an investment plan. Under the Law, the regulatory authority is empowered to approve the connection charges submitted by the transmission and distribution companies.

Slovenia

Role of Regulatory Authority – Investment Planning. The Government confirms the ten-year investment plan, and the regulatory authority has to follow it when setting the methodologies and tariffs.

Turkey

Role of Regulatory Authority – Investment Planning. The Transmission Company (“TEIAS”) is responsible for overall system planning.

Cross-Border Exchanges. There are no sophisticated mechanisms in place with respect to cross-border trade.

8. COMPETITION

Table 21 COMPETITION

COUNTRIES	RESPONSIBILITY FOR COMPILING INFORMATION ON MARKET DOMINANCE	COMPETITION AUTHORITY	COOPERATION WITH COMPETITION AUTHORITY
Albania	Yes.	Albanian Competition Authority.	N/A.
Austria	Yes.	Bundeswettbewerbsbehörde (Competition Authority).	Yes.
Bosnia and Herzegovina	The laws are silent.	No.	N/A.
Bulgaria	No.	Commission on the Protection of Competition.	Yes.
Croatia	No.	Anti-monopoly Agency.	Yes.
FYR of Macedonia	No.	Competition Authority.	Yes.
Greece	No.	Greek Competition Authority.	Yes.
Hungary	Shared responsibility.	Hungarian Competition Authority.	Yes.
Italy	Yes.	Antitrust Authority	Yes through advisory and cooperation activities, information sharing.
Moldova	Yes.	No.	N/A.
Romania	Yes.	Competition Council.	Yes.
Serbia and Montenegro	Serbia – Plan is for shared responsibility with Competition Authority. Montenegro – Yes.	Serbia – Not yet in place. Montenegro – No.	Serbia – Planned. Montenegro – N/A.
Slovenia	Yes.	Yes.	Yes, on informal basis.
Turkey	Yes.	Turkish Competition Authority.	Yes.
UNMIK	Yes.	No.	N/A.

Albania

Regulatory Role – Market Dominance. One of the responsibilities of the regulatory authority provided in the Law on the Power Sector is to promote competition in the electric energy sector, but this will be addressed after a market is established and developed. The regulatory authority is supposed to exercise its authority in the regulated activities. In August 2004 the Government approved a Transitional Market Model for the electricity market.

Role of the Competition Authority. The Albanian Competition Commission will monitor liberalization of the market.

Austria

Role of Competition Authority. E-Control cooperates with the Bundeswettbewerbsbehörde (Competition Authority) with respect to merger cases in electricity and gas markets and

observation of the market development. E-Control has the right to bring cases of collusion to the relevant competition court.

Bosnia and Herzegovina

Regulatory Role – Market Dominance. No secondary legislation has been passed by any regulatory authority with regard to compiling information on market dominance or predatory and anti-competitive behavior. However, with regard to market power, the Act on Transmission empowers SERC to regulate competition and prevent anti-competitive activity. Specifically, SERC is to create and maintain competitive markets where practicable and prevent and punish any predatory or anti-competitive conduct. The RS Law on Electricity provides that RSERC is established for the purpose of regulating monopoly behavior and providing a transparent and non-discriminatory marketplace for electric power in the RS. One of RSERC's responsibilities is to pass measures to prevent the misuse of monopolistic behavior for licensees. The Federation Electricity Law merely provides that the law aims to prevent monopoly behavior in electric power activity. It is too early to tell whether any or all of the three regulatory authorities will encounter difficulties in any of these areas.

Role of Competition Authority. There is no antitrust/competition authority in BiH.

Bulgaria

Role of Competition Authority. SERC may ask for an opinion or refer, upon its own initiative, matters dealing with abuse of a dominant market position to the Commission on the Protection of Competition ("CPC"). The Energy Law does not require that SERC refer the matter to the CPC or take the CPC's opinion into consideration after requesting it. Neither the CPC nor any other body may intervene in SERC proceedings upon its own initiative.

Croatia

Regulatory Role – Market Dominance. CERC's role with respect to monitoring the level of competition is implicit rather than explicit. The law states that CERC is established "for the purpose of issuing licenses to carry out energy activities, activities aimed at ensuring transparent and non-discriminatory functioning of the energy market, activities aimed at ensuring transparent and non-discriminatory performance of energy activities subject to public service obligation, carrying out activities related to regulation of energy prices to be set on the basis of tariff systems, and carrying out other activities within the scope of the energy law." (Art 1(1), the Law on Regulation of Energy Activities.) Further description of how to implement these goals is absent from the law.

Role of Competition Authority. Croatia has an Anti-monopoly Agency with competency to address mergers, monopolistic behavior and state aid. The two agencies have worked together through a cooperative council made up of two members of each agency to divide those cases that fall within the scope of energy sector activities. CERC and the Anti-monopoly Agency recently have decided to enhance cooperation; a formal contract has been approved by both agencies and was signed in March.

To date, there have been three such cases. The first was resolved by the Anti-monopoly Agency, the second by CERC, and the third is currently in mediation.

FYR of Macedonia

Role of Competition Authority. The law provides the regulatory authority with broadly defined power to promote competition. An anti-monopoly body, known as the “Competition Authority,” has authority over issues regarding power sector market concentration and competition. How this will interface with the regulatory authority is not yet defined.

Greece

Role of Competition Authority. RAE has no decisive competencies in compiling information on market dominance, but has a consultative role. RAE’s role is to observe the operation of all sectors of the energy market and propose to the competent bodies the necessary measures required for observance of competition rules and consumer protection. RAE cooperates with the Greek Competition Authority to exchange information.

Hungary

Role of Competition Authority. In the area of market dominance, the regulatory authority shares responsibility with the Competition Authority. The bodies cooperate by giving information, holding meetings and having discussions. For example, during licensing, through its monitoring activities, HEO’s approval is needed in the case of acquisition of significant influence in a company. HEO must ask for the opinion of the Competition Authority in the cases specified by the Electricity Act.

Romania

Regulatory Role – Market Dominance. The regulatory authority notifies the coordinating ministry and the Competition Council with respect to the abuse of a dominant position in the market and any breach of the legal regulations on competition and transparency.

Role of Competition Authority. ANRE and the Competition Authority exchange information on an informal basis. The Competition Council is an independent body, linked with Parliament, and has broad power to address competition.

Serbia and Montenegro

Serbia

A draft Law on Competition is pending. It is expected to establish a competition authority, but there is no structure in place yet for cooperation between the regulator and the competition agency.

Montenegro

Regulatory Role – Market Dominance. The regulatory authority shall promulgate rules to promote competition within two years of enactment of the Law.

Turkey

Regulatory Role – Market Dominance. EMRA approval is required for:

- Transfers of more than 10% of the capital of a company engaged in either electricity or natural gas markets (5% in the case of a publicly traded firm); and
- Merger of such firms or any consolidation or change in the control status of such an entity.

Other constraints are:

- Total market share of generation facilities operated by any private-sector generation company and its affiliates may not exceed 20% of the officially published figure of the total installed capacity in Turkey in the preceding year;
- Total market share of any private-sector wholesale company together with its affiliates shall not exceed 10% of the total electricity consumed in the market during the preceding year; and
- Autoproducers and autoproducer groups may not sell more than 20% of their annual generation to the market.

EMRA’s power to resolve disputes regarding market dominance is included in the law and in undertakings’ licenses.

Role of the Competition Authority. A protocol is expected to be signed between EMRA and the Competition Authority for cooperation on these matters.

9. ENVIRONMENT

**Table 22
ENVIRONMENT**

COUNTRIES	REGULATORY AUTHORITY ON ISSUES RELATED TO ENVIRONMENT
Albania	Yes, via licensing.
Austria	No.
Bosnia and Herzegovina	Yes, for all 3.
Bulgaria	Yes.
Croatia	No.
FYR of Macedonia	Yes, in the form of cooperation with the environmental authority.
Greece	No.
Hungary	Yes.

COUNTRIES	REGULATORY AUTHORITY ON ISSUES RELATED TO ENVIRONMENT
Italy	No.
Moldova	No.
Romania	No.
Serbia and Montenegro	Serbia – No for EA. Energy Efficiency Agency has some environmental responsibilities. Montenegro – No.
Slovenia	Yes. The issuing body for guarantees of origin for renewable electricity and CHP
Turkey	No.
UNMIK	Yes.

Albania

Environmental Role of the Regulatory Authority. The Law on the Power Sector provides that, in issuing licenses, the regulatory authority should take into account the compliance of applicants with environmental protection requirements and standards set forth in primary and secondary legislation.

Austria

Environmental Role of the Regulatory Authority. E-Control has no responsibilities in the area of emissions trading. With respect to renewable energies, it has the following duties:

- Current monitoring of the achievements of objectives based on section 4 Green Electricity Act;
- Annual report on the development of green electricity in Austria;
- Support for the Ministry of Economic Affairs regarding the regulations for feed-in tariffs and the surcharges for financing the support scheme;
- Financial handling of the support tariff for CHP; and
- Surveillance of disclosure (effective from July 2004).

Bosnia and Herzegovina

Environmental Role of the Regulatory Authority. With respect to impact on the environment, the Act on Transmission states that the tariffs set by SERC shall consider environmental protection. It further provides that criteria for licensing include protection of the environment. The RS Electricity Law has numerous provisions regarding the requirement to protect the environment, primarily with regard to issuing secondary legislation regarding licensing, which must include provisions to protect the environment. In addition, RSERC's competencies include ensuring that electrical activities do not have a negative impact on the environment. The Federation Electricity Law similarly has numerous provisions with regard to requirements that generators and distributors not adversely affect the environment. Because FERC will license these activities, its secondary legislation will address environmental issues.

FYR of Macedonia

Environmental Role of the Regulatory Authority. ERC cooperates with the environmental authority by reporting cases where environmental problems are referred or caused by the energy industry.

Hungary

Environmental Role of Regulatory Authority. The Electricity Act does not authorize or obligate the HEO to address environmental issues.

Italy

Environmental Role of Regulatory Authority. AEEG verifies that the conditions and mode of access provided by licensees are in compliance with various laws and principles, so as to, among other things, “guarantee respect for the environment.” If it finds this is not the case, AEEG proposes action to the Ministry of Environment.

Serbia and Montenegro

Montenegro

Environmental Role of the Regulatory Authority. The Agency does not have any specific authorities in terms of environment. At the licensing stage, however, the regulatory authority is required to request certain data concerning compliance with environmental regulations.

UNMIK

Environmental Role of the Regulatory Authority. Consideration of environmental impact is part of the licensing process.

E.INTERNAL ORGANIZATION, PROCEDURES AND ACCESS

1. REGULA

**Table 23A
REGULATORS AND STAFF MEMBERS – RESOURCES AND SALARY**

COUNTRIES	NO. OF REGULATORS	NO. OF STAFF MEMBERS	SALARY LEVEL FOR REGULATORS	SALARY LEVEL FOR STAFF MEMBERS
Albania	5 – Set by law.	15 – No limit in the law.	Close to salary of General Director of the Ministry.	Equivalent of civil employees in public administration.
Austria	5 – 1 corporation and 3 members of commission – Set by law.	64 – No limit in the law.	Higher than civil servants, lower than government officials; much lower than industry officers.	Higher than civil servants (without the social benefits), similar to government officials; lower than industry personnel.
Bosnia and Herzegovina	For all 3 – 3 – Set by law.	SERC – 17 anticipated. FERC – 30 anticipated. RSERC – 23 anticipated. For all 3 – No limit in the law.	For all 3 – Salaries are comparable to those of industry officers.	For all 3 – Planned salaries are comparable to those in the electricity industry.
Bulgaria	7 – Set by law.	87 – No limit in the law.	Equivalent of 3 average salaries in the public sector. Comparable to salaries of Members of Parliament.	In accordance with Civil Servant guidelines.
Croatia	5 – Set by law.	3 – Limitations in the law.	Slightly lower than state officials.	Higher than civil servants, consistent with private sector.

²³ For the purpose of this Report, “staff members” do not include regulators. The distinction is drawn in order to clearly identify whether regulators have sufficient personnel support in order to fulfill their duties, whether regulators have sufficient decision-making power with respect to staff levels and individuals, and whether personnel, other than regulators, have sufficient remuneration and resources.

COUNTRIES	NO. OF REGULATORS	NO. OF STAFF MEMBERS	SALARY LEVEL FOR REGULATORS	SALARY LEVEL FOR STAFF MEMBERS
FYR of Macedonia	5 –Set by law.	For 2004, approximately 12 planned – no limit in the law.	Not defined.	Not defined.
Greece	5 – Set by law.	Currently 40 – Law limits to 65.	Comparable to equivalent experienced civil servants.	Lower than private energy sector positions.
Hungary	1 president, 1 vice president – Set by law.	93 combined regulators and staff members – No limit in the law.	Comparable to other civil servants, less than industry officers.	Comparable to other civil servants, less than industry officers.
Italy	3 – Set by law.	101 – Law permits up to 150.	Comparable to government officials.	Comparable to civil servants.
Moldova	3 by law; 2 Directors currently.	Currently 28 – No limit in the law.	Higher than government officials and industry officers.	Higher than government and industry personnel.
Romania	5.	80 – Law permits up to 97.	Similar to senior level electricity industry officials.	Equivalent with state sector energy positions.
Serbia and Montenegro	Serbia – 5 envisioned by the Law; not yet in place. Montenegro – 3. Set by law.	Serbia – 35 planned – No limit in the law. Montenegro – 12-15 planned – No limit in the law.	Serbia – Not specified in the Law. Montenegro – Slightly higher.	Serbia – Not specified in the Law. Montenegro – Slightly higher.
Slovenia	1 Director/Chair and as-yet unspecified number of members.	22 – Law does not specify.	Higher than civil servants, comparable to government officials; lower than industry officers.	Same as civil servants.
Turkey	9 – Set by law.	282 – Law permits 476.	May not exceed twice the amount received by government officials of the highest rank.	Higher than government officials and lower than or equal to private industry personnel.
UNMIK	Law provides for 5; at the writing of this Report, 3 appointed.	10 – No limit in the law.	5 times that of civil servants.	Comparable to civil servants.

Albania

Salaries. The law envisages that Parliament establish the salaries for regulators, while the regulators establish the salaries of their staff members.

Austria

Salaries. As E-Control Corporation is a private limited company, the contract is a private contract of employment and there are no special rules for establishing the salary. Salaries for the regulators are higher than those of civil servants, but lower than those for government officials and much lower than those for industry officers. The salaries for staff members are higher than those of civil servants, but the civil servants have many social benefits that staff members of the regulatory authority do not have, such as higher retirement pensions and secure tenure after a certain time period. Salaries are similar to those of government officials and lower than those of industry personnel.

Croatia

Personnel Resources. There is no clear provision in the law regarding how many staff members CERC is permitted to have. CERC is entitled to organize its own administrative-technical service department. The number of staff members should be defined by the CERC rulebook, and the Government should approve the budget plan, *i.e.*, the salary rate per staff member. CERC also, however, is subject to using the Energy Institute for its work, and has not achieved budgeting approval in 2003 or 2004. Thus, it currently has a staff of three and work is performed per contract by the Energy Institute.

Salaries. The Croatian Government determines salaries of the regulators, which are pegged at the level of Assistant Minister, with the exception of the Chairman and Deputy Chairman, whose salaries are pegged at somewhere between Assistant Minister and Deputy Minister. The salary levels are close to state officials, but a bit lower – lower than the salaries of the Minister and Deputy Minister in charge of the energy sector, and lower than senior-level officials in the electricity, gas and oil sectors. Salaries are correctly tracked to similarly experienced persons in the private energy sector. The staff member salary levels are higher than similarly experienced civil servants and consistent with the private-sector salaries. The Energy Institute staff members are subject to separate salary structures.

FYR of Macedonia

Personnel Resources. For 2004, the expected number of staff members is 12. It is expected that staffing will be provided gradually within two years.

Greece

Personnel Resources. The regulatory authority is allowed to have five regulators: President, Vice President and three others. The law 2773/1999 establishes the RAE Secretariat “for the accomplishment of RAE’s mission” with a staff of 65 employees. Currently RAE has 40 staff members. By the end of 2004, the staff members will be approximately 60.

Salaries. A common decision of the Ministers of Finance and Development defines the salary and allowances of the President, the Vice President and the members of the RAE, without prejudice to the general and specific provisions. A common decision of the Ministers of Finance and Development defines the salary of RAE's staff members.

Hungary

Personnel Resources. The number of HEO employees is not limited by law, but rather determined by the state budget on an annual basis.

Salaries. Salaries are determined by the Act on Civil Servants.

Italy

Autonomy. AEEG has organizational, accounting and administrative autonomy. Its statement of accounts, which is subject to control by the State Audit Court, is published in the Italian Official Gazette. The Authority draws up its own regulations governing its internal organization and functioning, the structure of its permanent staff, the regulations governing the promotion system, and the legal and financial status of staff in light of its specific functional and organizational needs and according to the criteria set by the current collective labor contract for the Antitrust Authority.

Moldova

Salaries. Starting salaries for regulators were established in 1998 as result of negotiation among a former ANRE General Director, the Government and the World Bank. After that, some corrections were made as a result of negotiation with the Government. Salaries for Directors are set higher than salaries for government officials and industry officers, but are not high. There are no specific rules on salaries for the staff members; their salaries are established by the General Director.

Romania

Salaries. Salaries for regulators and for staff members are not set definitively, but are roughly equivalent to senior electricity industry officials and state sector energy positions, respectively, and the final sum is reached through negotiation.

Serbia and Montenegro

Montenegro

Personnel Resources. The Law does not specify a particular number of staff members; in practice, there are plans for 12 to 15 staff members. At present, there are eight staff members and four more will be hired. Eventually, there will likely be about 20 members of staff to be employed in the Agency, but it is hard to predict when and how many.

Turkey

Personnel Resources. EMRA is allowed to have nine regulators under the law (and does in practice). Two must be the President and Vice President. Areas of concentration are not defined. The regulatory authority is allowed to have 476 staff members under the law; in practice it has 282.

Salaries. The salaries of the Chairman and other regulators are determined by the COM upon the proposal of the Ministry of Energy and Natural Resources. Salaries shall not exceed two times the remuneration received by government officers of the highest rank, including all forms of payments. EMRA regulators determine staff member salaries. Salaries for staff members are relatively higher than government officials, and lower than or almost equal to private industry personnel.

UNMIK

Personnel Resources. The Law provides for five regulators. Thus far, three regulators have been appointed by the SRSG (at the time of preparing the Report, the Government has not yet nominated the two candidates permitted in by Law; until all five are in place, the Board is not considered established and the count down of dates for completion of secondary legislation has not begun).

The Law does not specify the number of staff members. At the writing of this Report, there are ten staff members, three regulators and two international advisors. It is planned that, by the end of 2004, the ERO will be fully staffed with 20 persons (including all five regulators if appointed by the end of 2004).

Staff members are funded either by the EU Pillar or by the KCB.

2. TECHNICAL RESOURCES

**Table 23B
TECHNICAL RESOURCES**

COUNTRIES	SUFFICIENT TECHNICAL RESOURCES	WEBSITE
Albania	Yes.	No.
Austria	Yes.	Yes. www.e-control.at
Bosnia and Herzegovina	For all 3 – Not yet clear.	No.
Bulgaria	Yes.	Energy Law: www.doe.bg SERC resolutions and draft and final regulations: www.dker.bg
Croatia	Yes.	www.vred.hr/english/html/about.html (all unofficial translations).

COUNTRIES	SUFFICIENT TECHNICAL RESOURCES	WEBSITE
FYR of Macedonia	Planned; not yet.	No. (Under construction – www.erc.org.mk).
Greece	Yes.	Yes. www.rae.gr
Hungary	Yes.	Yes. www.eh.gov.hu
Italy	Yes.	Yes. www.minindustria.it and www.autorita.energia.it
Moldova	Yes.	Yes. www.anre.md
Romania	Yes.	Yes. www.anre.ro
Serbia and Montenegro	Serbia – At present, unknown. Montenegro – Yes, almost completed.	Serbia – Regulatory authority not yet in place. Montenegro – Not yet.
Slovenia	Yes.	www.agen-rs.si
Turkey	Yes.	Yes. www.epdk.org.tr
UNMIK	Yes.	Not yet.

Albania

Technical Resources. Each regulator and staff member is equipped with a personal computer and Internet access.

Communication Strategy. The regulatory authority has a public relations office handling communications with the public, press and other contacts. In addition, the Law on the Power Sector and the Rules of Practice and Procedure require that the regulatory authority organize public hearings on different issues where press representatives are invited as well.

Austria

Technical Resources. Each staff member has a personal computer/laptop and full Internet access.

Communications Strategy. E-Control has its own press office, which has one employee and which is directly subordinated to the managing director. Beyond that, E-Control relies on an external public relations agency.

In general, E-Control attaches great importance to public relations work because of the need to raise public awareness of the advantages and problems associated with liberalization of the market. Therefore, E-Control holds press conferences, frequently issues press releases, briefs journalists on controversial topics and holds roundtable discussions on energy issues.

Website. The website is updated nearly every day and includes information such as answers to questions concerning the liberalization of the Austrian electricity and natural gas market, green electricity, multimedia corner (such as videos of conferences on hot topics). Some of the material is available in English. The website receives approximately 450,000 hits per year.

Bosnia and Herzegovina

Website. All three regulators plan to have websites, but the websites are not yet complete. Information in English is planned to be made available, along with electricity laws, announcements and commission decisions. The websites are to be updated frequently.

Bulgaria

Technical Resources. Resources for regulators and staff members include computers, mobile telephones, unlimited web access and library resources.

Communications Strategy. SERC uses its website as the primary communication media. The site is updated biweekly and contains copies of press releases, draft rules, notifications on tenders, open sessions of the Commission (public hearings) and public discussions on proposed rules. SERC also publishes, pursuant to the Energy Law, a semiannual bulletin containing such information. Current and past issues of the bulletin are available on its website. SERC may, in addition to publication of relevant information on its website, also use “other appropriate means of publication,” such as notices in daily newspapers or press releases to media outlets.

Website. The website is updated at least monthly and includes information regarding SERC rulings and licenses. The site has information available in English.

Croatia

Technical Resources. At present, the regulators and staff members have sufficient personal technical resources to do their jobs – but this will change if CERC is permitted to increase the number of its staff members and technical resources do not increase proportionally. The regulators have, between them, 12 computers, including five laptops; fax and copying service is available; and all have cell phones. Every staff member has an individual computer with Internet access. The regulatory authority does not have an IT system that allows it to monitor data from energy sector participants on an as-needed basis; instead it has partial access to HEP’s intranet.

Website. CERC’s website is updated occasionally, most commonly after sessions, which take place once a month. The website includes laws, CERC documents, rulebooks, resolutions, decisions, opinions, addresses and links to other regulators and organizations. Some, but not all, information is available in English. CERC has no data on how many hits are received each year.

FYR of Macedonia

Technical Resources. The regulatory authority is in the process of providing appropriate equipment, in accordance with the Law on Public Procurement. An IT system for monitoring participants’ data is planned.

Greece

Technical Resources. Existing resources include 40 computers and one Internet connection (plus one backup Internet connection). Each staff member has an individual computer and Internet access. Although there is currently no IT system that allows monitoring of data from energy sector participants, such a system is currently in the implementation phase and will start operating shortly.

Communication Strategy. RAE has a press office, which issues press releases, newsletters, etc., and is also responsible for communication with the mass media. RAE operates an Internet site.

Website. Updated daily. Provides general information about RAE, legislation, technical data of energy sector, prices, various electricity market issues, news, etc. Only a few reports are available in English. The website receives approximately 150,000 visits per year.

Hungary

Technical Resources. Each HEO employee has individual computer and Internet access. The HEO is well equipped with printers, copy machines and other technical devices. Development of the technical background of a coherent database is under way. The goal is to create a coherent, regular, well-defined base of information, instead of fragments.

Communications Strategy. The HEO desires a more concrete communication strategy and development of its website.

Website. The website is regularly updated and includes information regarding:

- The office;
- The market;
- Prices;
- Statistics;
- Rules and regulations;
- Relevant publications; and
- Environmental protection.

The most important information – about 40% of the total information – can be found in English. Translation of additional material is in progress. The website receives approximately 8,000 visitors per month.

Italy

Technical Resources. The regulatory authority has sufficient media and communication resources and an IT system that allows it to monitor data from energy sector participants on an as-needed basis.

Website. The website is updated when needed. It has information related to the regulating activity. Not all information found on the website is available in English.

Moldova

Technical Resources. The technical resources available to the regulatory agency are sufficient for the regulators and for the staff members. Resources include desktop computers, laptop computers, LED projector, Internet, video, television and overhead projector. The regulatory agency does not have an IT system, however, that allows it to monitor data from energy sector participants.

Website. ANRE's website is updated regularly, including the English site (approximately on a monthly basis, or whenever ANRE approves a new document or has new data on the area). The information on the website includes laws, regulations, decisions, tariff, license activity, reports, experience, projects for discussion, international relationship and other relevant materials. The number of hits received per year is not recorded. Some, but not all, information is translated into English.

Romania

Technical Resources. The regulators have laptops, individual computers and Internet access, as do staff members.

Communications Strategy. The regulatory authority fulfills its current duties regarding public information and achieves transparency in the regulatory process through press releases, interviews in mass media, publishing information on its website, leaflets for consumers on ANRE's responsibilities and tariffs, brochures on ANRE activity, and public meetings with consumers and sector participants.

Website. ANRE updates its website as needed. Primary and secondary legislation, orders and decisions issued, approved tariffs, discussion documents, ANRE's programs and activities and announcements are all available there. Some information is available in English. Since 2000, the ANRE website has received 20,209 visitors.

Serbia and Montenegro

Serbia

Technical Resources. At present, it is expected that sufficient funding exists to provide adequate technical resources when the regulatory authority is established.

Montenegro

Technical Resources. Each regulator and staff member has a networked personal computer, telephone line and Internet connection. Other important IT equipment, such as printers and faxes, are in place.

Communications Strategy. The regulatory authority does not have a public relations staff member. However, the regulators handle contacts with the media, and the authority has developed a set of promotional materials, which it uses as necessary.

Website. A website is planned, but not currently in place. It will be updated frequently and all major processes before the Agency should be made available to the broader public, including data on licensing and tariff-setting procedures, complaints and the like.

Slovenia

Technical Resources. Each regulator has (or will have) a computer, Internet access and mobile phone; however, they do not have electronic access to monitor sector participant data.

Communications Strategy. The Agency has an internal rule on communications.

Website. The site is updated as required, approximately every two weeks. The site contains basic information about the regulatory authority, its tasks, news, public announcements, FAQ and key documents. About half of the information is also available in English. About 396,000 hits were recorded last year.

Turkey

Technical Resources. The regulators and staff members have individual computers with unlimited Internet access, printers, fax, copier, scanner, direct phone and the like. An IT system to monitor data from energy sector participants is in development.

Communications Strategy. EMRA has a press office, which releases material and ensures that speeches made by the Chairman and decisions of the regulatory authority are publicized on the EMRA website. Also, standardized complaint and suggestion forms are available on the website, which the public may use to communicate with the regulatory authority. A public information campaign supported by World Bank also is under way.

Website. The site is updated weekly and as required. It includes legislation in force, as well as drafts (for commenting), licenses, tariffs, announcements, press releases, organizational information, tender-related information, reports (including the Commission's annual report), studies, and customer service-related information and links. Some material, but not all, is available in English. The website receives over 300,000 hits per year.

UNMIK

Technical Resources. Each staff member of ERO has her/his own PC, intranet and Internet connection and access to general admin-services (secretariat and translation). An internal data

management system (based on Adobe applications) is anticipated. Each ERO staff member will have access to the system based on his or her role and authorizations. The complexity of the information will depend on the availability of data from the energy sector participants, and it is not limited by the hardware/software of ERO.

Website. Yes. It is envisioned that the website will be updated regularly and will be available/maintained both in English as well as local languages (Albanian, Serbian). It will contain all kinds of information, including the legislation produced by ERO, Statutes, Code of Ethics, Rules, reports, etc.

3. BUDGET

**Table 24
BUDGET**

COUNTRIES	ANNUAL BUDGET	PERCENTAGE OF BUDGET FOR SALARIES	PERCENTAGE OF BUDGET FOR IT	OTHER	SUFFICIENT BUDGET TO MEET PROJECTED SPENDING
Albania	370,815 Euros.	42%.	2%.	19.5% – Training, and experience sharing; 37% – Maintenance and other operating expenses.	Yes.
Austria	8.95 million Euros.	46%.	N/A.	N/A.	Yes.
Bosnia and Herzegovina	SERC – 809,738 Euros. FERC – 670,738 Euros. RSERC – 424,167 Euros.	SERC – 59%. FERC – 68%. RSERC – 66%.	SERC – 9%. FERC – 12%. RSERC – 11%. The budgeted amounts include capital expense for the initial purchase of IT equipment.	SERC – 5%. Training, and experience sharing; 37% - Maintenance and other operating expenses.	SERC & FERC – Yes. RSERC – No.

COUNTRIES	ANNUAL BUDGET	PERCENTAGE OF BUDGET FOR SALARIES	PERCENTAGE OF BUDGET FOR IT	OTHER	SUFFICIENT BUDGET TO MEET PROJECTED SPENDING
Bulgaria	897,500 Euros.	60% (including social security, salary supplements and benefits).	4% (both software and hardware).	Office maintenance and supplies – 29%. Travel – 3% Independent studies (consultants) – 4%.	Yes. Projected revenues (fees) exceed projected budget by 500,000 Euros.
Croatia	2.2 million Euros.	11-12%.	5-6%.	N/A.	Yes.
FYR of Macedonia	0.5 million Euros.	45%.	15%.	40%.	Yes.
Greece	5.6 mil Euros. (17.9 mil Euros including EC grants).	15%.	9%.	15.6% for Studies.	Yes.
Hungary	6.65 million Euros (approximately).	31.7%.	5.5%.	9.3% - Contributions; 48.9% - Material expenses; 4.6% - Other.	Yes.
Italy	25 million Euros.	45%.	Subsumed in administrative budget.	Organization functioning - 6%; Outsourcing - 19%; Renting - 8%; Goods and services - 22%.	Yes.
Moldova	310,000 Euros.	40%.	6.7%.	Social Security Payments - 11.0%; Office space rent - 18.0%; Purchase of fixed assets - 12.8%; Other services - 11.5%.	Yes.

COUNTRIES	ANNUAL BUDGET	PERCENTAGE OF BUDGET FOR SALARIES	PERCENTAGE OF BUDGET FOR IT	OTHER	SUFFICIENT BUDGET TO MEET PROJECTED SPENDING
Romania	2.28 million Euros.	46%.	6%.	Consultancy – 5%; Staff training – 1.2%; Publications books – 1.6%; Other expenditures – 40%.	Yes.
Serbia and Montenegro	Serbia – (planned) approximately 1 million Euros. Montenegro – 600,000 Euros.	Serbia – N/A. Montenegro – Approximately 50%.	Serbia – N/A. Montenegro – Approximately 15%.	Serbia – N/A. Montenegro – Rent, independent (subcontracted) services, utilities, insurance, etc.	Serbia – N/A. Montenegro – Yes, anticipated as sufficient.
Slovenia	2,800,000 Euros.	30%.	4%.	Social security 4%; Business premises 20%; Cost of goods / services 30%; Cost of office equipment 4%; Cost of intangible assets 8%.	Yes.
Turkey	€16,400,000.	60%.	5%.	Consumption goods 2%; Goods and services 13%; Other expenses 20%.	Yes.

COUNTRIES	ANNUAL BUDGET	PERCENTAGE OF BUDGET FOR SALARIES	PERCENTAGE OF BUDGET FOR IT	OTHER	SUFFICIENT BUDGET TO MEET PROJECTED SPENDING
UNMIK	535,000 Euros (according to 2005 Budget proposal – Combination of KCB and EU Pillar, excluding services of foreign consultants.	Approx. 60%.	Approx. 3% (because most IT was already procured in 2004).	Approx. 37% for Goods & Services (incl. Training) and Capital Expenditures.	Yes (if foreign consultant assistance is covered by donors).

Bulgaria

SERC's budget is a portion of the revenues that it generates from licensing and other fees, and the revenues that SERC collects typically exceed its budget. Projected revenues for FY 2004 are 2.8 million leva (1.5 million Euros), while the budget allocated to SERC is 1.75 million (897,500 Euros).

Croatia

Budget Allocation. The budget for the year 2002 was two million Euros; this was allocated and approved. 1.2 million was received for the April-December term (which reflected the term of CERC in office). At the end of the year, surplus funds were sent to the State Budget.

The budget for the year 2003 was two million Euros, but was never approved. The proposed budget was comparable with the budget for 2002. But the realization of income was significantly higher than anticipated by the proposal sent to the Government for approval, due to a higher than estimated collection of fees (primarily on the license applications – almost all applications were given to CERC during July 2003). For the year 2004, 2.2 million Euros were requested, but have not yet been approved.

UNMIK

Budget Allocation. At present, ERO works with “transitional” budgets, *i.e.*, a combination of KCB and the EU Pillar contributions. In the draft budget proposal for 2005, the share of the KCB is 0.3m EUR or 56%. The contributions of the EU Pillar covers the salaries of the international who is in the position of Chairman, and of key professional and administrative posts and their international travel costs. In the overall budget, the average share of salaries is 61% (or 40% in KCB) and 86% in EU Pillar. Since most IT equipment was procured in 2004, the 2005 IT expense is not more than 3%. The rest of the budget (36%) is allocated to Goods and Services, and Capital Expenditures. The former, among others, includes the major cost categories like training, property rentals, travel expenses of KCB staff, telecommunications and office supplies.

As the regulatory authority is undergoing structural and competency changes pursuant to the new Law, the budget structure is expected to change further in 2006.

4. INFORMATION ACCESS

**Table 25
INFORMATION ACCESS**

COUNTRIES	FULL ACCESS TO FINANCIAL INFORMATION	FULL ACCESS TO TECHNICAL INFORMATION	APPLICABLE PROCEDURES
Albania	Yes.	Yes.	Annual reports and financial statements from licensees.
Austria	Yes.	Yes.	During supply monitoring via a standardized data entry form. Automatic receipt of audited financial statements.
Bosnia and Herzegovina	Yes.	Yes.	SERC – Requests data from generator, supplier, trader, or distribution company; rules of procedures anticipated. FERC & RSERC – Request data and information for implementing the Act from any licensee.
Bulgaria	Yes.	Yes.	Quarterly reporting and separate information requests. Draft legislation pending.
Croatia	Yes.	Yes.	CERC may request data, and data is supplied by undertakings to CERC. No clear mechanism for obtaining data if not submitted.
FYR of Macedonia.	Yes, upon request.	Yes, upon request.	Specifics to be regulated with new law.
Greece	Yes.	Yes.	RAE may either use audits to gather information, or otherwise request such data from the energy sector participants. Additional information may be requested by any process it considers appropriate, mainly through written correspondence, or public hearing procedure.
Hungary	Yes.	Yes.	Regular and ad hoc data supply obligations. Daily reports.
Italy	Yes.	Yes.	Written procedures and inspections.
Moldova	Yes.	Yes.	None; other than request to licensee.

COUNTRIES	FULL ACCESS TO FINANCIAL INFORMATION	FULL ACCESS TO TECHNICAL INFORMATION	APPLICABLE PROCEDURES
Romania	Yes.	Yes.	License holders submit annual activity and annual financial reports.
Serbia and Montenegro	Serbia – Yes. Montenegro – Yes.	Serbia – Yes. Montenegro – Yes.	Serbia – Request to energy entities. Montenegro – Annual activity and financial reports are obligatory; more frequent information is provided upon request.
Slovenia	Yes.	Yes.	Not specified in law; Agency may make rules.
Turkey	Yes.	Yes.	Through periodic audits, while doing the preliminary investigation and the inquiry, and when required.
UNMIK	Yes.	Yes.	Through audits, written requests.

Albania

Access to Data. The Law on the Power Sector provides that all licensees shall submit to the regulatory authority, no later than three months after the end of a year, complete financial statements for that financial year. These shall include:

- Revenue/expenditures summary for each individual activity (generation, transmission and distribution);
- Revenue/expenditures summary allocated over all branches of the enterprise, and a summary of the rules under which revenues, expenditures, assets and liabilities have been distributed among business activities and branches; and
- Other supplementary materials as the regulatory authority may request.

The provisions of current and draft licenses stipulate that the regulatory authority may ask the licensees for any financial and technical information relating to their licensed activity. The regulatory authority may request information at any time from the licensees. ERE may also request additional information in rate cases or in the course of any public hearing with respect to the licensed activity. The ERE Rules of Practice and Procedure and draft Tariff Methodology Procedures contain provisions for regulator information requests.

Austria

Access to Data. The regulatory authority receives annual financial statements, and receives technical information in the tariff-setting process via a standardized data entry form. Technical information is made available during the quality of supply monitoring by a standardized data entry form. The data entry form can be extended in order to get additional information needed to set tariffs.

Bosnia and Herzegovina

Access to Data. It is anticipated that, through the promulgation of internal rules, all three regulatory authorities will elaborate over time the range and specific procedures for accessing data. At present, only general provisions regarding access to information are in place.

Bulgaria

Access to Data. There is mandatory reporting on a quarterly basis to SERC using SERC reporting forms. Licensees must report all information on debt commitments, performance of energy quality indicators, licensing conditions, financial commitment or any matter that may impact the energy supply to consumers. SERC is authorized to control compliance and perform audits.

Typically, such information is provided by regulated entities in their quarterly reports. SERC may request additional information as needed – by law, SERC can request any financial or technical information from the regulated entities. In such cases, SERC sends an official information request to the head of the utility, and the utility is required to respond.

Sanctions. Not providing requisite reports and not responding will subject the utility to administrative penalties and fines, will likely have a negative impact on the subsequent rate cases brought by the utility before SERC and may, in exceptional cases, open the possibility of license withdrawal or termination.

Croatia

Access to Data. Under the law, the regulatory authority has full access to technical and financial data, pursuant to a formal request. But no procedures are in place, nor is there any other effective system to ensure that data is obtained in accordance with the required schedule, and at the required level of detail. CERC cannot ask for audited data, unless the utility is required to audit certain data by virtue of other general laws.

Sanctions. The only penalty available is through a formal court procedure, which CERC has no authority to initiate.

FYR of Macedonia

Access to Data. The law provides that the companies performing the activities in the field of energy are obliged to provide ERC with necessary documents and information upon its request. More precise regulation of this issue is expected to be provided in the framework of a new law on energy, or amendments. The current law provides that additional information may be requested in the case of dispute settlement, as well as in the process of decision-making.

Hungary

Access to Data. With respect to financial and technical information, licensed energy undertakings have regular and ad hoc data supply obligations. Regular data supply obligations

are based on the license terms and conditions and/or ministerial decrees on data supply. Ad hoc data supply requests are usually sent by the HEO via mail. The deadline of the data supply depends on how urgently the information is needed. Finally, daily reports are sent by the system operator to HEO; these contain data that includes 15 or 30 minutes of volume of electricity production and distribution, and hourly data about cross-border flow.

Italy

Access to Data. AEEG has the power of inspection and access to information upon request; the regulated entities do not submit annual reports.

Moldova

Access to Data. The regulatory authority may obtain financial and technical information through a request to the licensee, but no specific procedures are provided. Specifically, the law provides in relevant part:

In order to fulfill its duties, ANRE is entitled to:

- Access to the documents concerning the activities subject to license, even if they contain state or business secrets; and
- Copies or abstracts of such documents, and ANRE may request additional information from the licensees.

Sanctions. ANRE can fine the licensee if information is not provided.

Romania

Access to Data. The regulatory authority provides financial and technical information yearly, based on license holders' financial reports and activity reports. The structure for the financial and annual activity reports is issued by ANRE. Companies in the sector are bound to submit to ANRE all the information required for it to carry out its regulatory duties.

Sanctions. The submission of incorrect, incomplete or inaccurate data is considered an offense and is penalized. Pursuant to license agreement, ANRE may require each market participant to provide information. The law and secondary legislation also define what information must be provided and the form in which it should be provided. The sanction for failure to provide required data is a fine, which may be as large as five thousand Euro. To date, there have been no sanctions. There have, however, been one or two incidents where incorrect information was provided, but it could not be determined if this was an intentional misrepresentation or if the question was misunderstood; thus, no action was taken.

Serbia and Montenegro

Serbia

Energy undertakings are obliged to provide information to the regulatory authority within eight days from receiving a request. Failing to act in accordance with such a request constitutes a trade offense which can be fined in an amount ranging from 50.000-3.000.000 dinars (approx.700-

40.000 EURO). It is envisioned that EA may issue information provision guidelines for certain types of data.

Montenegro

Access to Data. All licensees must submit an annual activity report that contains audited financial data. The submission of more frequent reports occurs only upon request. The Agency is permitted to make any inspection at any moment as part of its role of monitoring license conditions.

UNMIK

Access to Data. Kosovo is still adapting to international accounting standards; therefore, some time is needed before the regulatory structure adopts a regular accounting practice. At present, ERO is authorized to access technical information, but often certain standard technical information is not available even at the utility level (e.g., due to lack of metering devices). The process varies considerably, in terms of time, comprehensiveness and quality/accuracy. Additional information is requested by means of addressing the utility in writing directly, after explaining the grounds for doing so and as long as authorized by the ERO mandate.

5. PROCEDURES FOR CORE REGULATORY ACTIVITIES

**Table 26A
PROCEDURES FOR CORE REGULATORY ACTIVITIES**

COUNTRIES	PUBLIC PARTICIPATION IN UPDATING/ISSUANCE/IMPLEMENTATION OF REGULATIONS	INTERESTED PARTY MAY BRING COMPLAINT TO REGULATOR AGAINST T&D SYSTEM OPERATOR	HEARING AUTHORITY RE COMPLAINTS	OPEN AND PUBLIC HEARINGS AND PUBLIC PARTICIPATION ALLOWED
Albania	Yes.	Yes.	Yes.	Yes.
Austria	Yes.	Yes.	Yes, if necessary.	No.
Bosnia and Herzegovina	The public is expected to participate in all rulemakings in all 3 commissions, even in the development of the Procedural Rules.	Yes, for all 3 regulators.	Will be set forth in Rules of Practice and Procedure for all three regulators. Not yet issued.	Will be set forth in the Rules of Practice and Procedure for all three regulators. Not yet issued.
Bulgaria	Yes.	Yes, provided in the customer service rules for each operator approved by the SERC.	Yes – SERC reviews customer complaints and performs investigations in every instance.	Yes – At the fact gathering stage and resolution announcement stage.

COUNTRIES	PUBLIC PARTICIPATION IN UPDATING/ ISSUANCE/ IMPLEMENTATION OF REGULATIONS	INTERESTED PARTY MAY BRING COMPLAINT TO REGULATOR AGAINST T&D SYSTEM OPERATOR	HEARING AUTHORITY RE COMPLAINTS	OPEN AND PUBLIC HEARINGS AND PUBLIC PARTICIPATION ALLOWED
Croatia	Yes. In practice public has not participated.	Vague. Has not happened yet.	Yes.	Yes.
FYR of Macedonia	Yes.	Yes.	Yes.	Yes, subject to confidentiality.
Greece	Public consultation procedure not obligatory.	Yes.	Yes.	No.
Hungary	Yes.	Yes.	Yes, although not widely used.	Public participation is allowed, but not regulated. Public hearing procedures are used in the case of licensing of new generation.
Italy	Yes.	Yes.	Yes.	Yes.
Moldova	Yes.	Yes.	Yes.	Yes.
Romania	Yes, although not mandated.	Yes.	Yes.	Not usually.
Serbia and Montenegro	Serbia – Not specified in the Law. Montenegro – Procedures to be implemented.	Serbia – Yes. Montenegro – Yes.	Serbia – Not specified in the Law. Montenegro – Procedures to be implemented.	Serbia – Not specified in the Law. Montenegro – Yes, open and public hearings for tariffs and licenses. Procedures to be implemented.
Slovenia	Yes.	Yes.	Yes.	Yes, if person has legal interest.
Turkey	Yes.	Yes.	Yes.	Neither open nor public, with some exceptions. Public participation is not allowed.
UNMIK	Law is silent; public may be involved in consultations initiated by the regulatory authority.	Yes.	Yes.	Yes, in general, unless information deemed confidential.

Albania

Public Participation. The ERE Rules of Practice and Procedure require that before the adoption of any rule, regulation or any other secondary legislation (except where that rule or regulation is dealing with the regulatory authority internal matters), the regulatory authority shall publish a notice in one newspaper of national circulation inviting affected parties or other persons to submit written comments within fifteen days from the day of publication of the notice. After reviewing all comments, the regulatory authority notifies the parties whether their comments were accepted or rejected. Parties can appeal by asking the regulatory authority to initiate a hearing.

In practice, the public has participated in the hearing sessions of two rate cases in the last two years. Plans are to organize hearing sessions for all proposed rules and regulations.

Complaint Procedures. The ERE Rules of Practice and Procedures contain specific guidelines regarding the time and manner of addressing a complaint. To date, complaints have been handled in accordance with provisions in the Law on the Power Sector.

Hearings. The Law on the Power Sector requires that the hearings of the regulatory authority shall be open. The regulatory authority may close sessions only under limited circumstances. The regulatory authority may hold closed sessions only for internal decision-making.

Austria

Public Participation. When drafting General Terms of Business, Technical and Organizational Rules or other market rules, all market players and public authorities, namely, the Ministries, are involved in the process. In the case of ordinary regulatory procedures, a public notice may be issued, normally through the website. In instances where regulations or procedures are under consideration, and the issues are delicate and subject to data protection (tariffs), comments can only be made by the concerned parties. Utilities affected by the changes can be invited to hearings before the Energy Control Commission.

Complaint Procedures. Complaints concerning civil law can be addressed to the Dispute Settlement Department of E-Control Corporation, which tries to reach a settlement that is in the interest of all parties. Complaints are sent via standardized form to the Dispute Settlement Department, which replies via letters.

E-Control Corporation receives complaints against a transmission or distribution system operator on issues related to non-discrimination, effective competition, efficient functioning of the market, tariffs and the provision of balancing services. The review process then is effectuated like any legal process according to the Federal Statute on Administrative Procedure.

Hearings. These occur only when necessary and are not common. They are not open and public.

Bosnia and Herzegovina

Public Participation. SERC, FERC and RSERC will all have a transparent procedural process. The Procedural Rules for all three commissions will be developed through a transparent, public hearing process.

Complaint Procedures. The Act on Transmission clearly delegates jurisdiction to SERC to address complaints brought by system users, to resolve disputes among system users, to create and to maintain competitive markets, and to regulate standards of service and codes of conduct for the licensees, as well as tariffs. The Rules of Practice and Procedure are intended to address the mechanics of how an interested party brings the complaint. The Entity Electricity Laws contain parallel provisions on delegation of authority to the Entity regulatory authorities, except that the Laws provide that where there is a conflict with the Act on Transmission, the latter controls.

Bulgaria

Public Participation. SERC adopted several rules based on recommendations of market participants, including: market rules, rules on access to networks, transmission and distribution grid codes, and metering rules. SERC is required by law to hold public discussions on proposed rules and issues of public importance. In 2004, SERC held public discussions on proposed rules and ordinances and plans on holding several more in 2004 as the final ordinances and rules required under the Energy Law are finalized. The draft rules and ordinances will be published on the SERC website and the regulators will review and answer public comments on the website. In preparing rules, SERC applies a three-step process: publication of the draft rules on the website, review of proposals via the Internet, and a public discussion open to the public. SERC must reply to each comment.

Hearings. The Energy Law requires public discussions on proposed rules and open hearings on tariff cases. Several hearings in 2004 that have included public discussions have taken place and comments were received from participants.

Procedures for public hearings are adopted in the SERC regulations. The procedures cover: a fact-gathering session that is open to the public but where only interested parties can make statements; a deliberations stage that is not open to the public; and a final stage where the decision of the regulatory authority is announced. Public comments are accepted in this final stage, irrespective of the source of the comments.

Croatia

Public Participation. Decision-making sessions on rules and other CERC responsibilities are open to the public, unless CERC specifies that they be closed. Thus far, CERC has closed only two such sessions, each regarding CERC business, such as CERC's contract with the Energy Institute. In practice, the public has not attended the open sessions. Where problems are encountered during the implementation phase, there is no mechanism by which the regulatory

authority seeks or receives input from sector participants. Given CERC's limited authority in the implementation phase, and its ability to work with the committees (boards) only on matters within CERC's authority, CERC-committee cooperation in this area is limited.

Hearings. CERC conducts open hearings on complaints. While public participation is permitted, the public has not participated in practice. There are no conditions for participation other than confidentiality. Information is made public via the CERC website; CERC also occasionally publishes reports.

FYR of Macedonia

Public Participation. Public participation is viewed as desirable, as it assists the process of creating and adopting secondary legislation and may assist ERC's decision-making process. Rules that cover public participation will be drafted. It is expected that towards the end of the year, that there will be a draft of the precise rules and procedures for public participation.

Complaint Procedures. A procedure with regard to the manner and timeframe for bringing complaints will be defined; none currently exists.

Hearings. Hearings are envisioned as open and public processes. Public participation is permitted in most cases, but barred where the confidentiality of material needs to be protected. No rules are in place currently.

Greece

Public Participation. There are public consultations for electricity grid code, natural gas tariffs, long-term energy planning and other issues, and public consultation and communication to all relevant stakeholders.

Hungary

Public Participation. The HEO has regular communication with its licensees, and it consults, as appropriate, with the licensees and the public in its decision-making. The Energy Interest Representing Board ("EIRB") is another vehicle through which the public participates. EIRB provides a forum for consumers and the licensees of natural gas, electricity and district heating systems to express concerns. EIRB is responsible for adopting a position on the issues where some dispute exists between the HEO and the consumers and licensees, based on the codes, rules, licenses and effective resolutions – e.g., price preparation, prices regulation, etc.

In practice, public participation has occurred – via email, the HEO website and the EIRB. Furthermore, the HEO may seek or receive input from sector participants through regular meetings of the EIRB and consultations with sector participants.

Complaint Procedures. After receiving a complaint, HEO's Department for Consumer Protection starts investigating the complaint and, if necessary, also talks with the supplier involved. The HEO makes a decision within ninety days of the receipt of the complaint based on the information and documents sent by the consumer and the supplier, taking into consideration the effective regulations. The deadline may be extended thirty days, under limited circumstances.

Upon resolution of the complaint, the HEO will send a written letter to the interested parties on its decision. This decision may be challenged in court by any of the parties.

Hearings. A hearing on complaints is possible, but not widely used. The hearings are not open and public; rather, only the parties and the HEO participate. Public hearing procedures are used in the process of licensing of new generation establishment: (i) in an Inter-ministerial Committee chaired by the representative of HEO, and (ii) in the environmental protection-related public hearing.

Italy

Public Participation. Before decision: full consultation with stakeholders, and interest groups via: circulation of consultation papers, technical meetings, collection of written observations. The regulatory authority holds periodic and special hearings with associations, interest groups and operators. After decision: Publication of decisions on website, Bulletin and Official journal, publication of technical reports underlying decisions, access to documentation, appeals.

Complaint Procedures. Appeals against the deeds and measures of the Authorities fall within the exclusive jurisdiction of the administrative judge and shall be brought before the administrative tribunal of the region where the Authority has its registered office. There is a two-layered system: Appeals against Authority decisions can be made before the Regional Administrative Court ("RAC") for the Lombardy Region. Appeals against RAC sentences can be made before the Council of State.

Hearings. AEEG establishes rules for periodic hearings of the various associations into which consumers and users become organized. The same regulations shall also govern periodic hearings of associations for environmental protection, trade unions, business associations, and surveys on user satisfaction and the efficiency of the services. AEEG hears complaints, appeals and reports by individual users and consumers and their associations and, where necessary, requires service providers to modify service conditions accordingly. It handles out-

of-court settlements and arbitrates disputes between users or consumers and service providers. Public participation is not allowed during hearings, unless there is a direct interest.

Moldova

Public Participation. All regulations and rules drafted by the regulatory authority are submitted to interested participants for comments and input. The public, which is notified of drafts, proceedings, etc., via mass print media, website and radio, may participate in the issuance or updating of regulations by providing comments, proposals, or objecting to proposed drafts by giving adequate arguments. The public interests may also be represented by consumer non-governmental associations. In practice, such participation has occurred through the use of comments, proposals and arguments, resulting in the rejection of several draft regulations as proposed.

Complaint Procedures. Pursuant to ANRE Regulation, Section VII ¶¶25-26, and ANRE rules and procedures for settlement of complaints of consumers and disputes between licensees, any injured party may file a request with ANRE for assistance.

Romania

Public Participation. The public is permitted to express recommendations regarding the content of proposed rules or regulations. ANRE is not bound to consider the recommendation. During the implementation phase, sector participants provide feedback through phones, mail or joint meetings to try to settle disputes during implementation. Based on proposals from sector participants, the regulatory authority may decide to revisit proposals.

Hearings. There are public hearings for issuing licenses and authorizations, which involve participation of the representatives of the consumers in the Consultative Council of ANRE. All other hearings (in which ANRE makes decisions) are closed. Public hearings are limited to the representatives of customers due to space restrictions, but others could attend upon request. All other hearings are deemed to be open if it is requested and agreed to by the commission.

Serbia and Montenegro

Serbia

Complaint Procedures. A complaint or appeal of the TSO's or DSO's decision should be filed before the regulatory authority no later than eight days after the decision on refusal has been delivered to the interested party. EA's response period is not defined in the Energy Law, which, by default, means that the general response period of a maximum of two months defined in the Law on General Administrative Procedure applies. Similarly, with respect to other questions relating to the procedures of ERA not specified in the Energy Law, provisions in the Law on General Administrative Procedure apply.

Montenegro

Hearings. As with other procedures regarding complaints and public participation, procedures regarding hearings are not yet in place. It is, however, anticipated that the regulatory authority will conduct public hearings. ERA rules and regulations will define the scope of such hearings.

Slovenia

Public Participation. The permitted scope of public participation during the issuance or updating of regulations is limited to giving suggestions, observations and remarks, according to Energy Law and an internal act on public participation. The regulatory authority does not have to follow the suggestions and remarks, but it does have to give an explanation why. Within two months of issuing a new regulation, any interested party may demand a re-study of the regulation. The regulatory authority has to re-study the regulation and inform the initiator of their findings.

Proposed regulations for participation were published on the Internet. Sector participants and other interested parties could and did give their suggestions, observations and remarks. The Agency analyzed the remarks and amended and published the final version of the regulation. The Agency also prepared and published on the Internet a special report on those suggestions and remarks that the regulatory authority did not follow.

Sector participants can contact the regulatory authority via mail, email, telephone or fax.

Turkey

Public Participation. Sector participants may comment on draft regulations and they can also propose areas in which new regulations should be prepared. Where difficulties occur in the implementation process, comments on possible solutions are sought from interested parties.

Complaint Procedures. In cases where the TSO and/or distribution licensees and the related legal entities fail to reach consensus regarding the implementation of the provisions of connection and use of system agreements and any amendments, the disputes shall be settled within the framework of the provisions of the licensing regulation and the other applicable legislation. The licenses shall include provisions stating that the decisions by EMRA should be made within thirty days and will be binding for all parties.

EMRA shall address any objections of legal entities seeking to connect to the transmission and/or distribution network within thirty days of the submittal of the complaint. The complaint may be brought on any of the following grounds:

- The licensee has not been given fair conditions for connection to the transmission and/or distribution system, or for system use;
- Discrimination has been applied;
- Offered justification for denial or restriction by the relevant legal entity is unsatisfactory;
or
- The TSO's intervention in an emergency was excessive, or the implemented measures should no longer apply as the emergency has ceased.

Hearings. An explanation of the decision is provided, and the time frame for issuance is no longer than two months. Generally, hearings are closed. Issues that are deemed confidential due to commercial or legal concerns are not shared with the public.

UNMIK

Complaint Procedures. ERO will issue rules on dispute settlement procedures, which may include the establishment of arbitration procedures.

Hearings. In cases of general interest, ERO may conduct consultations, in which the public may have a voice on issues of general interest (and concerning which general acts may be passed). In the case of dispute settlement procedures, the sessions are envisioned as generally open to the public. In case of confidential or commercially sensitive information, the regulatory authority can decide to close sessions to the public.

6. PROCEDURES FOR VOTING, CONFIDENTIALITY AND PUBLICATION

**Table 26B
PROCEDURES FOR VOTING, CONFIDENTIALITY AND PUBLICATION**

COUNTRIES	INFORMATION PROVIDED TO THE PUBLIC	RULES TO PROTECT CONFIDENTIAL INFORMATION	VOTING PROCEDURES
Albania	Yes.	Draft Code of Ethics under consideration. Needs approval by Board to be effective.	Majority vote (quorum of 3).
Austria	Yes.	Yes.	E-Control Corporation – Decisions made by the 1 managing director. E-Control Commission – Unanimous vote.
Bosnia and Herzegovina	Yes – For all 3.	Yes – For all 3.	SERC – Unanimous vote. FERC & RSERC – Majority vote.
Bulgaria	Yes.	Yes – lissued by MEER.	Majority vote (quorum of 4).
Croatia	Limited.	No.	Majority vote (quorum of 3).
FYR of Macedonia	Yes.	Yes.	Majority vote.
Greece	Yes.	Yes.	Majority vote (quorum of at least 3). President, or Vice-President in President's absence, decides deadlock.
Hungary	Yes.	Yes.	N/A.

COUNTRIES	INFORMATION PROVIDED TO THE PUBLIC	RULES TO PROTECT CONFIDENTIAL INFORMATION	VOTING PROCEDURES
Italy	Yes.	Yes.	Majority vote (quorum of 3).
Moldova	Yes.	Rules in draft form, not yet adopted.	Majority vote (quorum of 2).
Romania	No, only involved parties.	Yes.	Majority vote.
Serbia and Montenegro	Serbia – Not specified in the Law. Montenegro – Yes, via website.	Serbia – Yes. Montenegro – Only general provisions set forth in the Law.	Serbia – Majority vote of five regulators. Montenegro – Majority vote among three regulators.
Slovenia	N/A.	Yes.	Majority.
Turkey	Yes.	Yes.	Affirmative votes (quorum of at least 5).
UNMIK	Yes, projected, via web site and Bulletin.	Yes, envisioned. ERO may declare confidentiality.	Law is silent.

Albania

Publication. The Law on the Power Sector requires that all decisions of the regulatory authority, except those dealing with internal matters of the regulatory authority, be published in the official journal and announcements in media. The regulatory authority is in the process of creating its own website, which will constitute a better communication channel with the public.

Confidentiality of Information. This is regulated by the Code of Administrative Procedures.

Voting Procedures. The Law on the Power Sector stipulates that the number of regulators needed to achieve the quorum of a deliberative meeting of the regulatory authority is not less than three members. The regulatory authority votes by majority rule. In the case of equal votes, the Chairman’s vote is decisive.

Austria

Publication. Information is made available to the public through the Annual Report of the Dispute Settlement Department, which is published on E-Control Corporation’s website. The regulatory authority’s decisions are published on the Internet.

Confidentiality of Information. Federal statute determines whether information is confidential.

Voting Procedures. E-Control Corporation has one Managing Director, who makes decisions on behalf of E-Control Corporation. E-Control Commission decides unanimously. No procedure is in place to avoid deadlock.

Bosnia and Herzegovina

All three regulatory authorities anticipate passing specific rules on these issues.

Publication. The Act on Transmission provides that all SERC rules and orders shall become effective after publication in the manner determined by SERC. This will be addressed in the Rules of Practice and Procedure (not yet in place). The Official Gazettes of BiH and the Entities will likely be used as the official journals. The RS Electricity Law requires that RSERC publish all RSERC decisions in the Official Gazette of the RS. The Federation Electricity Law requires that all decisions of FERC shall be in writing and shall be published in the Official Gazette of FBiH. Notes of FERC meetings must be kept and are available to the public upon request, with provisions for protection of sensitive information.

Confidentiality of Information. The Act on Transmission and the Entity Electricity Laws require that when a licensee, in the performance of its duties, gains access to data it knows or may reasonably assume to be confidential, it must maintain the confidentiality of the data.

Voting Procedures. All SERC decisions must be approved by unanimous vote of all the regulators. Failure to reach unanimous agreement results in mandatory and binding arbitration under Article 4.7 of the Act on Transmission. The Entity Electricity Laws provide for the regulators to make decisions by majority vote.

Bulgaria

Publication. Draft rules and ordinances are published on the SERC website. The adopted ordinances and rules are published in the State Gazette.

Confidentiality of Information. The SERC legal department determines the confidentiality of information based on guidelines prepared by MEER. At this time, no confidentiality of information guidelines are in place, although MEER is expected to develop comprehensive guidelines on this issue.

Croatia

Publication. While decisions are not currently published, the plan is in place to do so, with individual decisions slated for publication and broader decisions regarding tariffs or annual report not for publication. Individual decisions will be published in the Energy Regulatory Council Newsletter and on its website. All decisions must be supported by facts and reasoned conclusions.

Confidentiality of Information. There are no rules regarding how confidential information is treated in relation to the hearing process. The energy undertakings determine what information is confidential; the CERC Chairman determines the confidentiality of information for matters internal to the regulatory agency.

FYR of Macedonia

Publication. The Decisions of the ERC are officially published in the R. Macedonia Official Journal and, for those of general public interest, decisions are published in the media (newspapers, TV, etc.).

Confidentiality of Information. ERC will issue rules regarding confidentiality (none in place currently). ERC will regulate the use and safekeeping of confidential information, data and documents received from companies.

Greece

Confidentiality of Information. RAE's decisions concerning "national defense and public security issues" are entered into a "special secret record." According to Article 5 of law 2773/1999, RAE compiles and examines all necessary data for the fulfillment of its tasks while respecting the principle of confidentiality and the protection of trade secrecy. Information is treated as confidential according to the relevant provisions of general legislation.

Voting Procedures. The regulatory board meetings are convened if the President or the Vice President and two members are present. Decisions are carried by majority. In case of tie votes, the opinion of the President or the Vice President (if the President is absent) prevails.

Hungary

Publication. Theoretically, information is made available to the public via websites and official journals, but in practice, information is not always published. Email communication is the primary form of information exchange is by the interested parties.

Confidentiality of Information. Confidentiality rules are set forth in different acts and decrees. In the case of the HEO, the President of the HEO determines what information is confidential. As hearings do not involve the public, maintaining the confidentiality of information is not a difficulty.

Italy

Publication. Information is made available through websites, official journals or other means of communication.

Confidentiality of Information. Confidentiality rules are established by law. During the hearing process, the regulatory authority publishes and circulates information to provide the maximum transparency, competitive supply conditions, and the possibility for intermediate and final users to make more informed choices.

Voting Procedures. Although decisions are reached by majority vote of a quorum of three, the President has the greatest influence.

Moldova

Publication. The public is notified of drafts, proceedings, etc., via mass print media, website and radio.

Confidentiality of Information. ANRE Rules of Practice and Procedure on Tariff Review for Regulated Entities set forth rules regarding confidential information. Confidentiality is determined according to the Law on Information, Commercial and State Secrets and at the request of a licensee; decisions are made by ANRE. ANRE may grant protective orders for documents of a confidential nature. The ANRE Administrative Council has the obligation, pursuant to law (¶7.1.c of the Electricity Law), to protect such data from public disclosure under penalty of appropriate sanctions.

Voting Procedures. Pursuant to Article 8, ¶2 of the Electricity Law, the decision of ANRE shall be taken by a majority of votes. Each ANRE Director has one vote. A single Director (*i.e.*, if there are two vacancies) cannot make or enforce any decision. In practice, this means that decisions are made only when at least two Directors are in agreement.

Romania

Publication. The regulatory authority's decisions are published in the Official Gazette, Part I, and the website.

Confidentiality of Information. The information provided by the regulatory authority is presumed public. If sector participants claim that information is confidential, the regulatory authority makes an analysis before disclosing this information. The law of confidentiality does not apply to general public information about the market. For example, information concerning specific price leverage and quantity would be kept confidential, but aggregate data is not confidential.

Voting Procedures. Vote is by majority; deadlock is avoided by having an odd number of regulators. The law does not give the President the right to decide in case of deadlock; instead, the regulators must discuss until a majority decision is reached. Because there are five regulators, deadlock should be avoided.

Serbia and Montenegro

Serbia

Voting Procedures. Vote is by majority of the five regulators (3 votes are enough to reach a decision; 5 need not be present). Deadlock is avoided by having an odd number of regulators.

Montenegro

Publication. All decisions are to be published on ERA's website, which is not yet operative but expected to be in effect in late 2004. Acts, including all rules, tariffs and general decisions are published in the Official Journal.

Confidentiality of Information. Licensees and the other parties may request that information remain confidential, but the decision as to whether to make data public belongs to the regulatory authority only. Two provisions in the Law relate to confidentiality. One defines the responsibility of the ERA to make all information regarding the energy sector public, with the exception of confidential information. This section of the Law, however, does not define what kind of information should be deemed confidential. The second provision states that all documents of the Agency are public, except confidential documents, pursuant to the Law or Agency's general rules. At present, ERA has not adopted any rules on confidentiality.

Voting Procedures. Majority vote with no possibility of neutrality among regulators governs. Decision can be made in the presence of two regulators (majority of total number), and deadlock in the case of one-to-one voting is avoided by obtaining the presence of third one.

Slovenia

Confidentiality of Information. The Director/Chairman determines if information should be protected as confidential.

Voting Procedures. The council's voting procedures follow the Public Agencies Act. A majority of the five-member Council is needed, with the Council President casting tiebreaker votes. More defined rules will be established by the Council.

Turkey

Publication. Almost all decisions and tariff- and license-related information are available on the website and published in the Official Journal, as well as posted on EMRA's Bulletin Board (in front of its premises).

Explanation of Decisions. EMRA supports its decisions by facts, analysis and reasoned conclusions.

Confidentiality of Information. The regulatory authority may establish and enforce "procedures to protect against unwarranted disclosure of commercially sensitive information, including commercial secrets and confidential competitive information." EMRA is responsible for deciding how to treat confidential information.

UNMIK

Confidentiality of Information. The regulatory authority is responsible for determining the confidentiality of certain material. Confidential information is not to be disclosed during the sessions (the regulatory authority can decide that the session be closed).

7. INTERNATIONAL ACTIVITIES

Table 27 INTERNATIONAL ACTIVITIES

COUNTRIES	LEGAL AND FINANCIAL ABILITY TO BECOME MEMBER OF INTERNATIONAL INSTITUTIONS	PARTICIPATE IN DECISION-MAKING OF INTERNATIONAL INSTITUTIONS	PARTICIPATE IN DECISION-MAKING PROCESSES OF REGIONAL INSTITUTIONS
Albania	Yes.	Yes.	No.
Austria	Yes.	Yes.	Yes.
Bosnia and Herzegovina	SERC only.	SERC only.	SERC only.
Bulgaria	Yes.	Yes.	Yes.
Croatia	Yes.	Yes.	No.
FYR of Macedonia	Yes.	No.	No.
Greece	Yes.	Yes.	Yes.
Hungary	Yes.	Yes.	No, but participation is planned.
Italy	Yes.	Yes.	Yes.
Moldova	Yes.	No.	Yes.
Romania	Yes.	Yes.	Yes.
Serbia and Montenegro	Serbia – Yes. Montenegro – Yes.	Serbia – Not specified. Montenegro – No.	Serbia – Not specified. Montenegro – Yes.
Slovenia	Yes.	Yes.	Yes.
Turkey	Yes.	Yes.	Yes.
UNMIK	Yes.	Not yet, but anticipated.	Yes.

Albania

Regional and International Activities. ERE participates in such decision-making processes of ERRA, through its Chairman's vote in ERRA's General Assembly. But as of yet, ERE has not been active in the decision processes of regional institutions.

Austria

Regional and International Activities. E-Control participates in the Council of European Energy Regulators ("CEER") and in the European Regulators Group for Electricity and GAS ("ERGEG").

Committee Participation. E-Control is represented on the following committees:

- The CEER General Assembly, with 10 votes out of 237;
- CEER Working Groups (Electricity, Gas, Single Energy Market, South East European Electricity Regulation);
- The ERGEG, with one vote (one vote per country principle); and
- Association of Issuing Bodies (RECS), E-Control's Managing Director is holding the current presidency of the AIB.

Bosnia and Herzegovina

Regional and International Activities. SERC participates in the CEER regulatory working group.

Bulgaria

Regional and International Activities. SERC participates in NARUC meetings and SERC regulators are active in ERRA's licensing committee.

Croatia

Regional and International Activities. CERC's policy is to participate in the decision-making processes of regional institutions. But due to CERC's lack of autonomy, authority and resources (particularly personnel), it often has limited coordination with the energy authority and energy companies that are included in the process. Thus, CERC decisions and activities are based only on short-term existing proposals (invitations).

Hungary

Regional and International Activities. From 1 May 2004, the HEO will be a member of CEER and ERGEG. A senior manager of the HEO is a member of the ERRA Presidium.

Italy

Regional and International Activities. The regulatory authority participates in decision-making of CEER and ERGEG working groups and task forces. It does not have plans to participate in other regional institutions.

Moldova

Regional and International Activities. ANRE is a member of ERRA; it is not currently active in the decision-making processes of other regional institutions, but does have plans to participate in the future.

Romania

Regional and International Activities. ANRE's President is a member of the ERRA presidium.

Committee Participation. ANRE's ERRA committees and CEER-SEEER working groups.

Serbia and Montenegro

Serbia

Regional and International Activities. Until EA is established, the Ministry of Mining and Energy participates in the work of SEEER WG.

Slovenia

Regional and International Activities. Membership in CEER, ERGEG and AIB (RECS).

Turkey

Regional and International Activities. EMRA participates in activities of the following institutions:

- CEER – Working Group for South East Europe Energy Regulation (CEER-WG-SEEER);
- ERRA;
- ERGEG; and
- International Energy Agency (“IEA”).

Committee Participation. EMRA serves on the following regional and international committees:

- ERGEG Electricity and Gas Focus Groups;
- CEER-WG-SEEER-Institutional Compliance SubGroup; and
- ERRA- Tariff/Pricing Committee and Licensing/Competition Committee.

UNMIK

Regional and International Activities. It is anticipated that ERO will be financially able to become a member of international institutions. At present, ERO has a status of observer (e.g. in ERRA). ERO has been fully participating in REM related bodies since the beginning of the Athens Process.

F. ENFORCEMENT

**Table 28
ENFORCEMENT/AUTHORITY TO SANCTION SECTOR PARTICIPANTS**

COUNTRIES	POWER TO ISSUE A PUBLIC LETTER OF CONDEMNATION	POWER TO PUBLISH REPORTS	POWER TO RECOMMEND OR IMPOSE FINES	POWER TO REVISE TARIFFS OR REDUCE RATES OF RETURN	POWER TO REMOVE/ SUSPEND/ MODIFY LICENSES
Albania	No.	No.	Yes.	No.	Yes.
Austria	No.	Yes. (Dispute Settlement Report.)	No.	No.	No.

COUNTRIES	POWER TO ISSUE A PUBLIC LETTER OF CONDEMNATION	POWER TO PUBLISH REPORTS	POWER TO RECOMMEND OR IMPOSE FINES	POWER TO REVISE TARIFFS OR REDUCE RATES OF RETURN	POWER TO REMOVE/ SUSPEND/ MODIFY LICENSES
Bosnia and Herzegovina	SERC – Not addressed, but presumed. FERC – No. RSERC – Law is silent.	Yes – Presumed for all 3.	For all 3 – Unclear.	For all 3 – No specific reference to a punitive revision of tariffs.	SERC – Yes. FERC & RSERC – Yes for revocation, but no mention of modification or suspension.
Bulgaria	Yes.	No.	Yes.	Yes.	Yes.
Croatia	No restriction.	Yes.	Yes – Power to recommend fines.	Vague. No, regarding some energy activities.	Yes. Revoke and Suspend.
FYR of Macedonia	Yes.	Yes.	Yes. Recommend fines.	Yes.	Yes. Revoke, suspend, or modify.
Greece	N/A.	N/A.	Yes.	No.	Indirectly.
Hungary	Yes.	Yes.	Yes.	Yes.	Yes.
Italy	Yes.	Yes.	Yes.	No.	No.
Moldova	Yes.	Yes.	Yes.	Yes.	Yes.
Romania	Yes.	Yes.	Yes.	Yes.	Yes.
Serbia and Montenegro	Serbia – Anticipated, but not specified in the Law. Montenegro – No.	Serbia – Anticipated, but not specified in the Law. Montenegro – Yes.	Serbia – No. Montenegro – Yes.	Serbia – No. Montenegro – No.	Serbia – Yes. Montenegro – Yes.
Slovenia	No.	Yes.	No.	Yes.	Yes.
Turkey	Yes.	Yes.	Yes.	Yes.	Yes.
UNMIK	Yes.	Yes.	Yes.	Yes.	Yes.

Albania

Scope of Sanctions. The regulatory authority may impose sanctions for non-payment of license fees on a timely basis. Sanctions may also be imposed for other infringements of law, regulations or license terms and conditions by the licensee.

Austria

Range of Available Sanctions. E-Control has certain enforcement powers, but does not impose sanctions per se on sector participants, as sanctions are the province of the criminal court. E-

Control does, however, have sufficient power and authority to prevent violations of statutes and misuse of predominant positions in the market. Specifically, it is entitled to issue:

- Ordinances pursuant to the federal statute mentioned;
- Procedural directives instructing a market participant that has violated statutes, ordinances and codes of conduct;
- Directives necessary to establish and ensure compliance with the law for the purpose of safeguarding the legal interests of market participants; and
- Decrees (individual decisions to restore compliance with the law).

Instances of Enforcement. E-Control has used these enforcement mechanisms when confronted with a sector participant in violation of existing regulations or license terms and conditions. The enforcement of decrees is provided by federal courts and federal and state administrative agencies, e.g., state governments or police.

Bosnia and Herzegovina

Range of Available Sanctions. SERC is charged with monitoring and enforcing compliance with licenses, tariffs and rules as set forth in Article 4.2. The specific authority to issue a public letter is not addressed, but it is presumably encompassed within the enforcement delegation to SERC, as are fines and sanctions against licensees that fail to fulfill the duties determined by the license, or operate without a license. The fines and sanctions are specifically addressed in the Act on Transmission.

The Entity laws do not explicitly give authority to the regulatory authorities to penalize; rather, this power seems to rest with the Entity Governments. The Federation Electricity Law provides that the supervision and monitoring of enforcement of the law is performed by the competent Ministries and other administration authorities. The law calls for a fine for violation of license conditions. The RS Electricity Law provides generally that a competent electric power inspectorate shall supervise the implementation of the law. The law creates a series of fines and sanctions for non-compliance with license conditions.

Scope of Sanctions. Each law provides for fines to be levied against licensees for non-compliance, as well as certain other specific violations. The Act on Transmission also provides for disgorgement of profits earned through violation of the license. The enforcement mechanism is not yet clear for SERC.

SERC is empowered with the establishment, monitoring, and enforcement of all its rules pertaining to various aspects of the electrical sector, including, but not limited to: fair and non-discriminatory access to the transmission network; conditions related to international trade and compliance with international technical requirements; approval of transmission company investment plans; licensing and monitoring the ISO to ensure system balance and approval of ISO regulations; and standards of service and codes of conduct for licensees. RSERC and FERC do not have similarly specific powers, but have broad powers to assure the system efficiency mentioned above. Both regulators are empowered to set license conditions, and the licensee is required to comply strictly with such provisions. Transfers of licenses may be contingent upon full compliance.

Instances of Enforcement. To date, no examples of enforcement by the regulatory authorities exist.

Cooperation. SERC, RSERC and FERC are charged to cooperate with each other, and with the ISO in all its work, including oversight of the system.

Bulgaria

Range of Available Sanctions. With respect to license violations, SERC may impose fines, and can report violations by licensees to various bodies depending on the area of violation: to MEER for technical safety violations, and to the Competition Commission for competition violations.

Cooperation. The Energy Law provides that energy professionals may form professional associations. SERC is not required by law to cooperate with such associations, but can choose to do so. There are no examples of such cooperation so far, but SERC may request opinions and ask for help with developing uniform guiding principles for different activities.

Croatia

Range of Available Sanctions. With respect to enforcement/sanctioning powers, nothing prevents CERC from issuing a “public letter,” unless such letter contains confidential information. Nonetheless, no public letter has been issued in practice. The same is true for other regulatory enforcement powers, such as recommending fines and publishing comparative reports.

With regard to licenses, CERC may revoke and suspend licenses, under conditions clearly specified in secondary legislation. CERC may withdraw the license from an energy operator if CERC, during the monitoring procedure (or at request of the relevant inspector), has determined that an energy operator does not fulfill the conditions (the required level of technical and financial as well as professional qualifications). The Energy Law states that the license for carrying out energy activities may be subject to two types of revocation:

- Temporarily, if the energy operator fails to fulfill some of the prescribed conditions, or if the energy operator liable to set prices pursuant to the tariff system fails to set prices in a prescribed way; and
- Permanently, if the energy operator fails to remedy breaches mentioned above or if it fails to remedy breaches within the period stipulated in the resolution passed by the relevant inspectorate.

CERC may, irrespective of the reasons for suspension or cancellation of a license, upon obtaining an opinion from the Ministry of Economy and relevant inspectorate, pass a resolution that such energy activity can be performed. This is permissible when it is indispensable for the purpose of ensuring the secure and reliable supply of energy or when it is necessary to remove possible hazards for the health and safety of people or in order to avoid serious disturbances in the economy.

Instances of Enforcement. None have occurred.

FYR of Macedonia

Range of Available Sanctions. The ERC may not impose a fine but may recommend a fine to the appropriate inspection body (auditors, etc.).

Instances of Enforcement. The regulatory authority is new and, as yet, has had no cause to sanction sector participants.

Cooperation. ERC may request information within its jurisdiction if it was already gathered by other Ministries or governmental bodies.

Greece

Range of Available Sanctions. RAE has the power to sanction sector participants. RAE gives its opinion to the Minister of Development when seeking to revoke, suspend or modify licenses.

Instances of Enforcement. PPC was fined by RAE in three cases.

Hungary

Instances of Enforcement. All methods of enforcement are used, except that, instead of public letters, a normal letter is sent to the chief executive of the licensee, in general.

Cooperation. In the case of district heating, the HEO cooperates with local governments; in the case of complaints, with the Chief Inspectorate for Consumer Protection; in the case of competition and market dominance, with the Competition Authority; and in general electricity matters, with the Energy Interest Representing Council.

Italy

Range of Available Sanctions. Concerning the regulatory authority's power to issue a public letter of condemnation, to publish reports, and to recommend or impose fines, there are specific and official procedures established by law. The regulator gives recommendations for sanctions to the interested body (Ministry for productive activity for electricity, local institutions for gas).

Instances of Enforcement. In practice, these powers have been used.

Moldova

Range of Available Sanctions. ANRE has a variety of enforcement powers. It may condemn violations by the undertaking through issuance of orders or directives. It may apply penalties to the institution and/or responsible individuals within the institution.

Instances of Enforcement. In practice, these powers have not been used.

Cooperation. The regulatory authority consults with councils that gather information from sector participants.

Romania

Range of Available Sanctions. In addition to public letters, comparative reports, fines, tariff revision and revocation, suspension and modification of licenses, ANRE may sanction sector participants via inspections to their premises.

Instances of Enforcement. ANRE has applied its enforcement authority. Inspections have been performed and fines have been levied in cases where sector participants have failed to comply with various legal requirements.

Serbia and Montenegro

Serbia

Range of Available Sanctions. In addition to public letters, comparative reports and revocation, suspension and modification of licenses, the regulatory authority may also sanction sector participants by reporting on them (and providing information to) the Electric Energy Inspection, Pressure Equipment Inspection and the Anti-Monopoly Agency (once it is established).

Montenegro

Range of Available Sanctions. The regulatory authority may recommend financial penalties to the court, or may suspend or revoke licenses.

Instances of Enforcement. No sanctions have been imposed to date.

Turkey

Instances of Enforcement. EMRA has issued several letters to companies regarding their violations of the relevant legislation. No further sanctions have been implemented. Licensees have followed EMRA’s guidance and remarks in its letters.

G. ACCOUNTABILITY

**Table 29
ACCOUNTABILITY**

COUNTRIES	ISSUE ANNUAL REPORTS	PUBLISH ANNUAL REPORTS	REQUIRED TO APPEAR BEFORE GOVERNMENTAL BODY TO REPORT	AUDIT	COOPERATE WITH COUNCILS OR OTHER BODIES THAT GATHER INFORMATION FROM SECTOR PARTICIPANTS	COMMUNICATIONS STRATEGY

COUNTRIES	ISSUE ANNUAL REPORTS	PUBLISH ANNUAL REPORTS	REQUIRED TO APPEAR BEFORE GOVERNMENTAL BODY TO REPORT	AUDIT	COOPERATE WITH COUNCILS OR OTHER BODIES THAT GATHER INFORMATION FROM SECTOR PARTICIPANTS	COMMUNICATIONS STRATEGY
Albania	Yes.	Yes.	Yes.	Yes. (Independent Audits.)	No.	Yes.
Austria	Yes.	Yes.	Yes, if necessary.	Yes.	No.	Yes.
Bosnia and Herzegovina	Yes – For all 3.	Yes – SERC. Others unclear.	Yes –For all 3.	Planned – For SERC. Laws silent for FERC & RSERC.	Yes – For all 3.	All 3 are informally considering developing joint and separate communications strategies.
Bulgaria	Yes.	Yes.	No.	Yes.	Has the ability. Has not used in practice.	Yes. Use of monthly bulleting and website.
Croatia	Yes.	No.	No.	No.	No.	No.
FYR of Macedonia	Yes.	Yes.	Yes.	Yes.	Yes.	Not defined.
Greece	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.
Hungary	Yes.	Yes.	Yes.	No.	Yes.	Yes. Uses press releases and website.
Italy	Yes.	Yes.	Yes.	Yes.	Yes.	Yes. Uses external relation office, web site, press releases.
Moldova	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.
Romania	Yes.	Yes.	Only upon request.	Yes.	Yes.	Yes.
Serbia and Montenegro	Serbia – Yes. Montenegro – Yes.	Serbia – Yes, but only the financial plan/budget. Montenegro – Yes, on the website.	Serbia – No. Montenegro – No.	Serbia – Yes. Montenegro – Yes.	Serbia – Not specified in the Law. Montenegro – No such procedures implemented.	Serbia – Not specified in the Law. Montenegro – No.
Slovenia	Yes.	Yes.	No.	N/A.	Yes.	Yes.

COUNTRIES	ISSUE ANNUAL REPORTS	PUBLISH ANNUAL REPORTS	REQUIRED TO APPEAR BEFORE GOVERNMENTAL BODY TO REPORT	AUDIT	COOPERATE WITH COUNCILS OR OTHER BODIES THAT GATHER INFORMATION FROM SECTOR PARTICIPANTS	COMMUNICATIONS STRATEGY
Turkey	Yes.	Yes.	No.	Yes (by the Prime Ministry, Higher Audit Board).	No.	Yes.
UNMIK	Yes.	Yes.	Not yet, but foreseen in future.	Yes.	Yes.	Not defined.

Albania

Audit. The law provides that the financial activity of the regulatory authority shall be carried out by independent auditors, in compliance with legislation applicable to all public institutions. The government has no role in conducting such audits.

Duty to Report. ERE has a duty to submit annual reports to the Government and to Parliament.

Austria

Audit. Annual audits of the budget are conducted, pursuant to provisions in the law. E-Control is a private corporation. Therefore, audits take place in accordance with the Private Companies Act and the Commercial Law Statute. As E-Control is a corporation fully owned by the Republic of Austria, the Austrian Rechnungshof (Court of Auditors) may also perform audits.

Duty to Report. The regulatory authority submits its annual reports to the Minister of Economics and Labor, which distributes the reports via the COM to the National Council. The reports are published. While the regulatory authority is not required to appear before a parliamentary committee or other government body on a regular basis, it can be called to do so on occasion (but in practice, this has yet to occur).

Bosnia and Herzegovina

Audit. The Act on Transmission requires that SERC maintain accounts in accordance with international accounting standards and be audited annually by an independent auditor. No audit process is yet in place. FERC and RSERC, however, do not have requirements for being audited, although this may be conducted as part of the legislative oversight process. SERC must release the results of its annual audit publicly no later than ninety days following the close of each fiscal year. The Entities' public auditors may audit the RSERC and FERC within the scope of public finance.

Duty to Report. All three regulatory authorities must report annually to the respective legislative bodies: SERC to the BiH Parliamentary Assembly, RSERC to the RS National Assembly and FERC to the Federation Parliamentary Assembly.

For SERC, all written reports on activities should be submitted no later than 31 December to the Parliament of Bosnia and Herzegovina and the Ministry of Foreign Trade and Economic Relations. FERC and RSERC must report to their respective Parliaments at least once a year.

Bulgaria

Audit. The SERC Chairman submits an annual financial report to the COM. Audits could be performed only by the SAO. The audit is initiated by the SAO pursuant to procedure established in the Law on SAO and the Law on Internal State Financial Control. Audits by the SAO are initiated based on random selection by the SAO or based on information on financial violations or discrepancies. Under the Law on Internal State Financial Control, SERC must employ a financial control officer who monitors SERC compliance with the Law on Internal State Financial Control and is required by law to report infractions to the SAO.

Croatia

Duty to Report. The regulatory authority issues annual reports. Under the law, the Government of the Republic of Croatia and the Croatian Parliament receive the reports. While CERC is not required to appear before a parliamentary committee or other government body to report on activities, a government body can invite the regulatory authority to appear before it. In practice, in 2002 and 2003, CERC appeared before a government body one to two times per year.

FYR of Macedonia

Audit. Pursuant to the State Audit Law, ERC is subject to an audit undertaken by the State Audit Office. The audit of ERC's financial report is completed in accordance with the annual work program of the State Audit Office. The audit is intended to verify if the funds are spent in accordance with the law, especially with the law on Public Procurements. The State Audit includes an assessment for the usage of the resources in an economical manner, and the degree of efficiency and effectiveness achieved.

Duty to Report. The regulatory authority reports annual to the Parliament and the Government. It is also required to appear before each body after submission of the annual report, as part of the review of the report.

Greece

Audit. The law requires an independent audit. The annual audit of the financial statement for each fiscal period is done by two certified auditor accountants. Their conclusions and the respective Balance Sheet are published in two daily newspapers and in the Official Gazette and they are submitted by the Minister of Development to the President of the Parliament along with

RAE's Annual Report and the Budget for the next year. There is no role of governmental bodies and industry in conducting such audits. RAE is only under the suppressive control of Hellenic Court Accountants, which is not a governmental body.

Duty to Report. RAE is obligated to send its Annual Report to the Parliament once per year. RAE's Decisions and Opinions are registered in a "special record book" open to the public. RAE is required to support its decisions by facts, analysis and reasoned conclusions.

Nature of Cooperation. RAE is in cooperation with the Ministry of Development for the collection of the relevant information and other public entities.

Hungary

Duty to Report. With respect to annual reports, the Parliament receives a report from the HEO in accordance with the Electricity Act; in addition, also in accordance with the Electricity Act, the HEO publishes an annual report, which is sent to sector actors, social institutes and interested representing organizations. These reports are published on the website and in booklet forms.

The HEO is required to appear annually before a parliamentary committee or other government body to report on activities.

Explanations for Decisions. In accordance with the Electricity Act, the HEO publishes the decision and justification of any and all resolutions of public interest specified as such in a separate statutory regulation, as well as the final licenses in the official bulletin of the Ministry of Economic Affairs. All decisions must be supported by explanation and fact.

Italy

Audit. Review of expenditures (auditing of accounts) by Corte dei conti (National Auditing Office).

Duty to Report. As needed, the regulatory authority participates in hearings before Parliamentary Committees to report on the state of regulation in case of Parliamentary inquiries (minimum once a year). Annual report on the state of electricity and gas services is delivered to Parliament and Prime Minister. The annual report is also published on the website and in the official journal.

Explanations for Decisions. The regulatory authority is required to support its decisions by facts, analysis and reasoned conclusions.

Nature of Cooperation. The regulatory authority cooperates with councils or other bodies that gather information from sector participants in the form of joint studies or inquiries, information exchange, joint press releases and publications.

Moldova

Audit. Annual audits of the budget are conducted via ANRE, which sets up a contract with an independent auditor for an annual audit prior to submittal of financial reports to the Government and Parliament. The Government is not involved in the auditing process.

Duty to Report. Annual reports are subject to submittal to the Government and Parliament, and are usually published on the official website of the agency. In general, ANRE is required to appear before a parliamentary committee or other government body to report on its activities once or twice a year.

Romania.

Audit. The regulatory authority's budget is audited, in accordance with provisions set forth in the Law on Audits. The Court of Accounts is entitled to audit ANRE.

Duty to Report. ANRE submits annual reports to the Prime Minister and Ministry of Economy and Trade. ANRE is not required to appear on any regular basis before a parliamentary committee or other governmental body to report on activities, but does appear intermittently, pursuant to a special parliamentary request.

Serbia and Montenegro

Serbia

Audit. While the regulatory authority is not required to have an independent international audit, the Energy Law does provide for an independent audit of the regulatory authority's budget. The auditor is tasked with verifying the accounts.

Duty to Report. The regulatory authority issues annual reports to the National Parliament of the Republic of Serbia. The National Parliament approves the annual report, which consists of financial reports and the proposed budget for the coming year.

Montenegro

Audit. The Law provides that the financial report is audited by an auditing firm, selected by ERA by open tender. The Parliament reviews the budget and audited report.

Duty to Report. ERA submits the budget and annual report directly to the Parliament for approval, after which it is published in Official Journal and becomes operational. Submitting to the Government is informational only. In practice, the process of submission includes in person representation before Parliament and the Government in order to answer questions and defend the report.

Slovenia

Audit. The Agency requests an audit by a professional company in the same manner as commercial enterprises. However, the regulatory authority can also be audited by the court of

auditors at any time, like other direct or indirect users of the state budget or public institutions established by the state.

Explanations for Decisions. The regulatory authority is required to support its decisions by facts, analysis and reasoned conclusions.

Nature of Cooperation. The regulatory authority exchanges information with the Statistical Office.

Turkey

Audit. The Authority is audited by the Prime Ministry, Higher Audit Board. In practice, a group of three inspectors, one from the Prime Minister's Inspection Board, one from the Prime Minister's Higher Council of Inspection and one from the Ministry of Finance carry out audits on financial and administrative issues. However, this arrangement may be changed.

Duty to Report. The regulatory authority provides these reports to the Ministry of Energy and Natural Resources, pursuant to requirements under the law. EMRA is not required by law to publish these reports, but nonetheless does so by posting on the website.

EMRA must send to the Ministry, by 30 April of the following year, an annual report for the past financial year. This report must contain consolidated income statements, balance sheets and comprehensive financial statements based on annual activities.

UNMIK

Audit. An independent audit is required in the Law, although details are not provided. The regulatory authority currently does not have any difficulties meeting financial costs; however, due to the small number of licensees in the system, this may become a problem in the future, as contributions of KCB and the EU Pillar are reduced and eventually eliminated.

APPENDIX 1

GLOSSARY

ABBREVIATION	DESCRIPTION
AEEG	Regulatory Authority to Electricity and Gas
ANRE	National Agency for Energy Regulation (Moldova)
ANRE	Romanian Electricity and Heat Regulatory Authority
ANRGN	National Regulatory Authority in Natural Gas Sector (Romania)
ANRM	National Agency for Mineral Resources (Romania)
ANRSC	National Regulator of Communal Services (Romania)
ASEP	Independent Council for the Selection of Civil Servants
Athens MOU	Athens Memorandum of Understanding
BiH	Bosnia and Herzegovina
BOO	Build, own, and operate
BOT	Build, own and transfer
CAIDI	Customer average interruption duration index (Austria)
CAPEX	Capital Expenditures
CEER	Council of European Energy Regulators
CEER-WG-SEEER	Council of European Energy Regulators – Working Group for South East Europe Energy Regulation
CERC	Croatian Energy Regulatory Council
CHP	Combined Heat and Power
COM	Council of Ministers (Bosnia and Herzegovina)
CPC	Commission on the Protection of Competition
CRU	Central Regulatory Unit (Kosovo)
DSO	Distribution System Operations
E-Control Commission	Energie-Control Commission (Austria)
E-Control Corporation	Energie-Control Corporation (Austria)
EC-SEE	Energy Community of South East Europe
EDC	Electricity Distribution Companies
EIRB	Energy Interest Representing Board
EMRA	Energy Market Regulatory Authority (Turkey)
ERA	Energy Regulatory Authority (Montenegro)

ABBREVIATION	DESCRIPTION
ERC	Energy Regulatory Commission (FYR of Macedonia)
ERE	Electricity Regulatory Entity (or Authority) (Albania)
ERGEG	European Regulators Group for Electricity and Gas (Austria)
ERGEG	European Regulatory Group for Electricity and Gas (Italy)
ERO	Energy Regulatory Office (Kosovo)
ERRA	Energy Regulators Regional Association
ESM	Shareholder company for generation, distribution and supply (FYR of Macedonia)
EUAS	State owned generation company (Turkey)
FERC	Federation Energy Regulatory Commission (Bosnia and Herzegovina)
HEO	Hungarian Energy Office
HEP	Croatia Power Utility
HTSO	Hellenic Transmission System Operator
IEA	International Energy Agency
INA	Industrija nafte d.d. – the oil company (Croatia)
ISEE	Indicatore della Situazione Economica Equivalente
ISMO	Independent System and Market Operator (Croatia)
ISO	Independent System Operator
ISTAT	Central Institute of Statistics
KCB	Kosovo Consolidated Budget
MAVIR	System operator in Hungary
MEER	Ministry of Energy and Energy Resources (Bulgaria)
MEPSO	A shareholder company for transmission (transmission and system operation) (FYR of Macedonia)
MoEF	Ministry of Economy and Finance (UNMIK)
MOF	Ministry of Finance
MUDPW	Ministry of Urban Development and Public Works (Bulgaria)
MVM	The Hungarian Electricity Transmission Company
MW	Megawatt
NEK	National Electricity Company (Bulgaria)
PISG	Energy Office under the Office of Prime Minister
PPA	Power Purchase Agreement

ABBREVIATION	DESCRIPTION
PPC	Public Power Corporation SA
RAB	Regulated Asset Basis
RAC	Regional Administrative Court
RAE	Regulatory Authority for Energy (Greece)
RAG	Regulatory Accounting Guidelines
RS	Republika Srpska
RSERC	Regulatory authority covering distribution and generation for the Republika Srpska entity (Bosnia and Herzegovina)
SAC	Supreme Administrative Court (Austria)
SAIDI	System average interruption duration index (Austria)
SAIFI	System average interruption frequency index (Austria)
SAO	State Audit Office
SEEER-WG	South East Europe Energy Regulators – Working Group
SEE-REM	South Eastern Europe – Regional Energy Market
SERC	State Energy Regulatory Commission (Bosnia and Herzegovina)
SRSG	Special Representative of the Secretary General
TEIAS	Turkish Electricity Transmission Corp.
TETAS	Wholesale tariff of the state-owned wholesale company (Turkey)
TOR	Austrian grid code
TSO	Transmission System Operator
UNMIK	United National Interim Administration Mission in Kosovo
WACC	Weighted adjusted cost of capital

APPENDIX 2

CEER WG SEEER Discussion Paper Regulatory Benchmarking Standards for SEE-REM

2003-10-16

1. Background

During the 2nd meeting of the South East Europe Electricity Regulation Forum (the SEEER Forum), which took place in Rome the 26-27 March 2003, CEER was invited to develop standards to benchmark the performance of the regulators of the SEE region. CEER was invited to present these standards at the forthcoming Forum in Sofia and, following that, USAID was invited to undertake a further benchmarking exercise.

This Position Paper sets forth the basic principles that should be followed by the countries of the SEE to develop an independent energy regulatory authority, and summarizes specific standards that can be used to measure whether this goal has been met. The specific standards themselves are set forth and explained in a discussion paper prepared by the SEEER WG of CEER.

2. Fundamental Principles

The principles proposed here start with the following beliefs:

Standards for the regulatory authorities that must be met include those set forth in Directive 2003/54/EC concerning common rules for the internal market in electricity and repealing Directive 96/92/EC, EU Regulation No. 1228/2003 and the Athens Memorandum of Understanding on the regional electricity market in South East Europe and its integration into the European Union Internal Electricity Market (MoU).

These provisions, while necessary, are not sufficient in themselves to achieve conditions for the SEE governments to meet in order to develop into a liberalised market environment. Additional standards, based on the experience already gained within the European Union and internationally are important to enable regulatory authorities to perform their role adequately.

Standards should include those needed to establish regulatory independence; to delegate to the regulatory authority adequate participation and decision-making power within specified competencies; and to enable regulatory authorities of the SEE region to collaborate with each other to the degree needed to contribute to the development of the SEE region.

Differing conditions within the region require the gradual implementation of some of the standards, providing the countries with the flexibility to incorporate these standards according to the country-specific prevailing conditions.

To respect the last principle, standards are proposed in two tiers: (1) those which are universally required; and (2) those which are generally accepted as better practices that should be adopted as time and circumstances permit. An annex setting forth a timetable for incremental achievements is also attached.

3. Proposed Benchmarking Standards

3.1 Independence

European and international experience has shown that the independence of regulatory authorities is critical to enabling them to perform their role. Our aim is not to enter into a definitional discussion of what "independence" means, but rather to describe the characteristics of an adequately autonomous regulator. These characteristics, which should be reflected in and guaranteed by national legislation, include:

- Independence from the regulated industry's interests;

- a separate legal entity from the ministries of the energy sector with decisive and clear competencies;

- budgetary independence from the government; functional and personal independence; meritocratic and impartial appointment processes; removal for cause only;

- fixed mandate;

- restrictions on ownership of stocks or securities or other direct or indirect financial interests in the energy sector and also from actions which could cause conflicts of interest;

- sufficient personnel of the appropriately high scientific and professional background, together with flexible hiring and firing procedures;

Best practice in regulatory independence should include providing the regulatory authority with the power to: set sector participants' fees to meet budgetary needs; set penalties and incentives applicable to the staff members; and determine the facilities, equipment and educational materials and programs needed to fulfill its mandate. The scope of appeals of regulatory decisions should be limited to determining whether the regulatory decision is within the scope of the law

3.2 Competencies

Regulatory authorities should have explicit authority on issues related to access to information, market operation and monitoring, security of supply and the impact of the energy sector on the environment.

3.2.1 Information Access

Regulatory authorities must have full access to information relevant to the scope of their competencies, including access to the sector participants' accounts; and the right to request and obtain additional information from undertakings, as well as to mandate changes in accounting practices where the regulatory authority determines that the undertakings are not sufficiently unbundled.

3.2.2 Security of Supply

Regulatory authorities should participate in the monitoring of the medium and long term supply/demand balance on the national market, expected future demand and envisaged additional new capacity, quality and level of maintenance of the networks, as well as the implementation of measures to cover peak demand and to address any shortfalls of one or more suppliers.

3.2.3 Market Operation and Monitoring

Regulatory authorities must have the authority to allocate the external costs stemming from the implementation of national energy policy. This includes, at minimum, the authority to fix the methodologies used to calculate transmission and distribution tariffs as well as balancing and ancillary services; input on all licensing issues; and dispute settlement authority with respect to complaints against a transmission or distribution system operator regarding access issues and cross border disputes within the jurisdiction.

In addition to that, regulatory authorities should have the competencies to further efficient sector oversight, including the power to: ensure that any existing subsidies inconsistent with state programs are removed from the tariff regime; directly issue, review and monitor licenses and compliance with license conditions; have a decisive participation in the making of the rules regarding the management and allocation of interconnection capacity; set quality of service standards; require that transmission and distribution undertakings correct any congestion difficulties; participate in the approval process for secondary legislation affecting the sector; require performance based components within the tariff methodologies; and penalize non-performing undertakings for license violations by reducing their rates of return.

3.3 Internal Organization, Resources and Capacity

Having the resources to its job effectively and efficiently is an essential component of a strong regulatory authority. To this end, the regulatory authority must have a sufficient number of members with appropriate educational and experiential backgrounds to perform its jobs; a budget adequate to allow it to meet its responsibilities; and its own staff to perform, at a minimum, its core activities.

Following best practice, national legislation should strive to establish salaries for the regulators and staff that reflect the need to recruit qualified experts in the energy sector to regulatory posts; each regulator should have resources that include individual computer and internet access; the regulatory authority should develop an IT system that allows it to monitor data from energy undertakings on an as-needed basis; staff support should have a double-digit minimum, with a larger number in countries with greater needs through consumer population or energy capacities; and the regulators' terms should be long enough (*e.g.* longer than two years) to assure that regulators can develop and utilize knowledge and experience and create institutional competency.

3.4 Procedures for Core Regulatory Activities

Procedures that promote transparency and public confidence in the regulatory authority are part of developing a strong and effective regulator. Any interested party must have the right to bring to the regulatory authority a complaint against a transmission or distribution system operator on issues related to non-discrimination, effective competition, efficient functioning of the market, transmission and distribution tariffs, and provision of balancing services. The regulatory authority must address complaints in a prompt and timely manner (*e.g.* two months, subject to extension by the complainant, with respect to access complaints).

Decisions of the regulatory authority on matters not involving confidential information must be available to the public by use of web sites, official journals or other means of communication accessible to the public.

As the regulatory authority develops, its strength is enhanced through the issuance of publicly available procedures that clearly set forth time for filing complaints, responses, the period for review and issuance of decisions, and confidentiality of information. Hearing processes should be open to the public, except during those aspects of decisionmaking that involve confidential information.

3.5 International Activities

Recent CEER experience has revealed the necessity that national regulatory authorities be given through national legislation the ability to become members of international

institutions and to participate in the corresponding decision-making processes of such institutions.

To facilitate regional trade on electricity with the objective of making optimal use of regional resources and facilities, the regulatory authority should participate in regional organizations such as CEER or equivalent committees; and should ensure implementation of trading facilitating mechanisms endorsed at a regional level. Regulatory authorities must be able to perform their duties as set forth in the standard market design for the region.

3.6 Enforcement

The power to regulate must include the power to enforce regulatory decisions. The regulatory authority must have the power to obtain information, suspend or revoke licenses in cases of serious violations, and, at a minimum, to recommend fines against energy undertakings for failure to comply with license requirements and secondary legislation.

Best practice in this field should include the ability of the regulatory authority to modify or amend licenses of non-compliant licensees; to reduce the rate of return for a violating licensee or include other financial incentives; and to impose appropriate fines and sanctions directly upon violators of the law, licenses and secondary legislation.

3.7 Accountability

Public confidence in the regulatory authority is critical to the success of regulation, and can only be achieved through policies and procedures that hold the regulatory authority accountable to the public for its actions. Mechanisms of accountability that do not interfere with the independence of the regulator include procedural transparency, as previously noted, and requiring the regulatory authority to publish an annual report of its monitoring activities

Other mechanisms to hold regulatory authorities accountable to the public, and which can be developed as the regulatory authority progresses, include specific conflict of interest/code of conduct rules; supplementing the annual report with appearance before the appropriate parliamentary committees; creation of councils or other bodies that gather information from sector participants; and an international financial audit.

4.0 Conclusion

The CEER WG SEEER believes that the establishment of independent energy regulatory authorities in the countries of the SEE region equipped with the appropriate powers to perform their role adequately is of utmost importance for the development of a stable regulatory energy market regime and will contribute to the successful development of the SEE REM.

The CEER WG SEEER also believes that the regulatory benchmarking standards for the SEE Energy Regulatory Authorities presented herein, which represent the experience already gained within the European Union and internationally, can form the basis for the establishment of such authorities and invites the Forum participants to endorse these standards.

The CEER WG SEEER invites the governments of the countries of the region to take all necessary actions for the rapid implementation of these standards, according to the specific needs and conditions within each country.

The CEER WG SEEER also invites the EC and the USAID to take into account these standards in the corresponding Benchmarking exercises they perform for the region and to present the corresponding results during the next Forum.

CEER WG SEEER commits itself to collaborate with all relevant stakeholders and particularly with EC and USAID for this joint effort.

APPENDIX 3**REGULATORY BENCHMARKING QUESTIONNAIRE
SEE/REM STATES**

I. LEGAL STATUS**A. LEGISLATION**

1. What primary and secondary legislation address the national electricity market and energy issues? Please provide a website reference or other available reference where such legislation is available in English.
2. In the event that no such legislation exists, or only exists in part, please provide a list of any applicable drafts, and their approval status.
3. Does the law provide for a regulatory authority?
 - a. If yes:
 - i. When was the regulatory authority established, or is there a specific date when formation is required?
 - b. If no:
 - i. Is legislation drafted or pending to create a regulatory authority?
 - ii. What is the projected date of passage of drafted or pending legislation?

B. STRUCTURE

1. What is the legal status of the regulatory authority (*e.g.*, corporation, agency, governmental body)?
2. Is there one regulatory authority that covers the entirety of the energy sector?
 - a. If yes: Please describe the areas addressed by the regulatory authority (*e.g.*, electricity, oil, gas, heat, etc.).
 - b. If no:
 - i. Please describe how many regulatory authorities exist in the energy sector and the fields covered by each.
 - ii. Is there a regional division of the regulatory authorities (*see e.g. in Belgium or Northern Ireland*)?

3. Are there bodies, other than the regulatory authority, that make regulatory decisions or amend, assist or are otherwise involved in the regulatory decision-making process?
 - a. If yes: Please describe.

II. INDEPENDENCE

A. LEGAL INDEPENDENCE

1. Is the regulatory authority a separate legal entity from the ministries of the energy sector or other government bodies?
 - a. If no: What is the relationship?

B. FINANCIAL INDEPENDENCE

1. Is the budget process or methodology established in the law or elsewhere?
2. Does the regulatory authority have its own budget, separate from the central budget?
 - a. If yes:
 - i. Where do funds for the budget of the regulatory authority come from?
 - ii. Does any governmental body (e.g., Council of Ministers, Ministries, Parliament) have any say with respect to the manner in which these funds are used?
 - iii. Must the regulatory authority seek approval for the budget?
 - iv. In practice, has the amount requested by the regulatory authority been provided to the regulatory authority?
 - b. If no:
 - i. What is the process for obtaining funds from the central budget?
 - ii. Is any requested amount provided to the regulatory authority at all times?
 - iii. Is the regulatory authority subject to constraints arising from the central budget?
3. When does the regulatory authority receive funds?
4. Does the regulatory authority have the power to set sector participant fees to meet budgetary needs?
 - a. If yes:
 - i. How are the fees set?

- ii. Are there any (legal) constraints on how these fees are set?
 - b. If no: How are fees set?
- 5. Are annual audits of the budget conducted?
 - a. If yes:
 - i. Are the scope and terms of the audits described in law?
 - ii. What is the process for conducting audits?
 - iii. What is the role of governmental bodies and industry in conducting such audits?
- 6. Does the regulatory authority have any difficulties meeting financial costs?
 - a. If yes: Please describe.

C. FUNCTIONAL INDEPENDENCE

- 1. Does the Ministry for the sector or other governmental body have the authority to approve or reject regulatory decisions?
 - a. If yes:
 - i. Which governmental body has authority, and over which decisions?
 - ii. Do different bodies have different authorities?
 - iii. Has any such authority been used in practice? If yes: Please describe.
- 2. Does the Ministry for the sector or other government body have the authority to change, in any manner, regulatory decisions?
 - a. Has this authority been used in practice?
 - i. If yes: Please describe.
- 3. With respect to appeals:
 - a. Is there a mechanism in place for parties to appeal a regulatory decision?
 - i. If yes: Please describe.
 - ii. To what body or bodies is a decision appealed?
 - b. Does the regulatory authority's decision remain in effect pending appeal?
 - c. What is the scope of review during the appeal? (For example, is the appeal limited to errors of fact or procedure only?)
 - d. Has any regulatory decision been appealed in practice?
 - i. If yes: Please describe.

D. PROCEDURES FOR APPOINTMENT AND REMOVAL

1. Who appoints the regulators²⁴ of the regulatory authority?
 - a. Is there any difference between the appointment process for Chairman, Vice-Chairman and other regulators?
2. Other than experience requirements, what are the grounds for appointment (e.g., citizenship, age, etc.)?
3. Who removes the regulators of the regulatory authority?
 - a. Is there any difference between the removal process for Chairman, Vice-Chairman and other regulators?
4. Is revocation of appointment of a regulator or removal only for cause?
 - a. If yes: Does the law clearly define grounds for cause and what are those grounds?
 - b. If no: What is the basis for removal?

E. MANDATE

1. Are the minimum terms of the regulators of the regulatory authority fixed?
2. What are the terms of the regulators and are these defined in law?
 - a. Are the terms the same for the Chairman, the Vice-Chairman or any other such leading position?
3. Are initial terms of the regulators staggered?
4. In practice, has a regulator ever been removed before his or her term has ended?
 - a. If yes: How many, and what were the grounds for removal?
5. Is the reappointment of regulators possible under the law?
 - a. If yes:
 - i. How many consecutive terms may a regulator serve?
 - ii. Is the rule the same for the Chairman, Vice-Chairman or any other such leading position?
6. In practice, has the term of one or more regulators ever been renewed?
 - a. If yes: In how many instances?

²⁴ By “regulators” we mean members of the regulatory authority’s board; the term is also equivalent to “commissioners.” Persons working for the regulatory authority who are not on its board are referred to as “staff members.”

F. ETHICAL CRITERIA

1. Does the regulatory authority have a Code of Ethics/Conduct?
 - a. If yes:
 - i. To whom does it apply? Does it apply equally to regulators and officers or other staff members of the regulatory authority?
 - ii. What are the areas covered?
2. Are regulators and/or their family members prohibited from having employment relationships with electricity sector participants while holding their positions?
 - a. If yes:
 - i. Are staff members also so prohibited?
 - ii. What is the scope of the prohibition and what are the consequences of failure to comply?
3. Are regulators and/or their family members prohibited from having ownership relationships with electricity sector participants, including share ownership, while holding their positions?
 - a. If yes:
 - i. Are staff members also so prohibited?
 - ii. What is the scope of the prohibition and what are the consequences of failure to comply?
4. Is there a period of time after the regulator leaves his or her position during which the regulator may not be employed by an energy undertaking?
 - a. If yes:
 - i. Does any such prohibition apply to staff members?
 - ii. Please describe the applicable length of time required.
 - iii. What are the consequences of failure to comply?
5. Is there a period of time after the regulator leaves his or her position during which the regulator may not have ownership interest in the energy undertaking?
 - a. If yes:
 - i. Does any such prohibition apply to staff members?
 - ii. Please describe the applicable length of time required.
 - iii. What are the consequences of failure to comply?
6. Are there other restrictions on actions based on concerns regarding conflicts of interest or ethics?
 - a. If yes: Please describe.

- b. If no: Please describe any proposals or areas of concern for which restrictions are contemplated.

G. EXPERIENCE

1. Must the regulatory authority include regulators with technical background in the sector?
 - a. If yes: What are the requirements?
2. Are there other academic or experience requirements such as law, financing or engineering?
 - a. If yes: What are the requirements?
3. Are there restrictions on the number of regulators that have previously worked in the power industry?
 - a. If yes: Please describe.

H. EMPLOYMENT POWERS

1. With respect to hiring of staff members:
 - a. What are the hiring criteria?
 - b. What is the procedure for hiring (e.g., through recruitment agents, public tendering, etc.)?
2. What body or person has the final decision-making authority to select and hire staff members?
3. What body or person has the final decision-making authority to remove and set penalties and incentives for staff members?

III. COMPETENCIES

A. INFORMATION ACCESS

1. Does the regulatory authority have full access to financial information from sector participants?
 - a. If yes: What is the process (including timing, procedures, range of data available) by which the regulatory authority may obtain such information?
 - b. If no:
 - i. Does the regulatory authority at least have partial access to the above-mentioned information?
 - ii. Please describe the extent of information access.

2. Does the regulatory authority have full access to technical information from utilities?
 - a. If yes: What is the process (including timing, procedures, range of data available) by which the regulatory authority may obtain such information?
 - b. If no:
 - i. Does the regulatory authority at least have partial access to the above-mentioned information?
 - ii. Please describe the extent of information access.
3. By what process does the regulatory authority request additional information?

B. SECURITY OF SUPPLY

1. Does the regulatory authority participate in the monitoring of medium and long-term supply/demand balance on the national market?
 - a. If yes: How?
 - b. If no: What body has such authority?
 - c. If shared authority: What bodies have such authority?
2. Does the regulatory authority participate in the monitoring of expected future demand and envisaged additional capacity?
 - a. If yes: How?
 - b. If no: What body has such authority?
 - c. If shared authority: What bodies have such authority?
3. Does the regulatory authority participate in the monitoring of quality and level of maintenance of the networks?
 - a. If yes: How?
 - b. If no: What body has such authority?
 - c. If shared authority: What bodies have such authority?
4. Does the regulatory authority participate in the implementation of measures to cover peak demand and to address any shortfalls of one or more suppliers?
 - a. If yes: How?
 - b. If no: What body has such authority?
 - c. If shared authority: What bodies have such authority?
5. Where tendering exists as an option for new generating capacity, does the regulatory authority organize, monitor and/or control the tendering procedure for generation?

- a. If yes: Please describe, and explain whether the regulatory authority has one or more of these responsibilities
 - b. If no: Please describe which body or bodies has such responsibilities.
6. Describe the current status of any security of supply investigations in your country.

C. MARKET OPENING AND MARKET MONITORING

1. What is the current national timetable for market opening?
2. What is the role of the regulatory authority (e.g., approval, proposal, commenting on proposals, etc.) in identifying the timetable of market opening?
3. With respect to tariffs:
 - a. Does the regulatory authority have the power to issue secondary legislation in the area of tariffs?
 - i. If yes: What is its role in this respect (e.g., issuing, approving, or commenting on secondary legislation) in the area of tariffs?
 - b. Is the regulatory authority responsible, ex-ante, for fixing and approving transmission and distribution network tariffs or for fixing and approving methodologies used to calculate transmission and distribution network access tariffs?
 - c. Is the regulatory authority responsible, ex-ante, for fixing and approving methodologies used to calculate balancing and ancillary services?
 - d. As part of its ex-ante approval process, does the regulatory authority provide a detailed evaluation of the tariffs and the reasons for its decision?
 - i. If yes: Please describe the type of evaluation (e.g., rate of return, rate of depreciation, operating costs, etc.).
 - e. Does the regulatory authority have a role with respect to setting connection costs?
 - i. If yes: Please describe.
 - f. Does the regulatory authority have the power to require transmission and distribution system operators to modify terms and conditions, tariffs, rules, mechanisms and methodologies to ensure they are proportionate and applied in a non-discriminatory manner?
 - i. If yes: Please describe.

- g. Does the regulatory authority have the power to ensure that charges applied by network operators for access to networks are transparent and reflect actual costs incurred?
 - i. If yes: Please describe.
 - ii. If no: Is there another mechanism or body that ensures that charges applied to network operators for access to networks are transparent and reflect actual costs incurred?
 - h. Does the regulatory authority have the power to require performance-based components within the tariff methodologies?
 - i. If yes: Please describe.
 - i. Does the regulatory authority have the power to penalize a non-performing undertaking via reduced rate of return?
 - i. If yes: Please describe.
 - j. Does the regulatory authority have the power to remove subsidies inconsistent with state programs?
 - i. If yes: Please describe.
 - k. Does the regulatory authority have the power to address the needs of vulnerable populations?
 - i. If yes: Please describe.
 - ii. If no: Is there another body or bodies with the power to address the needs of vulnerable populations. Please describe.
 - l. What other tariff powers belong to the regulatory authority?
 - m. In practice, has the regulatory authority encountered any problems during the tariff setting process?
 - i. If yes: Please describe.
4. With respect to licenses:
- a. Does the regulatory authority have the power to issue licenses?
 - b. Does the regulatory authority have the power to issue secondary legislation in the area of licensing, and to determine the terms and conditions of licenses?
 - c. Does the regulatory authority have the power to review and monitor licenses and compliance with license conditions?
 - d. Does the regulatory authority have the power to modify licenses?
 - e. Does the regulatory authority have the power to impose a fine on licensees for infractions and/or have the power to report infractions for violations of terms and conditions of licenses?
 - i. If the regulatory authority has the power to report infractions, to which body does it report?
 - ii. Please describe the power of the body to which the regulator reports to respond (e.g., imposition of fines).
5. With respect to dispute settlement authority:

- a. What is the scope of the regulatory authority's dispute settlement authority?
 - b. Does such authority extend to access issues, including third party access, and cross border disputes?
6. With respect to rule-making authority:
- a. Does the regulatory authority have the power to set or approve rules regarding the management and allocation of interconnection capacity?
 - i. If yes: Please describe.
 - b. Does the regulatory authority have a role with respect to the issuance of secondary legislation, including market rules, grid codes and other such technical rules?
 - i. If yes: Please describe.
 - ii. What is the role of the regulatory authority vis-à-vis other bodies?
 - c. Does the regulatory authority have a role with respect to identifying metering rules and charges?
 - i. If yes: Please describe.
7. With respect to quality of service:
- a. Does the regulatory authority have a role regarding quality of service standards?
 - i. If yes: Does this role entail setting, approving and/or commenting on such standards? Please describe.
 - b. Does the regulatory authority have the power to sanction or intervene in cases of violations of such service standards?
 - i. If yes: Please describe.
8. With respect to congestion:
- a. Does the regulatory authority have a role regarding congestion management?
 - i. If yes: Does this role entail setting, approving and/or commenting on such rules? Please describe.
 - b. Does the regulatory authority have the power to require that transmission and distribution participants correct any congestion difficulties?
 - i. If yes: Please describe.
 - c. Does the regulatory authority maintain an audited account of any revenues collected pursuant to connection management mechanisms?
9. With respect to connection and repairs:
- a. Does the regulatory authority have the power to monitor the time taken by sector participants to make connections and repairs?

- i. If yes: What is the applicable procedure?
 - b. Does the regulatory authority have the power to intervene if necessary if the time taken is too lengthy?
 - c. Does such intervention include the power to sanction sector participants?
10. With respect to unbundling:
 - a. What is the regulatory authority's role with respect to unbundling?
 - b. Does the regulatory authority establish guidelines on how separate accounts should be drawn up for unbundled entities?
 - c. Does the regulatory authority have the duty to establish rules regarding the allocation of costs resulting from the unbundling process?
 - d. Does the regulatory authority have the duty to draw up guidelines for compliance review and reporting of the unbundling process?
 - e. Does the regulatory authority have the power to mandate changes in accounting practices where the regulatory authority determines that the sector participants are not sufficiently unbundled?
11. What is the regulatory authority's role with respect to investment planning and cost recovery, domestically and regionally?
12. With respect to third party access, and in addition to the specific authority detailed above, what is the regulatory authority's role?
13. With respect to cross-border exchanges:
 - a. Does the regulatory authority have the power to approve operational and planning standards including schemes for the calculation of total transfer capacity?
 - b. Does the regulatory authority have the power to give an exemption to the normal rules of third party access for new investment?
14. With respect to market dominance, and in addition to the above, does the regulatory authority have responsibility for compiling information on market dominance, predatory and anti-competitive behavior?
15. With respect to matters relating to competition, does the regulatory authority cooperate with the antitrust/competition authority, if such a body exists?
 - a. If yes: Please describe cooperation.

16. With respect to public communication:
 - a. Does the regulatory authority have a communications strategy? (e.g., use of a press office, press releases, etc.)
 - i. If yes: Please describe.
17. Does the regulatory authority have difficulties in any of these areas?
 - a. If yes: Please describe.

D. IMPACT OF THE ENERGY SECTOR ON THE ENVIRONMENT

1. Does the regulatory authority have any authority on issues related to the impact of the energy sector on the environment (e.g., emissions trading)?

IV. INTERNAL ORGANIZATION, RESOURCES, CAPACITY

1. How many regulators is the regulatory authority allowed to have under the law?
2. In practice, how many regulators does the regulatory authority have?
3. How many staff members is the regulatory authority allowed to have under the law?
4. In practice, how many staff members does the regulatory authority have?
5. How are salaries for the regulators established?
6. How do salaries for the regulators compare with those of civil servants, government officials and industry officers?
7. How are salaries for the staff members established?
8. How do salaries for the staff members compare with those for civil servants, government officials and industry personnel?
9. Does each regulator have technical resources sufficient to do its job (including an individual computer and internet access)?
 - a. If yes: What are such resources?

10. Does each staff member have technical resources sufficient to do its job (including an individual computer and internet access)?
 - a. If yes: What are such resources?
11. Does the regulatory authority have an IT system that allows it to monitor data from energy sector participants on an as needed basis?
12. Does the regulatory authority have a website?
 - a. If yes:
 - i. How often is the website updated?
 - ii. What kind of information may be found there?
 - iii. Is information available in English for international users? Is the information in English different (including quantity) from that available in the local language?
 - iv. How many hits does the website receive each year?
13. What is the annual budget (in Euros) for the regulatory authority?
 - a. What percentage of this budget is devoted to salaries?
 - b. What percentage of this budget is devoted to IT technology?
 - c. Please define any other areas, and the percentage of the budget committed, covered by the annual budget.
 - d. Is the budget sufficient for the regulatory authority to meet its projected spending?

V. PROCEDURES FOR CORE REGULATORY ACTIVITIES

1. With respect to governance and participation:
 - a. What is the permitted scope of public participation during the issuance or updating by the regulatory authority of its regulations?
 - b. In practice, has public participation occurred? Please describe.
 - c. Where problems are encountered during the implementation phase, is there a mechanism by which the regulatory authority seeks or receives input from sector participants?
 - i. If yes: Please describe.
2. With respect to complaint mechanisms:
 - a. May any interested party bring to the regulatory authority a complaint against a transmission or distribution system operator on issues related to non-discrimination, effective competition, efficient functioning of the market, transmission and distribution tariffs, and provision of balancing services?
 - i. If yes: What is the process? (For example, are there rules regarding the time and manner of response by the regulatory authority?)

- ii. If no: Is there another body that receives complaints?
3. With respect to hearings processes?
 - a. Does the regulatory authority conduct hearings on complaints?
 - b. Are the hearings open and public?
 - c. Is public participation permitted? Under what conditions?
 - d. By what mechanism is information made available to the public? (For example, are websites, official journals or other means of communication accessible to the public utilized?)
4. With respect to confidentiality of information:
 - a. Are there rules to protect confidential information?
 - b. What body or person decides if information is confidential?
 - c. How is confidential information treated in relation to the hearing process?
5. How are the voting procedures of the regulatory board structured (e.g., majority, unanimity, quorum, etc.)?
 - a. Is there a procedure to avoid deadlock (e.g., does one regulator have a deciding vote, etc.)?

VI. INTERNATIONAL ACTIVITIES

1. Does the regulatory authority have the legal and financial ability to become member of international institutions?
2. Does the regulatory authority participate in the decision-making processes of international institutions?
 - a. If yes: What are examples of such participation?
3. Does the regulatory authority currently participate in the decision-making processes of regional institutions, such as CEER or equivalent committees?
 - a. If yes: Please describe the applicable committee or committees.
 - b. If no: Does the regulatory authority have plans to participate in the decision-making processes of regional institutions?

VII. ENFORCEMENT

1. Does the regulatory authority have the power to sanction sector participants and is such authority described in regulation? Specifically, can the regulatory authority:
 - a. Issue a public letter to the chief executive of the undertaking condemning violations by the undertaking?

- b. Publish comparative reports demonstrating insufficient performance by the network company concerned?
 - c. Recommend or impose fines against sector participants for failure to comply with license requirements and secondary legislation?
 - d. Revise tariffs or reduce rates of return in response to violations?
 - e. Revoke, suspend or modify licenses?
2. What other enforcement mechanisms are available to the regulatory authority?
 3. Have all or some of the above-mentioned powers been used?
 - a. If yes: Please describe.

VIII. ACCOUNTABILITY

1. With respect to annual reports:
 - a. Does the regulatory authority issue annual reports?
 - b. If yes:
 - i. What body receives the reports and is this mandated by law?
 - ii. Are the annual reports published?
2. Is the regulatory authority required to appear before a parliamentary committee or other government body to report on activities?
 - a. If yes: How often?
3. Does the regulatory authority cooperate with councils or other bodies (not the regulatory authority) that gather information from sector participants?
 - a. If yes: What is the nature of the cooperation?
4. With respect to publication:
 - a. Where, if at all, are the regulatory authority's decisions published?
 - b. Is the regulatory authority required to support its decisions by facts, analysis and reasoned conclusions?

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APPENDIX 4**CEER WG SOUTH EAST EUROPEAN ELECTRICITY REGULATION
REGULATORY BENCHMARKING STANDARDS FOR SOUTH EAST EUROPE –
REGIONAL ELECTRICITY MARKET**

2003-10-28

1. Introduction

Regulatory benchmarking is a critical component of developing the Regional Electricity Market. This Paper offers specific regulatory benchmarking standards to provide a basis for measuring the regulatory status and progress of reforms in countries of South East Europe. The Paper is a supporting document to the CEER Discussion Paper, presented at the Athens Forum in Sofia on 24 October 2003, which more concisely sets forth the principles and substance of these benchmarking standards.

- These standards are set forth in two tiers. The first tier contains those standards that all agree must be adopted promptly to meet the minimum conditions for adequate regulatory oversight.
- The second tier contains those standards that are generally agreed to be preferred, and which States should generally hope to achieve over a longer time period, with the understanding that not every standard in this level may ultimately be deemed appropriate by every State, based on the State's specific circumstances.

2. Standards**2.1 Independence****2.1.1 Required Minimum**

1. The regulatory authority is wholly independent from the interests of the electricity industry, and such independence is established by law.
2. The regulators have no ownership or employment relationship with electricity sector participants while holding their positions (excepting academic activities).
3. Regulators are appointed by a high-level authority, such as Parliament or the Council of Ministers.
4. The minimum terms of the regulators are fixed.
5. The appointment process for the staff of the regulatory authority is merit-based and impartial.
6. Revocation of the appointment of a regulator is only for cause, according to circumstances defined in the law and by the same entity as appointing the regulator. The source and

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method of funding of the regulatory authority are independent from state budget, and the budget for the regulatory authority is based on sector participant fees.

7. Annual audits of the budget are conducted in a manner that preserves independence from the state budget and provides the regulatory authority with effective decision making rights separate from state and industry. The scope and terms of the audit are defined in the law or secondary legislation, and the form, source and structure of the audit does not compromise the independence of the regulatory authority.
8. Regulatory decisions may be appealed only to a court.

2.1.2 Preferred Practices

1. The regulatory authority is empowered to set sector participants' fees.
2. The just cause upon which regulators can be terminated is narrowly defined in the law and determined by the appointing entity.
3. The regulatory authority has the power to appoint and assign its own staff, as well as set penalties and incentives applicable to the staff members.
4. The law defines a period of time after the regulator leaves his or her position during which the regulator may not be employed by an energy undertaking
5. To minimize the risk of being "captured" by the energy industry, there are restrictions on the number of regulators that have previously worked in the power industry under regulation.
9. The scope of appeals is limited to determining whether the regulatory decision is within the scope of the law;

2.2 COMPETENCIES/AUTHORITIES

2.2.1 Required Minimum

1. With respect to security of supply, regulatory authorities should participate in the monitoring of:
 - The medium and long term supply/demand balance on the national market
 - Expected future demand and envisaged additional new capacity
 - Quality and level of maintenance of the networks
 - The implementation of measures to cover peak demand and to address any shortfalls of one or more suppliers.
2. The regulatory authority is responsible for fixing:
 - The methodologies used to calculate or establish the terms and conditions for transmission (including system operation charges) and distribution tariffs.
 - The methodologies used to calculate or establish the terms and conditions for the provision of balancing and ancillary services.

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3. The regulatory authority has input on all licensing issues, including ability to make proposals on terms and conditions of transmission, distribution, supply and generation licenses, as well as input regarding appropriate sanctions for failure to comply with license terms and conditions.
4. The regulatory authority has the power to act as a dispute settlement authority with respect to complaints against a transmission or distribution system operator regarding access issues, including pricing, congested capacity, interconnection rules, unbundling of accounts, publication of appropriate information, transparency and competition. In such cases, the regulatory authority issues a decision at latest within 2 months of hearing the matter. Such decisions shall have binding effect unless and until overruled on appeal.
5. The regulatory authority is responsible for ensuring nondiscrimination, effective competition and the efficient functioning of the market, and monitors
 - (a) the rules on management and allocation of interconnection capacity;
 - (b) any mechanism to deal with congested capacity;
 - (c) the time taken by transmission and distribution operators to make repairs;
 - (d) the publication of appropriate information by transmission and distribution system operators concerning interconnectors, grid usage and capacity allocation to interested parties;
 - (e) the effective unbundling of accounts to ensure there are no cross-subsidies between generation, transmission, distribution and supply activities;
 - (f) the terms, conditions and tariffs for connecting new producers of electricity to guarantee that these are objective, transparent and non-discriminatory;
 - (g) the extent to which transmission and system operators fulfill their tasks;
 - (h) the level of transparency and competition.
6. The regulatory authority approves all market rules, grid codes, connection charge rules and all amendments thereto, ensuring non-discrimination and consistency with best practices within the European Union and according the Council of European Energy Regulators and the Union for the Coordination of Transmission for Electricity.
7. The regulatory authority has full access to information relevant to the scope of its competencies, including access to sector participants' accounts; the regulatory authority can request and obtain additional information from undertakings, and can mandate changes in accounting practices in the event that it determines that the undertakings are not sufficiently unbundled, as required by law.
8. Regulatory authorities should be given through national legislation the ability to become members of international institutions and to participate in the corresponding decision-making processes of such institutions

2.2.2 Preferred Practices

1. The regulatory authority participates in the approval process for secondary legislation affecting the sector.
2. The regulatory authority has the power directly to issue regulations, rules or guidelines of general impact to sector participants.

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3. The regulatory authority has the power to ensure that any existing subsidies inconsistent with lawful state programs are removed from the tariff regime.
4. The regulatory authority has the power to require performance based components within the tariff methodologies and can penalize a non-performing undertaking for license violations by reducing the undertaking's rate of return.
5. The regulatory authority, with respect to tariffs, has the power to:
 - require transmission and distribution system operators, if necessary, to modify terms and conditions, tariffs, rules, mechanisms and methodologies to ensure they are proportionate and applied in a non-discriminatory manner and
 - ensure that charges applied by network operators for access to networks are transparent, take into account the need for network security and reflect actual costs incurred insofar as they correspond to those of an efficient and structurally comparable network operator and are applied in a non-discriminatory manner.
6. The regulatory authority directly issues, reviews and monitors licenses and compliance with license conditions. The regulatory authority can suspend or revoke licenses and report legal infractions to the appropriate authority for prosecution.
7. The regulatory authority has the power, in order to facilitate regional trade on electricity with the objective of making optimal use of regional resources and facilities, to participate in regional organizations such as CEER and to ensure implementation of trading facilitating mechanisms endorsed by such groups and ETSO.
8. The regulatory authority can require that the transmission and distribution undertakings correct any congestion difficulties.
9. The regulatory authority has a decisive participation in the making of the rules on the management and allocation of interconnection capacity.
10. The regulatory authority sets quality of service standards.
11. The regulatory authority can sanction transmission and distribution undertakings for failure to make connection and repairs and to sanction failure to ensure a secure supply of energy or falling below agreed security of supply levels.
12. The regulatory authority has the right to receive an annual report from the transmission and distribution system operators, or the combined system operator, setting out the measures taken with respect to ensuring non-discriminatory conduct through a compliance program.
13. The regulatory authority is notified of contracts concluded, up to a significant level, on an annual basis.
14. In conjunction with any anti-monopoly or competition authority, the regulatory authority monitors market development and operation, particularly with respect to the level of competition, based on legislation on competition applicable to the entire energy sector.
15. All decisions of the regulatory authority stay in effect unless and until overruled on appeal

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2.3 Internal Organization, Resources and Capacity

2.3.1 Required Minimum

1. The regulatory authority includes sufficient members to do its job effectively.
2. The regulatory budget is sufficient to allow the regulatory authority to complete its regulatory responsibilities
3. The regulatory authority has its own staff to perform, at minimum, its core activities, and can choose, within its budget, the staff it wants to carry out these core activities.

2.3.2 Preferred Practices

1. Regulators have background and training in economics, finance, law and engineering, and the majority of the regulators have experience in the sector.
2. The salaries of regulators and staff reflect the need to recruit qualified experts in the energy sector to regulatory posts.
3. The regulators' terms are staggered to ensure institutional continuity.
4. There are between 3 and 7 regulators; and staff support should have a double-digit minimum, in order to fulfill the scope of its responsibilities.
5. The regulatory staff has a salary scale separate from the civil service in order to attract skilled regulators/staff, who have significant responsibilities for tariff formulation, legal interpretations and sector monitoring.
6. Each regulator has a computer and internet access.
7. The regulatory authority has an IT system that allows it to monitor data from energy undertakings on an as needed basis; each staff member has a computer and internet access
9. The regulators' terms are longer than two years to assure that regulators can develop and utilize knowledge and experience.

2.4 Procedures for Core Regulatory Activities

2.4.1 Required Minimum

1. Any interested party may bring to the regulatory authority a complaint against a transmission or distribution system operator on issues related to non-discrimination, effective competition, efficient functioning of the market, transmission and distribution tariffs, and provision of balancing services.
2. The regulatory authority must address complaints in a prompt and timely manner.

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3. Decisions of the regulatory authority on matters not involving confidential information are made available to the public by use of web sites, official journals or other means of communication accessible to the public.

2.4.2 Preferred Practices

1. The regulatory authority issues publicly available procedures that clearly set forth time for filing complaints, response, period for review, issuance of decisions and confidentiality of information.
2. The regulatory authority conducts an open hearing process, except those aspects of decision-making involving confidential information.
3. Decisions, procedural rules and other pronouncements of the regulatory authority are available on the regulatory authority's web site promptly after issuance.

2.5 ENFORCEMENT

2.5.1 Required Minimum

1. The regulatory authority may recommend fines against energy undertakings for failure to comply with license requirements, secondary legislation, or the regulatory authority may request information in accordance with regulatory policies and procedures.
2. The regulatory authority can suspend or revoke licenses in the case of serious violations.

2.5.2 Preferred Practices

1. The regulatory authority can modify or amend licenses of non-compliant licensees
2. The regulatory authority's enforcement mechanisms include the ability to reduce the rate of return for the violating licensee or any other financial incentive
3. The regulatory authority can impose appropriate fines and sanctions directly upon violators of the law, licenses and regulations

2.6 ACCOUNTABILITY

2.6.1 Required Minimum

1. The regulatory authority publishes an annual report that includes discussion of the outcome of the regulatory authority's monitoring activities to a target audience of legislators, market actors, and potential investors.
2. National regulatory authorities contribute to the development of the internal market and of a level playing field by cooperating with each other and with the relevant regional institutions in a transparent manner.

2.6.2 Preferred Practices

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1. The regulatory authority is governed by conflict of interest/code of conduct rules.
2. The annual report, which includes an international financial audit, of the regulatory authority is accompanied by appearance before the appropriate parliamentary committees.
3. The regulatory authority may create councils or other bodies to gather information from sector participants.
4. The regulatory authority's annual report includes an international financial audit.

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ANNEX I

1. Temporal Development of the Regulatory Authorities

The benchmarking standards are measures that must be flexible in order to accommodate the realities of conditions in each SEE-REM state. This annex makes clear that achieving these standards can be an incremental process, including a temporal component. The following are suggestions as to possible ways to approach the timing issue.

1.1 Establishment of The Regulatory Authority

- 1st step: Creation in the law by June 2003.
- 2nd step: Appointment of regulators.
- 3rd step: Issuance of secondary legislation/regulation regarding competencies (e.g. tariffs, licenses) and process (e.g., regulatory procedures, code of conduct, treatment of confidential information).
- 4th step: Establishment of first budget.
- 5th step: Establishment of second budget derived from fees in accordance with standards.
- 7th step: Issuance of first annual report.
- 8th step: First audit of regulatory authority.
- 9th step: Establishment of regulatory authority web-site.
- 10th step: Establishment and use of advisory councils, hearing or other public process for input into regulatory decision-making.

1.2 Regulatory Performance

1.2.1 Licensing

- 1st step: Adoption of a legal framework giving the regulatory authority the power to issue licenses, consistent with EU practices.
- 2nd step: First issuance of a license, consistent with EU practices.
- 3rd step: Issuance of licenses, consistent with EU practices, to all existing major sector participants.
- 4th step: Issuance of licenses, consistent with EU practices, to all existing sector participants required to be licensed.
- 5th step: Issuance of license, consistent with EU practices, to a new sector participant within the timeframe established by law.
- 6th step: Establishment and use of information-gathering system.
- 7th step: Alteration of existing licenses (amendment, revocation, suspension, transfer), consistent with EU practices.

1.2.2 Tariffs

- 1st step: Adoption of law empowering the regulatory authority to provide authority to the regulatory authority to, at minimum, fix or approve the tariff methodologies that are competitive and consistent with EU practices in general.

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- 2nd step: Issuance of transparent and non-discriminatory unbundled transmission and distribution tariffs that are competitive and consistent with EU practices in general.
- 3rd step: Issuance of transparent and non-discriminatory cross-border tariffs that are competitive and consistent with EU practices in general.
- 4th step: Issuance of regulated non-discriminatory connection charges that are competitive and consistent with EU practices in general.
- 5th step: Issuance of non-discriminatory balancing charges that are competitive and consistent with EU practices in general
- 6th step: Elimination of cross-subsidies incompatible with EU standards for state aid.
- 7th step: Issuance of congestion management/allocation of capacity rules.

1.2.3 Codes

- 1st step: Adoption of technical norms by June 2003.
- 2nd step: Adoption of grid code by June 2004.
- 3rd step: Adoption of remaining market rules.

1.2.4. Disputes, Appeals and Enforcement

- 1st step: Establishment of legal framework to resolve disputes.
- 2nd step: First use of dispute resolution process.
- 3rd step: Appeal of regulatory decisions in accordance with standards.
- 4th step: Imposition of sanction on violating sector participant.

1.2.5. Market

- 1st step: Enforcement of legal unbundling within sector as required.
- 2nd step: Until 1 July 2005, the share of the national market shall be calculated by the Regulatory Committee on the basis of the regional share of electricity consumed by final consumers consuming more than 40 GWh per year (on a consumption site basis and including autoproduction).
- 3rd step: The share of the national market referred to above will be increased progressively until 2008, by the Regulatory Committee.