



Regulatory Benchmarking Report For South East Europe

2005

**Ref: C05-ICO-01-03
23 November 2005**

SUPPORTED BY USAID

Council of European Energy Regulators ASBL
28 rue le Titien, 1000 Bruxelles
Arrondissement judiciaire de Bruxelles
RPM 0861.035.445

Contents

1. BACKGROUND	1
1.1. OBJECTIVES	1
1.2. METHODOLOGY	2
1.3. ORGANIZATION	2
2. EXECUTIVE SUMMARY	4
3. ANALYSIS	6
3.1. UNBUNDLING, THIRD PARTY ACCESS, MARKET DESIGN AND IMPLEMENTATION	6
3.2. DATA ACCESS AND MARKET MONITORING	7
3.3. STAFFING	8
3.4. ENFORCEMENT	9
3.5. ACCOUNTABILITY V. INTERVENTION	10
3.6. HARMONIZATION AND INTERNATIONAL COOPERATION	11
4. CONCLUSION	12

1. BACKGROUND

This Report is the third in a series of Regulatory Benchmarking Reports for South East Europe.¹

1.1. Objectives

The purpose of the Report continues to be to collect information and assess energy regulatory authorities² in South East Europe in the context of national and regional energy market development, as reflected in various regional initiatives. The Report supplements the larger benchmarking efforts of the European Commission on energy market opening and development in the European Union. While all fields within the energy sector are addressed in the context of discussing the general role of regulatory authorities, the Report continues to concentrate primarily on electricity.

Of recent importance since the last edition of the Report in 2004 is the Treaty establishing the Energy Community (“Treaty”).³ Among other significant steps, the Treaty establishes various regional institutional bodies, including an Energy Community Regulatory Board of Electricity and Gas (“ECRB”), consisting of regulatory authorities in the region working together on matters relevant to the development of an efficient regional energy market. The Treaty also binds the parties to relevant provisions of the *acquis communautaire* within a defined timeframe. Other regional initiatives considered in the 2005 Report include the Athens Memoranda of Understanding, the Stability Pact, Regulation (EC) No. 1228/2003 on cross-border exchanges of electricity, and Directive 2003/54/EC on the internal market in electricity.

The Directive identifies the key responsibilities of the regulatory authorities as ensuring non-discriminatory access, effective competition, and the efficient functioning of the market.⁴ Each regulatory authority should meet at least minimal organizational and substantive competencies necessary for fulfilment of these key responsibilities.

The need reflected by the Treaty for national authorities to work together on a more formalized ECRB level heightens the importance of this benchmarking exercise. The regulatory authorities

¹ This Report is issued by the Council of European Energy Regulators (“CEER”), under the leadership of the CEER South East Europe Energy Regulators Working Group (“CEER WG SEEER”), and is spearheaded by the Institutional Compliance Task Force. The Task Force is led by the Turkish regulatory body, EMRA, with input from a team from Albania, Greece and Italy. The Report has been produced by Pierce Atwood, and supported by USAID, in cooperation with CEER WG SEEER.

² In this Report, “regulatory authority” refers to the institution/commission and “regulator” refers to individual commissioners. Regulators do not include staff members, who are defined as personnel working for the regulatory authority and subordinate to the regulators.

³ The Treaty, signed in Athens on 25 October 2005, is between the European Community and Albania, Bulgaria, Bosnia and Herzegovina, Croatia, FYR of Macedonia, Montenegro, Romania, Serbia and United Nations Interim Administration Mission in Kosovo (“UNMIK”). Moldova is an Observer to the process; under the Treaty, EU countries in the region may be Observers.

⁴ Directive 2003/54/EC, Article 23(1) ; see also Christopher W. Jones, *EU Energy Law*, Vol. 1, The Internal Energy Market, Chapter 5.4, p. 100 (2004) (stating that these three responsibilities “might also be viewed as a mission statement of the regulatory authority”).

must have the tools for effective participation in this regional initiative, including execution of their responsibilities vis-à-vis the relevant *acquis communautaire*, and harmonization is critical.

1.2. Methodology

Participants in this Report are the CEER WG SEEER members: Albania, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, fyr of Macedonia, Greece, Hungary, Italy, Moldova, Romania, Serbia, Slovenia, Montenegro, Turkey and the United Nations Interim Administration Mission in Kosovo (“UNMIK”).⁵ The Report incorporates and applies the principles for independent national regulatory authorities, as adopted by the Institutional Compliance Task Force in conjunction with CEER, as reflected in a Discussion Paper presented by CEER at the 2003 October Athens Forum in Sofia.⁶ The 2005 edition is instructed by the aforementioned regional initiatives and governing documents. The general approach is to build upon prior editions so as to best measure development over time, and to amend where warranted by regional developments – again, notably, the Treaty process.

In 2004, an initial questionnaire was developed in conjunction with the CEER WG SEEER; the answers of participants, supplemented by legislative reviews and interviews, form the basis of the 2004 Report. For 2005, respondents were asked to update information from 2004 and address any developments in the past year. In July, a short supplementary questionnaire was also circulated.⁷ Information included in the 2005 Report comes from updates, answers to the supplemental questionnaire, follow-up interviews, and analysis of the existing or pending legislation and practices in each country. This Report is thus the product of extensive collaboration with all members of the CEER WG SEEER.

1.3. Organization

This edition of the Report is organized in the following manner:

- **Background**: Providing an overview of the Report and structural and content changes from the previous editions.
- **Executive Summary**: Containing a concise synopsis of the Analysis.
- **Analysis**: Identifying six areas of regulatory development which the data indicates could benefit from further attention from a region-wide perspective and explaining the basis of these conclusions as reflected in the data. By decision of the CEER WG SEEER and in

⁵ The first Regulatory Benchmarking Report, issued in May 2003, reviewed Albania, Bosnia and Herzegovina, Bulgaria, Croatia, fyr of Macedonia, Greece, Romania, Serbia and Montenegro, and Turkey, along with UNMIK. Austria, Hungary, Italy, Moldova and Slovenia were added in 2004.

⁶ Dated 16 October 2003, attached as Appendix 4.

⁷ Copies of the initial questionnaire and the supplementary questionnaire are attached as Appendices 2 and 3.

accordance with the Conclusions of the Athens Forum in Skopje in June 2005, the Analysis focuses on the key areas where progress could prove of greatest use.

- Conclusion: Identifying specific steps that could be taken to address the subjects set forth in the Analysis.
- Data Annex: Consisting of 38 Tables that summarize the data. Instead of listing a simple “yes/no” response in each column, short answers have been provided where deemed useful. Text below the Tables is provided where supplemental material is deemed helpful. A goal of the Tables and corresponding text is to make the information they contain easily accessible to all readers.
- Appendices: Providing relevant documents as background material.

This edition of the Report could not have been completed without the cooperation and invaluable direction offered by members of CEER WG SEEER. We thank all the individual regulators and staff of the surveyed participants who provided the information contained herein, Pierce Atwood for its extensive work in preparing this Report, and USAID for its support, from the inception stage and onward.

2. EXECUTIVE SUMMARY

As a threshold matter, the progress achieved to date should not be minimized. Comparison of the 2004 and 2005 editions of the Report demonstrates strong and steady growth in many areas of regulatory development.

2005 marks the first year when all respondents to the Report have a regulatory authority in place and in operation. The legislation in many participants is EU compliant and/or includes numerous if not most of the indicia of regulatory autonomy. Procedural provisions directed at strengthening the autonomy of the regulatory authority, such as appointment and removal processes and staggered terms, are strong across most participants. While regulatory authorities may at times experience growing pains and temporary incursions into their authority affecting their ability to perform, a general consensus appears to have developed as to how regulatory authorities should perform, and the tools they need to fulfil their responsibilities.

The Data Annex provides details concerning these improvements along with remaining weaknesses, and is organized to allow the reader to examine specific areas of interest.

The Analysis, by contrast, concentrates on six areas that could most profit from further attention:

- Unbundling, Third Party Access, Market Design and Implementation – National and regional market development could be accelerated by clarification and expansion of the role of the regulatory authority in ensuring non-discriminatory access to the networks, unbundling of tariffs, and market design and implementation. A cohesive role could be encouraged for the regulatory authority in establishing the predicate components of the market framework, including responsibility for clear unbundling guidelines, with secondary legislation emphasizing the regulatory authority's role and clarifying that role vis-à-vis other institutions.
- Data Access and Market Monitoring – Another area in which improvement could assist market development includes the organization, access and management by regulatory bodies of the information needed to monitor the market.
- Staffing – Improvements in pay, training – particularly in competitive market requirements and issues – and other measures could provide continuity and the development of regulatory authorities as stable institutions able to advance market reform.
- Enforcement – The regulatory authority's ability to enforce its decisions continues to be an area in which strengthening could increase its effectiveness in overseeing the sector.
- Accountability v. Intervention – Additional attention to accountability mechanisms that focus on general, high-level reporting and public participation to ensure the smooth functioning of the sector, as opposed to daily involvement in the activities of the regulatory authority, can maximize appropriate levels of regulatory autonomy and flexibility.

- Regional Harmonization – Greater coordination among regulatory authorities in the region regarding the development and implementation of common approaches to issues such as congestion management, standards for regional energy traders and the participation of national companies in regional trading platforms could expedite the development of markets in jurisdictions reflecting relatively slower progress in market development and could aid overall in the development of the regional energy market.

3. ANALYSIS

3.1. Unbundling, Third Party Access, Market Design and Implementation

The South East Europe region includes participants at various stages of market opening, *i.e.*, the legal ability of customers to choose their suppliers, with a few fully opened and some partially opened. Six lack even a timetable of stages of market opening, and about a third of the regulatory authorities have a limited to no role setting this timetable.

Whatever the percentage of customers deemed eligible as a legal matter, market opening as a practical matter requires that certain market conditions are met. The process and content of national market design, the plan to implement this design, and the rules and codes that will spell out how the design will work present the framework in which customers can participate and the market will actually function. The regulatory authority plays a key role in establishing this framework.

To this end, regulatory authorities must play an active role in developing the guidelines and procedures that underpin market development: rules on interconnection capacity, grid codes, market rules, third party access, congestion management, quality of service, and so on. At minimum, regulatory authorities should be responsible for the methodologies for connection and access to national networks, including transmission and distribution tariffs and the provision of ancillary services and balancing.

In practice, regulatory authorities have somewhat disparate powers in these areas. Several do not have final responsibility for the methodologies for connection and access to national networks and for ancillary services and balancing. Another few regulatory authorities do have such competencies under the law, but have not yet exercised them. Three regulatory authorities do not have the power to issue market rules, four do not have the power to issue metering rules, six have no or unclear authority to issue rules on interconnection capacity, and about half have a limited or no role in investment planning. Enhanced activity in these areas by this minority will be essential to harmonize rules that impact cross-border trading.

Three regulatory authorities do not issue licenses (which, for most, address quality of service, dispute resolution, security and related issues impacting upon the market); this may become a relevant impediment if regional harmonization of licenses is considered by the ECRB.

One key predicate is unbundling: the disaggregation of formerly integrated energy undertakings, and tariffs segregated by function. The independence of the system operator from generation and supply is critical to market development, and the regulatory authority's role in achieving legal, functional and accounting unbundling is one area which could profit from particular attention. The regulatory authority has a vital role to play in ensuring effective unbundling, through ensuring non-discrimination and the absence of cross-subsidies. To further

this role, regulatory authorities must have access to unbundled accounts⁸ and compliance reports from energy undertakings.

The data provided by the participants in this Report indicate that some regulatory authorities' participation in achieving unbundling is limited, too early to assess, or otherwise unclear. Five of the participants have vertically integrated utilities that have yet to proceed with functional and legal unbundling.

The majority of regulatory authorities report that they have the power either to issue or approve guidelines on separation of accounts, although one does not and another reports that it is expected that, once unbundling begins, the regulatory authority will not have a role in developing related rules and guidelines (others without the authority have sectors that have been unbundled for some time). But five regulatory participants do not issue rules regarding allocation of costs (and in one, the law provides no direction as to what body has this authority). Eight do not issue guidelines for compliance review and reporting on unbundling (and two laws are silent or unclear on this point), which hinders the abilities of the regulatory authorities to maximize effectiveness of compliance programmes on functional and legal unbundling; and a few lack the power to mandate changes in accounting practices. Development of specific and concrete unbundling rules and guidelines issued and effectively enforced by regulatory authorities, coupled with complete unbundling of tariff components, could be priorities in ensuring rapid market development.

Related to this point is the clarification of the roles various institutions play as to identified competencies. For instance, twelve participants have competition authorities (with another in development), but only a few have clear cooperation agreements between the regulatory authority and the competition authority. Two authorities stand out as making the most of institutional relationships: joining the regulatory authority and competition authority to execute a sector inquiry and clearly allocating responsibilities in a coordinated approach. For the rest, the roles of the authorities in relation to each other and to their monitoring responsibilities remain unclear.

3.2. Data Access and Market Monitoring

Unbundling helps create the market; effective and efficient access and management of data helps regulatory authorities monitor the market, including the energy, contractual and financial relationships among the market players. As markets become more sophisticated, the need for greater real-time monitoring, requiring significant computer resources, also becomes more acute.

All participating regulatory authorities have the right to request data, and receive technical, financial and operational data from energy undertakings, but this ability to request data is tenuous unless the regulatory authority has the ability to process that data and to act when information is not received or received in part but not in full. In at least twelve regulatory authorities, fines for failure to provide data to the regulatory authority as requested are provided

⁸ See Christopher W. Jones, EU Energy Law, Vol. 1, The Internal Energy Market, Chapter 4, 4.1, 4.14 (2004).

for by law, but the laws and relevant bodies are unclear as to what authority imposes such fines, suggesting that the process is at this stage a theoretical rather than a practical reality.

Confidentiality of data is another matter that requires some observation; just under half of the reporting participants have not yet established rules to determine what data are confidential and what are not. Without access to commercially sensitive data, regulatory authorities cannot accurately monitor activities. Conversely, blanket confidentiality for all data produced also impedes market development. Clear limits should be placed to ensure that no data is withheld from the regulatory authority, and that only data that is or could be harmful to enterprises is withheld from the public. For proper functioning of a regional market, information and confidentiality rules must be appropriately harmonized.

A related issue is the absence of sufficient resources to enable data analysis – only six regulatory authorities have IT systems in place to enable effective monitoring of the data.

Article 23(1)(a)-(h) of Directive 2003/54/EC lists eight specific areas in which the regulatory authority should be exercising its monitoring obligations.⁹ At a minimum, each regulatory body should have the tools available to it to perform its duties in these areas.

3.3. Staffing

All regulatory bodies now have staff members to support operations, and the clear majority have the power to select the most qualified persons for available positions, but salary levels in roughly half raise some concern that the best and brightest persons will not seek out and/or remain in regulatory staff positions, and the low numbers of staff in some regulatory authorities may hinder activities.

For most regulatory authorities, the law does not limit the number of staff, and for those countries where such limits do exist, the numbers are reasonably high. In practice, among the participants, great disparity in numbers of staff exists, with staff of 64 and more in one grouping of regulatory authorities, and 29 and less in another grouping. Although the number of staff members needed to perform effectively is a product of many factors, four participants have 15 or less staff members – numbers so low as to raise potential warning flags as to their ability to carry out their duties (these three also suffer from lower overall budgets as compared with other regulatory authorities).

The majority of participants have the ability to employ and remove their own staff – a fact essential to maximizing trust and effectiveness. Some hire pursuant to general civil servant

⁹ In summary, these are: the rules on the management and allocation of interconnection capacity; mechanism(s) to deal with congested capacity; time taken by transmission and distribution undertakings to make connection and repairs; publication of appropriate information by system operators concerning interconnectors, grid usage and capacity allocation; effective unbundling of accounts; terms, conditions and tariffs for connecting new producers to ensure non-discrimination; extent to which system operators fulfill tasks pursuant to Articles 9 and 14 of the Directive; and level of transparency and competition. Article 23(1) further provides that regulatory authorities shall publish an annual report on the outcome of the above-listed monitoring activities.

hiring requirements that span across sectors. Civil service requirements may constrain the regulatory authority's ability to obtain personnel suited to its specific needs.

Binding staff to civil servant salaries (or their equivalent) has funding consequences that may impede recruitment. In the majority of participants, regulators are paid at levels above civil servants, thus meeting at least threshold criteria to attract dedicated, qualified professionals. But for staff of the regulatory authorities in six participants, salaries are set by civil servant requirements. Energy is a highly specialized field involving vast sums of money, and compensation in the private sector largely reflects this fact. While the public sector routinely pays less than the private sector, a degree of proportionality within a sector is nonetheless optimal. Unless the regulatory authority can offer compensation that closes the gap between the public and private energy sector somewhat, recruitment and retention may suffer. Training opportunities could be provided to staff not only to attract and keep valuable personnel, but to enable staff to understand and perform the regulatory role in market development and implementation. A certain level of stability in staff members and regularization of training and operations could assist regulatory bodies in reducing disruptions and overcoming any backwards steps as they undergo the growing pains typical of any new body, and establish themselves as institutions.

The need for regulatory authorities to avoid unnecessary disruption and to establish institutional practices and directions that survive past the terms (full or otherwise) of their regulators will only increase over time as markets develop. As South East Europe moves toward a regional market, individual participants lagging in development of their regulatory authorities as consistent, well-functioning bodies may find themselves adversely affected within the region in terms of economic growth, and may retard regional development. Hence, a focus on developing stable, well trained staff with strong institutional knowledge and expertise developed over time could expedite market development as a whole.

3.4. Enforcement

The power of the regulatory authority to enforce its decisions was identified as one area of concern in the 2004 Report, and this area remains one that could profit from attention. If regulatory authorities are to ensure non-discriminatory access, they must have the ability to modify terms and conditions for access to the networks, tariffs and rules. Similarly, they must have the ability to act as dispute settlement authorities.

In about a third of participants, regulatory rule-making authority is circumscribed, thus limiting the regulatory authority's ability to modify or enforce changes to discriminatory rules and practices. While most regulatory authorities do have dispute settlement powers, in practice, few are exercising these powers, and even fewer are imposing any form of sanction. Just under one half of the regulatory authorities do not have the power to fine or sanction, but must depend upon prosecutors and courts, and their power of license revocation is not a viable alternative as a practical matter.

Authority can be further eroded through the appeal process. If a governmental body can reverse a regulatory decision (as is possible in a small minority of participants) or a reviewing court does not exercise judicial restraint (as it has failed to do in a small minority of participants), then all areas of regulatory autonomy can be affected. For several regulatory authorities,

decisions do not go into effect pending appeal, raising the concern that the appeal process may be used to delay or undermine the implementation of regulatory decision-making.

Creative avenues for increasing practical enforcement power include license suspension as developed in at least one regulatory authority (suspending the right to profits but not the duty to operate), and performance-based rates that tie income to quality of service. About three quarters of regulatory authorities report an ability to incorporate performance or incentive mechanisms in their tariff structures (although several of these have not yet applied these mechanisms). Use of this power in practice as a method of enforcement and quality assurance could enhance regulatory strength.

3.5. Accountability v. Intervention

The Directive allows for participation of ministries and other governmental bodies in the energy sector, and checks and balances that are written into law are important to keep the regulatory authority accountable. The optimal instruments of accountability are reporting provisions provided for by law, and publication of (and public access to) regulatory decisions, rules and activities. The goal is to have a transparent approach that refrains from intruding into daily operations of the regulatory authority.

For example, looking at financial issues, on the whole, the financial frameworks for the participating regulatory bodies reflect movement toward self-determination (with some notable exceptions) and caution that implementation of these frameworks require monitoring. The majority of regulatory authorities have clearly defined separate budgets (with the exception of two with budgets tied to the central budget and one with limited control over its sub-part of the Ministry's budget). All have laws that provide for income to be derived from license fees and other regulatory activities. These legal frameworks do not reflect the current funding in a few of the newer regulatory authorities, for which allocations of unlicensed integrated utilities, Government and donor moneys contribute in part or full for the initial periods. All but four participants require budget approval from another body, usually the Parliament or the Government. All regulatory authorities are subject to some kind of budget control, for example, via fee setting by the Government or Parliamentary power to change amounts allocated for the next budget period. These approvals and controls, exercised in a reasonable and consistent manner pursuant to provisions set by law, function as a balance and check.

Care must be taken that in practice these systems of accountability do not go beyond reasonable limits, to use funding – the essential backbone for regulatory operation – as a method of manipulating regulatory practices or micromanaging. In practice, for the 2005 budget cycle, such approvals and controls appear to have been exercised within reasonable limits: for those participants that have existed for sufficient periods to assess a pattern, all have received the budgets as requested (although this process was not without some problems in all cases). As recently as the 2003 and 2004 budget cycles, two regulatory authorities suffered reduction or failure to approve requested budgets, which had a direct impact on regulatory operation. Before that period, two other countries suffered from some governmental influence on approval and exercise of the budget.

While most participants recite that the finances of their regulatory authorities are independent, the government and ministries can still effectively control many regulatory pursestrings through,

e.g., setting the amount of the regulatory fees; setting the salaries of the regulators; and requiring ultimate approval over the regulatory budget. In some jurisdictions, ministries may have, as a practical matter, the power to line-item veto or adjust regulatory budgets, which not only reduces regulatory autonomy but the regulatory authority's ability to act in a flexible manner.

Examining competencies, a few regulatory authorities are largely advisory, which has obvious consequences of limiting authority and autonomy. With respect to licensing, most participants indicate that the regulatory authority controls decision-making in this area, but this situation is not universal. In one, for example, licensing decisions are appealable to the Ministry, and the regulatory authority's discretion in issuing licenses is circumscribed by detailed secondary legislation which it does not issue. In some jurisdictions, regulatory authorities are only responsible for licensing of existing entities and not new capacity, which is left to the responsibility of the Ministry. Looking at tariffs, some jurisdictions circumscribe regulatory authority in the legislative framework, and there have been instances of political pressures effected through extralegal means, such as the removal of regulators who are on paper dischargeable only for cause. Multiple participants have also experienced regulators leaving office prior to the end of their legislated terms. These early departures may not only present a symptom of other difficulties, again perhaps to be expected, but also in themselves can slow the ability of the body to establish itself as a stable institution and make it more difficult to discern, for assessment purposes, the body's long-term identity and capabilities.

Fundamentally, accountability provisions should be strong, and correspondingly, intrusion into the regulatory authority's day-to-day operations and decision-making processes should be avoided to maximize regulatory effectiveness. Guards against the use of mechanisms that intrude on this authority are essential.

3.6. Harmonization and International Cooperation

As regional initiatives move forward, harmonizing rules and market arrangements is critical. The regulatory role, on a domestic level and via representation in regional and international institutions, in particular the ECRB, is a vital contributor to such harmonization.

Instability manifested through legal processes is a legitimate, if sometimes difficult, part of the growth process. In one such instance in the past year, the outcome was positive for a participant: significantly enhancing the powers of the regulatory authority and addressing some of the limitations of the handicapped regulatory authority previously in place. In another, the outcome has restricted regulatory autonomy considerably. In three others, additional regulators were recently introduced, thus changing the dynamic of regulatory operations. In another, a new law is pending that will merge the existing regulatory authority with other sectors. Public participation, public awareness, and, going forward, regional attention through institutions created by the Treaty, in particular the ECRB and the Secretariat, can serve to minimize disruptions that are inconsistent with regulatory principles and regional initiatives.

4. CONCLUSION

The observations described in the preceding Analysis suggest the following:

- Unbundling, Third Party Access, Market Design and Implementation – An active role by the regulatory authority in market design and particularly in developing and issuing the associated rules and codes would advance market reforms. An integral part of this process is the development and implementation of third party access rules and concrete accounting, functional and legal unbundling guidelines issued by the regulatory authority and the expedition of unbundled, non-discriminatory tariffs where not yet in effect.
- Data Access and Market Monitoring – Attention could be given to the organization, access and management by regulatory authorities of the information they need to monitor the market, using the eight-factor market monitoring checklist included in the Directive as a starting point, and then evolving toward greater IT capabilities for real time oversight. Regulatory authorities should have powers to determine confidentiality rules for data and should issue rules that maximize their effective access to all data and limit public access to data only when reasonably needed.
- Staffing – Stability and continuity and the development of regulatory authorities as institutions could be promoted through appropriate staff pay, training, and creation and implementation of institutional processes.
- Enforcement – The regulatory authorities require powers to modify rules and practices that result in discriminatory conditions. Creative mechanisms should be explored to allow the regulatory authority to influence behaviour of undertakings and licensees, including license suspensions, self-executing quality of service standards and performance-based rates.
- Accountability v. Intervention – An approach could be encouraged that focuses on general, high-level accountability, as opposed to a daily and/or non-transparent involvement in the activities of the regulatory authority.
- Regional Harmonization – Closer coordination among regulatory authorities in the region could expedite the development of markets in jurisdictions reflecting relatively slower progress in market development.

Data Annex
to the Regulatory Benchmarking Report
for South East Europe
2005

Ref: C05-ICO-01-03a
23 November 2005

INTRODUCTION	1
1. ESTABLISHMENT AND STATUS.....	3
TABLE 1 – FORMATION OF THE ELECTRICITY REGULATORY AUTHORITY	4
TABLE 2 – LEGAL STATUS AND AUTHORITY	6
TABLE 3 – SIZE OF REGULATORY AUTHORITY	8
TABLE 4 – VOTING PROCEDURES	10
2. FINANCIAL AUTONOMY	11
TABLE 5 – BUDGET SIZE AND COMPONENTS.....	12
TABLE 6 – BUDGET SOURCE	14
TABLE 7 – BUDGET CONTROL.....	16
3. FUNCTIONAL AUTONOMY	19
TABLE 8 – AUTONOMY IN DECISION-MAKING AND RULE ISSUANCE.....	20
TABLE 9 – ENFORCEMENT POWERS OF THE REGULATORY AUTHORITY	23
TABLE 10 – APPEALS OF REGULATORY DECISIONS.....	25
TABLE 11 – POWER TO APPOINT REGULATORS.....	29
TABLE 12 – CRITERIA FOR THE APPOINTMENT OF REGULATORS	31
TABLE 13 – MANDATE OF REGULATORS	33
TABLE 14 – REMOVAL AND DEPARTURE OF REGULATORS	35
TABLE 15 – POWER OF REGULATORS TO EMPLOY AND REMOVE STAFF.....	39
TABLE 16 – SALARIES AND RESOURCES: REGULATORS AND STAFF	41
4. AUTHORITY FOR SPECIFIC COMPETENCIES.....	43
TABLE 17 – TARIFF SETTING	44
TABLE 18 – TARIFF APPLICATION	47
TABLE 19 – LICENSING	50
TABLE 20 – AUTHORISATION FOR NEW GENERATION CAPACITY	52
TABLE 21 – DISPUTE RESOLUTION AUTHORITY	55
TABLE 22 – TECHNICAL RULES.....	59
TABLE 23 – SECURITY OF SUPPLY	61
TABLE 24 – CONGESTION MANAGEMENT	64
TABLE 25 – INVESTMENT AND PLANNING.....	66
TABLE 26 – QUALITY OF SERVICE, NETWORK MAINTENANCE AND REPAIRS	69
TABLE 27 – ENVIRONMENT	72
5. REGULATORY ROLE IN MARKET DEVELOPMENT	73
TABLE 28 – MARKET OPENING.....	74
TABLE 29 – INFORMATION ACCESS	77
TABLE 30 – UNBUNDLING	82
TABLE 31 – COMPETITION.....	86
6. ETHICAL STANDARDS	90
TABLE 32 – CODES OF ETHICS OR CONDUCT	91
TABLE 33 – EMPLOYMENT AND OWNERSHIP RESTRICTIONS	94
7. ACCOUNTABILITY.....	96
TABLE 34 – PUBLIC COMMUNICATION.....	97
TABLE 35 – PUBLIC PARTICIPATION	98
TABLE 36 – PUBLICATION AND CONFIDENTIALITY	100
TABLE 37 – REPORTING REQUIREMENTS	102
8. INTERNATIONAL ACTIVITIES	104
TABLE 38 – PARTICIPATION IN INTERNATIONAL ACTIVITIES.....	105

INTRODUCTION

This Data Annex provides information on regulatory development and is meant as a vital part of the 2005 Regulatory Benchmarking Report for South East Europe. That Report provides an analysis of the data contained in this Data Annex.¹ This Annex contains data information collected from all regulatory authorities and through review of applicable legislation on various aspects of regulatory structure, function and competencies.

The Annex is divided for easy referral to the subject areas of greatest interest to the reader, along the following sections:

- Establishment and Status
- Financial Autonomy
- Functional Autonomy
- Authority for Specific Competencies
- Regulatory Role in Market Development
- Ethical Standards
- Accountability
- International Activities

The structure follows that of the CEER WG SEEER questionnaire; adjustments have been made only to enhance overall accessibility of the information. The methodology used for gathering data is detailed in the Report; and it includes use of questionnaires (developed with the input of respondents), and review of applicable primary and secondary legislation, websites and annual reports. All participants provided data and have reviewed the content of this Data Annex prior to its publication.

Material in this section is provided in two parts – tables and text. Each subject area has a Table, which is meant to be concise and to provide a snapshot of sector activity. Some Tables also have textual explanation where needed for clarification or where respondent regulatory authorities in South East Europe have provided additional information that we have deemed may be interesting to the reader and useful in the furtherance of reform efforts. Thus, where the information provided in the Tables provides a clear picture of a respondent with respect to a particular regulatory issue, no explanatory text is provided. As this Report focuses on *regulators* and *regulatory authorities*, unless otherwise identified, Table headings refer to powers of the regulatory authorities, as do answers.

As a threshold matter, for the purpose of understanding this Data Annex, it is useful to know some fundamentals regarding a few of the regulatory authorities covered by this Report. To begin, the regulatory authorities in Serbia and UNMIK are the newest, and in Serbia operation of

¹ The 2005 Report and this Data Annex (and accompanying Appendices) are issued by the Council of European Energy Regulators (“CEER”) under the leadership of the CEER South East Europe Energy Regulators Working Group (“CEER WG SEEER”) and spearheaded by the Institutional Compliance Task Force. That Task Force continues to be led by the Turkish regulatory body, EMRA, with input from a team from Albania, Greece and Italy. The Report has been produced by Pierce Atwood in cooperation with CEER WG SEEER, and supported by USAID.

the regulatory authority is just gearing up (legal establishment occurred in June 2005). The regulatory authorities in FYR of Macedonia and Montenegro have been in place for a year, and while the remainder have longer tenure, many are still in the initial stages of development, particularly as relates to passage of a full body of secondary legislation and market monitoring. Regulatory authorities in Albania, Italy, Hungary and Moldova are the oldest in the region and can be expected to be further along in terms of regulatory development.

In Croatia, Parliament passed a new legislative framework in December 2004; among the many changes this brought was the creation of a new regulatory authority. While expected to benefit from the experiences of the regulatory authority it replaces, the new Croatian regulatory authority will nonetheless face some challenges inherent to new institutions.

Basic structural changes to other regulatory authorities also have taken place in the last year. For instance, the laws of Italy and Greece have introduced additional regulators. In Bulgaria, the water sector has been added to the areas under the regulatory authority's jurisdiction and the law has authorised the addition of new regulators (with resulting changes in the overall organisational structure and staffing underway). In Turkey, the LPG market has been taken under the supervision of the regulatory authority. New laws in Slovenia and Hungary have meant redefining of regulatory roles.

Bosnia and Herzegovina is federated, made up of the separate Entities of the Federation of Bosnia and Herzegovina and Republika Srpska, with the "State" as the country-wide authority. Accordingly, the regulatory structure has 3 parts (as does the Ministry): the State regulatory authority covers transmission and transmission-related issues, including regulation of the independent system operator, while the regulatory authorities on the Entity levels are responsible for generation, distribution and supply in their respective territories.

UNMIK is the interim administration in Kosovo, pending a final political settlement. The Constitutional Framework established by the UN, along with subsequent UN decisions, has transferred certain powers to the Kosovar institution and the Provisional Institutions of Self Government, while reserving other powers for itself. The full board has been in place only since August 2005, as the Government and Assembly did not propose and approve, respectively, two candidates as required by law. In August 2005, the Special Representative of the Secretary General intervened by appointing 2 interim members for 3 month terms, during which time the Government and Parliament may propose and approve these interim regulators to terms set forth in the law, or may appoint other members after the 3 month term has run.

Austria has a different regulatory structure from the others, as it is two-tiered, made up of E-Control Corporation and E-Control Commission. These are interacting bodies created by the same law but with distinct responsibilities. E-Control Corporation, a state-owned public limited liability company, 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. E-Control Commission performs the adjudicating functions, such as approving terms and conditions of network service, tariff setting, and resolving disputes. E-Control Commission is the appellate authority for rulings of E-Control Corporation.

1. ESTABLISHMENT AND STATUS

This Section looks at basic structure and formation. Table 1 gives the acronym for the regulatory authority (with the full name provided in Appendix 5) and its first year of operation. The more years in operation, the more development may be expected. Note that this is given in lieu of formation date (whether by law or registration), which can occur some time before actual operations begin, as was true, for instance, in Bosnia and Herzegovina, Italy and UNMIK.

Table 1 gives a reference to legislation under which the regulatory authority was formed and the legislation under which it currently operates, recognizing that legislative changes to the competencies and roles of the regulatory authority necessarily impact regulatory development (for example, 2004 changes to the law in Slovenia directly impacted regulatory competencies, expanding authority to resolve disputes, monitor markets and access licensee data; but reducing many competencies, most notably, rule-making authority).² Table 1 provides information in summary form as to legislation that empowers the regulatory authority; Appendix 1 contains a more complete list of all key energy sector legislation for each respondent. Key secondary legislation is addressed in Sections 4 and 5, e.g., Table 17 on tariff setting, Table 19 on licensing, Table 21 on dispute resolution, and Table 22 on technical rules.

The structure of the regulatory authority, identification of its legal form, and the various energy sector areas under its competency are reflected in Table 2. The regulatory authority in Albania, for instance, covers only electricity, while the majority of other authorities also have gas under their jurisdiction and many of these have district heating; one, Bulgaria, also has jurisdiction that extends to the water sector. Romania, by contrast, has 4 regulatory authorities for energy, only one of which has jurisdiction over electricity. Table 2 also identifies where, as is the case for Austria and Bosnia and Herzegovina, there is more than one regulatory authority responsible for electricity. For Bosnia and Herzegovina, answers refer to all 3 regulatory authorities unless otherwise stated. For Austria, the regulatory structures are divided not by region but by competencies; each is usually referred to independently.

Size of the regulatory authority, with respect to regulators and staff, is addressed in Table 3. Size gives a sense of the human resources available to a regulatory authority (Turkey, for instance, has the highest number of human resources; while newer authorities in Montenegro and FYR of Macedonia, for instance, have much fewer resources). Interpretation of how this affects ability to operate must take into account the range of competencies of the regulatory authority and market conditions (addressed in other sections of this Data Annex). Information on the number of the *actual* versus the *legally authorised* number of regulators and staff reveals the human resources available to each regulatory authority in the implementation of its duties.

Voting procedures in terms of required votes to reach a decision, quorum and so forth can be seen in Table 4, which provides information regarding how the decision-making process actually works.

² Greece is in the process of amending its law on electricity, with passage expected toward the end of 2005; FYR of Macedonia amended its Law on Energy this past June, and expects the passage of a new Law on Energy in early 2006. Hungary has recently amended its Electricity Law and anticipates another amendment in November 2005. Draft legislation in Moldova is pending before the Parliament, and calls for expansion of regulatory power over other fields, such as telecommunications.

Table 1 – FORMATION OF THE ELECTRICITY REGULATORY AUTHORITY

WG SEER MEMBER	NAME	STARTING DATE	ORIGINATING LEGISLATION	CURRENT LEGISLATION PROVIDING FOR REGULATORY AUTHORITY
ALBANIA	ERE	1996	Law No. 7970, Regulation of Power Sector, July 1995	Law No. 9072 on Power Sector, May 2003
AUSTRIA	<ul style="list-style-type: none"> • E-Control Corporation • E-Control Commission 	2001	Energy Regulatory Authorities Act, March 2001	Energy Regulatory Authorities Act, Oct. 2001
BOSNIA AND HERZEGOVINA	<ul style="list-style-type: none"> • SERC • FERC • RSERC 	2003	<ul style="list-style-type: none"> • State Act on Transmission of Electric Power, Regulator and Independent System Operator, April 2002 • Federation Electricity Law, Aug. 2002 • RS Electricity Law, Nov. 2002 	<ul style="list-style-type: none"> • State Act on Transmission, Regulator and Independent System Operator, as amended May 2003 • Federation Electricity Law, as amended April, July 2005 • RS Electricity Law, as amended April, Nov. 2003, Jan. 2005
BULGARIA	SEWRC (previously SERC)	<ul style="list-style-type: none"> • SEWRC: 2005 • SERC: 1999 	<ul style="list-style-type: none"> • SERC: Decree No. 181 of COM, Sept. 1999 • SEWRC: Law on Regulation of Water Supplies and Sewer Services, SG. 18/25, Feb. 2005 	<ul style="list-style-type: none"> • Energy Law, SG. 107/9, Dec. 2003 • Law on Regulation of Water Supplies and Sewer Services, SG. 18, Feb. 2005
CROATIA	CERA (previously CERC)	<ul style="list-style-type: none"> • CERA: 2005 • CERC: 2002 	<ul style="list-style-type: none"> • CERC: Law on Regulation of Energy Activities, July 2001 • CERA: Law on Regulation of Energy Activities, Dec. 2004 	Law on Regulation of Energy Activities, Dec. 2004
FYR OF MACEDONIA	ERC	2004	Law on Energy, 1997	Law on Energy 2003, as amended June 2005, Law No. 40/2005
GREECE	RAE	2000	Electricity Law 2773, 1999	Electricity Law 2773, 1999 as amended by Law 3175, 2003
HUNGARY	HEO	1994	Act on Natural Gas Supply (Act XLI of 1994)	The Electricity Act CX of 2001, as amended 2005
ITALY	AEEG	1997	Law No. 481 of Nov. 14, 1995	Law No. 481 of Nov. 1995; Law No. 239 of Aug. 2004
MOLDOVA	ANRE	1997	Gov. Resol. No. 767; August 1997	Electricity Law, Sept. 1998, as amended in 2000 and 2003
MONTENEGRO	REGAGEN	2004	Energy Law, June 2003	Energy Law, June 2003
ROMANIA	ANRE	1999	Emergency Ordinance No. 29/1998, Oct. 1998	Electricity Law, July 2003

Table 1 – FORMATION OF THE ELECTRICITY REGULATORY AUTHORITY

WG SEER MEMBER	NAME	STARTING DATE	ORIGINATING LEGISLATION	CURRENT LEGISLATION PROVIDING FOR REGULATORY AUTHORITY
SERBIA	EA	June 2005	Energy Law, No. 84/2004, July 2004	Energy Law, No. 84/2004 of July 2004
SLOVENIA	AGEN-RS	2000	Energy Law No. 79/1999, Sept. 1999	Energy Act, No. 51-2307/2004 of May 2004
TURKEY	EMRA	2001	Law No. 4628, March 2001	Electricity Market Law, No. 4628 of March 2001
UNMIK	ERO (previously part of CRU, a UN body that regulated various sectors)	<ul style="list-style-type: none"> • Partial in fall 2004; full in Aug. 2005 • CRU: Jan. 2003 	Law No. 2004/9 on the Energy Regulator, as implemented and amended by UNMIK/REG/2004/ 20 (for ERO)	Law No. 2004/9 on Energy Regulator, as implemented and amended by UNMIK/REG/ 2004/20

Table 2 – LEGAL STATUS AND AUTHORITY

WG SEEER MEMBER	NUMBER OF REGULATORY AUTHORITIES	LEGAL STATUS	OTHER FIELDS COVERED BY REGULATORY AUTHORITY IN CHARGE OF ELECTRICITY ³
ALBANIA	1	Independent public agency	Electricity
AUSTRIA	2	E-Control Corporation is a private corporation whose shares are fully owned by the government and managed by the Ministry of Economic Affairs and Labour. E-Control; Commission is a federal commission consisting of 3 members	Electricity, gas and energy from renewable resources
BOSNIA AND HERZEGOVINA	3	Independent authorities	Electricity (covered by 3 regulatory authorities)
BULGARIA	2	An independent governmental body pursuant to the Law on Administration	<ul style="list-style-type: none"> • Electricity, natural gas, district heating, water • Energy Efficiency Agency: energy efficiency
CROATIA	1	Agency	Electricity, oil, gas, heat
FYR OF MACEDONIA	1	Independent legal entity	Electricity, natural gas, oil and oil derivatives, district heating, geothermal energy
GREECE	1	Independent administrative authority	Electricity, oil, gas, district heating (“all sectors of the energy market”)
HUNGARY	1	Public administration agency	Electricity, gas, district heating (heating is generation only, no retail)
ITALY	1	Independent public institution	Electricity, gas
MOLDOVA	1	Permanent public administration authority not subordinated to the Government	Electricity, gas, petroleum products, partially district heating
MONTENEGRO	1	Independent public authority	Electricity, petroleum products, gas, coal (for electricity generation)
ROMANIA	4	Independent public institutions	<ul style="list-style-type: none"> • ANRE – Electricity, cogeneration • ANRGN – Natural gas • ANRSC – District heating • ANRM – Oil, coal, etc.
SERBIA	1	Independent public institution	Electricity, oil, natural gas, CHP

³ We note that the regulatory authority that has electricity under its mandate also may have other fields within its mandate. In this Table, we provide data regarding the various fields it covers, but remind the reader that this Report focuses, to the extent possible, on electricity only.

Table 2 – LEGAL STATUS AND AUTHORITY

WG SEEER MEMBER	NUMBER OF REGULATORY AUTHORITIES	LEGAL STATUS	OTHER FIELDS COVERED BY REGULATORY AUTHORITY IN CHARGE OF ELECTRICITY³
SLOVENIA	1	A public agency under law on public agencies	Electricity, gas, district heating
TURKEY	1	Autonomous body	Electricity, natural gas, petroleum, LPG
UNMIK	1	Independent authority	Electricity, district heating at present; envisioned: natural gas

Table 3 – SIZE OF REGULATORY AUTHORITY

WG SEEER MEMBER	NUMBER OF REGULATORS SET BY LAW	CURRENT NUMBER OF REGULATORS	LIMIT ON NUMBER OF STAFF IN LAW	CURRENT NUMBER OF STAFF MEMBERS
ALBANIA	5	5	No limit	15
AUSTRIA	3 for E-Control Commission (1 Managing Director heads E-Control Corporation)	3 for E-Control Commission (1 Managing Director heads E-Control Corporation)	No limit	64
BOSNIA AND HERZEGOVINA	3	3 in each	No limit	<ul style="list-style-type: none"> • SERC: 18 with 19 planned • FERC: 22 with 30 planned • RSERC: 20 with 27 planned
BULGARIA	<ul style="list-style-type: none"> • 13 per new law adding water sector • 7 under prior law 	13	108	87 – may be increased by 20 to cover water issues
CROATIA	5	5	New law creates senior staff position of Director; other staff hirings set forth in CERA's internal regulation of organisation	CERA's internal regulation of organisation sets forth procedures to hire staff; 25-30 staff members planned; currently 8 staff in place
FYR OF MACEDONIA	5	5	No limit	13 now; 14 planned
GREECE	<ul style="list-style-type: none"> • 7 per amendment to Electricity Law (July 2005) • 5 under prior law 	5	65	Currently RAE Secretariat consists of 40 experts (14 engineers, 11 lawyers, 10 economists, 5 others); 15 administrative staff
HUNGARY	2 (President and Vice-President)	1 (President)	Determined by state budget on an annual basis	94
ITALY	<ul style="list-style-type: none"> • 5 under new law • 3 under prior law 	Currently 2, with new law provisions of 5 being put into effect	Pursuant to Law 239 increases: up to 120 staff, and 60 employees under 2 years fixed contacts, 10 external experts and consultants	101
MOLDOVA	3	2	No limit	28
MONTENEGRO	3	3	No limit	12
ROMANIA	5	5	100	84

Table 3 – SIZE OF REGULATORY AUTHORITY

WG SEEER MEMBER	NUMBER OF REGULATORS SET BY LAW	CURRENT NUMBER OF REGULATORS	LIMIT ON NUMBER OF STAFF IN LAW	CURRENT NUMBER OF STAFF MEMBERS
SERBIA	5	5	No limit	4 staff in place (2 lawyers, 2 economists) – 30 planned (23 experts, remainder support staff); some staff already trained
SLOVENIA	Technically no regulators but instead a Council of the Energy Agency	6, one Managing Director and 5 non-professional Council members (including the Council Chair)	Law does not specify	29
TURKEY	9	9	Regulation on Human Resources authorise Board to hire personnel sufficient to ensure EMRA's functions are fulfilled, currently set at 476	290
UNMIK	5	5 (2 of whom are interim appointees)	No limit in the law	23

Explanatory Text for Table 3:

Slovenia. Since the amendment of the Energy Act in May 2004, AGEN-RS is subject to the Act on Public Agencies, which sets rules for all public agencies (and is defined to include regulatory agencies). Under the Act on Public Agencies, all public agencies must have a council which gives binding instructions to the managing director, oversees the work of the agency, sets the guidelines, decides on nominations and budget, confirms acts and the most important decisions. This Council is not permanent nor employed by the public agency. The Council of the Energy Agency has been formed and nominated; it is composed of 5 persons, 3 from ministries and 2 from institutes; they may not come from energy undertakings nor may they be employed by the agency, so they cannot be regarded as a commission or a board per se.⁴

Croatia. The new law established a new regulatory authority which is in its infancy. While eight staff members are in place, CERA is not fully functioning as an agency able to make significant decisions.

⁴ For the purposes of this Report, Members of the Council are referred to as regulators.

Table 4 – VOTING PROCEDURES

WG SEER MEMBER	PROPORTION OF VOTES REQUIRED	QUORUM REQUIRED	PROCESS FOR DEADLOCK
ALBANIA	Majority vote	3	In case of tie, Chairman decides
AUSTRIA	<ul style="list-style-type: none"> • E-Control Corporation – decisions made by Managing Director • E-Control Commission – unanimous vote (abstention not permissible) 	E-Control Commission – all 3 must vote	None (for E-Control Commission, abstention not permissible)
BOSNIA AND HERZEGOVINA	<ul style="list-style-type: none"> • SERC – unanimous vote • FERC & RSERC – majority vote 	3	SERC - if no consensus, decision goes to mandatory and binding arbitration
BULGARIA	Majority vote	7, with at least 5 having expertise in sector affected	None
CROATIA	Majority vote	3	None
FYR OF MACEDONIA	Majority vote	3	None
GREECE	Majority vote	3 (one must be the President or the Vice-President)	In case of tie, President, or Vice-President in President's absence, decides
HUNGARY	No voting; President makes decisions (Vice-President makes decisions in President's absence)	N/A	N/A
ITALY	Majority vote	Currently 2 as only 2 in place; law requires 3 (once all 5 in place)	President has the greatest influence
MOLDOVA	Majority vote	2	None, resolution or decision is adopted or not
MONTENEGRO	Majority vote	2	No neutrality; if quorum is 2 and voting 1:1, vote of third regulator required
ROMANIA	Majority vote	3 (one vote must be President or Vice-President)	No provisions; meet until reach majority
SERBIA	Affirmative vote of at least 3 members	3	No provisions; no decision without 3 affirmative votes
SLOVENIA	Majority (in accordance with rules under Public Agencies Act)	5	In case of tie, President decides
TURKEY	Affirmative vote of at least 5 members	5	N/A
UNMIK	Majority of votes of members present at the session	Law does not require a quorum, but draft Statute of ERO (to be issued by ERO) provides for a quorum of 4	None specified in law, but draft Statute of ERO provides that Chairman has the deciding vote

2. FINANCIAL AUTONOMY

This section provides data regarding the budget, including allocation, the source of funds provided to the regulatory authority, and the degree of control such authority has over fund use and availability. It is a basic fact that availability of funds, both in terms of quality and autonomy of access, influences an institution's ability to function effectively.

Table 5 offers information about the size of the budget of the regulatory authorities and how money is distributed in each regulatory authority, demonstrating the proportion of funds allocated to salaries, training and travel, and technological resources. Money is reported in Euros in order to provide a basis for comparison.⁵ Budget information must of course be analyzed in concert with other data provided in this Report. For instance, the amount of the budget has limited meaning unless viewed in conjunction with size and competencies of the regulatory authority. In addition, amounts alone do not necessarily tell the whole story as many authorities in the region receive significant donor support in forms not readily identifiable in the overall budget amount, such as technical assistance and equipment purchases, and some EU-based regulatory authorities receive EC grants. (Where such assistance can be quantified as part of the budget, we so note, and provide some reference to such assistance in Table 6.)

With respect to funding source, this section offers two pieces of data regarding functional autonomy. Table 6 identifies where funding comes from. In the older regulatory authorities, funds may be limited to license fees and related license charges and fines, and in some of the newer regulatory authorities it may include governmental support in the initial period as in Montenegro, governmental and donor support as in UNMIK, and donor funds as in Serbia.

Table 7 identifies whether, in instances where funds do come from fees and licensing-related charges, the full amount received goes to the regulatory authority, and how much control other authorities have over its financing. Where the regulatory authority requires approval for its budget, the body that must approve it is identified. Only Albania, Austria, Greece, Italy, Montenegro and Turkey do not require direct approval for their budgets; but each is subject to some form of budget control, such as fees set by the Government in Greece, or Parliamentary ability to change amounts of funds allocated for the next budget, as in Albania.

In instances where the regulatory authority receives less than the amount it proposes, as has been the case in Bosnia and Herzegovina, less than the amount of its fees and charges, or as with Bulgaria, the Table and accompanying text identify the difference and the reasoning behind any reduction. This provides background information about the financial pressures experienced by a regulatory authority through various sources and at different stages of development. The regulatory authority in Bulgaria, for instance, has suffered from governmental control over its budget in the past; and in 2001 in Slovenia, while the regulatory authority did receive its full budget, it had to wait 6 months to receive these funds (since then, it has received the full amount of its budget).

⁵ Amounts are calculated in Euros, using available exchange rates; fluctuation in exchange rates must be taken into account.

Table 5 – BUDGET SIZE AND COMPONENTS

WG SEER MEMBER	ANNUAL BUDGET FOR 2005	PERCENTAGE OF BUDGET ALLOCATED FOR SALARIES	PERCENTAGE OF BUDGET ALLOCATED FOR IT	PERCENT OF BUDGET ALLOCATED FOR TRAINING AND TRAVEL ⁶
ALBANIA	425.000 €	33% (Social Security not included)	2%	Training 19.5% (no separate allocation for travel, depends on need)
AUSTRIA	8.95 mil €	46%	8%	Travel and training together ~ 4%
BOSNIA AND HERZEGOVINA	• SERC 951.749,39 € • FERC 1.027.697 € • RSERC 661.867,34 €	• SERC – 50% • FERC – 56% • RSERC – 60% (includes calculation of pension costs)	• SERC – 2% • FERC – 3% • RSERC – 3%	• SERC – training 7%; travel 7% • FERC – 2.50% training; 3.64% travel • RSERC – training 1%; travel 4%
BULGARIA	1.023.000 €	67% (including Social Security benefits)	1% (both software and hardware)	• Training – 0.5% • Travel – 2%
CROATIA	1.946 mil €	36.1%	6.6%	• Training – 3.5% • Travel – 3.2%
FYR OF MACEDONIA	666.056 €	33.23%	2%	• Training – 1% • Travel – 4%
GREECE	• 8.2 mil € (operating expenses) • 1.06 mil € (assets)	34% (2,83 mil €)	13% (assets) (1.06 mil € (assets))	• Training: <1% (50,000 €, included in 2.83 mil €) • Travel: <1% (73,000 €)
HUNGARY	Approx. 8 mil €	24%	4%	Travel – 2.105%
ITALY	25 mil €	45%	Subsumed in administrative budget	• Travel – 10% • Training – 0.5%
MOLDOVA	310.000 €	• 40% • Social Security 11%	6.7%	Travel and training not separately budgeted
MONTENEGRO	772.000 €	Salaries 26%; Soc. Sec. and tax 27%	2%	Travel and training – 4%
ROMANIA	3.021 mil €	47%	4%	• Travel – 7% • Training – 0.9%
SERBIA	Approx. 1 mil € (planned)	72.49% (including Social Security contributions and health care insurance)	0% – procured by EAR	• Training – 0% (covered by technical assistance for year 2005) • Travel – 2.19%
SLOVENIA	2.8 mil €	• 30% • Social Security 4%	4%	Amount not available
TURKEY	26 mil €	24%	2%	Travel and training together ~ 1.5%

⁶ Where the percentages given do not add up to 100%, the remainder is allocated to other unidentified operating costs, such as rent.

Table 5 – BUDGET SIZE AND COMPONENTS

WG SEEER MEMBER	ANNUAL BUDGET FOR 2005	PERCENTAGE OF BUDGET ALLOCATED FOR SALARIES	PERCENTAGE OF BUDGET ALLOCATED FOR IT	PERCENT OF BUDGET ALLOCATED FOR TRAINING AND TRAVEL⁶
UNMIK	535.000 € (per 2005 budget proposal approved by KCB, 273.000 € and rest EU Pillar)	45% for employees paid by KCB	3% (most procured in 2004)	<ul style="list-style-type: none"> • Training – 11% (from the KCB) • Travel – 8.8% (from the KCB)

Table 6 – BUDGET SOURCE

WG SEEER MEMBER	SEPARATE FROM STATE BUDGET	SOURCE OF FUNDS	TIMING FOR OBTAINING FUNDS
ALBANIA	Yes	License and regulatory fees set by ERE	Not fixed; usually quarterly
AUSTRIA	Yes	Fees charged to operators of ultra-high voltage grid; E-Control sets fees to meet costs, approved by Supervisory Board	Quarterly
BOSNIA AND HERZEGOVINA	Yes	Initially through allocation to respective integrated utilities; after restructuring, fees from license holders	Quarterly
BULGARIA	No	Fixed fee, a percentage of corporate turnover and rate asset base (per fee schedule developed by SEWRC, approved by COM); revenues collected typically exceed budget (projected revenues for FY 2004 = 1.5 mil € and budget = 897.500 €)	Quarterly
CROATIA	Yes	Non-recurring fees and compensations: licensing, dispute settlement, opinions, other energy regulatory activities; .06% of total annual income realized in previous year by licensees	CERA: Quarterly for 0.06% of utility income; bill payment ongoing
FYR OF MACEDONIA	Yes	Income fees and license fees	Biannually
GREECE	Yes	Income and license fees (set by Ministry, followed by opinion of RAE); participation in research programs or other activities	Annually
HUNGARY	Partial (sub-chapter of Ministry's budget)	Licensees are charged a regulatory fee (0.054% of net sales revenues of the previous year) and administrative fees; both Ministry of Economy and Transport and Ministry of Finance set fees; HEO funds are consistent with these fees (amount of fees is the maximum the HEO can obtain; unspent excess goes into the state budget)	Annually
ITALY	Yes	Fees from regulated companies, currently not in excess of 0.1% of a licensee's income for preceding financial year (terms set and adjustable by Minister of Finance in concert with Treasury Minister; may be adjusted to cover running costs of the AEEG)	Annually
MOLDOVA	Yes	Annual regulatory fees applied to regulated companies, ranging between 0.006% and 0.009% of revenue	Biannually
MONTENEGRO	Yes	Initially from Government; then from license fees set by calculation of forecast costs of servicing sector participants	Quarterly

Table 6 – BUDGET SOURCE

WG SEEER MEMBER	SEPARATE FROM STATE BUDGET	SOURCE OF FUNDS	TIMING FOR OBTAINING FUNDS
ROMANIA	Yes	Fees for licenses, authorisations and other regulatory activities, charges and contributions from economic agents and individuals or companies (fees set annually by ANRE)	Throughout year, quarterly for license fee
SERBIA	Yes	First 2 years EAR, then license fees, and a part of the tariff for access to systems and use of systems	Not fixed
SLOVENIA	Yes	Funds provided from the central budget in 2001 and some in 2002, but since then all from network prices, determined by the Government on an annual basis	Monthly
TURKEY	Yes	License fees, publications, grants; 25% of administrative fines; surcharges not to exceed 1% of transmission tariff (law states that expenses of EMRA must be covered by its revenues)	Annually (from license fees); other charges, fines
UNMIK	Not at present	For first year and later if necessary, ERO funded by Kosovo Consolidated Budget, EU Pillar and donor contributions; in budget proposal for 2005, share of KCB is 0.27m EUR or 44%; EU Pillar covers salaries of Chairman in initial term, and of key professional and administrative posts and international travel costs; budget structure is expected to change further in 2006 and, ultimately, fees and donations will help fund the budget	Annually, or quarterly installments

Table 7 – BUDGET CONTROL

WG SEEER MEMBER	BUDGET APPROVAL REQUIRED	ACTUAL BUDGET RECEIVED SAME AS BUDGET REQUESTED
ALBANIA	No, but Parliament may change amount of funds allocated for next budget period if determines, upon review of Annual Financial Report, that an expense was not appropriate	Yes; Parliament has never changed amount of funds allocated for the next year's budget
AUSTRIA	Yes, by Supervisory Board	Yes
BOSNIA AND HERZEGOVINA	<ul style="list-style-type: none"> • Yes, under Dec. 2004 Law on Financing Institutions, SERC required to submit proposed budget to Ministry, then to COM for approval (COM may reduce by no more than 20% and SERC must have opportunity to respond to any Ministry suggestions for reduction) • Yes, for FERC and RSERC – by Assemblies, respectively (after approval by Governments) 	<ul style="list-style-type: none"> • Yes for SERC for all years • Yes for 2005 budgets for RSERC, FERC; No for 2004 for RSERC (reduction of 50% by RS Government and Assembly) and FERC (reduction of 6% by Federation Assembly)
BULGARIA	Yes, COM presents to the Parliament with State budget for adoption	Yes; budget has been approved as requested in the last couple years, before that, some problems experienced
CROATIA	Yes, by Government	Yes
FYR OF MACEDONIA	Yes, by Parliament; Parliament also may comment regarding manner in which ERC funds were used during previous year	Yes
GREECE	No, RAE must inform Parliament of its budget allocations, but does not seek approval; fees are determined by common decision of Minister of Development and Minister of Economics, following opinion of and request by RAE; no other body has a say as to how RAE uses its funds	N/A
HUNGARY	Yes, by the Ministry of Economy and Transport and the Ministry of Finance	Yes
ITALY	No, but AEEG's expenditures are reviewed and audited by <i>Corte dei conti</i> (National Auditing Office), an arm of the Ministry of Treasury	N/A
MOLDOVA	Yes, the annual budget is approved by the Government after initial review by the Ministry of Finance regarding budget amounts and structure	Yes, some minor problems have arisen during approval process relating to budget levels, and coordination with Ministry of Finance
MONTENEGRO	Yes, Parliament approves budget. It is also submitted to the Government for informational purposes only	Firstly rejected, and after small reduction approved
ROMANIA	Yes, by Government decision	Yes
SERBIA	Yes, National Parliament approves Annual Financial Plan, which encompasses budget	N/A as in initial stages, EA is funded largely from donor moneys
SLOVENIA	Yes, by Government	Yes, but delay of 6 months experienced on one occasion
TURKEY	No	N/A

Table 7 – BUDGET CONTROL

WG SEER MEMBER	BUDGET APPROVAL REQUIRED	ACTUAL BUDGET RECEIVED SAME AS BUDGET REQUESTED
UNMIK	Yes, annual budget submitted for Assembly review; requests for appropriations from Kosovo Consolidated Budget must be submitted per law on Financial Management and Accountability; Minister of Finance and Economy shall appoint an auditor to audit ERO	Yes

Explanatory Text for Table 7:

Austria. The main tasks of the Supervisory Board of E-Control are to approve the budget and to fulfil a general control function. The Supervisory Board of E-Control is made up of representatives of the Minister for Economy and Labour and the Minister for Financial Affairs. While the Supervisory Board has the ability under law to approve or reject E-Control organisation and budgetary decisions, in practice it has never rejected a submission from E-Control. The Supervisory Board’s authority does not generally extend to regulatory affairs.

Bulgaria. 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”) have made 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 SEWRC submits a budget that contradicts the recommendations of the MOF, the MOF has the power to advise the COM not to approve the budget proposal. Neither the COM nor the MOF on its behalf has legal authority to instruct SEWRC 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 SEWRC staff regulators. Under the guidelines for civil servants, 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. Although the MOF may not provide a lesser amount to SEWRC than that appropriated by Parliament except as a result of delay or insufficiency of funds, the MOF may delay disbursements by denying SEWRC requests when SEWRC fails to justify the purpose of the expenditure, or alternatively, the MOF may approve the request but deny disbursement due to lack of funds.

Croatia. Under Article 24 of the new Law on Regulation of Energy Activities, Dec. 2004, CERA shall adopt its budget for the following year, with “prior opinion” of the Government. The new Act envisages that CERA shall have its own budget, the revenues of which shall be compensations for the carrying out of CERA’s regulation of energy activities. CERA proposes the amount of compensations that CERA may charge for carrying out such regulation, with “prior opinion” of the Ministry of Economy, Labour and Entrepreneurship. The Government, however, must approve the proposed amount of compensations.

CERA has received its requested budget; its predecessor regulatory authority, CERC, however, experienced budget difficulties. Specifically, 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 repeatedly asked CERC to lower some of the budget items, but did not provide 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 6 employees in addition to the 3 it had on staff. It also provided for more space for its own staff and work, through acquisition of a new building. CERC did not have the authority to purchase space on its own; thus, the Government had to approve any such move. CERC had difficulty meeting financial costs and needs, and the Government's failure to approve CERC's budget made the legal status of any spending by CERC open to question. Similar difficulties were experienced in 2004, followed by dissolution of the regulatory body and replacement with CERA.

Hungary. The annual state budget has chapters for each Ministry, and the Ministry has a subchapter for the HEO. Within each subchapter are sub-subchapters (*e.g.*, salaries) which are capped by the Ministry. The HEO must obtain Ministry approval to move funds between sub-subchapters. Within each sub-subchapter, the HEO can manage funds as it wishes. Although governmental bodies have no direct say with respect to the manner funds are used, they do exert indirect influence on spending through limitations on salaries.

UNMIK. The regulatory authority is subject to constraints arising from the central budget, in accordance with general constraints and guidelines of the Ministry of Economy and Finance.

3. FUNCTIONAL AUTONOMY

This section looks at issues of functional autonomy: how much the regulatory authority can act on its own in terms of its internal operations, such as hiring and firing; traditional regulatory functions, such as decision-making and rulemaking; and security of tenure in office (appointment and removal processes).

Table 8 gives an overview as to whether the regulatory authority shares regulatory responsibilities with another body, and if it does, the nature of the relationship. By this, we look at, for example, whether the regulatory authority has the ability to issue secondary legislation, make decisions, fix tariffs and issue licenses by itself, or whether another body, most often a Ministry of Energy or Economy, has this role in part or in full. Table 8 reveals that many regulatory authorities in the South East Europe region do share some regulatory responsibilities with other authorities, and older regulatory authorities are more likely to do so than newly created ones. Shared authority is a continuum, ranging from a largely advisory body such as RAE in Greece, to functionally autonomous authorities such as those in Bosnia and Herzegovina, Albania and UNMIK. We caution that this information offers a snapshot only to identify where sharing of responsibility exists and in what area. We have tried to capture the law and practice, but recognize the former is more concrete, and the latter more an evermoving target. Thus, in Moldova, for instance, while under the law ANRE may not share authority with another body, in practice the Ministry of Energy did intervene in 2004 to reject tariff decisions made by ANRE. Moreover, some authorities that are advisory by law exert significant influence on a market because of the quality of their work and staff, and the resulting market confidence gathered over time. For many of the newer regulatory authorities that have high levels of functional autonomy under the law, little record of functional autonomy exists.

Sections 4 and 5 of this Data Annex elaborate on Table 8 by focusing on the specific relevant areas and providing the reader with additional detail on how regulatory powers are shared.

Table 9 summarizes enforcement powers of the regulatory authorities, indicating what steps individual regulatory authorities can take to ensure that regulatory rules are followed and discriminatory market behavior is restricted as much as possible. Table 10 provides data on the finality of regulatory decisions by offering information as to the appeals process, specifically reporting on whether regulatory decisions stay in effect pending an appeal, or whether decisions are suspended until the appeal has proceeded through the applicable process as in, for example, Albania, Austria, FYR of Macedonia and Italy.

Appointment and removal power and criteria for regulators, along with term mandate are reported in Tables 11 through 14. This information indicates who has the power to appoint and remove, and grounds for removal. Removal that is restricted to cause lessens the risk that politics dictates regulatory tenure.

Functional autonomy also relates to ability of the regulatory authority to attract highly qualified professionals, and to the regulators' ability to retain qualified staff who meet their criteria and with whom they can work effectively. To this end, Table 15 and 16 offer information on salary levels for staff and regulators, as well as the staff hiring process. Most regulatory authorities have full hiring authority, but in a few cases, such as for Turkey, other bodies are involved in some aspect of the process.

Table 8 – AUTONOMY IN DECISION-MAKING AND RULE ISSUANCE

WG SEEER MEMBER	SHARES POWER	GOVERNMENTAL BODY WITH ANY POWER TO APPROVE, MODIFY, REJECT OR OTHERWISE INFLUENCE DECISIONS OR RULEMAKING
ALBANIA	No	Note that with respect to designing the market – not a classic regulatory task but one in which the regulatory authority may be involved – ERE recommends, but the COM approves the model for the national commercial electric market
AUSTRIA	Yes	Federal Minister of Economics and Labour has power to supervise activities of E-Control; Ministry may request any information and documents, and may give binding instructions to E-Control Corporation (but not to E-Control Commission); in practice, this has never occurred; Supervisory Board also has role of oversight with respect to budget and organisation, but in practice has never rejected an E-Control decision or proposal
BOSNIA AND HERZEGOVINA	No	N/A
BULGARIA	Yes	In the area of rule-making, the Ministry has final authority to issue various important pieces of secondary legislation, including tariff ordinances and SEWRC's Statute (Charter)
CROATIA	Yes	CERA has authority over license issuance but only partial authority with respect to construction of new generating facilities; CERA adopts tariff methodology upon the opinion of the Ministry but cannot set the actual tariff amounts, which are set by the Government; some CERA decisions are appealable to the Ministry; CERA performs an advisory role over other matters, such as proposed amount of tariff elements and compensation for organisation of the energy market
FYR OF MACEDONIA	No	N/A
GREECE	Yes	RAE is largely advisory; Minister of Development has final authority on most matters, except imposition of fines to authorisation holders, which RAE decides; RAE cannot enforce most of its decisions, thus restricting its authority to ensure implementation
HUNGARY	Yes	HEO is autonomous in issuing licenses and approving codes, etc.; price preparation is done by HEO, but price setting is done by the Minister of Economy and Transport; in preparing legislation, HEO advises the Ministry and Government
ITALY	Yes	AEEG has ultimate authority on many regulatory matters; in case AEEG does not issue acts on matters within its competencies, Government (through a Presidential Decree proposed by the Council of Ministers) may issue decision; before issuing such decision, the Government shall give a 60-day notice to the Authority urging it to adopt the relevant act
MOLDOVA	No	Although with no direct authority, the Ministry of Energy exerted political influence to cause changes in an ANRE tariff decision in 2004
MONTENEGRO	No	Largely autonomous, but Government is responsible for issues concerning renewables and approves Charter of Agency
ROMANIA	Yes	By law, Government approves ANRE draft rules on licensing and authorisations by Government Decision (approved by Government Decree No. 540/2004) and regulations regarding users' connections to public electricity networks (entered into force by Government Decree No. 867/2003)
SERBIA	Yes	Government adopts secondary legislation and gives final approval on prices; Ministry defines conditions for license issuance and revocation (given newness of regulatory authority, implementation is unknown)

Table 8 – AUTONOMY IN DECISION-MAKING AND RULE ISSUANCE

WG SEER MEMBER	SHARES POWER	GOVERNMENTAL BODY WITH ANY POWER TO APPROVE, MODIFY, REJECT OR OTHERWISE INFLUENCE DECISIONS OR RULEMAKING
SLOVENIA	Yes	Government may approve or reject all significant “general acts” of AGEN-RS, including those related to creation of the methodologies for calculating network charges, defining general conditions for the supply and consumption of natural gas and heat, and preparing the tariff system; AGEN-RS has the authority to “consent to,” but not to develop or approve, rules relating to allocation of interconnection capacities, transmission, the tariff system, and market balancing
TURKEY	No	N/A
UNMIK	Partial	ERO’s powers are expansive under the law; full board in place as of August 2005, therefore minimal implementation record exists; some continued role of SRSG in terms of budget and interim appointments; given newness of ERO, unclear whether SRSG or the new Ministry will exert influence over ERO in practice

Explanatory Text for Table 8:

Bulgaria. SEWRC has authority to develop, adopt and implement many technical rules, but many key pieces of secondary legislation are adopted by the COM (after proposal of SEWRC), e.g., the ordinance on setting tariffs for the electricity sector, the licensing ordinance, the Rules of Organisation (Charter) of SEWRC, and the licensee fee schedule. The COM may either approve or send back to SEWRC with instructions to amend. The Ministry also has the authority to adopt regulations dealing with technical issues, such as technical safety standards and plant operation and maintenance standards, and regulations on trade with Green Certificates, and together with the Ministry of Urban Development and Public Works adopts regulations on design of electricity installations. In the case of draft secondary legislation developed by SEWRC and recently adopted by the COM, such as the tariff ordinances, licensing ordinance, SEWRC rules of organisation and SEWRC licensee fee schedule, the amendments requested by the COM were limited to procedural rules and editorial changes. SEWRC has full authority for implementation without government interference.

Croatia. CERA has authority to issue licenses for carrying out energy activities and temporary or permanent license revocation (except with respect to small new plants), but license criteria and approvals are closely regulated by secondary legislation issued by the Ministry. CERA may adopt the methodology for determining tariff methodologies and tariff elements (but not tariff amounts which are set by the Government) upon the opinion of the Ministry. CERA has an advisory role to the Ministry on other matters, including: proposed tariff systems for the production of renewable electricity; proposed amount of compensation for organisation of the electricity market; general conditions of supply; and procedures and criteria for construction of new generating facilities.

Hungary. The Minister of Economy and Transport issues price decrees as well as some regulations (such as data requirements). Market participants take part in consultation with various bodies depending on the issue: e.g., 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 Transport

has this role with respect to issues related to investments in the energy sector and adoption or amendment of laws; the Ministry of Environment and Water Management takes part in consultations on issues related to emissions and site rehabilitation; the Competition Authority addresses competition and cartel issues; and the system operator is the consultation partner on dispatch, load and capacity allocation, as well as technical and commercial issues, and is responsible for preparing the grid code and the commercial code, which is then approved by the HEO. The Government is responsible for developing rules governing cross-border electricity transmission, the operation of the organized electricity market, the legal relationship between public utility suppliers and consumers, and the legal relationship between network licensees and system users, along with other rules.

Italy. The Ministry for Productive Activities is responsible for security of supply, and issues concessions for certain distribution activities, as well as agreements, licenses and authorisations covering sector activity. AEEG provides comments and proposals on licensed activities and regulations governing the market, and proposes amendments to individual agreements, licenses and authorisations to the Ministry. Law 239 empowered the state to make use of AEEG's consultative and advisory role, and specifies that if the AEEG does not express its opinion within 60 days of receiving such requests, the provisions in question may be adopted by the Government. Similarly where AEEG fails to adopt acts or provisions within its competence under legislation, the Government should so adopt them. For the most part, the legislation protects against duplication of responsibility with multiple bodies, although some overlap has occurred with respect to addressing stranded costs in the tariffs and tariff conditions of supply with respect to the supply of high-voltage electricity for specified large production plants.

Slovenia. Under the recently enacted law, the Government may approve or reject all significant general acts of AGEN-RS, including decisions covering specific operator prices, tariffs and methodologies. At the end of 2003, the Government intervened, preventing the implementation of an agreed upon network price increase, which was set in an open consultation procedure. The rationale for intervention was the higher-priority goal of limiting inflation. With the recent changes to the Energy Law, the Government now has the power to block nearly all decisions of the regulator. It is unclear how this will affect current practice.

Table 9 – ENFORCEMENT POWERS OF THE REGULATORY AUTHORITY

WG SEER MEMBER	POWER TO IMPOSE FINES FOR INFRACTIONS	OTHER PENALTIES OR MECHANISMS OF PERSUASION AVAILABLE TO REGULATORY AUTHORITY	INSTANCES OF REGULATORY AUTHORITY APPLYING SANCTIONS
ALBANIA	Yes	License modification or revocation; tariff revision	2 fines imposed on licensees
AUSTRIA	No	E-Control does not have enforcement power per se, but can require companies to stop certain non-discriminatory behavior via individual decision	Yes, these decisions primarily related to questions of network access, especially during the switching process
BOSNIA AND HERZEGOVINA	No, but may advise criminal court to impose	License suspension, revocation, re-opening and non-renewal; tariff revision	None
BULGARIA	Yes	May report technical safety violations to MEER, and competition violations to Competition Commission; may revoke licenses as last resort measure; may issue mandatory instructions to licensees; non-compliance may negatively impact subsequent rate applications	None in 2004
CROATIA	No	May suspend or revoke licenses	None
FYR OF MACEDONIA	No, but may advise the State Inspectorate or the Court to impose	May suspend or revoke the license	None
GREECE	Yes, may fine licensees	RAE may recommend that Minister of Development revoke authorisations	PPC fined by RAE in 3 cases (all being appealed)
HUNGARY	Yes	Issuance of letter to licensee's chief executive; revocation of licenses	Yes, many via email correspondence, letters
ITALY	Yes, unless it is for a criminal offense, which is within the authority of the regional court	May force suspension of some activities; tariff revision	Yes
MOLDOVA	Yes, per Administrative Code	Issuance of orders, directions, may suspend or revoke licenses; tariff revision	Some violations found, but no sanctions as violations insignificant
MONTENEGRO	No, but may advise court to impose	May modify or revoke license; tariff revision	None

Table 9 – ENFORCEMENT POWERS OF THE REGULATORY AUTHORITY

WG SEER MEMBER	POWER TO IMPOSE FINES FOR INFRACTIONS	OTHER PENALTIES OR MECHANISMS OF PERSUASION AVAILABLE TO REGULATORY AUTHORITY	INSTANCES OF REGULATORY AUTHORITY APPLYING SANCTIONS
ROMANIA	Yes	May issue public letters, comparative reports, suspension and modification of licenses (including withholding revenues), tariff revision and revocation (methodology for incentive regulation of distribution tariffs, issued in Nov. 2004, has rules on penalizing violations; this is not yet in effect, but will be in upcoming second regulatory period)	Has inspected premises and imposed fines
SERBIA	No, but may advise Inspection Authority to impose, initial proceedings	May revoke or suspend licenses; tariff revision	None
SLOVENIA	No	License revocation; in disputes between network users or interested parties and system operators the Agency may order a disputant to change its behavior; tariff revision	No license revocations, disputes resolved without fines
TURKEY	Yes	Letters, may suspend, modify or revoke license; tariff revisions	Has issued several letters to companies that have not followed EMRA instructions
UNMIK	Yes	May suspend, modify or revoke licenses; tariff revision	None

Table 10 – APPEALS OF REGULATORY DECISIONS

WG SEEER MEMBER	APPELLATE BODY	TIMEFRAME FOR FILING APPEALS	SCOPE OF REVIEW	DECISIONS STAY IN EFFECT PENDING APPEAL
ALBANIA	Tirana District Court	Within 30 days of publication	Errors of procedure, law	No, appellant may ask court to suspend enforcement if risk of considerable damages
AUSTRIA	E-Control Commission decisions may be appealed to Federal Supreme Administrative Court, then Federal Constitutional Court	Within 6 weeks for individual decisions	Full scope of review	No, unless public interests endangered and high risk of damages
BOSNIA AND HERZEGOVINA	<ul style="list-style-type: none"> • SERC – Court of BiH, then to Court's appellate department • FERC – Cantonal Court in Mostar; then Federation Supreme Court • RSERC – Regional Court, and then Supreme Court of RS 	<ul style="list-style-type: none"> • SERC: within 60 days of public notice of SERC decision; within 15 days to appellate department • FERC: within 30 days of FERC's ruling • RSERC: within 30 days of decision 	<ul style="list-style-type: none"> • SERC – Errors of procedure, law; new facts • FERC, RSERC – Laws silent 	Yes
BULGARIA	Supreme Administrative Court	14 days of publication	Procedures, legal error	Yes
CROATIA	Ministry – for license approvals, revocations and denials; all others, Administrative Court	Within 15 days of notice of decision by CERA; within 30 days if appeal is to a Ministry decision	Procedures, law, fact	No
FYR OF MACEDONIA	ERC's decisions may be appealed to the Commission for settling appeals in the energy domain, established by the Parliament; then Supreme Court	Within 15 days of notification	Errors of procedure, fact	Yes
GREECE	Athens Administrative Court of Appeals, then Council of State	Within 30 days of notification	Errors of procedure, fact	Yes
HUNGARY	Public Administration Court, and then to Supreme Court; Capital Court of Justice	Within 30 days of publication	Errors of procedure, legal fact	No (as of 1 November 2005)

Table 10 – APPEALS OF REGULATORY DECISIONS

WG SEEER MEMBER	APPELLATE BODY	TIMEFRAME FOR FILING APPEALS	SCOPE OF REVIEW	DECISIONS STAY IN EFFECT PENDING APPEAL
ITALY	Regional Administrative Court, then Council of State	Within 60 days of notice of a decision	Mainly technical and economical matters	Per court determination
MOLDOVA	Administrative Court	Within 30 days of publication or notification for individual decision; no time limit for decision with long term impact	Errors of procedure, law	Yes, usually, but a judge may suspend implementation of ANRE decision until the court reaches a decision on the appeal
MONTENEGRO	Court	Within 30 days of notification	Errors of procedure, law, fact	Yes, except in cases of irreparable harm or danger to security of supply
ROMANIA	Bucharest Court of Appeals (Administrative Litigation)	Within 30 days of publication	Errors of procedure, fact	Yes
SERBIA	Minister – license issuance and denial, revocation and suspension Supreme Court – other decisions of EA, such as decision upon appeal on system operator decisions on access, connection denial	Within 8 days for appeals of permit, system access, license revocation; 15 for others	Decisions of EA as appellate body: errors of procedure; others: errors of procedure, law, fact	Yes, when EA's decisions as appellate body are contested before the Supreme Court; No, for others
SLOVENIA	Ministry for most AGEN-RS decisions, except connection decisions, which cannot be appealed, however, a party may initiate an administrative dispute in the Administrative Court	Appeal to Ministry must be made within 15 days of contested decision; administrative dispute must be initiated in Court within 30 days	Errors of procedure, law, fact; when hearing an appeal of an administration ruling of AGEN-RS, Ministry may annul AGEN-RS decision but may not amend or replace it	Yes
TURKEY	Council of State	Within 60 days of notice of decision	Errors of procedure, fact	Yes, unless court grants motion for stay
UNMIK	Court of competent jurisdiction	None	Errors of procedure, law	Yes

Explanatory Text for Table 10:

Albania. A decision by ERE regarding tariffs was appealed by a nongovernmental organisation, alleging that a former regulator acted outside his authority. The State Prosecutor found insufficient grounds to proceed. No other appeals have occurred in the last couple of years.

Austria. Pursuant to an appeal by regulated companies, the Supreme Court upheld in 2005 a new tariff set by E-Control.

Bulgaria. Several SERC regulations have been invalidated by the Supreme Administrative Court for being too vague or illegal due to exceeding its administrative authority, including invalidating a SERC rule subjecting licensees to “other terms and conditions” without defining the conditions.

Croatia. The Administrative Court has only heard one appeal thus far. In that instance, regarding a decision made by CERA’s predecessor, CERC, the court decided that CERC’s decision was made with factual error and CERC amended its decision accordingly.

fyr of Macedonia. Only one decision of the ERC has been appealed, and the Commission for Settling Appeals in the Energy Domain confirmed the ERC’s decision. The party did not initiate any proceedings before the Supreme Court within the prescribed deadline of 30 days and thus the case was closed.

Greece. There have been 3 instances in which sanctions have been imposed on PPC, and appealed. The appeals are still pending.

Hungary. The HEO issued 280 decisions in 2003 and 12 were appealed. In 2004, 519 regulatory decisions were accepted without appeal; 43 decisions were appealed. EIRB is responsible for adopting a position 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. A new administrative law states that the Ministry can get involved in the appeals process, but it is unclear how this will work.

Italy. In 2005, AEEG issued Resolution 254/2004, which provides that the electricity market operator should establish, for each operator concerned and in each month, a number of indices designed to detect the potential existence of market power exerted by that operator; and whether or not such power has been exercised. The companies Enel and Endesa appealed the Resolution to the Lombardy Regional Administrative Court, which suspended the Resolution pending decision.

Moldova. Several ANRE decisions have been appealed, including a challenge by the Association of Energy Consumers of Moldova alleging failure by ANRE to provide requested public information related to a tariff increase. The Consumer NGO initially prevailed, but ANRE subsequently appealed to the highest court, resulting in a reversal of the lower court’s decision.

Romania. In 2003, 22 complaints from sector companies were registered with ANRE. Of the 22 complaints, 19 companies appealed their complaints to the competent courts. At year-end,

18 actions at law were overruled by the Bucharest Court of Appeal, 4 of which are pending appeal at the High Court of Cassation and Justice. In the case of the latter, the court ruled in favour of the plaintiff, with ANRE subsequently petitioning for appeal.

In 2004, 8 companies and 1 natural person appealed a number of ANRE orders and decisions. The Bucharest Court of Appeal denied all appeals. Three of the companies petitioned for recourse at the High Court of Cassation, which ruled there were no grounds for recourse against the decisions made by the Bucharest Court of Appeal.

Slovenia. An appeal of a network access case was taken to the Court, which ruled in favour of AGEN-RS. This ruling has been appealed again and is pending a decision. No other appeals have been brought.

Turkey. There have been 55 appeals for electricity market issues against regulations and EMRA decisions, where 39 motions for stay and 1 appeal were dismissed, while 1 motion for stay was granted. One appeal concerning electricity market issues was rejected by the Court. The remainder of appeals remain under consideration.

Table 11 – POWER TO APPOINT REGULATORS

WG SEEER MEMBER	NOMINATING BODY	APPOINTMENT POWER
ALBANIA	Selection team consisting of Minister of Industry and Energy and two representatives from Parliament	Parliament
AUSTRIA	President of Supreme Court provides slate of 3 possibilities to the Government for Chairman (who must be federal judge); other 2 members nominated by Minister of Economic Affairs and Labour	Federal Government (E-Control Commission) ⁷
BOSNIA AND HERZEGOVINA	<ul style="list-style-type: none"> • SERC – Entity Government recommends, then Entity Parliaments nominate, then to COM of BiH, which issues recommendation • FERC/RSERC – Entity Government, respectively, nominates 	<ul style="list-style-type: none"> • SERC – State Parliament appoints • FERC/RSERC – Entity Federation Parliament and RS National Assembly appoint
BULGARIA	Nominated by the COM	Prime Minister
CROATIA	Government	Parliament
FYR OF MACEDONIA	Government	Parliament
GREECE	Since July 2005, under amended law, President and 2 Vice-Presidents proposed by Minister of Development and the opinion of the competent Parliamentary Committee; other 4 members nominated by proposal of competent Parliamentary Committee; tendering procedure applies	Since July 2005, under amended law, President and 2 Vice-Presidents appointed by decision of Cabinet of Ministers; other 4 members appointed by decision of the Minister of Development
HUNGARY	Minister of Economy and Transport, for President and Vice-President; others by President	Prime Minister, for President and Vice-President, others by President
ITALY	Approval by COM upon proposal by Minister responsible, after Parliamentary committee review	President of Republic
MOLDOVA	No nominating or proposing body	Government of the Republic of Moldova; also designates one as Director General (Chair)
MONTENEGRO	Selection Commission (made up of 1 representative each from: Government, Montenegrin Academy for Science and Arts, Chamber of Commerce of Montenegro, and 2 from University of Montenegro) nominates 3 candidates and alternates; selection Commission submits list of nominees to Government, which nominates 3 to Parliament	Parliament

⁷ Managing Director of E-Control Corporation appointed by the Minister of Economic Affairs and Labour, in accordance with the Private Companies Act.

Table 11 – POWER TO APPOINT REGULATORS

WG SEEER MEMBER	NOMINATING BODY	APPOINTMENT POWER
ROMANIA	Coordinating Minister nominates President and Vice-President (Coordinating Minister nominates <i>and</i> appoints other regulators)	Prime Minister, for President and Vice-President; Coordinating Minister for other regulators
SERBIA	Government of Republic of Serbia	National Parliament of Republic of Serbia
SLOVENIA	Ministry	Government
TURKEY	Council of Ministers	Council of Ministers
UNMIK	For initial regulators: 3 (including Chairman) appointed by SRSG after consultation with DSRSG of EU Pillar and Assembly, 2 others proposed by Government, approved by Assembly, and appointed by SRSG; subsequent members: proposed by Government and appointed by Assembly	Initial terms: the SRSG; subsequently the Assembly

Table 12 – CRITERIA FOR THE APPOINTMENT OF REGULATORS

WG SEEER MEMBER	EDUCATION REQUIREMENT	CITIZENSHIP REQUIREMENT	EXPERIENCE REQUIREMENTS
ALBANIA	Training in energy, law or economy	Albanian citizenship	Commission - Chair: 15 yrs state admin., judicial or electricity system; 2 with 10 yrs gen., trans. and distribution; 2 with 5 yrs economics, finance, trade, accountancy, law, judicial, public admin.
AUSTRIA	None	None	Commission - Chair: Federal Judge; 1 member with relevant technical experience; and 1 member with legal and economic experience
BOSNIA AND HERZEGOVINA	<ul style="list-style-type: none"> • SERC – University degree in law, economics, engineering • FERC – University Degree • RSERC – University Degree in engineering, law, econ. or environmental studies 	<ul style="list-style-type: none"> • SERC – BiH citizenship • RS – RS citizenship • FERC – none 	<ul style="list-style-type: none"> • SERC – Law, economics, engineering • FERC – Multi-year experience in sector, working background in power, especially technology economics, law, and environment • RSERC – Economics, law, engineering, environmental
BULGARIA	Masters degree	Bulgarian citizenship	1 must be a lawyer; another must be an economist
CROATIA	University degree in law, economics, or technical science; English proficiency	Croatian citizenship and permanent residence	At least 7 years work experience, 5 of which must be in the field of energy
FYR OF MACEDONIA	High level graduate studies with 3 recommendations from experienced experts	Macedonian Citizenship	1 must be a lawyer; 1 an economist; others – engineers; and all must have 10 years experience
GREECE	None	None	Distinction for scientific authority, professional competence and experience on relevant issues
HUNGARY	University degree, and must have no criminal background	Hungarian Citizenship	Minimum of 5 years work experience
ITALY	None	None	Highly qualified, acknowledged professionals who are experts in sector
MOLDOVA	University degree in law, energy, economics	Moldovan Citizenship	Sufficient relevant work experience including not less than 3 years in the field as a manager
MONTENEGRO	Advanced university degree in engineering, law, or economics	Montenegrin Citizenship; permanent residency	Minimum of 10 years of experience in chosen field
ROMANIA	Law is silent, but Prime Minister and Minister seek diversity of skills	Romanian Citizenship	No fixed requirement

Table 12 – CRITERIA FOR THE APPOINTMENT OF REGULATORS

WG SEEER MEMBER	EDUCATION REQUIREMENT	CITIZENSHIP REQUIREMENT	EXPERIENCE REQUIREMENTS
SERBIA	University degree in law, econ., or engineering field	Serbia Citizenship	At least 10 years of relevant working experience
SLOVENIA	University degree in related field (technical, law, econ.)	Slovenian Citizenship	10 years of service
TURKEY	Undergraduate degree in law, political or admin. sciences, public admin. or finance, econ., engineering, management	Turkish Citizenship	Minimum of 10 years experience in public or private sector and distinguished in the profession
UNMIK	University degree	Residents of Kosovo (except for Chair in initial mandate)	5 years of work experience in law, engineering, economy, management, or accounting

Table 13 – MANDATE OF REGULATORS

WG SEER MEMBER	LENGTH OF FIXED TERMS ⁸	INITIAL TERMS STAGGERED	POSSIBILITY OF REAPPOINTMENT	ACTUAL REAPPOINTMENT
ALBANIA	5 years	Yes	Yes, no limitation on number of terms served	Terms have been renewed in 2 instances
AUSTRIA	5 years	No	Yes	N/A; initial terms have not run
BOSNIA AND HERZEGOVINA	5 years (currently serving initial terms of various length)	Yes	Yes, 2 term limitation for all 3	N/A; initial terms have not run
BULGARIA	5 years	Yes, for original regulators; not addressed in new law for 6 new water regulators	Yes	Terms have been renewed in 2 instances
CROATIA	5 years	No	Yes, 2 term limitation	All CERC regulators were reappointed once; 2 out of 5 CERA regulators previously served as CERC regulators
FYR OF MACEDONIA	5 years (currently serving initial terms of various length)	Yes	Yes, 2 term limitation	Two members of the ERC have been reappointed for term of 5 years
GREECE	5 years	Yes	Yes, 2 term limitation	No
HUNGARY	<ul style="list-style-type: none"> • President and Vice-President – 6 years each • Others – no term restrictions other than mandatory retirement at 70 	No	Yes	Current president has held position 3 times, first 2 were filling in after predecessors died in office or left before term up; for third, appointed to a full term
ITALY	7 years	No	No	N/A; initial terms have not run
MOLDOVA	6 years	Yes	Yes, 2 term limitation	No reappointments
MONTENEGRO	4 years (currently serving initial terms of various length)	Yes, particular terms set by drawing lots	Yes, 2 term limitation	N/A; initial terms have not run
ROMANIA	5 years	No	Yes	One regulator has been reappointed

⁸ This category refers to fixed terms that are provided for by law, after any initial staggered terms have run.

Table 13 – MANDATE OF REGULATORS

WG SEEER MEMBER	LENGTH OF FIXED TERMS⁸	INITIAL TERMS STAGGERED	POSSIBILITY OF REAPPOINTMENT	ACTUAL REAPPOINTMENT
SERBIA	5 years (currently serving initial terms of various length)	Yes	Yes, 2 term limitation	N/A; initial terms have not run
SLOVENIA	5 years	No	Yes	N/A; initial terms have not run
TURKEY	6 years	Yes	Yes	No
UNMIK	5 years (currently serving initial terms of various length)	Yes	Yes, 2 term limitation	N/A; initial terms have not run

Table 14 – REMOVAL AND DEPARTURE OF REGULATORS

WG SEER MEMBER	AUTHORITY WITH POWER TO REMOVE REGULATORS DURING TERM	FOR CAUSE REMOVAL CRITERIA IN PLACE	DEPARTURE BEFORE TERM EXPIRED AND BASIS FOR DEPARTURE
ALBANIA	Parliament on specified grounds (regulators may also be removed pursuant to a final court decision)	Yes	None
AUSTRIA	Director of E-Control can be removed by Federal Minister; ⁹ Members of the E-Control Commission can be removed by the other members of the Commission if they fail to comply with the invitation to 3 successive meetings without a reasonable excuse, or subsequently become ineligible to hold office (e.g., becoming a member of another government entity)	Yes	None
BOSNIA AND HERZEGOVINA	<ul style="list-style-type: none"> • SERC – State Parliament • FERC – Government proposes to Parliament, with approval of President and Vice-President • RSERC – Government proposes to RS National Assembly 	Yes	None
BULGARIA	Decision of COM and resolution of Prime Minister	Yes	Several – resignation
CROATIA	Parliament, upon proposal of the Government	Yes	3 of the 5 CERC regulators did not become CERA regulators
FYR OF MACEDONIA	Parliament, upon majority vote of ERC	Yes	No answer
GREECE	None	Yes	One – resignation
HUNGARY	Prime Minister, upon Minister's proposal for President and Vice-President; for other employees, President of HEO (actual process of removal is not clear)	Yes	Yes, President – 1 removal based on law change; another as a result of death
ITALY	Official court for specific public or private responsibilities	Yes	Resignation of 1 member in 2004

⁹ Removal of the Managing Director of the E-Control Corporation is in accordance with the Private Companies Act, and in cases where the Managing Director fails to comply with written instructions of the Minister of Economics and Labour (who is employed with removal authority).

Table 14 – REMOVAL AND DEPARTURE OF REGULATORS

WG SEEER MEMBER	AUTHORITY WITH POWER TO REMOVE REGULATORS DURING TERM	FOR CAUSE REMOVAL CRITERIA IN PLACE	DEPARTURE BEFORE TERM EXPIRED AND BASIS FOR DEPARTURE
MOLDOVA	Government	Yes	Several – 2 resigned; other dismissed by Government for increasing heat tariffs
MONTENEGRO	Parliament or court	Yes	None
ROMANIA	The appointing body – Prime Minister makes determinations regarding removal for President and Vice-President; Minister makes these determinations for other 3 regulators	Yes	Several – resignation
SERBIA	National Parliament of Republic of Serbia, upon proposal of Government	Yes	None
SLOVENIA	Government	Yes	None; Council appointed on 24 June 2004
TURKEY	Council of Ministers, but COM cannot exercise this authority in the absence of a court finding confirming a removable offense	Yes	Yes, one regulator was transferred to another office
UNMIK	The appointing authority (initially SRSG and, after the initial term, the Assembly)	Yes	None

Explanatory Text for Table 14:

Albania. Specified grounds for removal are: (i) final court decision; (ii) incapability of fulfilling responsibilities for more than 6 months; (iii) acting in contravention of the Law; (iv) seeking a position with government; and (v) conviction of a crime.

Bosnia and Herzegovina. For SERC, (i) illness rendering incapacity to perform duties; (ii) conviction of a crime punishable by imprisonment; (iii) conflict of interest; (iv) non-performance of duties, as reflected by failure to participate in proceedings for more than 6 weeks; or (v) violation of Code of Ethics. For RSERC and FERC, (i) absence from more than 3 meetings in a row without approval of others; (ii) violation of Code of Ethics; or (iii) a finding of condition(s) that would bar appointment. For FERC also: total or partial inability to perform duties.

Bulgaria. (i) Factual impossibility to discharge duties for more than 6 months; (ii) a sentence for committing a criminal offense; or (iii) loss of qualification criteria: e.g., disbarment, revocation of educational qualifications, etc.

Croatia. (i) Serious breach of duty, as set forth in Charter; (ii) permanent loss of ability to perform duties; (iii) conviction of a criminal offense by competent Court; (iv) inability to carry out duties for longer than 6 months; or (v) creating a conflict of interest by participating (the regulator or a family member) with an energy undertaking.

fyr of Macedonia. (i) Illness causing inability to fulfil duties; (ii) criminal conviction with a prison sentence of more than 6 months; or (iii) violation of the Energy Law.

Greece. RAE members may be dismissed on the basis of irrevocable conviction for an offense that constitutes a bar to appointment or that calls for dismissal of a civil servant under the Civil Service Code.

Hungary. The President or Vice-President may be removed if found to: (i) have committed a crime pursuant to a court judgment or disgracing his position; (ii) be permanently unfit for the position; (iii) have failed to terminate a conflict of interest within 3 months; or (iv) have jeopardized HEO operations.

Italy. Regulators may be removed for carrying out professional or consultant activity; being administrators or employees of public or private bodies; holding another public office; or retaining interests in energy enterprises.

Moldova. (i) Resignation; (ii) loss of Moldova citizenship; (iii) failure to fulfil duties by reason of health; (iv) appointment to another position; (v) conviction by court; or (vi) systematic violation of duties or law.

Montenegro. (i) Inability to perform duties for a period in excess of 3 months; (ii) loss of permanent residence in Montenegro; (iii) falsifying qualification data; (iv) performing a criminal act; (v) conflict of interest relating to energy utilities; (vi) absence from board sessions; (vii) improper behavior/declaring false data on private property.

Romania. (i) Determination of inability to fulfil his or her tasks as a result of unavailability exceeding 60 consecutive days; (ii) 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); or (iii) criminal conviction.

Serbia. (i) Inability to perform duties for longer than 6 months; (ii) sentenced (without possible appeal) to more than 6 months in prison or for specified crimes rendering unworthy of performing office; (iii) provision of false or misleading information about qualifications for position; (iv) refusal to perform duties without good cause and in excess of 3 months consecutively or in excess of 6 months within one year; and (v) conflict of interest.

Slovenia. (i) Unfit to conduct business or incapable of performing duties for health reasons; (ii) final judgment resulting in imprisonment for a criminal offense or for causing economic losses; (iii) employment relationship with a regulated company; or (iv) becoming (or his/her spouse becomes) a shareholder of a regulated company. The reasons set out in the act regulating public agencies also apply.

Turkey. (i) Violation of the prohibitions set forth in the Electricity Market Law; (ii) conviction of a crime connected to duties; (iii) ineligible to be a civil servant; (iv) incapacitated for a period exceeding 3 months due to illness, accident or otherwise; or (v) unable to continue to fulfil his/her duties in the remaining term of office.

UNMIK. (i) Serious breach of professional duties; (ii) conviction for a crime; (iii) mentally or physically incapable of performing his duties for a period longer than 3 months; (iv) breach of the Code of Professional Conduct; (v) failure to meet qualifications for the post; or (vi) failure to attend more than 3 consecutive meetings, or 5 meetings in a calendar year, for reasons other than justified medical reasons.

Table 15 – POWER OF REGULATORS TO EMPLOY AND REMOVE STAFF

WG SEEER MEMBER	STAFF EXPERIENCE CRITERIA	STAFF SELECTION PROCEDURE	BODIES INVOLVED IN STAFF EMPLOYMENT/REMOVAL
ALBANIA	Civil servant requirements; but staff does not have civil servant benefits	Open competition set per law on civil servant status	ERE <i>ad hoc</i> Commission selects 3 candidates; Chairman decides
AUSTRIA	Experience in sector or regulation	Recruitment agencies were used in the start-up phase, now E-Control relies on ads in Austrian newspapers	CEO of E-Control Corporation decides, with input from heads of departments
BOSNIA AND HERZEGOVINA	SERC, FERC and RSERC – Rules of Work apply	<ul style="list-style-type: none"> • SERC – ads in Official Gazettes; 3 daily papers • FERC – ads in Official Gazette, 2 newspapers • RSERC – ads in Official Gazette; newspapers 	<ul style="list-style-type: none"> • SERC, FERC use ad hoc committee (3 staff, 2 external) with final decision by regulators; SERC removes via disciplinary committee • RSERC regulators decide
BULGARIA	Set by Law on Administration; differs based on rank of position	Public tendering procedure, with written test and oral interview	Chairperson of SEWRG makes final decision
CROATIA	Set forth in Regulations	Public tendering procedure, written test and oral interview	CERA regulators, in cooperation with elected steering committee
FYR OF MACEDONIA	Set forth in <i>Regulations for internal organisation and systematization of employees and their duties</i> (ERC Act)	Public tendering procedure managed by ERC	ERC
GREECE	Set by Internal Operation and Management Regulation of RAE, (minimum qualifications for Heads of Operation Departments: University degree in engineering or econ., post-graduate degree, 10 years experience, 3 languages)	Competition and public tendering procedure organized by RAE, in accordance with Law on Recruitment of Staff of Public Sector	RAE, supervised by Independent Council for the Selection of Civil Servants (ASEP) for legal compliance only; ASEP may reject decision by RAE to hire, ex-post, for legal non-compliance; RAE decides sanctions against staff
HUNGARY	Criteria depend on position	Public tendering for directors, president, vice-president	President of HEO
ITALY	Ability, professional qualifications, experience	Public competition, exceptions for certain categories per Art. 16 of Law No. 56 and amendments	President and 4 other regulators
MOLDOVA	Education, professionalism, experience	Public tender or direct hiring after interview	ANRE Director General, in coordination with other regulator(s)

Table 15 – POWER OF REGULATORS TO EMPLOY AND REMOVE STAFF

WG SEEER MEMBER	STAFF EXPERIENCE CRITERIA	STAFF SELECTION PROCEDURE	BODIES INVOLVED IN STAFF EMPLOYMENT/REMOVAL
MONTENEGRO	Higher education, sector experience	<ul style="list-style-type: none"> • Director and Deputy Director – appointment by regulators • Other Staff – Public notice 	Director of the Agency makes the final decision
ROMANIA	Competitive hiring; education, sector experience	Open competition; interviews	Evaluation commission and President of ANRE
SERBIA	Set in EA <i>Rulebook on Internal Organisation and Job Classification</i>	EA is free to decide what procedure to use	President of EA
SLOVENIA	Competence; relevant experience	Public tendering procedure	AGEN-RS (internal commission)
TURKEY	New to field: national written exam score; others: experience of 5 years in sector, degree, score of A in a foreign language	In accordance with exam and application requirements, Law of Civil Servants, related provisions of applicable laws	EMRA departments define needs and regulators approve; then EMRA asks permission of State Department of Prime Ministry; candidates tested and appointed by EMRA President
UNMIK	Not in law – some in draft Statute, other in public announcement for individual position; electricity sector experience critical	Not in law – set forth in draft Statute; set by ERO	Not in law – set forth in draft Statute; set by ERO

Table 16 – SALARIES AND RESOURCES: REGULATORS AND STAFF				
WG SEEER MEMBER	SALARY FOR REGULATORS	SALARY FOR STAFF	ADEQUATE TECHNICAL EQUIPMENT	IT SYSTEM TO ALLOW MONITORING OF DATA
ALBANIA	Equivalent to Salary of General Director of the Ministry; set by Parliament	Equivalent to civil servants; set by ERE	Yes	No
AUSTRIA	> Civil servants; < government officials/industry officers	> Civil servants (but without social benefits)	Yes	Yes
BOSNIA AND HERZEGOVINA	Salaries = industry officers	> Civil servants	Yes	No
BULGARIA	Equivalent to 3 average private sector salaries	Equivalent to civil servants	Yes	Yes, but not yet used effectively
CROATIA	Equivalent to experienced state officials (such as Deputy and Assistant Minister) (set by Executive Order)	Consistent with state sector energy positions	Yes	CERA in process of forming
FYR OF MACEDONIA	Above civil servant salaries, below the level of top managers in the industry	Attempts to stay consistently slightly above civil servant salaries	Yes	No, but funds allocated for procurement
GREECE	Equivalent to experienced civil servants; set by Ministers of Finance and Development	Lower than equivalent private energy sector positions; set by Ministers of Finance and Development	Yes	Yes
HUNGARY	> Civil servants; < government officials/industry officers	Equivalent to civil servants	Yes	Yes, new database (HEO is in process of loading all data into it); also has software to evaluate pricing
ITALY	Equivalent to government officials; set by decree of the Prime Minister upon recommendation from the Treasury Minister	Equivalent to civil servants; set by AEEG, based on criteria in current collective labour contract for Antitrust Authority	Yes	Yes
MOLDOVA	> Government officials; industry officers	Set by General Director of ANRE	Yes	No
MONTENEGRO	> Civil servants	> Civil servants	Yes	No
ROMANIA	Equivalent to senior level electricity industry officials	Equivalent with state sector energy positions	Yes	Yes
SERBIA	Equivalent to the private sector	Equivalent to the private sector	Yes	Not yet, but planned

Table 16 – SALARIES AND RESOURCES: REGULATORS AND STAFF				
WG SEEER MEMBER	SALARY FOR REGULATORS	SALARY FOR STAFF	ADEQUATE TECHNICAL EQUIPMENT	IT SYSTEM TO ALLOW MONITORING OF DATA
SLOVENIA	> Civil servants, equivalent to < industry officers	Equivalent to civil servants	Yes	No
TURKEY	Not > 2x amount received by government officials of highest rank; determined by COM on proposal of Ministry of Energy	> Civil servants; < private industry; determined by Board or proposal by Chairman	Yes	Database in development
UNMIK	Not less than 5x civil servants	Equivalent to civil servants	Yes	Not yet, but planned

4. AUTHORITY FOR SPECIFIC COMPETENCIES

This section provides details as to specific regulatory competencies, spanning from core competencies, such as tariff, licensing and dispute resolution, to more technical issues related to effective functioning of the market, such as quality of service, congestion management and so on. As our goal is to provide clear, easily accessible data, we have given, where possible, a yes or no answer to whether the regulatory authority has powers in certain areas (e.g., in Table 20 we ask whether a regulatory authority may authorise new capacity), but where a simple “No” fails to reveal a role played by the regulatory authority, we make sure to identify the role as well (thus, the answer to Table 20 for Greece indicates “No” and qualifies that RAE issues an opinion to the Ministry regarding whether a new capacity applicant should receive authorisation). We also attempt to identify what body has the applicable competency (thus, for instance, using Table 20 as an example again, the data indicates that the regulatory authority in Serbia may not authorise new capacity, and this power belongs to the Ministry).

Rulemaking authority, because it spans across different regulatory functions, is represented in several places. For the core competencies, it is provided in subject specific columns (for example, power of the regulatory authority to issue secondary legislation pertaining to tariffs is in Tariff Setting Table 17, while similar authority with respect to licenses is in Licensing Table 19 and for complaints and disputes, in Table 21 on Dispute Resolution). Other regulatory rule-making authority is captured in Table 22 on Technical Rules, which covers transmission grid and distribution codes, market rules, interconnection rules and metering rules. Subsequent Tables specifically address rule issuance as part of the general subject matter (e.g., power to issue rules on congestion management is included in Table 24, which is dedicated to that issue).

Tables 17 and 18 provide information regarding the regulatory role with respect to categories of tariff responsibilities, considering particularly tariff mandates identified by the European Directive. Most regulatory authorities have the power to issue tariff secondary legislation but a few, such as Bulgaria, Croatia and Slovenia, have limited authority in this area, and Greece and Hungary issue opinions to their respective Ministries. Much the same is true with respect to their powers to fix and approve network tariffs and ancillary services (with the exceptions of Bulgaria, which has authority over both, and Hungary, which sets ancillary services and balancing via its role in approving the grid code).

Table 19 reveals that most regulatory authorities issue licenses for transmission, distribution, supply and generation (with respect to operation) and some other types of licenses (with the exception of Italy and Austria, which do not have license issuance authority). But Table 20 shows that fewer authorise new capacity (also known as construction permitting). These tables also address the regulatory authority’s power to modify or revoke licenses, and when tendering processes may apply.

Table 21 looks at the types of complaints and disputes that may be heard by the regulatory authority. Most regulatory authorities have dispute resolution authority in some form, although four of Macedonia, Greece and Slovenia do have not jurisdiction over household complaints. Tables 23 through 26 address the regulatory role with respect to congestion management, security of supply and so on. The regulatory authorities’ role with respect to environment is covered in summary form in Table 27.

Table 17 – TARIFF SETTING

WG SEER MEMBER	POWER TO ISSUE TARIFF SECONDARY LEGISLATION	POWER TO FIX TARIFFS FOR NETWORK AND ANCILLARY SERVICES AND BALANCING	POWER TO SET CONNECTION COSTS
ALBANIA	Yes (tariff methodology rules recently adopted)	Yes, under the law (tariffs not yet set)	Yes by law (no rules in place yet)
AUSTRIA	Yes, E-Control Corporation proposes tariffs for system use for Commission approval	Yes, in collaboration with responsible company	Yes, E-Control Corporation calculates fixed prices for Commission approval
BOSNIA AND HERZEGOVINA	Yes (tariff methodology rules recently issued)	Yes, SERC for ISO and transmission company, including ancillary services and balancing; FER, RSERC for generation, distribution and supply in respective geographic areas	<ul style="list-style-type: none"> • SERC: yes, connection fee shall be based on cost (not yet set) • FER: yes in General Supply Conditions (not yet set) • RSERC: yes, in Tariff Methodology Rule (not yet set)
BULGARIA	Partial, SEWRC proposes ordinances for COM approval; SEWRC issues instructions	Yes, tariff instructions include methodologies for transmission and distribution wheeling, ancillary services, network connection	Yes, by law SEWRC approves connection fees (no rules in place)
CROATIA	Partial, CERA approves tariff methodologies upon opinion of Ministry	No, energy undertaking proposes tariff amounts to Ministry; CERA provides its opinion; Ministry proposes to Government, which has approval authority on amounts	No, CERA approves connection methodologies, but does not approve connection fees
FYR OF MACEDONIA	Yes (Rulebook on regulating electricity prices recently adopted)	Yes, tariff system in development	Yes
GREECE	No, issues opinion to Minister of Development	No, issues opinion to Minister of Development; but RAE approves elements of cost base, access tariffs based on methodology in grid code	No, system operator proposes, RAE issues an opinion to Minister of Development
HUNGARY	No, proposes to Minister for approval	Partial, proposes access tariffs to Minister for approval; for balancing and ancillary services, methodologies part of grid code	No, Ministry sets tariffs; where subject of dispute HEO may issue a decision
ITALY	Yes	Yes	Yes, in cooperation with TSO
MOLDOVA	Yes	Yes, balancing services do not yet apply; supply/demand balanced via inter/disconnections	Yes, ANRE reviews and approves proposal of companies
MONTENEGRO	Yes (including generation until real market opening)	Yes, approves upon proposal of energy undertakings	Yes, REGAGEN approves upon proposal of energy undertakings

Table 17 – TARIFF SETTING

WG SEEER MEMBER	POWER TO ISSUE TARIFF SECONDARY LEGISLATION	POWER TO FIX TARIFFS FOR NETWORK AND ANCILLARY SERVICES AND BALANCING	POWER TO SET CONNECTION COSTS
ROMANIA	Yes	Yes, balancing addressed in transmission tariff methodologies (revenue correction factors)	Yes, Government approves rules on user's connection to network; ANRE approves connection tariffs
SERBIA	No, EA proposes, Government approves	EA sets methodologies; government approves final prices calculated by licensees based on methodologies, after obtaining EA opinion	Yes, EA defines method and detailed criteria for calculating connection charges
SLOVENIA	Yes, but Government must consent (draft under review)	No, but AGEN-RS must consent	Yes
TURKEY	Yes	Yes, based on companies' submittals	Yes
UNMIK	Yes	Yes	Yes, to be part of technical code

Explanatory Text for Table 17:

Austria. Some regulated companies brought an appeal in the last tariff-setting process to a change in the tariff (from rate-of-return to a price-cap regulation), fearing that the efficiency offsets would be too high, costs would not be covered, and the cost base is too low to sustain the present quality of supply in the medium term. The Supreme Court decided the decisive cases in favour of E-Control. As a result, E-Control implemented its correction: (i) some cost increases were not accepted; (ii) some cost items were reallocated from the network unit to other units; (iii) there was an adjustment for efficiency changes; and (iv) the cost base was adjusted by an input price index.

Greece. While RAE's role with respect to transmission network tariffs is mainly advisory, it does, however, approve various elements of the cost base of the tariffs, such as annual cost of the system, including the annual operating cost of the system, and also the calculation of the use of the system charges. Due to the absence of a distribution network code, there is neither a methodology nor a procedure for the approval of the distribution system charges. Such charges are assumed to be incorporated into the retail tariffs of PPC (the vertically integrated enterprise), which are approved by the Minister of Development, following an opinion of RAE.

Hungary. The Ministry of Economy and Transport has issued various decrees covering system use charges (e.g., Decree 57/2002 (XII. 29) on the General System Usage Fees (amended 2003, 2004, and 2005); and Decree 5/2005 (I. 21) on the medium-term regulation of the officially regulated price of electricity distribution and feed-in, system operation and ancillary services)).

As part of its tariff evaluation, the HEO uses a mixture of rate of return, rate of depreciation and operating costs. Historically, the Ministry has not approved all HEO price proposals.

Italy. While for transmission service the tariff is set directly by AEEG, for distribution, companies can offer customers a range of tariff options within the constraints set by AEEG.

Moldova. Problems encountered by ANRE during the tariff-setting process include how to treat prior bad debts and how to calculate current book value of fixed assets to be depreciated.

Turkey. EMRA has encountered some difficulties in the tariff-setting process, such as failure by companies to unbundle accounts for distribution and retail activities and, thus, to provide cost-reflective data; the Government has also opposed regional differences between end-user prices (which would result from the tariff structure originally envisioned). The Electricity Sector Reform and Privatisation Strategy Paper, adopted by the Government in March 2004, envisions establishment of a “price equalization mechanism” – allowing a uniform nation-wide electricity price to be paid by customers, while guaranteeing reimbursement of distribution licenses based on their revenue requirements for a first implementation period initially. After this period, the expectation is that cost differences between the distribution regions will be close to each other and the cost reflective tariffs will fully launch. As the Strategy Paper is not a legally binding document, but an annex to a High Planning Council decision, a change in the Electricity Market Law is required in order to put the Strategy into an appropriate legal framework and enable its implementation. A mandatory regulated balancing market exists and an unregulated balancing market is planned. The Transco will manage the balancing and settlement mechanisms. EMRA also regulates retail prices and services for non-eligible customers.

Table 18 – TARIFF APPLICATION

WG SEER MEMBER	POWER TO ADJUST DISCRIMINATORY PRICES	POWER TO USE INCENTIVE RATE MAKING	POWER TO REDUCE RATE OF RETURN	POWER TO REMOVE SUBSIDIES AND TO ADDRESS NEEDS OF VULNERABLE POPULATIONS
ALBANIA	Yes	Yes, for transmission and distribution tariffs	Yes	Yes, in accordance with policies set by government
AUSTRIA	Yes	Yes, price cap with efficiency offset (never used)	Yes	Indirectly (as market liberalized no direct influence); E-Control Commission may prohibit use of any terms applied to final customers that contravene statutory prohibitions or public policy; in setting network tariffs, "social" aspects may be taken into account (e.g., through fixed charge/variable charge)
BOSNIA AND HERZEGOVINA	Yes (not yet applied)	Only SERC may apply performance-based rates (not yet applied)	Yes (not yet applied)	Yes (not yet applied or fully defined); Governments are charged with energy policy, which includes addressing needs of vulnerable populations
BULGARIA	Yes	Yes	Yes, under incentive pricing rule at 5-year review	Yes, in accordance with government policies
CROATIA	No	No	Indirectly, via tariff methodology	No, as government sets end user tariff
FYR OF MACEDONIA	Yes	Yes, revenue cap, price cap hybrid	Yes	No specific provision in law; however ERC has broad authority under the law to set different types of tariff systems
GREECE	RAE provides an opinion to the Minister of Development; and can propose the imposition of fines to operators in cases of abuse	Yes, cost calculation methodology includes performance based component (CPI-X), which is set by RAE	Yes	No, determined only by Minister of Development; RAE issues opinions
HUNGARY	Yes, HEO may investigate discriminatory prices	Yes, with respect to tariff methodologies for quality of supply standards	Yes, where quality of supply decreases	No, only government has final power

Table 18 – TARIFF APPLICATION

WG SEEER MEMBER	POWER TO ADJUST DISCRIMINATORY PRICES	POWER TO USE INCENTIVE RATE MAKING	POWER TO REDUCE RATE OF RETURN	POWER TO REMOVE SUBSIDIES AND TO ADDRESS NEEDS OF VULNERABLE POPULATIONS
ITALY	Yes	Yes, price cap applied since AEEG began operations	Yes	AEEG has issued a consultation document for social tariff for electricity to government; AEEG plans to introduce special tariff solely for economically disadvantaged customers, who will be identified through an indicator of economic circumstances
MOLDOVA	Yes	No	Yes	Yes
MONTENEGRO	Yes	Yes	Yes	Yes, REGAGEN obliged to reduce and if possible eliminate cross subsidies in tariffs; Government is responsible for subsidies to vulnerable customers
ROMANIA	Yes	Yes, incentive-based revenue cap for transmission and price cap for distribution (in effect Jan. 2005)	Yes	Yes, ANRE has the power by law to eliminate cross-subsidies between industrial and residential customers. For low-income consumers a social tariff was introduced
SERBIA	No, but power to oblige licensee to adjust or suffer license revocation	Law does not specify	No	No
SLOVENIA	No	Yes, for transmission and distribution networks	Yes (not yet applied)	No
TURKEY	Yes	Yes, hybrid applies: performance based with efficiency as highest factor	Yes	Ministry of Energy and Natural Resources may offer to Council of Ministers rules and procedures for direct subsidy mechanism according to the Electricity Market Law
UNMIK	Yes	Yes, but method not yet defined	Yes	Yes (not fully defined or put into effect)

Explanatory Text for Table 18:

Albania. 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.

Bulgaria. SEWRC has the authority to deny a proposal that incorporates any subsidies, with the exception of state subsidies to vulnerable consumers. Secondary legislation on licensing provides that SEWRC 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 by SEWRC.

Italy. AEEG issued a consultation document containing its proposals for reforming the “social tariff” for electricity, including modifying the existing social tariff system, which is consumption-based but independent of household income. AEEG is proposing that “discounted” prices are applied to households in real economic disadvantage as identified through the household income indicator, which is already used for the supply of other essential services. This proposal is approved. The new tariff structure, to be set by AEEG, will be structured in a targeted fashion and applied only to truly disadvantaged customers, who will be given discounts proportionate to the number of people in the household.

Moldova. 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 former Ministry of Energy-approved export transaction. Before 2003, an average tariff has 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; as a result, few consumers have applied for this social tariff. 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.

Romania. Cross-subsidies between industrial and household customers were removed in 1999.

Turkey. 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. 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. 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. 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.

Table 19 – LICENSING¹⁰

WG SEER MEMBER	POWER TO ISSUE LICENSING RULES	POWER TO ISSUE LICENSES	POWER TO MONITOR COMPLIANCE	POWER TO MODIFY AND REVOKE LICENSES
ALBANIA	Yes (and may adopt simplified rules for establishment and operation of power plants with total capacity less than 5 MW)	Yes	Yes	Yes
AUSTRIA	No	Partial, licensing power for generators belongs to provincial and federal governments, depending on type of license; E-Control only grants licenses for balance group coordinators (trader must establish own balance group to enable it to participate in the national market)	Yes	No
BOSNIA AND HERZEGOVINA	Yes	Yes	Yes	Yes
BULGARIA	No, COM adopts licensing ordinance, which is proposed by SEWRC; but SEWRC does issue and amend related normative acts	Yes	Yes	Yes
CROATIA	No	Yes, but terms closely regulated by secondary legislation	Yes	Yes, but revocation may be appealed to Ministry
FYR OF MACEDONIA	Yes	Yes	Yes	Yes
GREECE	No, but issues opinion to Minister of Development	No, but issues opinion to Minister of Development	Yes	No, but issues opinion to Minister of Development
HUNGARY	No, Ministry issues licensing regulation, which is very broad and leaves discretion to HEO, which largely regulates through standard terms and conditions in licenses	Yes	Yes	Yes

¹⁰ Licensing here refers to transmission, distribution, generation, supply, and so on, but does not include authorisation of new generation capacity, which we treat separately in Table 20.

Table 19 – LICENSING¹⁰

WG SEER MEMBER	POWER TO ISSUE LICENSING RULES	POWER TO ISSUE LICENSES	POWER TO MONITOR COMPLIANCE	POWER TO MODIFY AND REVOKE LICENSES
ITALY	No, but issues opinion to Government and Parliament	No, but issues opinion to Government and Parliament on issuance and amendments; and to Ministry of Productive Activities for licensing schemes	Yes	No, but issues opinion to responsible Ministers; Prime Minister may make ultimate decision if responsible Minister rejects AEEG's recommendation
MOLDOVA	Yes	Yes	Yes	Yes
MONTENEGRO	Yes	Yes (interim licenses issued)	Yes	Yes
ROMANIA	No, drafts rules but Ministry approves and issues by Governmental decree	Yes	Yes	Yes
SERBIA	No, Ministry issues rules and defines license conditions	Yes, subject to conditions issued by Ministry, including procedures for issuance/ revocation, recordkeeping	Yes	No, for modification; yes, for revocation subject to conditions issued by Ministry
SLOVENIA	No, Ministry issues rules and conditions for issuing licenses	Yes	Yes	Yes, may revoke license in accordance with criteria set by Ministry; Energy Act does not address modification
TURKEY	Yes	Yes	Yes	Yes, EMRA Board may revoke license; modification governed by license provisions set by EMRA
UNMIK	Yes	Yes	Yes	Yes

Table 20 – AUTHORISATION FOR NEW GENERATION CAPACITY

WG SEER MEMBER	POWER TO ISSUE RULES FOR NEW CAPACITY	POWER TO AUTHORISE NEW CAPACITY	APPLICATION OF TENDERING PROCESS AND ROLE OF REGULATORY AUTHORITY
ALBANIA	Yes, details set forth in licensing procedure issued by ERE	Yes	Government may use tendering procedures to grant a concession right to a private investor under the law on concession or to the public utility if it seeks to build a new generation capacity (e.g., for first unit of Vlora TPP); in both cases, licensing by ERC required prior to construction of new generation unit
AUSTRIA	No	No	E-Control has no role in tendering; no tendering foreseen by law
BOSNIA AND HERZEGOVINA	No	No	Laws unclear; of 3 Electricity Laws, only Federation Law provides detail as to content of bids and decision process (as yet untested)
BULGARIA	No, new capacity addressed in licensing ordinance adopted by COM and proposed by SEWRC, but SEWRC does issue and amend related normative acts	Yes	Applies only when security of supply cannot be guaranteed through licensing regime; Minister of Energy approves inventory of new electricity generation; SEWRC responsible for organizing tender and issuing license to winning bidder; SEWRC appoints a competition commission (chaired by regulators and with staff and other interested representatives) to assess offers
CROATIA	No	No	Tendering not envisioned for electricity plants serving eligible customers; all plants that serve captive customers are tendered; CERA may issue tender and choose winner for generating facilities under 50 MW of capacity; for larger facilities, decision to tender and select winner lies with Government, upon proposal of CERA, which may also monitor tendering
FYR OF MACEDONIA	No	No	New capacity is tendered, not licensed, by the Ministry of Economy, in accordance with Law on Concessions and Law on Public Procurement
GREECE	No, gives opinion to Minister of Development	No, but gives opinion to Minister of Development	New capacity is licensed pursuant to Generation Licenses Regulation except in the case of non-interconnected islands, where the Minister of Development, following an opinion of RAE, publishes a call for tender; RAE evaluates proposals submitted and issues opinion to the Minister

Table 20 – AUTHORISATION FOR NEW GENERATION CAPACITY

WG SEER MEMBER	POWER TO ISSUE RULES FOR NEW CAPACITY	POWER TO AUTHORISE NEW CAPACITY	APPLICATION OF TENDERING PROCESS AND ROLE OF REGULATORY AUTHORITY
HUNGARY	No, the same as the regular licensing procedure (Ministry licensing regulation broad); leaves discretion to HEO, which largely regulates through standard terms and conditions in licenses	Yes	HEO may invite tenders in the case of supply shortage
ITALY	No	No	AEEG may advise Ministry if it foresees any possible supply problems; the Ministry is in charge of tendering
MOLDOVA	No	No	Government has full responsibility for tendering for new generating capacity; per Government Resolution 436 (April 2004), the development of new power plants may be done through a tendering process or direct negotiations
MONTENEGRO	No	Yes	Yes, but only for generation
ROMANIA	No, drafts rules but Ministry approves and issues by Governmental decree	Yes	No, tendering procedure currently in place, but expected to be introduced by amending the Electricity Law, which will allow tendering when authorisation procedure for generating capacity being built or energy efficiency measures taken are not sufficient to ensure the security of supply in the long term; tendering procedure for new capacity is approved via Government decision
SERBIA	No	No, Ministry has this authority	Government decides whether a tender is needed; Ministry or local self-government may issue the invitation to such tenders and decide on the winner. (At present, there is a need for new generation and no pending applications for authorisations)
SLOVENIA	No	No, only Ministry has authority to permit new capacity	Ministry responsible for energy has responsibility for issuing tenders for new generation capacity

Table 20 – AUTHORISATION FOR NEW GENERATION CAPACITY

WG SEER MEMBER	POWER TO ISSUE RULES FOR NEW CAPACITY	POWER TO AUTHORISE NEW CAPACITY	APPLICATION OF TENDERING PROCESS AND ROLE OF REGULATORY AUTHORITY
TURKEY	Yes, as part of licensing rules issued by EMRA	Yes	Law allows the Government to issue a tender in cases of concern for security of supply, where such concern justified by Generation Capacity Protection prepared by TSO and approved by EMRA; state-owned generation company, EUAS, is responsible for commissioning new generation units where deemed necessary; EUAS is subject to special regulations for tendering
UNMIK	Yes	Yes	Tendering is allowed only where the authorisation procedure has not resulted in building sufficient capacity; ERO is in charge of process; Law on Public Procurement applies; pre-qualification procedures shall be set forth in the invitations to tender

Table 21 – DISPUTE RESOLUTION AUTHORITY

WG SEER MEMBER	POWER TO ISSUE RULES	POWER TO ADDRESS SMALL SERVICE COMPLAINTS	POWER TO REQUIRE SUPPLIER INTERNAL COMPLAINT PROCESSES	POWER TO ADDRESS DISPUTES BETWEEN LICENSEES/ LARGE CUSTOMERS	ENFORCEABILITY OF DECISIONS OF THE REGULATORY AUTHORITY
ALBANIA	Yes	Yes	ERE approves supply contract, including provisions regarding suppliers' obligation to set up an internal complaint division	Yes, including third party access and cross-border disputes	Binding
AUSTRIA	Yes	Yes, E-Control has set up an internal department for these complaints, department includes in house "hotline"	Yes	Yes, including third party access and cross-border disputes (E-Control Commission)	<ul style="list-style-type: none"> • E-Control: non-binding • E-Control Commission: binding
BOSNIA AND HERZEGOVINA	Yes	Yes, for FERC and RSERC. N/A for SERC	Yes, for FERC, RSERC; such procedures being developed	Yes	Binding
BULGARIA	Yes, rules, guidelines and directions	Yes	Yes, SEWRC approves Rules for Working for the Customers	Yes, including third party access but not cross-border disputes until market opening	Binding
CROATIA	No	Limited to third party access to transmission/ transport/ distribution network	No	Yes, with respect to third party access	Binding
FYR OF MACEDONIA	Undefined	No, for household complaints; yes, for those from energy enterprises	Yes, all suppliers obliged to set up internal complaint procedures, which are to be approved by ERC	Yes, but scope undefined	Binding
GREECE	No	No	No	Yes, including third party access (not cross-border)	Binding per agreement between the parties

Table 21 – DISPUTE RESOLUTION AUTHORITY

WG SEER MEMBER	POWER TO ISSUE RULES	POWER TO ADDRESS SMALL SERVICE COMPLAINTS	POWER TO REQUIRE SUPPLIER INTERNAL COMPLAINT PROCESSES	POWER TO ADDRESS DISPUTES BETWEEN LICENSEES/ LARGE CUSTOMERS	ENFORCEABILITY OF DECISIONS OF THE REGULATORY AUTHORITY
HUNGARY	No	Yes	Yes	Yes, for cases involving third party access	Uncertain, no challenges as of date
ITALY	Yes	Yes	Yes	Yes, including third party access and cross-border disputes	Binding
MOLDOVA	Yes	Yes	Yes	Yes, including third party access and cross-border disputes	Binding
MONTENEGRO	Yes	Yes	Yes	Yes, including third party access	Binding
ROMANIA	Yes	Yes	Yes	Yes, for pre-contractual and network connection disputes	Binding
SERBIA	No	N/A	No	Yes, including third party access and connection	Binding
SLOVENIA	No	No	No	Yes, including third party access	Binding
TURKEY	Yes	Yes, if complaint is not solved by relevant licensee	Yes, through inclusion as a license condition	Yes, including third party access but not cross-border disputes	Binding where goes to formal dispute resolution
UNMIK	Yes	Yes	Yes	Yes, including third party access	Binding

Explanatory Text for Table 21:

Austria. 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. Where it is not possible to find an amicable solution within 6 weeks, the parties are required to seek recourse in the court system. E-Control publishes a dispute and settlement report. It has assumed direct handling of consumer questions through a new "in house" hotline. 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. Customer is obliged to seek recourse with E-Control before going to a court.

Croatia. The Consumer Protection Law defines procedures with arguably inconsistent provisions, and constitutional rights to go to court.

fyr of Macedonia. In case of decision for refusal of the third party access to the transmission or distribution system by the TSO or by the DSO, the decision can be applied to the ERC. ERC is obligated in accordance with the Law on Energy to bring a decision upon the appeal within a period of 8 days from the day of reception of the appeal. The Law on Energy gives ERC the right "to participate in dispute resolution and proposing measures," but does not define the scope of such disputes or measures, nor does it provide guidance regarding the dispute resolution process.

Hungary. The Law provides that dispute settlement is an HEO function; however, in practice the HEO acts more as a mediator, playing a limited role. 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 60 days (or more by extension) 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. Upon resolution of the complaint, the HEO will send a public order to the interested parties on its decision. This decision may be challenged in court by any of the parties. In case of third-party access issues, when the ISO refuses a request for access to the network and the parties are in dispute, the HEO has 10 days to investigate the matter and determine the issue. This is, however, not set forth as a dispute resolution procedure. The HEO may resolve a dispute between the system user, and the system operator and/or network licensee regarding their obligations.

Italy. AEEG establishes rules for periodic hearings with the various associations into which consumers and users become organized. The same regulations also govern periodic hearings with 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.

Montenegro. It is mandatory for a customer to bring its claim to the regulatory authority before going to a court. The regulatory authority may then refer the claim to the electricity company. If unhappy with the decision, a customer may appeal to the regulatory authority; then to the Administrative Court.

Romania. Under Article 11(2)(k) of the Electricity Law, ANRE is empowered to “set up the procedure for the resolution of pre-contractual disputes and settle possible disputes occurring among sector companies upon the conclusion of contracts and of the electricity supply contracts as well.” 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. A procedure was also issued and approved by ANRE for network connection disputes.

Serbia. EA’s response period to a complaint 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.

Turkey. Standard license terms and conditions allow that, for disputes involving a transmission system or distribution system, EMRA acts as intermediary before any formal dispute settlement process begins. Regarding end user complaints, if the complaint has been forwarded to the relevant supplier and no feedback has been received, EMRA may start an investigation to identify whether an infringement of the applicable legislation has occurred. If found, EMRA warns the relevant supplier to address the complaint in a satisfactory manner.

UNMIK. Pursuant to ERO’s draft rule on disputes, posted for review and comment on the ERO website on 17 August 2005, ERO may assign to an energy enterprise, an arbitration panel or another alternative dispute resolution body the authority to handle certain complaints; or ERO may decide upon the dispute. Review by ERO is mandatory in the first instance; appeal to a court is permissible only after ERO decides on the claim.

Table 22 – TECHNICAL RULES

WG SEER MEMBER	POWER TO ISSUE RULES REGARDING INTERCONNECTION CAPACITY	POWER TO ISSUE TRANSMISSION GRID AND DISTRIBUTION CODE	POWER TO ISSUE MARKET RULES	POWER TO ISSUE METERING RULES AND CHARGES
ALBANIA	Yes	Yes, grid code approved December 2004; distribution code in draft form	Yes, approved by ERE, Jan. 2005	Yes, ERE may also require supplier to inspect, repair
AUSTRIA	Yes	Yes, E-Control Commission issues grid code, which is part of market rules	Yes, in cooperation with network operators	Yes, E-Control Commission sets ceilings for charges
BOSNIA AND HERZEGOVINA	Yes, SERC via adoption of a grid code	Yes, approve after proposal by the ISO to SERC and system operators to the Entity regulators	Yes, SERC has the power to approve such rules when submitted by the ISO	Yes, for FERC, RSERC; general Conditions of Supply will address (not yet issued)
BULGARIA	In part, Ministry determines conditions and priority for connection; SEWRC issues rules on rights and obligations	Yes, upon proposal by utilities	Yes	Yes
CROATIA	No (but CERA does monitor announcement of information about interconnection capacities)	No (CERA provides opinion on TSO/DSO draft proposal, Ministry approves grid code, which is under development)	CERA gives consent on market rules (market operator approves market rules with "prior opinion" of OPS and ODS, and with consent of CERA)	No
FYR OF MACEDONIA	Yes	Yes, approves submittals of transmission grid code from TSO and distribution grid code from DSO	Yes, approves submittal from market operator (not yet issued, but draft exists)	Yes, ERC approves the rules and charges
GREECE	No, rules set by grid code; but approves details of management and allocation of interconnection capacity	No, provides opinion to Minister, following proposal by HTSO and DSO (grid and power exchange code approved May 2005)	No	No
HUNGARY	No, Minister of Economy and Transport sets; commercial and grid codes address allocation going forward, using auctions	Yes, has power of approval	Yes, TSO prepares the commercial code and submits it to HEO for approval	Yes, part of distribution code

Table 22 – TECHNICAL RULES

WG SEEER MEMBER	POWER TO ISSUE RULES REGARDING INTERCONNECTION CAPACITY	POWER TO ISSUE TRANSMISSION GRID AND DISTRIBUTION CODE	POWER TO ISSUE MARKET RULES	POWER TO ISSUE METERING RULES AND CHARGES
ITALY	Unclear; Ministry of Productive Activities has authority under Law 239 to allocate capacity on CB interconnection; discussion ongoing given AEEG's prior authority and EC Regulation 1228	Yes	Yes	Yes
MOLDOVA	Yes	Yes, transmission and distribution codes under development	Yes, approved by ANRE in 2002	Yes
MONTENEGRO	Yes	Yes, approves submittal by transmission and distribution company (approved interim grid codes end of July 2004)	Yes, approves submittal by market operator	Yes
ROMANIA	Yes, approves TSO proposal	Yes, approves TSO and DSO proposals	Yes	Yes, metering charges are covered by distribution rate
SERBIA	Yes, as part of grid code	Yes, approves submittal by TSO	Yes, approves submittal by market operator	No, governmental power
SLOVENIA	No, system operator develops instructions that must be approved by Government; TSO must adopt rules re interconnections that require AGEN-RS approval	No	No	No
TURKEY	Yes	Yes	Yes	Yes
UNMIK	Yes (not yet in place)	Yes (not yet in place)	Yes (not yet in place)	Yes (not yet in place)

Table 23 – SECURITY OF SUPPLY

WG SEEER MEMBER	MONITORING MEDIUM AND LONG TERM BALANCE, FUTURE DEMAND CAPACITY	MEASURES TO COVER DEMAND/SHORTFALL
ALBANIA	Indirectly via monitoring of market rules	Indirectly via licensing
AUSTRIA	E-Control publishes yearly a medium to long term (10 years) forecast of electricity demand and supply (2002, 2003, 2004); and investigates reliability (failure and disturbance in years 2002, 2003 and 2004) of transmission and distribution	Yes, in emergency situations E-Control organizes load shedding and orders, with Ministry, local authorities
BOSNIA AND HERZEGOVINA	<ul style="list-style-type: none"> • SERC – licenses the ISO and monitors system balance • SERC, FERC and RSERC – monitor the efficiency of mechanisms and processes of ensuring system balance 	FERC sets measures for covering shortfall in Rule on Tariff Methodology
BULGARIA	Indirectly via licensing; Ministry and TSO have primary responsibility	Indirectly via adopting of trading rules and grid code
CROATIA	Indirectly via monitoring of market development, analysis of energy sector, advising the Government, Parliament and Ministry on general condition of supply and criteria for construction of generating facilities	No, TSO and DSO have this authority
FYR OF MACEDONIA	ERC gives its opinion to Government on annual energy balance	Not at present
GREECE	RAE formulates an opinion to Minister of Development regarding long-term energy planning and how TSO conducts its estimate of generation and transmission capacity; supervises TSO operation of capacity assurance mechanism; RAE approves DSO plan for non-interconnected islands and recommends an opinion on tendering	No, TSO has this authority
HUNGARY	Indirectly, determines scope of investment required, based on proposals of system operator, which is in charge of capacity reserves; HEO resolutions establish expected level of supply for licensed undertakings; HEO prepares annual evaluation of quality and level of supply; relevant documents on website	Yes
ITALY	May advise Ministry where it foresees possible supply problems, but not responsible for approving transmission and generation plans; primary responsibility of TSO and Ministry	No, TSO has this authority
MOLDOVA	ANRE monitors short and medium term supply/demand; Ministry of Industry and Infrastructure responsible for energy security and strategy for long-term supply/demand; ANRE may require license for transmission and dispatch activity to perform studies regarding future development of the power system	Yes, along with Ministry and TSO
MONTENEGRO	Indirectly via licensing; Government establishes and implements annual and long-term energy balance, defines policy and strategy for construction of new capacity; no investigations thus far	Yes, along with Government
ROMANIA	Yes, ANRE, TSO and Ministry have specific tasks regarding security of supply	Indirectly via licensing, trading rules and approval of TSO development plans
SERBIA	No, primary responsibility of transmission and distribution system operators with Ministry oversight	No, Government, Ministry, TSO have this authority

Table 23 – SECURITY OF SUPPLY		
WG SEEER MEMBER	MONITORING MEDIUM AND LONG TERM BALANCE, FUTURE DEMAND CAPACITY	MEASURES TO COVER DEMAND/SHORTFALL
SLOVENIA	Ultimate authority with Ministry	No, Ministry has this authority
TURKEY	Indirectly through market monitoring activity and approval of TSO reports; Ministry has ultimate responsibility	No, TSO has this authority
UNMIK	Indirectly via licensing and consultation (TSO, which is not yet in place, is to propose long-term and annual energy balances to Ministry for Energy and Mining, after consultation with ERO); draft Energy Strategy promotes long-term balance, taking into account fluctuations in energy consumption (after consultation with ERO, system operators, and regional oversight bodies)	Yes, through licensing and monitoring powers

Explanatory Text for Table 23:

Bosnia and Herzegovina. 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. The RS Electricity Law specifies that the RS Government issues the long-term (5 years) 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 role of the RSERC is to supervise the efficiency of mechanisms and procedures providing systematic medium-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.

Bulgaria. The transmission operator and the Ministry of Energy and Energy Resources have the responsibility to monitor medium- and long-term supply/demand balance on the national market; to monitor expected future demand and envisaged additional capacity, along with the implementation of measures to cover peak demand; and to address any supply shortfalls. SEWRC is authorised 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 MEER sets the technical standards, but may delegate control functions to other bodies, including SEWRC.

Greece. Recent amendment of Law 2773/1999 (Law 3175/2003) allows possible development of mechanisms that would ensure adequate capacity (in comparison with demand) in both the short and long 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 TSO under RAE’s supervision, but upon the decision of the Minister of Development. The TSO establishes and publishes, at least every 2 years, a 5-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, is defined by a decision of the Minister of Development, after opinion by RAE. Finally, RAE also approves the DSO's plan for the non-interconnected islands and recommends its opinion within tenders for new capacity, upon the decision of the Minister of Development.

Moldova. With respect to the implementation of measures to cover peak demand and to address any shortfalls of one or more suppliers, the Ministry of Industry and Infrastructure 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 Industry and Infrastructure and ANRE 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 2003 due to shortages of supplies to cover peak demand, ANRE required distribution companies to sign contracts for peak power supply; licensees complied with the requirement.

Romania. The TSO prepares a 5-year plan regarding supply and demand for determining if new measures need to be taken. The plan is endorsed by ANRE and approved by the Ministry of Economy and Trade.

Turkey. EMRA participates through the regular reports submitted for approval to EMRA by the TSO, such as Generation Capacity Projection, Ten Years Statement and Demand Forecast, as well as via internal monitoring mechanisms. The Ministry of Energy and Natural Resources has the ultimate responsibility of securing energy supply. According to the latest studies, in the midterm, current capacity meets the forecasted demand.

Table 24 – CONGESTION MANAGEMENT

WG SEEER MEMBER	ROLE IN ISSUING STANDARDS FOR CONGESTION MANAGEMENT	POWER TO CORRECT CONGESTION DIFFICULTIES	MAINTAINS AUDITED ACCOUNT OF REVENUES
ALBANIA	Yes, as part of grid code	Indirectly, when ERE reviews/approves the operator's investment plan	No
AUSTRIA	E-Control sets standards; develops with market participants as part of market rules	No	Yes, in line with grid pricing procedures
BOSNIA AND HERZEGOVINA	Yes, as part of grid code and market rules	Indirectly via its role monitoring the ISO and approving changes to the grid code and market rules	No
BULGARIA	Yes, adopts rules (at present no congestion management rules in place; no mechanisms to deal with congested capacity)	Yes, may mandate energy companies take specific actions to remedy; monitors remedial actions; at this time, no congestion	No
CROATIA	No	No, CERA monitors congestion management in national transmission system; can provide opinion on issues when access is limited	No
FYR OF MACEDONIA	N/A, no standards in place, but planned to be issued by ERC	Not yet; planned	Not yet; planned
GREECE	Yes, as part of details for implementation of grid code, including procedure for application of auctioning in the event of congestion in the interconnectors; supervises implementation of such mechanisms	No, this role belongs to TSO, which may reschedule generators, taking into account daily offers submitted and the need to safeguard the system continuity	No
HUNGARY	Yes, as part of the commercial code	This role belongs to system operator, but where there is a complaint for refusal of access, HEO may investigate and instruct system operator and network companies; HEO has addressed one case	No, but HEO does provide oversight
ITALY	Yes, with respect to defining dispatching conditions; AEEG has issued provisions regulating allocation of instruments (congestion cover charges)	Yes, collaborates with TSO to require corrections; AEEG has developed future instruments that make it possible to hedge temporal and special price risk caused by congestions between catchment's areas and on interconnections	Yes

Table 24 – CONGESTION MANAGEMENT

WG SEEER MEMBER	ROLE IN ISSUING STANDARDS FOR CONGESTION MANAGEMENT	POWER TO CORRECT CONGESTION DIFFICULTIES	MAINTAINS AUDITED ACCOUNT OF REVENUES
MOLDOVA	Yes, via market rules	Yes, ANRE requires transmission licensee and National Dispatch Centre to develop disconnection plans in case of congestion; and requires transmission operator to first serve domestic consumers and then export transactions	Yes
MONTENEGRO	Yes, via technical codes and market rules	No, this role belongs to TSO, per the grid code, which is approved by REGAGEN	No
ROMANIA	Yes, as part of the market rules, grid code and special regulations for cross-border transactions	No, under the market rules, this role belongs to the TSO	No, under the market rules, this role belongs to the TSO
SERBIA	Indirectly, via rules	No, problems of congestion addressed by system operator, which may deny access to prevent overload	N/A
SLOVENIA	Indirectly via approval of rules on operation of balancing market	No	No
TURKEY	Yes, via approval of rules, investment plans (TSO responsible for daily congestion management)	Indirectly via approval of investment plans and tariffs; no concrete processes in place now	No, but has authority to audit license holders
UNMIK	No standards in place; law envisions as part of grid code approval	By law, has power to require that transmission and distribution participants correct any congestion difficulties; ERO responsible for ensuring that mechanisms to deal with congested capacity are set up within electricity and gas systems	N/A, but anticipated

Table 25 – INVESTMENT AND PLANNING

WG SEEER MEMBER	ROLE WITH RESPECT TO INVESTMENT PLANNING / COST RECOVERY	ROLE WITH RESPECT TO CROSS-BORDER EXCHANGES	POWER TO GRANT EXEMPTION TO THIRD-PARTY ACCESS RULES
ALBANIA	Issues procedures for submission of licensee investment programs; licensee obliged to file annual program with ERE; ERE reviews in setting tariff	Only in relation to licensee's investment programs, which include cross-border exchanges	Yes, ERE may grant privileged producer status if meets criteria in grid code
AUSTRIA	Only as part of setting tariffs	E-Control may make any provisions necessary to ensure compliance with EU rules	No
BOSNIA AND HERZEGOVINA	Anticipated that license conditions will address development of investment plans; cost recovery for investments to be addressed in tariff proceedings	SERC monitors conditions relating to international trade including ensuring that technical requirements are met for cross-border exchange	Laws silent
BULGARIA	Approves business and investment plans, PPAs, debt commitments of companies	Part of SEWRC authority to allocate capacity on interconnection	No
CROATIA	CERA approves transmission and distribution network development and construction plans	CERA monitors announcement of TSO regarding information about cross-border exchanges and application of mechanism for capacity allocation	No
FYR OF MACEDONIA	Only as part of setting tariffs	No answer	Yes
GREECE	Provides opinion to Minister of Development on 5-yr transmission investment plan every 2 yrs; and for generation for non-interconnected islands	RAE approves operational and planning standards including schemes for calculation of total transfer capacity	No
HUNGARY	The new law states HEO may declare network element public, which guarantees investor justified cost recovery; HEO approves system operator's network development plan, including development of cross-border tie lines	HEO may make any provisions necessary to ensure compliance with EU rules; approves operational and planning standards; licenses cross-border trade	No
ITALY	Sets tariffs and methodology taking into account cost recovery; not responsible for approving investment plans but may give opinion to Ministry	Limited; authorised to identify by decree conditions for import that apply when available transmission insufficient	Yes

Table 25 – INVESTMENT AND PLANNING			
WG SEEER MEMBER	ROLE WITH RESPECT TO INVESTMENT PLANNING / COST RECOVERY	ROLE WITH RESPECT TO CROSS-BORDER EXCHANGES	POWER TO GRANT EXEMPTION TO THIRD-PARTY ACCESS RULES
MOLDOVA	Yes, prudent and reasonable investments made by licensees are to be included in tariff setting process	Applies rules set by government for import, export and transit of electric energy (June 2005); rules address treatment of exports when country lacks sufficient power	No
MONTENEGRO	Via licensing, approves transmission plan	Approves as part of grid code	Indirectly, via exemption from tariff system
ROMANIA	Endorses TSO plans, which are ultimately approved by Ministry; part of tariff setting	Approves operational and planning standards for cross-border exchanges in TSO plans	No
SERBIA	Submits data to Ministry of Mining and Energy, if required	Approves cross-border exchange method defined by TSO in the grid code (which is approved by the EA)	No
SLOVENIA	No	Ministry permits cross-border interconnections; AGEN-RS role includes details on the allocation of cross-border capacities in its annual report to the Government	No
TURKEY	Approves TSO and DSO investment plans within the tariff approval process	Issues legislation	No
UNMIK	Only as part of setting tariffs	Licensee required to inform ERO of every contract concluded for cross-border electricity supplies; ERO may prohibit implementation if reciprocity is violated or stability of system is threatened	No

Explanatory Text for Table 25:

Italy. Law 290/2003 added to the criteria that AEEG is required to observe in setting tariffs for the remuneration of transmission and distribution networks, including ensuring that development needs of the electricity sector are met. AEEG also has authority to issue rules for environmental and economic compatibility of electricity imported from non-EU countries, which may impact cross-border exchanges.

Slovenia. Every 2 years, system operators (transmission and distribution) must prepare development plans for their networks with a 10-year outlook; the Ministry approves these plans.

Turkey. Before allowing import/export activities, the Ministry's and TSO's opinions are required by EMRA. New version of Import and Export Regulation including cross-border trade rules was issued in September 2005.

Table 26 – QUALITY OF SERVICE, NETWORK MAINTENANCE AND REPAIRS

WG SEER MEMBER	QUALITY OF SERVICE PART OF LICENSING	ROLE IN SETTING AND MONITORING QUALITY OF SERVICE STANDARDS	ROLE IN NETWORK MAINTENANCE AND ISSUING STANDARDS FOR CONNECTIONS/REPAIRS
ALBANIA	Yes	Yes, via licensing and approval of grid code	Maintenance responsibility of licensees; regulations regarding connection and repairs to be part of commercial code or other secondary legislation issued by ERE
AUSTRIA	No, defined in Technical and Organisational Rules complementing Electricity Act	No explicit standards in place	No, responsibility of state authorities
BOSNIA AND HERZEGOVINA	Yes, but details in development	Yes, via General Conditions of Supply (not yet issued)	At present, no role except via license conditions; RSERC and FERC anticipate additional roles via standards regarding connection in the Conditions of Supply (not yet issued)
BULGARIA	Yes	Adopts Rules on Service and Energy Quality Performance, monitors; part of performance-based rate setting; conducts periodic on-the-spot checks for compliance	Network maintenance included in rules on quality and service indicators and licensee monitoring; Ministry sets connection standards
CROATIA	No	No, quality standards would be set by the General Rules for Supply (rules for supply of electricity under development)	Partial, CERA approves methodologies for setting of transmission and distribution tariffs, approves plans for development and construction of transmission and distribution network (general rules for supply of electricity to address these issues)
FYR OF MACEDONIA	Yes	Special bylaws regulate the details of quality standards, e.g., Conditions of Supply, issued by ERC	No to maintenance; subject to ERC regulation once rules in place
GREECE	Yes, via licensing requires adherence to technical rules, which include quality of service standards	RAE responsible for follow-up and monitoring of how licensees meet obligations; for transmission system, standards in grid code and HTSO obliged to monitor performance; distribution network code under development	Limited, TSO develops plan for maintenance of transmission system; grid maintenance is responsibility of owner (PPC) but any user may ask RAE's opinion when connection or repair time is believed to be excessive

Table 26 – QUALITY OF SERVICE, NETWORK MAINTENANCE AND REPAIRS

WG SEER MEMBER	QUALITY OF SERVICE PART OF LICENSING	ROLE IN SETTING AND MONITORING QUALITY OF SERVICE STANDARDS	ROLE IN NETWORK MAINTENANCE AND ISSUING STANDARDS FOR CONNECTIONS/REPAIRS
HUNGARY	Yes, via special resolution	Yes, HEO sets standards and can issue a penalty for first violation and HEO applies an automatic reduction in distribution charge where 3 violations are found	Maintenance, as part of quality standards. HEO has power to monitor time taken by sector participants to make connections and repairs; if too lengthy, may issue resolutions for penalties
ITALY	No, quality of service requirements set forth in separate document issued by AEEG	AEEG sets overall service standards and automatic refund mechanisms where not met; monitors operation of services, with inspection and data access powers	Maintenance responsibility of the TSO; quality service standards cover connections and repairs
MOLDOVA	Yes	ANRE approves standards; may sanction violation with reduction in tariffs or damages to customers	ANRE may require compliance through licensing; Office of State Energy Inspectorate responsible for technical aspects; ANRE may reduce tariffs due to non-compliance with criteria
MONTENEGRO	No	Approves separate document setting forth quality of service standards, drafted by regulated company	Indirectly via license monitoring and dispute resolution process; Energy Inspection (part of Ministry) responsible for technical aspects
ROMANIA	Yes	Yes, also publishes findings, standards of performance; sets price formula based on performance	Maintenance quality, connections and repairs monitored indirectly through performance standards; utilities set maintenance program
SERBIA	Yes, indirectly; all licensees have to abide by quality of service standards defined in appropriate secondary legislation	EA approves grid code, which provides some quality of service standards; other standards are set out in secondary legislation passed by Government (e.g., General Conditions of Supply)	Monitors performance indicators via licensing, quality standards; enforcement of technical performance deficiencies responsibility of Ministry Inspection Authority (which may act on initiative of EA)
SLOVENIA	No	No direct role; Government, after receiving AGEN-RS input, may accept general conditions for supply and consumption of electricity; these must contain measures for customer protection	Yes, but limited; AGEN-RS responsible for supervising time needed for repairs to transmission and distribution networks; a separate entity, the Energy Inspectorate, plays the leading role
TURKEY	Yes	Yes, and may intervene in cases of violation of standards through tariff setting mechanism and inspections	Indirectly through grid code reporting and monitoring

Table 26 – QUALITY OF SERVICE, NETWORK MAINTENANCE AND REPAIRS

WG SEER MEMBER	QUALITY OF SERVICE PART OF LICENSING	ROLE IN SETTING AND MONITORING QUALITY OF SERVICE STANDARDS	ROLE IN NETWORK MAINTENANCE AND ISSUING STANDARDS FOR CONNECTIONS/REPAIRS
UNMIK	Yes	Yes, as part of General Conditions of Supply; grid code and market rules	Yes, through quality of service monitoring via licensing

Table 27 – ENVIRONMENT

WG SEER MEMBER	AUTHORITY ON ENVIRONMENTAL ISSUES
ALBANIA	Only via licensing process (review of compliance with environmental protection requirements)
AUSTRIA	Yes, in the area of renewables, E-Control has duties of monitoring and reporting under the Green Electricity Act, issuance of annual report on development of green electricity; provides support to Ministry of Economic Affairs regarding regulations for feed-in tariffs and the surcharges for financing support scheme; assists with respect to support tariff for CHP and surveys disclosures; E-Control has no role with respect to emissions trading
BOSNIA AND HERZEGOVINA	Yes, via license conditions; FERC and RSERC have a duty to issue construction and operation licenses, which will contain conditions on environmental protection
BULGARIA	Yes, via license conditions; MEER may impose additional environmental restrictions on producers
CROATIA	Yes, CERA's regulation of energy activities includes the promotion of "environmental protection" and its scope of activities includes giving the opinion to the Ministry on proposed tariff methodology for renewable generators, incentives for production of electricity from renewable sources and compensation for stranded costs; CERA is also tasked with publishing information and data on energy efficiency
FYR OF MACEDONIA	Yes, in the form of cooperation with the Ministry of Environment and Physical Planning
GREECE	Yes, issues opinion to the Minister of Development regarding the granting of exemptions from the obligation to obtain generation authorisation for plants generating electricity from renewable energy sources
HUNGARY	National Allocation Plan requires HEO approval of any CO ₂ emissions protection plans; Ministry of Environment and Water Management has general authority on environmental issues
ITALY	Yes, ensures respect for environmental requirements; if not, report to Ministry; in 2004, 2 ministerial decrees concerning promotion of savings and efficiency in final uses of electricity (and gas) were issued – the implementation of these is within the authority of AEEG
MOLDOVA	No
MONTENEGRO	Indirectly, through licensing requirements
ROMANIA	Yes, through issuing guidelines for producers of electricity using renewable energy sources and regulations governing the green certificates market
SERBIA	Yes, via monitoring licensing conditions; possibility to do so through tariff setting if this is in line with the Program for the implementation of the Energy Strategy, to be issued by the Government; Energy Efficiency Agency has some environmental responsibilities
SLOVENIA	No, Ministry has authority regarding environmental protection and renewable energy
TURKEY	No
UNMIK	Yes, via the licensing process; also, in setting tariffs ERO should take into consideration environmental protection concerns

5. REGULATORY ROLE IN MARKET DEVELOPMENT

Most competencies of the regulatory authorities relate to market development; this Data Annex offers a separate Section on issues that focus primarily on the market, recognizing that materials elsewhere contribute a fuller understanding of the regulatory role in market development. Aspects of market monitoring are also covered here – specifically monitoring of enterprises through data gathering, and monitoring of market dominance. Tables on licensing and quality of service in Section 4 offer information regarding regulatory monitoring of market actors.

To understand the environment in which each regulatory authority operates, it is important to have data on the degree of existing market opening, if any, and the timetable for additional opening, if any. Table 28 reports on the regulators' role with respect to market opening – revealing that about half of the respondent regulatory authorities have a role in deciding the schedule of market opening. Table 28 also gives information regarding the level of market opening at present and any timetable for future opening. Austria is the only respondent with full market opening (Montenegro has one under the law but not in practice); Bosnia and Herzegovina and UNMIK are on the other end of the continuum, with market not yet open at any level (pursuant to the law, Serbia and Albania's markets are opened to large customers, but in practice they are not open).

Table 29 addresses data access and monitoring, providing information regarding how the regulatory authority receives technical, financial and operational data from energy companies, public availability of such data, and whether the regulatory authority may request additional data where it deems such information useful in fulfilling its duties. Table 29 also looks at whether the regulatory authority may enforce any such data request if not granted. We note that confidentiality limitations on data access hamper availability of certain data; Table 36 in the next Section offers insight as to whether the regulatory authority can control what is deemed confidential; or whether such a designation is within the control of another institution.

Table 30 reports on the regulatory role with respect to unbundling of any remaining vertically integrated companies. Although it focuses on regulatory powers rather than market structure, where possible, the text below the Table gives an overview of the structure with respect to unbundled activities either planned or underway.

Market dominance monitoring is addressed in Table 31, which looks at the regulatory role and how it intersects with that of a separate competition authority, if any exists (Moldova, Montenegro, Serbia and UNMIK do not have such bodies; other respondents do have them, and in the majority of cases, some sort of cooperative relationship is developing between the two institutions).

Table 28 – MARKET OPENING

WG SEER MEMBER	REGULATORY ROLE	CURRENT STATUS OF OPENING	TIMETABLE
ALBANIA	ERE proposes market model to COM (Transitional Model approved Dec. 2004)	Opened Oct. 2004 to large customers (> 100 GWh/yr) = 2 customers (0.5%), now supplied by vertically integrated utility but negotiating for alternative supply	Remainder to accord with draft ECSEE Treaty; long-term goal is to move to a regulated Third-Party Access Model with expanded eligible customers
AUSTRIA	None	100% open as of Oct. 2001	N/A (market open)
BOSNIA AND HERZEGOVINA	RSERC may set market opening for end users; SERC, FERC unclear	Not open	None at present; RS Law sets initial eligible customers level at 10 GWh
BULGARIA	Yes; sets timetable (rules giving more monitoring role to SEWRC issued Aug. 2004)	Opened on 1 July 2004 for large electricity consumers (at least 20 GWh; number of potential customers: 63 or 25% of market)	Full opening: July 2007; cross-border trade targeted for date of EU membership
CROATIA	None	Market opened to the eligible customers over 20 GWh/yr and with direct connection to transmission network	Customers over 9 GWh/yr: 1 July 2006; all non-household customers: 1 July 2007; all customers: 1 July 2008
FYR OF MACEDONIA	Yes	Opened to direct customers connected to the 110 kV grid, over 20 GWh/year	None at present; Government may reach decision to broaden category of customers who can obtain eligibility statuses
GREECE	N/A	Eligible customers = all customers of interconnected system, except household customers; no eligible customers on non-interconnected islands	Planned for full opening by July 2007; but Government has filed with EC a request for derogation for micro-systems on non-interconnected islands
HUNGARY	No	Opened 1 July 2004 to all non-households, which is theoretically 70% of the market; in practice, the market opening is around 34% (1.357 customers are currently on the free market)	Full (proposed) – 7 Jan. 2007
ITALY	Yes, comments; issues proposals	As of July 2004 non-household users are eligible to choose their supplies (80% of national consumption excluding auto-consumption) but only a small percentage has exercised choice	Full – July 2007 (all clients eligible to choose supplies)
MOLDOVA	Yes, sets schedule in coordination with Government	Per Electricity Law, full market opening was 10 March 2005	N/A (market open)

Table 28 – MARKET OPENING

WG SEER MEMBER	REGULATORY ROLE	CURRENT STATUS OF OPENING	TIMETABLE
MONTENEGRO	Yes, sets design and timing of market opening	Theoretically 100%; in practice no competitive suppliers for smaller customers, but 2 largest customers connected to transmission network and import 30% of consumption directly	Pursuant to schedule set at discretion of REGAGEN
ROMANIA	No	83.5% (all non-household) of market	Full – 1 July 2007
SERBIA	Yes, sets eligibility threshold	2004 Energy Law sets eligibility at 25 GWh	Remainder no clear timetable - EA decision
SLOVENIA	No	1 July 2004 for all non-household	Full – 1 July 2007
TURKEY	Yes, determines eligibility threshold annually	Opened to large customers – 30% (eligible threshold at 7.7 GWh)	None at present
UNMIK	None; Ministry sets eligibility threshold	Not yet defined	None at present

Explanatory Text for Table 28:

Hungary. The Government has the authority to develop rules governing the operation of the organized electricity market and detailing the relationship between public utility suppliers and consumers. The HEO plays a more limited rulemaking role. For example, it may develop rules governing access for consumers to public power grid.

Italy. 2004 also saw the start of operations on the Italian Power Exchange.

Montenegro. 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 3 largest consumers (industrial companies) are connected directly to the transmission network, which enables them to buy electricity directly from suppliers. As these companies consume about 50% of the total consumption in Montenegro, because of lower domestic energy prices, two of them purchase part of electricity on the external market (the purchase amount is about 30% of its needs, which amounts to about 15% of total Montenegrin consumption).

Serbia. The Energy Law stipulates that the status of an eligible customer shall be granted to a power customer, *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 at 25 GWh, 50 million cubic meters of gas, *i.e.*, 5000 GJ of heat – these thresholds 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.

Turkey. The recent Government Strategy Paper envisages freezing of the current eligibility threshold until 2009, and the full opening until 2011.

UNMIK. Any qualified enterprise in Kosovo, domestic or foreign, may apply for and obtain a supply license to serve eligible customers in accordance with criteria established by ERO. MEM shall prescribe the conditions for determining eligible customers in an implementing instruction to be adopted no later than 31 January for each year. The criteria shall include the extent of their electricity consumption and the proportion of energy costs to the prices of their products and services. A customer may obtain the status of eligible customer by responding to a public announcement that the ERO must launch each year. Eligible customers shall have the option to be supplied by the public supplier under procedures established by ERO.

Table 29 – INFORMATION ACCESS

WG SEEER MEMBER	AVAILABILITY OF QUANTITY AND PRICE TERMS OF EXPORTS/IMPORTS	AVAILABILITY OF FINANCIAL, TECHNICAL AND OPERATIONAL DATA	ABILITY TO REQUEST ADDITIONAL DATA	PENALTY FOR FAILURE TO PROVIDE DATA
ALBANIA	KESH may import energy only in accordance with law on public procurement, which allows media access during procedures	ERE collects data monthly, quarterly and bi-annually from licensee as part of tariff setting; interested parties may have data upon request	ERE may ask licensees at any time for any financial and technical data relating to licensed activity	Non-compliance is an administrative offense; fines can be imposed
AUSTRIA	Quantity, yes and made public monthly and annually; prices are not available	E-Control receives technical, financial information via standardized data entry form annually; for data protection reasons, made public in aggregated form only; operational data collected on quarterly hour basis, available in aggregate form	Data entry form may be extended to get additional data needed to set tariffs; has access but may not get it and E-Control cannot itself enforce	Up to 50.000 € for first offense; up to 80.000 € for repeated offenses; but not by E-Control
BOSNIA AND HERZEGOVINA	Not at present, but expected that will be made available in upcoming tariff proceedings	<ul style="list-style-type: none"> • SERC collects monthly • FERC and RSERC: regular reporting required monthly per license conditions; hearings public Processes under development to get financial data via tariff and license proceedings	May request licensees at any time to provide any financial and technical data relating to a licensed activity	All electricity laws provide for a penalty in the event power companies fail to provide data requested by the regulatory authorities
BULGARIA	Only NEK, through Public Provider status, entitled to conclude electricity import and export trade deals; data about traded quantities for previous year available at www.nek.bg	Financial data collected quarterly, bi-annually and annually; companies provide technical data when applying for a license and when changes to equipment occur; all data not confidential is publicly available; other data in market monitoring report developed by system operator provided to SEWRC monthly and annually	SEWRC may request more information as needed by sending official information request to the head of the utility; utility is required to respond	Administrative fines and penalties; negative impact on subsequent rate cases; in exceptional cases, license withdrawal or termination
CROATIA	Law provides for access as CERA requests	Law provides for access pursuant to CERA request	CERA may make formal request for financial and technical data; no procedures in place	Fines from approx. 1.350 € to 6.750 € for entity; and 40 € to 670 € for the responsible individual

Table 29 – INFORMATION ACCESS

WG SEEER MEMBER	AVAILABILITY OF QUANTITY AND PRICE TERMS OF EXPORTS/IMPORTS	AVAILABILITY OF FINANCIAL, TECHNICAL AND OPERATIONAL DATA	ABILITY TO REQUEST ADDITIONAL DATA	PENALTY FOR FAILURE TO PROVIDE DATA
FYR OF MACEDONIA	ERC provides public access regarding price and quantity; not usually treated as confidential; but no specific time frame for making information public	ERC collects via annual reports, bi-annual, quarterly, monthly reports, via monitoring of licensees, and by request, for operational data includes to other state agencies; all data not marked confidential is public	ERC has power to request data of licensees	Fines from approx. 1.025 € to 3.410 € for entity and 170 € to 510 € for the responsible person
GREECE	HTSO publishes data monthly on its website; data limited to quantities of exports and imports	RAE collects as necessary; general technical and financial data made public under condition of confidentiality; grid code include provisions regarding types of operational data that HTSO must provide daily and other times	RAE may request additional data through any process, usually correspondence or public hearing procedure	Fines from approximately 146.500 € to 1.465.000 € (imposed not only for failure to provide data but for non-compliance with electricity law and secondary legislation)
HUNGARY	HEO has the power to obtain price information but only publishes the average price (due to market illiquidity)	HEO has access to documents related to licensed activity and authority to request information; including confidential data	What HEO may request listed by Ministerial decree, but HEO may also request information on an <i>ad hoc</i> basis; usually via email	No specific penalty provided under law, but could be treated as license violation
ITALY	Quantity yes, prices are available upon request	Scheduled reporting for technical and operational data; no scheduled reporting for financial data but data available upon request	AEEG has power of inspection and access to data upon request	Ability to fine between 25.000 € and 150.000.000 € for refusing to provide data or permit inspection as required
MOLDOVA	Information on quantities available publicly via annual reports; pricing information on such transactions sometimes published by companies but under law, price information confidential	Market monitoring report is done monthly by system operator and provided to ANRE; includes data on all market transactions	ANRE may request all data and information, including confidential; no specific procedures apply	ANRE can fine responsible staff of the licensee

Table 29 – INFORMATION ACCESS

WG SEEER MEMBER	AVAILABILITY OF QUANTITY AND PRICE TERMS OF EXPORTS/IMPORTS	AVAILABILITY OF FINANCIAL, TECHNICAL AND OPERATIONAL DATA	ABILITY TO REQUEST ADDITIONAL DATA	PENALTY FOR FAILURE TO PROVIDE DATA
MONTENEGRO	Publicly available unless deemed confidential; TSO and Market Operator License conditions give REGAGEN access to this information	Publicly available unless deemed confidential; financial data is submitted to REGAGEN as requested and as per license conditions; collected at least once a year	REGAGEN may request any information deemed relevant to licensed activities	No specific penalty provided under law, but could be treated as license violation
ROMANIA	Quantity, yes and made public monthly and annually; prices are not available	ANRE collects via regulated companies' annual and financial reports (ANRE determines structure), daily, monthly, annual reports from TSO, daily information regarding operation of day-ahead market and balancing market, and its own market monitoring office	ANRE may request each market participant to provide data	Fine up to 5.000 €
SERBIA	EA has authority to access all information it deems necessary to fulfil its mandate; procedures to be developed through Information Code that is to be adopted by EA Council	EA has authority to access all information it deems necessary to fulfil its mandate; procedures to be developed through Information Code that is to be adopted by EA Council	Under law, EA may request data, with 8 days for response	Fine from approximately 700-4.000 €; fines are not imposed nor collected by the EA, but through Offense Courts
SLOVENIA	Information on imported and exported quantities of electricity and gas are available publicly via annual reports of the individual companies; pricing information is not publicly available	AGEN-RS collects financial information monthly; technical and operational data provided to Ministry as part of permitting process	AGEN-RS may request all the information required to carry out its responsibilities	Failure to provide requested information to AGEN-RS may result in a fine (Energy Act does not state who has the authority to levy fines)

Table 29 – INFORMATION ACCESS

WG SEEER MEMBER	AVAILABILITY OF QUANTITY AND PRICE TERMS OF EXPORTS/IMPORTS	AVAILABILITY OF FINANCIAL, TECHNICAL AND OPERATIONAL DATA	ABILITY TO REQUEST ADDITIONAL DATA	PENALTY FOR FAILURE TO PROVIDE DATA
TURKEY	Quantities are public but prices are not; the TSO publishes data on its internet site daily	EMRA receives financial and technical data annually and during license application process, and thereafter where change required; collects operational data as necessary; only data for statistical purposes made public, such as installed capacity annual generation, voltage level and length of lines; receives report 3 times a year from licensees to monitor security of generation instruction phase progress	EMRA may request data; minimum license conditions include requirement that license holders provide full and true information when requested	May impose fine or revoke license for violation of license condition or decision of the Board; fine of YTL 200.000 (or about 122.000 €) for false information
UNMIK	ERO to keep public register of cross-border transmission licenses issued, details, certificates of origin issued and details about holder, producers, quantity, period, location of generation	Law provides for annual reporting to ERO; made publicly available via website on a quarterly basis, except where it involves confidential information	ERO may request data; data collection procedures in development	ERO may fine licensee

Explanatory Text for Table 29:

Bulgaria. On a quarterly basis, 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. SEWRC is authorised to control compliance and perform audits.

Hungary. 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.

Moldova. 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. ANRE may also request additional information from the licensees.

Romania. There have been 1 or 2 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. Energy undertakings are obliged to provide information to the regulatory authority within 8 days from receiving a request. Failing to act in accordance with such a request constitutes a trade offense that can result in a fine in an amount ranging from approximately 700-40.000 Euros. It is envisioned that EA may issue information provision guidelines for certain types of data.

UNMIK. All data are currently provided by energy enterprises on a regular basis. Accounting standards are set in internal procedure of ERO and detailed data requirements for licensee (on annual basis and when requested by ERO) is under preparation by the consultants hired in ERO. ERO will publish the accounting standards on ERO's website. All licensees shall submit an annual activity report that contains audited financial data. The submission of more frequent reports occurs only upon request.

Table 30 – UNBUNDLING

WG SEER MEMBER	ISSUANCE OF GUIDELINES ON SEPARATION OF ACCOUNTS	ISSUANCE OF RULES REGARDING ALLOCATION OF COSTS	ISSUANCE OF GUIDELINES FOR COMPLIANCE REVIEW AND REPORTING ON UNBUNDLING	POWER TO MANDATE CHANGES IN ACCOUNTING PRACTICES
ALBANIA	Yes, based on Albanian law and international accounting standards	No	No	Yes
AUSTRIA	No	No	No	Yes
BOSNIA AND HERZEGOVINA	Yes, FERC and RSERC in their Rules on Tariff Methodology require that regulated power companies unbundle their accounting	Yes, in Rules on Tariff Methodologies	No	Yes, plan to develop Charts of Accounts (not yet in effect)
BULGARIA	Yes	Yes	Yes	Yes
CROATIA	Yes, CERA has the authority to monitor separation of accounts	CERA monitors allocation of costs	No	No
FYR OF MACEDONIA	Yes, for all licensees with public service obligations and perform more than one activity	Yes, based on Rulebook on regulating electricity prices	Yes	Yes
GREECE	Yes, but only for accounting unbundling	Yes, but only for accounting unbundling	No	No
HUNGARY	No, rules are set in the new Electricity Act, and will be added to by government decree	No	Yes, HEO can reject a report or penalize any entity that does not provide the required data	Yes
ITALY	Yes	Yes	Yes	Yes
MOLDOVA	N/A	N/A	N/A	N/A
MONTENEGRO	Yes, separate accounts and financial records for energy activities	No	No	No, but must comply with law on accounting and auditing
ROMANIA	Yes	Yes	Yes	Yes, in accordance with the accounting law
SERBIA	Yes	Yes	Yes, but little detail in law	Yes

Table 30 – UNBUNDLING

WG SEER MEMBER	ISSUANCE OF GUIDELINES ON SEPARATION OF ACCOUNTS	ISSUANCE OF RULES REGARDING ALLOCATION OF COSTS	ISSUANCE OF GUIDELINES FOR COMPLIANCE REVIEW AND REPORTING ON UNBUNDLING	POWER TO MANDATE CHANGES IN ACCOUNTING PRACTICES
SLOVENIA	No, but AGEN-RS approves accounting rules by entities providing more than one energy activity	No	No	No
TURKEY	Yes	Yes	No	Yes
UNMIK	Law is silent; ERO has a monitoring role with regard to requirements governing separate accounts	Law is silent	Law is silent	Yes

Explanatory Text for Table 30:

Albania. 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.

Austria. According to the Energy Regulatory Authorities Act, the regulatory authority supervises the unbundling process regarding electricity and gas grid operators. The amendment to the Electricity Act contains similar competencies for the provincial governments.

Bosnia and Herzegovina. Currently, the country has 3 vertically integrated utilities – 2 in the Federation Entity and 1 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 enacted in 2004 and are being implemented. Both Entities have passed Action Plans that set forth steps for unbundling and restructuring of the remaining integrated utility after the transmission and ISO assets are conveyed to the new companies. The governments have authority over the process pursuant to the Action Plans.

Bulgaria. Unbundling efforts are underway. The Energy Law of 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. SEWRC has prepared regulatory Charts of Accounts for the electricity and natural gas sectors and is currently developing one for the heating sector. It has also developed annual reporting forms for the licensed activities in the electricity and natural gas sectors. The energy companies

have made strides toward unbundling their accounts. The privatisation of the electricity distribution companies (“EDC”) was completed in 2004. Several generating plants have been privatised including hydroelectric plants, Maritsa East 3, and thermal power plants. A process is underway to privatise Ruse, Bov Bodol and Varna power plants and winners of the tender have been announced. The nuclear power plant is a state-owned entity, not part of the NEK and not scheduled for privatisation. SEWRC assisted in the privatisation of the electric distribution companies and larger generating stations. It has met numerous times with potential investors in the energy sector.

Croatia. The Electricity Market Act replaced the previous ISMO model with a TSO model and an independent Market Operator. CERA is empowered to monitor the actual independence of the TSO and DSO. Under the Law, CERA is tasked to monitor and analyze the implementation of the TSO and DSO financial plans. In addition, under the Energy Activities Regulation Act, CERA is vested with the authority to demand that the TSO or DSO change the conditions, rules and organisation regarding such issues as interconnection capacity; congestion management; repairs and connections to the network; separation of accounts; conditions and tariffs for connection of new electricity producers; and the degree of transparent and market competition.

fyr of Macedonia. Pursuant to the Law for restructuring and privatisation of “Elektrostopanstvo na Makedonija” (Official Gazette of the RM, No. 19/2004), the “Elektrostopanstvo na Makedonija” was unbundled into two companies: AD MEPSO – joint stock, state-owned company for transmission of electricity, system operator, market operator and whole supplier for tariff customers, and AD ESM – joint stock, state-owned company for generation, distribution and supply of electricity. Pursuant to Government decision (Official Gazette of the RM, No. 74/2005), AD ESM was unbundled into 3 companies: AD “Elektrani na Makedonija” (AD ELEM) – joint stock, state-owned company for generation of electricity; AD “TEC Negotino” – joint stock, state-owned company for generation of electricity, and AD “Elektrostopanstvo na Makedonija” (AD ESM) – joint stock, state-owned company for distribution and supply of electricity.

Greece. No unbundling other than account unbundling is required by the law.

Hungary. The electricity sector is unbundled in that there are 6 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 privatised. To date, wholesale and transmission activities, and distribution and supply have not been functionally and legally unbundled. In 2005, the HEO published its Proposal for the Modification of the System of Market Relations.

Italy. In 1999, AEEG introduced a directive, amended in 2001, regarding administrative and accounting unbundling, with the aim of standardizing and increasing the transparency of the financial statements of operators in the electricity sector, and to identify the costs of individual services. In May 2004, the Prime Minister issued a Decree requiring unification (“rebundling”) of the national transmission system under a single operator – and this was completed in 2005. The reasoning behind this move is to enhance effectiveness in planning the development of the network and in financing new infrastructure facilities and carrying out works required.

Moldova. The power sector was unbundled in 1997, prior to establishment of ANRE. The unbundling process was implemented by the Government. Legal, functional and accounting unbundling resulted in a separate state-owned enterprise that is licensed by ANRE to provide transmission services (it is not permitted to carry out any supply activity). Five licenses for distribution and supply of electricity at regulated tariffs have been issued; 3 licenses to private companies and 2 to state-owned companies.

Montenegro. The Law sets forth clear provisions for accounting, functional and legal unbundling, although it does not clearly define the role of the regulatory authority with respect to these functions. Rules on functional unbundling of the existing vertically integrated utility company were issued in December 2004. The regulatory authority is tasked with determining the deadline for legal unbundling, and it is expected to be done with issuance of ordinary licenses (targeted for the end of 2005).

Romania. The obligation to keep unbundled accounts is seen in the license requirements. General rules regarding allocation of costs are specified in the framework of the financial reports that license holders are obligated to provide. 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. The law envisions account separation within the vertically integrated utility, EPS. The Government issued ordinances on establishment of new companies (EMS – as the TSO, and EPS, separate from the TSO, as a vertically integrated company with a number of daughter companies), which entered into force in July 2005.

Turkey. 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. The Regulatory Accounting Guidelines (Communiqué Regarding Regulatory Accounting Guidelines), secondary legislation under the framework of the Electricity Market Law No. 4628, set forth the rules to be used during account separation and allocation of costs. 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. Distribution companies are allowed to engage in retail business.

UNMIK. 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.

Table 31 – COMPETITION

WG SEEER MEMBER	MARKET DOMINANCE MONITORING	COMPETITION AUTHORITY	COOPERATION
ALBANIA	Yes	Albanian Competition Authority	ERE has a cooperative agreement with the Albanian Competition Authority, but details unclear
AUSTRIA	Yes	Bundeswettbewerbsbehörde (Competition Authority)	Yes, on merger cases and observation of market development; working together on sector inquiry; economists network
BOSNIA AND HERZEGOVINA	Yes	Competition Council in process of being formed	N/A
BULGARIA	Yes (planned)	Commission on the Protection of Competition (www.cpc.bg)	SEWRC may refer case to CPC
CROATIA	No, Agency for Market Protection is given authority to monitor and apply rules to ensure competition	Agency for Market Protection	Formal contract was signed in 2004 between CERC and Agency for Market Protection; CERA will give technical assistance (expert opinions and analyses) to the Agency for Market Protection
FYR OF MACEDONIA	Yes, law gives general authority to promote competition, monitoring not underway	Commission on Competition Protection	Unclear at this stage
GREECE	Indirectly; RAE observes and provides information, proposals to relevant bodies; has a consultative role	Greek Competition Authority	Yes, RAE exchanges information with Greek Competition Authority
HUNGARY	Yes, with Competition Authority; HEO has the power via licensing to approve or reject most internal rules of market players, e.g., business conduct rules, market rules	Hungarian Competition Authority	The new Electricity Act requires HEO and Competition Authority to issue a set of rules on how they will coordinate (they are currently working well together, even though earlier protocol has been abandoned)

Table 31 – COMPETITION

WG SEEER MEMBER	MARKET DOMINANCE MONITORING	COMPETITION AUTHORITY	COOPERATION
ITALY	Yes, based on December 2003 Decree of Ministry of Productive Activities, AEEG now monitors trading in Power Exchange on bases of indices designed to detect exercise of market power by incumbent	Antitrust Authority	Yes through advisory activities, information sharing; published a common report on energy market
MOLDOVA	Yes	No	N/A
MONTENEGRO	Yes, required by law to issue secondary legislation to promote and monitor competition (underway)	No	N/A
ROMANIA	Yes, ANRE must notify Ministry and Competition Council of market dominance abuses; ANRE monitors in conjunction with market operation and TSO; evaluates efficiency of markets	Competition Council	Yes, ANRE has cooperative agreement with Competition Council; ANRE must inform Ministry and Competition Council if results of market monitoring confirm instances of market abuse
SERBIA	Plan is for shared responsibility with Competition Authority	Competition Authority provided for in Competition Law, adopted in Sept. 2005	Competition Authority not yet established; expectation is that EA will be able to cooperate
SLOVENIA	Yes, empowered to supervise operation of electricity market and perform regulatory tasks with the purpose of transparent and non-discriminatory operation of the market	Competition Protection Office, which is a part of the Ministry of Economy	No formal cooperation exists
TURKEY	Yes	Turkish Competition Authority	Yes, protocol for cooperation expected to be signed
UNMIK	Law gives ERO general authority to promote competition, no details as to scope; monitoring not underway	No	N/A

Explanatory Text for Table 31:

Austria. Economists from E-Control meet economists from Competition Authority to exchange information. E-Control and the Competition Authority have, in cooperation, published 2 electricity and gas sector inquiry reports. These delineate the retail markets (e.g., categories of small customers, small industry) and set forth the duties of companies in a market dominant position. There is a plan for cooperative approach with companies to promote measures that foster competition. Together, they are working on a competition package – envisioned as a form of self-regulation, in which they seek suggestions from industry. E-Control has received some suggestions and is now proceeding with offering additional suggestions.

Bosnia and Herzegovina. 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 behaviour 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 behaviour for licensees. The Federation Electricity Law merely provides that the law aims to prevent monopoly behaviour in electric power activity.

Bulgaria. The SEWRC is developing its procedures for monitoring the power market and part of those procedures will include the analysis to determine abuse of market power. SEWRC may ask for an opinion from the Commission on the Protection of Competition ("CPC") on matters dealing with abuse of a dominant market position. Alternatively, upon its own initiative, SEWRC may refer such matters to the CPC. SEWRC has already referred the privatisation of 3 thermal power plants to the CPC to address the risk of market power in the balancing market, which directed the purchaser to only acquire one of two facilities. The Energy Law does not require that SEWRC 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 SEWRC proceedings upon its own initiative.

Croatia. CERA's role with respect to monitoring the level of competition is addressed in the Law on Regulation of Energy Activities, granting CERA the "exclusive" authority to "apply the rules and a system of measures for protection of market competition with respect to attributed issues and competences." (Art 10(1)). CERA shall also monitor the "degree of transparency and market competition" (Art 10(2)). In addition, Article 12 empowers CERA to demand that the TSO or DSO change their respective conditions, rules and organisations to ensure equal and non-discriminatory application. Dissatisfied parties may also submit complaints to CERA concerning such matters regarding the TSO or DSO.

Hungary. The HEO and the Hungarian Competition Authority 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 Hungarian Competition Authority in the cases specified by the Electricity Act.

Italy. In 2004 AEEG, in conjunction with the Antitrust Authority, carried out an investigation connected with the influence of the dominant operator, which continues to be strong in many of the geographic areas into which the Italian energy sector is divided. In 2004 and 2005, as part of monitoring of the power exchange, anomalous trends were noted in exchange; resulting in resolutions by AEEG calling for timely changes to monitoring arrangements. In light of the emergence of factors revealing abuse of dominant position, the results of the 2 inquiries have been sent to the AGCM, which in April 2005 opened a formal inquiry into Enel and Enel Produzione for abuse of dominant position in setting prices in the power exchange.

Turkey. 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 (i) 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; (ii) 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 (iii) autoproducers and autoproducer groups may not sell more than 20% of their annual generation to the market.

6. ETHICAL STANDARDS

This Section is dedicated entirely to standards of ethics and conduct, to present data on restrictions placed on regulators – as these, along with accountability requirements (set forth in Section 7), offer checks to potential abuse of regulatory power.

Table 32 looks at whether ethical rules, which bind all regulatory authorities to some degree, are set forth in a separate Code of Ethics (also known as a Code or Standards of Conduct), or whether they are part of other legislation. Greece and Croatia have no such rules. For many, such as Austria and Serbia, they are set forth in primary energy legislation; for Slovenia, they are set forth in legislation covering civil servants. Turkey, which previously included ethical standards in a Code for Civil Servants and 11 other pieces of legislation, recently adopted a Code of Ethics in April 2005, and in Romania, ANRE issued a decision approving a new Code of Conduct in June 2005. Table 32 also lists any sanctions that may be applied for violation of the ethical standards.

Table 33 takes this one step further, concentrating on ownership and employment restrictions. Some important points to note: (1) regulators are separated from staff members as ethical standards for some countries, as is the case for Bosnia and Herzegovina and Greece, apply to regulators but not to staff members; (2) where prohibitions on ownership and employment extend beyond the time that the regulator or staff member works with the regulatory authority, the time period is specifically identified. Extending these restrictions beyond tenure with the regulatory authority serves as an additional check against outside influence or improper incentives that could influence regulatory decision-making.

Table 32 – CODES OF ETHICS OR CONDUCT

WG SEER MEMBER	EXISTENCE OF A SEPARATE CODE OF ETHICS/CONDUCT	SANCTION IF ETHICAL RULES VIOLATED
ALBANIA	Yes, approved by ERE, covers regulators and staff, and their relationships with third parties; ownership and employment restrictions	Code of Ethics provides that disciplinary sanctions will be administered in accordance with the individual staff employment contracts
AUSTRIA	No, but ethical provisions in the law	Penalty of 12 months' salary
BOSNIA AND HERZEGOVINA	Yes	Violation of the Ethics Code is grounds for removal of the regulators
BULGARIA	Planned, in drafting stage	Staff: notice, reduced pay and termination; Regulators: may be removed for "incompatibility with requirements of law"
CROATIA	No	Dismissal
FYR OF MACEDONIA	No, but some provisions in the Energy Law	The law provides for prohibitions for regulators and staff, but does not provide sanctions for violations
GREECE	No	Disciplinary action at the initiative of the Minister of Development
HUNGARY	No, but ethical standards in general in Act on Civil Servants; Law restricts civil servants' relationships with companies in energy sector	President and Vice-President may be terminated for improper conduct
ITALY	Yes	Fines, suspension
MOLDOVA	No, but some provisions in Electricity Law	Dismissal
MONTENEGRO	Yes, Code of Conduct; some standards also in the Energy Law	Dismissal
ROMANIA	Yes, Rules of Conduct applies to regulators and staff members	Rules of Conduct do not list sanctions for violations; however, provisions governing the dismissal of employees are governed by a collective labour contract and Labour Code
SERBIA	No, but ethical standards for regulators in Energy Law	Upon proposal of Government, Parliament may remove regulators where violations are found
SLOVENIA	No, but ethical behaviour is covered by at least 2 laws: labour law and law on officers; also an ethical code applies to all civil servants	Differs depending on offense
TURKEY	Yes	Yes
UNMIK	ERO required to issue a Code of Professional Conduct (draft exists but is not yet approved)	Yes, draft provides for disciplinary action, including, but not limited to, termination, suspension, or written or oral warnings

Explanatory Text for Table 32:

Bosnia and Herzegovina. The Codes 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 political parties; and (vi) communications with parties while a matter is pending before the regulatory authority.

Bulgaria. 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.

Hungary. All ethical standards for HEO employees are set forth in the Act on Civil Servants. The Law also prohibits them from participation in an activity unworthy of their official status, or which jeopardizes their impartiality; and requires them to state their full assets (to prevent and monitor corruption).

Moldova. 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.

Montenegro. 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. REGAGEN issued a Code of Conduct covering mostly ethical standards. In addition, the Law sets forth certain ethical criteria, including conflict of interest provisions that prohibit a regulator from being convicted of a crime that is punishable by imprisonment of a minimum 6 months; declaring bankruptcy or insolvency; or holding a personal, spousal or direct family interest up to the third order of heirs in a licensee.

Romania. Areas covered by the Rules of Conduct include continued professional development, ex parte communications, conflicts of interest and the acceptance of gifts.

Serbia. Ethical standards are set forth in the Energy Law; there is no separate Code of Ethics – and all standards apply to regulators, not staff. Persons with a non-appealable prison sentence of longer than 6 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.

Slovenia. Regulators and staff are covered by ethical standards applicable to all civil servants. These address corruption, loyalty to the employer, confidentiality of information, conflicts of interest and professional impartiality.

Turkey. Ethical restrictions are more extensive for regulators than staff. A Code of Conduct was adopted in 2005 for all civil servants – and 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. Areas covered include human resources, organisation, 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 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 energy markets, even after termination of their terms of office.

Table 33 – EMPLOYMENT AND OWNERSHIP RESTRICTIONS

WG SEER MEMBER	EMPLOYMENT RESTRICTION ON REGULATORS	EMPLOYMENT RESTRICTION ON STAFF	OWNERSHIP RESTRICTION ON REGULATORS	OWNERSHIP RESTRICTION ON STAFF MEMBERS
ALBANIA	Yes, applies during tenure and for 1 year after for licensees in power sector	Yes, applies during tenure and for 1 year after	Yes, as to any material interest	Yes, as to any material interest
AUSTRIA	Yes	Department heads may not have employment with utility during tenure and 6 months after	Not in law, but may be set in private employment contract	Not in law, but may be set in private employment contract
BOSNIA AND HERZEGOVINA	Yes, applies to regulator and family during tenure of regulator	No	Yes, forbidden from any ownership or business that affects impartiality	No
BULGARIA	Yes, applies to regulator and family during tenure of regulator	Yes, applies to staff and family during tenure of staff	Yes, applies to regulator and family during tenure of regulator	Yes, applies to staff and family during tenure of staff
CROATIA	Yes, applies to work which could lead to conflict of interest during tenure	Yes, applies to work that might be conflict of interest	Yes, regulators and their families may not have material interest or own shares in undertaking exceeding 0.5% of stock	Yes, staff members and their families may not own shares in undertaking exceeding 5% of capital stock or have material interest
FYR OF MACEDONIA	Yes, applies during tenure and for 1 year after	Yes, applies during tenure and for 1 year after	Yes, applies during tenure	Yes, applies during tenure
GREECE	Yes, applies to regulator and spouse during tenure of regulator	No	Yes, restricted from any ownership; and if regulator or spouse owns shares prior to assuming position, must abstain from exercising rights	No
HUNGARY	Yes, restricted during tenure	Yes, restricted during tenure	Yes, may not acquire, except by way of inheritance, ownership	Yes, may not acquire, except by way of inheritance, ownership
ITALY	Yes, may not work elsewhere during tenure; for 4 yrs after may not have any work with energy enterprises	Yes, may not work elsewhere during tenure	Yes, applies during tenure	Yes, applies during tenure

Table 33 – EMPLOYMENT AND OWNERSHIP RESTRICTIONS

WG SEER MEMBER	EMPLOYMENT RESTRICTION ON REGULATORS	EMPLOYMENT RESTRICTION ON STAFF	OWNERSHIP RESTRICTION ON REGULATORS	OWNERSHIP RESTRICTION ON STAFF MEMBERS
MOLDOVA	Yes, during tenure; may not use position to get work with licensee after tenure	No	Yes, during tenure	No
MONTENEGRO	Yes, during tenure and for 1 year after	Yes, during tenure and for 1 year after	Yes, during tenure and for 1 year after	Yes, during tenure and for 1 year after
ROMANIA	Yes	Yes	Yes	Yes
SERBIA	Yes, may not have any earnings from enterprise during tenure	No	Yes, applies to regulators and family during tenure	No
SLOVENIA	Yes, may not perform work for or be employed by an organisation engaged in energy-related activity	No, staff not addressed in Energy Act	Yes, applies to regulator, spouse, unmarried partner, or direct relative up to, and including, 2nd generation	No, staff not addressed in Energy Act
TURKEY	Yes, applies to regulators and family during tenure and 2 years after tenure of regulator	No	Yes, must sell or transfer any securities in enterprises 30 days after start of tenure (except Treasury securities)	No, but EMRA personnel may not disclose, benefit from, or help third parties benefit from, any confidential information about EMRA or provided to EMRA, during or after tenure
UNMIK	Yes, may not perform work for enterprise during tenure; may not appear before ERO on behalf of licensee for one year after tenure (in draft only)	Only prohibition on staff from accepting directly or indirectly beneficial financial gain (in draft only)	Law requires Code of Professional Conduct to prohibit Board members and Staff from owning any interest of any energy enterprise	Law requires Code of Professional Conduct to prohibit Board members and Staff from owning any interest of any energy enterprise

7. ACCOUNTABILITY

This Section concentrates on requirements placed on the regulatory authority or actions taken by regulatory authorities that foster accountability.

To this end, Table 34 gives contact information for the regulatory authority (website information and languages available on the website) and also indicates whether the regulatory authority has a communications office or some such structure specifically dedicated to informing the public regarding its activities. As regulation is relatively new to South East Europe, communications strategies serve an important role in raising public awareness and comfort levels (separate personnel are dedicated to this function in Austria and Greece).

Table 35 looks at the level to which the public is allowed to participate in regulatory decision-making. On this subject, all respondents allow some form of public participation through comments, and some, like Turkey, seek out comments from the public when problems arise. Still others have hearings open to the public. But the fact that hearings are open under the law does not mean that the public actually participates. Thus, answers to this Table must be viewed with caution, as participation is not just about legal allowances, but also about how much knowledge people have in the first place regarding regulatory activities (this takes us back to Table 34) and how much confidence people have that involvement will be worthwhile. The latter issue refers in part to public communications strategies, but also has to do with other issues relating to regulatory integrity (adherence to ethical standards by the regulators and their staff, absence of corruption, track record of sound decision-making with minimal intervention by other bodies, and so on).

Publication and confidentiality are addressed in Table 36. These were twinned to reveal first how much material issued by the regulatory authority is made public – and to point out that some information is never made public, and this fact may or may not be within the control of the regulatory authority. Thus, for instance, in Albania the regulatory authority does not define what is confidential but is bound to respect restrictions on public access of such information, which in turns places limits on the degree to which the regulatory authority can exercise transparency for all matters before it.

Table 37 addresses reporting requirements, providing information regarding other bodies to which the regulatory authority must provide reports (annual, financial, audit), and whether the regulatory authority must make a public appearance before one of these bodies to answer questions regarding its operations. No institution can exist entirely without answering to another; the reporting process offers another check on regulatory power, as well as a forum for disclosure of regulatory activities.

Table 34 – PUBLIC COMMUNICATION

WG SEER MEMBER	WEBSITE	LANGUAGES AVAILABLE	USE OF COMMUNICATIONS OFFICE
ALBANIA	www.ere.gov.al	Albania, English (partial)	Yes, public relations office in ERE
AUSTRIA	www.e-control.at	German; English (for most information)	Yes, press office with one employee directly under managing director; also uses external public relations agency; press conferences
BOSNIA AND HERZEGOVINA	<ul style="list-style-type: none"> • www.derk.ba • www.ferk.ba • www.reers.ba 	SERC, FERC – Bosnian, Croatian, Serbian, and English; RSERC – Serbian	No
BULGARIA	<ul style="list-style-type: none"> • www.dker.bg • www.doe.bg (Ministry) 	Bulgarian, English (partial)	No
CROATIA	<ul style="list-style-type: none"> • http://www.vred.hr/english/html/indexe.html • http://www.hera.hr 	<ul style="list-style-type: none"> • Croatian • English 	No
FYR OF MACEDONIA	Under construction (end 2005 target date to finalize) (www.erc.org.mk)	N/A	No
GREECE	www.rae.gr	Greek	Yes, press office
HUNGARY	www.eh.gov.hu	Hungarian; English (40%)	No
ITALY	<ul style="list-style-type: none"> • www.autorita.energia.it • www.minindustria.it (Ministry) 	Italian, English (most)	Yes, issue press releases
MOLDOVA	www.anre.md	Romanian, Russian, English	No
MONTENEGRO	www.regagen.cg.yu	Montenegrin	No
ROMANIA	www.anre.ro	Romanian; English (some)	Yes, public relation office
SERBIA	www.aers.org.yu	Serbian and English	PR officer envisaged by Rulebook on Internal Organisation and Job Classification, but not in place yet
SLOVENIA	www.agen-rs.si	Slovenian; English (half)	Internal Rule on communications that governs such activity
TURKEY	www.epdk.org.tr	Turkish; English (some)	Yes, press office
UNMIK	www.ero-ks.org	Albanian; Serbian; English	No

Table 35 – PUBLIC PARTICIPATION

WG SEEER MEMBER	PUBLIC PARTICIPATION IN REGULATORY DECISION-MAKING	HEARINGS OPEN TO THE PUBLIC
ALBANIA	Yes, ERE seeks public comment; some hearings	Yes
AUSTRIA	Yes, interested market players and Ministries may be part of technical, market rule drafting; public notice issued, normally via website; if material subject to data protection (tariffs), only comments permitted	No, hearings rare, if occur, utilities affected by changes can be invited to hearings
BOSNIA AND HERZEGOVINA	Yes, Procedural Rules require that an opportunity for participation of the public be given in all rulemakings, including public comment and a general (public) hearing	Yes, proceedings are open to the public, except where a confidential matter is involved
BULGARIA	Yes, SEWRC required by law to hold public discussions on proposed rules and issues of public importance; applies a 3-step process for rule-issuance: publication of draft rules on the website, review of proposals via internet, and public discussion. SEWRC must reply to comments	Yes, fact-gathering session open to public but only interested parties can make statements; deliberations stage not public; public comments accepted in final stage, irrespective of source
CROATIA	Yes, public participation envisioned under the law (specific rules are not in place yet); CERA may decide under “exceptional” circumstances that a session or discussion should be closed for the public; CERA will organize two advisory bodies: Advisory Council for Regulatory Issues and Advisory Council for Protection of Customers	Yes, except if pertain to internal decision-making or deemed exceptional
FYR OF MACEDONIA	Yes, comments sought in rule-making; hearings rules to be established	Planned, with public participation permitted in most cases, except where involves confidentiality
GREECE	Yes, public consultations for electricity grid code, natural gas tariffs, long-term energy planning and other issues; public consultation and communication to all relevant stakeholders via website	Yes
HUNGARY	HEO has a public advisory body that it meets with 4 times per year to discuss general rules and programs; prior law provided that HEO consult with consumers with no detail, and in practice, HEO consulted with affected people on new news, on individual decisions, where there were many complaints, it investigated without public participation and issued a resolution if warranted; new law requires resolution issued for all complaints, which means need to be posted rather than addressed via only letters, emails (new process not yet in effect)	For complaints, no; hearings, rare and limited to stakeholders; for licensing of new generation establishment, yes
ITALY	Yes, hearings for cases of general interest; decisions, documents underlying decisions published on website and journals	No, except in limited cases of direct interest
MOLDOVA	Yes, all regulations and rules submitted to interested participants for comments and input; and also made public via media and website, and public may give comment	Yes
MONTENEGRO	Yes, all Agency activities are public, except in case of sensitive information	Yes, all decisions concerning duties of energy undertakings made via public hearings

Table 35 – PUBLIC PARTICIPATION

WG SEEER MEMBER	PUBLIC PARTICIPATION IN REGULATORY DECISION-MAKING	HEARINGS OPEN TO THE PUBLIC
ROMANIA	Yes, drafts made public; public is permitted to express recommendations regarding the content; ANRE is not bound to consider recommendations made; in implementation phase, market participants provide feedback through phones, mail or meetings with ANRE	Yes, currently for issuing licenses and authorisations and tariffs for final consumers; public hearings limited to representatives of customers due to space restrictions, others may attend upon request
SERBIA	N/A, no provisions on this at this time, given newness of the EA	N/A
SLOVENIA	Yes, within two months of issuing a general act, any party with legal interest may demand revision; AGEN-RS lacks rulemaking authority, although it must consent to select rules developed by system operators – and such rules must be developed “under public authorisation”	Some hearings have been conducted, for example, when a consultation paper or draft general act is debated; in these instances, parties that have offered comments and entities may participate
TURKEY	Sector participants may comment on draft regulations and propose areas in which new regulations should be prepared; comments on possible solutions to implementation problems sought from interested parties; issues deemed confidential due to commercial or legal concerns not public	Not generally
UNMIK	Yes, ERO may carry out consultations on issues or rules of significant impact; consultations and drafts announced in newspaper and website; public may respond in writing and during public session	For dispute settlement procedures, sessions are public; where commercially sensitive information involved, ERO can close sessions

Table 36 – PUBLICATION AND CONFIDENTIALITY

WG SEEER MEMBER	PUBLICATION OF REGULATORY DECISIONS, RULES AND REGULATORY ACTIVITIES	POWER TO DETERMINE CONFIDENTIALITY OF INFORMATION
ALBANIA	Yes, except decisions relating to internal matters, on website, media, official journals	Code of Administrative Procedures determines whether information is confidential
AUSTRIA	Yes, on website (includes Annual Report of the Dispute Settlement Department)	Yes, under the Electricity Act, E-Control Commission may determine that business and trade secrets are confidential
BOSNIA AND HERZEGOVINA	Yes, on websites and State and Entity Official Gazettes	Yes, Rules of Procedure and Hearing Rules have confidentiality provisions; expected that regulatory authorities will issue specific rules on confidentiality
BULGARIA	Yes, draft rules published on website; adopted ordinances and rules in State Gazette	Partial; under law, Ministry issues guidelines that are applied by SEWRC (no rules yet in place)
CROATIA	Yes, new law requires CERA to publish decisions in Official Gazette; also publishes annual reports on monitoring energy activities; information and data on energy efficiency and use of energy; CERA will publish bulletin and has web page	Yes, set forth in Charter and Rulebook of internal rules
FYR OF MACEDONIA	Yes, on Official Gazette and website; for decisions of public interest: media	N/A – no rules in place; plan that ERC will issue
GREECE	Yes on website; decisions registered in a special record book open to the public; support by facts, analysis and reasoned conclusions for decisions	Partial
HUNGARY	All resolutions of public interest are posted, both on the web and in the Official Journal, very few not posted; explanation required for decisions	Partial
ITALY	Yes, on website; use of media; explanation required for decisions	Yes, based on government guidelines
MOLDOVA	Yes, drafts and decisions on website, print media, radio; explanation required; basis for decisions available in ANRE offices, but analyses not written; any person may request information	Partial, established by Law on Information, Commercial and State Secrets and ANRE applies
MONTENEGRO	Yes, on website; rules, tariffs and general decisions published in Official Journal; explanation required for decisions	Partial, Energy Law and Rules of Conduct (issued by REGAGEN) set rules; licensees request and REGAGEN applies rules
ROMANIA	Yes, on Official Gazette and website	Yes, information presumed public, if sector participants claim data confidential, ANRE assesses before disclosure

Table 36 – PUBLICATION AND CONFIDENTIALITY

WG SEEER MEMBER	PUBLICATION OF REGULATORY DECISIONS, RULES AND REGULATORY ACTIVITIES	POWER TO DETERMINE CONFIDENTIALITY OF INFORMATION
SERBIA	Energy Act obliges EA to publish tariff system, methodologies, and eligibility threshold in Official Gazette; EA Statute allows for possibility that regulators decide to publish other decisions	Confidentiality mandated by law for certain types of material
SLOVENIA	Yes, explanation required for decisions	Yes
TURKEY	Yes, on website, published in the official journal, posted on EMRA's bulleting board in front of premises; explanation required for decisions	Yes, may establish and enforce procedures to protect against unwarranted disclosure of commercially sensitive information
UNMIK	Yes, on website	Not yet in place; planned, via Code of Ethics; ERO responsible to determine confidentiality

Table 37 – REPORTING REQUIREMENTS

WG SEEER MEMBER	REQUIRED TO SUBMIT ANNUAL REPORT	ANNUAL REPORT PUBLISHED	REQUIRED TO APPEAR BEFORE ANY OTHER BODY TO REPORT	AUDIT OF REGULATORY AUTHORITY REQUIRED
ALBANIA	Yes, to Government and Parliament	Yes	Yes, to Parliament	Yes, an independent audit
AUSTRIA	Yes, annual reports to Ministry, and distributed to COM to National Council	Yes	Not required	Yes, by law, Court of Auditors may audit (did so in 2004)
BOSNIA AND HERZEGOVINA	Yes, for all 3; SERC to BiH Parliament, Ministry; FERC to Federation Parliament; RSERC to RS National Assembly	Yes	Yes, before respective legislative bodies	Yes
BULGARIA	Yes, to COM	Yes	No	Yes, by national audit agency once every 3 years
CROATIA	Yes, to Government and Parliament	Yes	No	Yes, requirement set forth in Charter
FYR OF MACEDONIA	Yes, to Government and Parliament, which includes all ERC revenue and expenditures	Yes	Yes to each body to review report	Yes to State Audit Office
GREECE	Yes, to Parliament	Yes	Yes, to the Parliament	Yes, independent audit by 2 certified accountants; conclusions published, submitted by Minister of Development to President of Parliament
HUNGARY	Yes, required to appear before Parliament annually; reports voluntarily to sector stakeholders and institutions; speaks to energy committee	Yes	Yes, to parliamentary committee or other governmental bodies	Yes, financial portions of reports are audited as are those of all government agencies
ITALY	Yes, to Parliament and Prime Minister on state of services and activities carried out	Yes	Yes, at least once a year; more upon request	Yes, by National Accounting Office
MOLDOVA	Yes, to Government and Parliament	Yes	Parliament, Government	Yes, independent audit selected by ANRE
MONTENEGRO	Yes, to Parliament; informational to Government	Yes	Not required; in practice, in person presentation to Parliament, Government	Yes, selected by REGAGEN per tender

Table 37 – REPORTING REQUIREMENTS

WG SEEER MEMBER	REQUIRED TO SUBMIT ANNUAL REPORT	ANNUAL REPORT PUBLISHED	REQUIRED TO APPEAR BEFORE ANY OTHER BODY TO REPORT	AUDIT OF REGULATORY AUTHORITY REQUIRED
ROMANIA	Yes, to Prime Minister and Ministry of Economy and Trade	Yes	No, but may upon special parliamentary request	Yes, per Law on Audits, Court of Accounts may audit
SERBIA	Yes, to National Parliament, National Parliament approves	Yes	Yes, to Government per procedure applicable to all Parliamentary acts	Yes, by independent auditor
SLOVENIA	Yes, to Government	Yes	No	Yes, by professional company and court of auditors
TURKEY	Yes, to Ministry	Yes, but not required	No	Yes, by Prime Minister, Higher Audit Board
UNMIK	Yes, to Assembly and SRSG	Yes	Not yet, but foreseen in future to Assembly	Yes, by external auditor appointed by Ministry

8. INTERNATIONAL ACTIVITIES

This Section has just one table that offers a summary of the various regional and international organisations to which the regulatory authority has joined. This gives some data as to the fora at which regulators and their staff may exchange information and benefit from training via these relationships. We note that the information gives only an overview; it does not reveal much about the level of active involvement in these organisations by the relevant regulatory authority. Nor does it reveal certain nuances, such as where a regulatory authority was formally active and presently not, or vice versa.

The Table also provides data as to whether the regulatory authority must receive permission from another body to travel to such regional or international meetings. This fact is important as it reveals one type of limitation on regulatory participation. However, other limitations also exist (resources is the most obvious; operational responsibilities may also restrict travel; or institutional practice may result in one regulator going to most conferences, while other regulators and staff do not). Thus, like other material provided in this Data Annex, it provides one piece of information. All information must be viewed as a whole and in context.

Table 38 – PARTICIPATION IN INTERNATIONAL ACTIVITIES

WG SEEER MEMBER	MEMBERSHIPS	PARTICIPATION (INTERNATIONAL)	PARTICIPATION (SOUTHEAST EUROPE)	PERMISSION FROM ANOTHER BODY REQUIRED TO TRAVEL
ALBANIA	Yes	ERRA	CEER WG SEEER, ECRB Drafting Committee	No, ERE Board decides
AUSTRIA	Yes	CEER, ERGEG, AIB (RECS)	CEER WG SEEER, ECRB Drafting Committee	No
BOSNIA AND HERZEGOVINA	Yes, only SERC represents BiH	SERC – ERRA	CEER WG SEEER and affiliated task forces, ECRB Drafting Committee	No
BULGARIA	Yes	NARUC, ERRA	CEER WG SEEER, Co-President of ECRB Drafting Committee	Yes, all regulators may travel only with permission of Minister of Public Administration; staff travel by order of SEWRC Chair
CROATIA	Yes	ERRA	CEER WG SEEER, ECRB Drafting Committee	No
FYR OF MACEDONIA	Yes	NARUC, ERRA	CEER WG SEEER, ECRB Drafting Committee	No, ERC decides on travel for its regulators and staff
GREECE	Yes	CEER, ERGEG	Co-Chair of CEER WG SEEER, ECRB Drafting Committee	No, RAE has sole authority to make travel decisions for regulators and staff
HUNGARY	Yes	CEER, ERGEG, ERRA	CEER WG SEEER, ECRB Drafting Committee	No
ITALY	Yes	CEER, ERGEG	Co-Chair of CEER WG SEEER, Co-President of ECRB Drafting Committee, ERGEG	No
MOLDOVA	Yes	ERRA	CEER WG SEEER, ECRB Drafting Committee	No
MONTENEGRO	Yes	ERRA	Yes	No
ROMANIA	Yes	ERRA Observer to ERGEG NARUC	CEER WG SEEER, ECRB Drafting Committee	No, with the exception of the ANRE's president who informs the Prime Minister
SERBIA	No	ERRA membership planned	CEER WG SEEER, ECRB Drafting Committee	No
SLOVENIA	Yes	CEER, ERGEG, AIB (RECS)	CEER WG SEEER	No

Table 38 – PARTICIPATION IN INTERNATIONAL ACTIVITIES

WG SEEER MEMBER	MEMBERSHIPS	PARTICIPATION (INTERNATIONAL)	PARTICIPATION (SOUTHEAST EUROPE)	PERMISSION FROM ANOTHER BODY REQUIRED TO TRAVEL
TURKEY	Yes	CEER, ERRA, ERGEG, IEA	CEER WG SEEER	Yes, EMRA President must request approval for staff and regulators travel from Minister of Energy and Natural Resources
UNMIK	Yes	ERRA associate member	CEER WG SEEER, ECRB Drafting Committee	Yes, from EU Pillar of UNMIK; regulator prepares Mission request and submits to EU Pillar for approval

APPENDICES

**to the Regulatory Benchmarking Report
for South East Europe**

2005

Ref: C05-ICO-01-03b
23 November 2005

APPENDIX 1

APPLICABLE ENERGY SECTOR PRIMARY LEGISLATION

Albania

- Law No. 9072 on the Power Sector, 22 May 2003 (replacing Law No. 7491 on the Electrical Power, 20 July 1995, and Law No. 7970 on Regulation of Power Sector, 20 July 1995)

Austria

- Energy Regulatory Authorities Act, phased in 1 March 2001 and 1 October 2001
- Electricity Act of 1998, 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); Amendments to Electricity Act, BGBl 36/2004, June 2004
- Settlement Agencies Act, Federal Law Gazette I No. 121/2000 (Article 9 of the Energy Market Liberalization Act), effective December 2000
- Green Electricity Act, Federal Law Gazette I No. 149/2002 (Article 2), August 2002
- Gas Management Act (GWG), Federal Law Gazette I No. 148/2002 (Article 1 of the 2002 amendment to the Natural Gas Act)

Bosnia and Herzegovina

- Act on Transmission of Electric Power, Regulator and System Operator of Bosnia and Herzegovina (“Act on Transmission”), Official Gazette of BiH, No. 7/02 of 10 April 2002; amendments published in the Official Gazette of BiH, No. 13/03 of 19 May 2003
- Law Establishing the Company for the Transmission of Electric Power in Bosnia and Herzegovina, Official Gazette of BiH, No. 35/04 of 29 July 2004
- Law Establishing an Independent System Operator for the Transmission System of Bosnia and Herzegovina, Official Gazette of BiH, No. 35/04 of 29 July 2004
- Law on Electricity of the Federation of Bosnia and Herzegovina (“Federation Electricity Law”), Official Gazette of the Federation of BiH, No. 41/02 of 23 August 2002; amendments published in the Official Gazette of the Federation of BiH, No. 24/05 of 18 April 2005, and No. 38/05 of 4 July 2005
- Law on Electricity of Republika Srpska (“RS Electricity Law”), Official Gazette of Republika Srpska No. 66/02 of 23 October 2002; amendments published in the Official Gazette of Republika Srpska, No. 29/03 of 23 April 2003, No. 86/03 of 25 October 2003 and No. 114/04 of 23 December 2004

Bulgaria

- Energy Law, State Gazette No. 107 of 9 December 2003, effective 12 December 2003, last amended State Gazette No. 18, 25 February 2005 (replacing Decree Number 181 of the Council of Ministers, 2 July 1999, in compliance with Article 11(2) of the Energy and Energy Efficiency Law
- Law on the Regulation of the Water Supply and Sewerage Services, State Gazette No. 18 of 25 February 2005

- Structural Regulation of the State Commission for Energy Regulation, promulgated in State Gazette No. 52 of 18 June 2004, amended State Gazette No. 49, 14 June 2005
- Energy Efficiency Act, promulgated in State Gazette No. 18 of 5 March 2004, effective 8 March 2004

Draft Legislation (primary): Amendment to Energy Law anticipated by end of year

Croatia

- Law on Amendments to the Energy Law, the Electricity Market Act and the Energy Activities Regulation Act, Official Gazette No. 177/04, all December 2004 (replacing Energy Law, Law on the Electricity Market and Law on Regulation of Energy Activities, published in Narodne Novine – Official Gazette No. 68/01 and 109/01, all June 2001)
- Privatization Act for HEP (the electricity utility), Official Gazette No. 32/02
- Law on Gas Market, Official Gazette No. 68/01, July 2001 (possibly amended by Law on Amendments to the Energy Law, the Electricity Market Act and the Energy Activities Regulation Act, Official Gazette No. 177/04, December 2004)
- Law on Oil and Oil Derivatives Market Official Gazette No. 68/01, July 2001 (possibly amended by Law on Amendments to the Energy Law, the Electricity Market Act and the Energy Activities Regulation Act, Official Gazette No. 177/04, December 2004)
- Law on Privatization of INA (oil industry), Official Gazette No. 32/02, March 2002

fyr of Macedonia

- Law on Energy in 2003, and then by Law on Energy as amended in June 2005 (replacing Law on Energy, September 1997)
- Decision on Establishing General Conditions for Natural Gas Supply, No. 23-2894/1, 15 June 99

Greece

- Liberalization of the Electricity Market – Regulation of Energy Policy Issues, Law 2773/1999, Official Gazette No. A/286, 22 December 1999. Article 5 of Law 2837/2000, Regulation of Competition, Energy Regulation Authority, Tourism and other Issues, 3 August 2000; Amendment to Electricity Law, Article 23 of Law 3175/2003, 29 August 2003
- Law 2364/1995 (natural gas sector), as amended by Law 3175/2003
- Law 3054/2002 (oil sector)

Draft Legislation (primary): New Electricity Law under study

Hungary

- Act on Electricity of 2001 (Act CX of 2001) as amended 2005, LXXIX (replacing Act XLVII on the Production, Transmission and Supply of Electric Energy, 1994)
- Act on a District Heat Supply of 2005 (Act XVIII of 2005)
- Act on a Natural Gas Supply of 2003 (Act XLII of 2003)

Italy

- Law No. 481 of 14 November 1995; Legislative Decree No. 79 Concerning the Implementation of EU Directive 96/92/EC, March 1999; and Law 239/04, Reorganization of the Energy Sector Law, 23 August 2004

Moldova

- Government Resolution No. 707, August 1997; Electricity Act, Law No. 137-XIV, 17 September 1998, published in Official Monitor of Moldova, No. 111-113, 17 December 1998, amended in 2000 and 2003
- Energy Act, Law No. 1525-XIII, 19 February 1998, published in Official Monitor of Moldova, No. 50-51, 4 June 1998
- Resolution on Approval of the Regulation and Budget of the National Agency for Regulation in Energy, No. 574, 21 June 1999, published in Official Monitor of Moldova, No. 67-69, 1 July 1999
- Gas Act, Law No. 136-XIV, 17 September 1998
- Act on a Petroleum Products Market, Law No. 461-XV, 30 July 2001

Montenegro

- Energy Law, June 2003

Romania

- Electricity Law No. 318, 8 July 2003 (replacing the Government Emergency Ordinance No. 29/1998 on the Romanian Energy Regulatory Authority, and Government Emergency Ordinance No. 63/1998 on Electricity and Heat, 22 October 1998; Law Nos. 99/2000 and 789/2001 amending Ordinance No. 29/1998)
- Government Decision No. 1816 approving the Organization and Operation Rules for ANRE, 28 October 2004
- The Code of Conduct for the Electricity Wholesale Market Participants, October 2002; the document is a secondary legislation issued by ANRE
- Gas Law No. 351/2004
- Petroleum Law No. 238/2004

Draft Legislation (primary): Draft Energy Law prepared for 2005

Serbia

- Energy Law, July 2004

Slovenia

- The Energy Act, 7 May 2004 (replacing Energy Law, 16 September 1999, published in Official Journal of Slovenia No. 79/1999)
- Decision on the Establishment of the Energy Agency of 10 June 2004 and amended 27 August 2004, published in the Official Journal of the Republic of Slovenia, Nos. 62/2004/95/2004
- Decision on Energy Agency Formation, 25 May 2000, Law No. 408-26, published in Official Journal of Slovenia No. 54/2000

Turkey

- Electricity Market Law, March 2001
- Natural Gas Market Law, April 2001
- Petroleum Market Law, December 2003
- LPG Market Law, March 2005
- Renewable Energy Law, May 2005

UNMIK

- Law No. 2004/9 on the Energy Regulator, as promulgated and amended by UNMIK Regulation No. 2004/20, 30 June 2004
- Law No. 2004/8 on Energy, as promulgated and amended by UNMIK Regulation No. 2004/21, 30 June 2004
- Law No. 2004/10 on Electricity, as promulgated and amended by UNMIK Regulation No. 2004/22, 30 June 2004
- Law No. 2004/5 on Trade of Petroleum and Petroleum Products in Kosovo, 22 April 2005
- Regulation No. 2005/22 on the Promulgation of the Law on Petroleum and Petroleum Products, Adopted by the Assembly of Kosovo, 7 May 2005

APPENDIX 2

REGULATORY BENCHMARKING QUESTIONNAIRE SEE/REM STATES

1. LEGAL STATUS

1.1 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?

1.2. 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.

2. INDEPENDENCE

2.1. 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?

2.2. 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.

2.3. 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.

2.4. PROCEDURES FOR APPOINTMENT AND REMOVAL

1. Who appoints the regulators¹ of the regulatory authority?
 - a. Is there any difference between the appointment process for Chairman, Vice-Chairman and other regulators?

¹ 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.”

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?

2.5. 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?

2.6. 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.

2.7. 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.

2.8. 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?

3. COMPETENCIES

3.1. 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?

3.2. 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.

3.3. 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 behaviour?
- 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.

3.4. 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)?

4. 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?

5. 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.)?

6. 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?

7. 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.

8. 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?

APPENDIX 3

REGULATORY BENCHMARKING SUPPLEMENTAL QUESTIONNAIRE SEE / REM STATES

2005

This document is meant to supplement the questionnaire sent out to you all last year, and from which the 2004 Regulatory Benchmarking Report was produced. We have determined that clarification would be useful in the areas mentioned below and ask that you respond to the questions below in order to improve the quality of the report. Per the schedule agreed to by the Institutional Compliance Task Force of the CEER WG SEEER, we request answers by 12 August. We will follow up with you on 9 September to request a verification and update of information in the data annex by 16 September; and we will draft the report based on your response, providing a draft to the Task Force by 3 October. We appreciate the value of your time and thank you in advance for your participation.

Staff

- What bodies participate in the hiring of a new staff member for the regulatory authority?
 - Must the government or other body approve a decision to hire a new staff member for the regulatory authority?

New Capacity

- Does the regulatory authority issue rules for authorization of new capacity?
- Does the regulatory authority issue authorizations for new capacity?
- Please summarize the process and criteria used for tendering for new capacity.

License Monitoring

- Are quality of service standards part of licensing or addressed separately from licensing?

Information Access

- Is information regarding quantity and price terms of exports and imports publicly available?
 - In what time frame is such data made publicly available?
- In practice, how often does the regulatory authority collect financial data?
 - What parts of such data are made publicly available?

- In practice, how often does the regulatory authority collect technical data?
 - What parts of such data are made publicly available?
- In practice, how often does the regulatory authority collect operational data?
 - What parts of such data are made publicly available?

Dispute Resolution

- Does the regulatory authority decide household and customer complaints?
 - Does the regulatory authority have the power to require suppliers to set up internal complaint processes?
- With respect to these and other powers of the regulatory authority to resolve disputes or address complaints, is a customer required to go the regulatory authority or may it go instead directly to a court or other body?
- Is the decision of the regulatory authority binding?

International and Regional Activities

- Must the regulatory authority seek permission to travel from anybody? If so what is the process?

APPENDIX 4

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; and
- 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 fulfil 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 decision-making 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. 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 5

ACRONYMS TO THE REGULATORY BENCHMARKING REPORT FOR SOUTH EAST EUROPE

2005

ABBREVIATION	DESCRIPTION
AD ELEM	Elektrani na Makedonija
AD ESM	Elektrostopanstvo na Makedonija
AD MEPSO	Macedonian Electricity Transmission System Operator (AD Operator na elektroprenosniot sistem na Makedonija)
AEEG	Regulatory Authority to Electricity and Gas l'Autorità per L'energia elettrica e il gas
AGEN-RS	Energy Agency of the Republic of Slovenia
AIB	Association of Issuing Bodies (Renewable Energy Certificates System)
ANRE	National Agency for Energy Regulation (Moldova)
ANRE	Romanian Electricity 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
CB	Cross Border
CEER	Council of European Energy Regulators
CEER-WG-SEEER	Council of European Energy Regulators – Working Group for South East Europe Energy Regulation
CERA	Croatian Energy Regulatory Authority

ABBREVIATION	DESCRIPTION
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
DSRSG	Deputy Special Representative of the Secretary General (Kosovo)
EA	Energy Agency (Serbia)
E-Control Commission	Energie-Control Commission (Austria)
E-Control Corporation	Energie-Control Corporation (Austria)
ECRB	Energy Community Regulatory Board of Electricity and Gas
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 Agency (Montenegro)
ERC	Energy Regulatory Commission of the Republic of Macedonia
ERE	Electricity Regulatory Authority of Albania
ERGEG	European Regulators Group for Electricity and Gas
ERO	Energy Regulatory Authority (Kosovo)
ERRA	Energy Regulators Regional Association
ESM	Shareholder company for generation, distribution and supply (fyr of Macedonia)
EU	European Union
EUAS	State owned generation company (Turkey)
FERC	Federation Energy Regulatory Commission (Bosnia and Herzegovina)
HEO	Hungarian Energy Office

ABBREVIATION	DESCRIPTION
HEP	Hrvatska Elektroprivreda (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
KESH	Korporata Electroenergjetike Shqiptare
KCB	Kosovo Consolidated Budget
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 (Kosovo)
MOF	Ministry of Finance
MVM	The Hungarian Electricity Transmission Company
MW	Megawatt
NARUC	National Association of Regulatory Utility Commissioners
NEK	National Electricity Company (Bulgaria)
PPA	Power Purchase Agreement
PPC	Public Power Corporation SA
RAB	Regulated Asset Basis
RAC	Regional Administrative Court
RAE	Regulatory Authority for Energy (Greece)
RAG	Regulatory Accounting Guidelines
RECS	Renewable Energy Certificate System

ABBREVIATION	DESCRIPTION
REGAGEN	Regulatorna Agencija za Energetiku (Energy Regulatory Agency)
RS	Republika Srpska
RSERC	Republika Srpska Regulatory Commission (Bosnia and Herzegovina)
SAC	Supreme Administrative Court (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)
SEWRC	State Energy and Water Regulatory Commission (Bulgaria)
SRSR	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