



**Energy Community Regulatory Board
Electricity Working Group**

**Regional Regulatory cooperation in the Energy
Community**

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Regional Black Sea Regulatory Workshop

Chisinau - Moldova, 5-6 May 2009

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- Energy Community: Basic information
- Generation and Transmission Adequacy in SEE region
- Wholesale Markets activities in SEE region
- Interconnection Capacity Allocation: Current status of play in SEE region and compliance to Regulation 1228/03 and CMG
- SEE Coordinated Auction Office: Ongoing Activities and prospects
- Regional Balancing Mechanism
- Regulatory incentives regarding regional cooperation on investments in transmission infrastructure
- Licensing issue



Energy Community

Energy Community Regulatory Board

Basic information

www.ecrb.eu



Contracting Parties



Observers



Participants



8th Region - MC Decision 27.6.2008 regional
CAM/CMP Reg. (EC) 1228/2003

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WHY AN ENERGY COMMUNITY?

BACKGROUND

- Conflicts of 1990s → disintegration of a unified energy system
- Interdependence of energy supply

REQUIREMENTS

- Cooperation; infrastructure; reconstruction
- Stability as condition precedent to investments
- Stable legal framework

BENEFITS OF REGIONAL APPROACH

- Optimized usage of existing capacity of transportation and production
- Improvement of future investments → small markets; economies of scale
- Process support
- Integration EU
- EU security of supply

Treaty establishing the Energy Community



The European
Community



THE ENERGY POLICY IN EUROPE

Generally, approach towards common principles (security of supply, competition, environment);

SEE: mostly bilateral relations;

Necessity for a common framework:

THE TREATY ESTABLISHING THE ENERGY COMMUNITY

Signed on 25 October 2005

Came into force on **1 July 2006**

- The Republic of [Albania](#)
- The Republic of [Bulgaria](#) (EU MS since 2007)
- [Bosnia and Herzegovina](#)
- The Republic of [Croatia](#)
- The Former Yugoslav Republic of [Macedonia](#)
- The Republic of [Montenegro](#)
- [Romania](#) (EU MS since 2007)
- The Republic of [Serbia](#)
- The United Nations Interim Administration Mission in [Kosovo](#)
- The Republic of [Moldova](#)*

WHAT IS NEEDED IN THE REGION?

WHERE DO WE START FROM?

Small markets

Lack of CB coordination

Different legal frameworks

Institutional differences

Lack of market integration

Lack of competition

Monopolistic structures

Market protection

Lack of transparency

Regulated prices

Need for investments

WHAT IS NEEDED?



CB harmonisation

Legal frameworks

Market rules

Investment conditions



Predictability - Stability



Competitive Structures

Market opening

Network TPA

Transparency

Market based prices



Institution Building

THE COMMON LEGAL FRAMEWORK

1) **Title II: Implementation of the *acquis communautaire*** (only regarding Network Energy)

→ **acquis of the Energy Community**

→ **geographic scope:** Contracting Parties

- Gas
- Electricity
- Environment
- Competition
- RES
- Generally Applicable Standards of the European Community

2) **Title III: Mechanism for Operation of Network Energy Markets**

→ **geographic scope:** Contracting Parties and Participants

- Mechanism for CB transports (long distance)
- Security of supply
- Customers
- Harmonization of licenses
- (RES) → *discretionary provision*

3) **Title IV: Single Energy Market**

→ **geographic scope :** Contracting Parties

- Free movement of goods
- Import/ export to and from third countries
- Mutual assistance in case of disruption

INSTITUTIONS

compared to EU-structure

■ Energy Community

▶ Secretariat (+Cion)

■ EU

▶ Cion

Steering
Monitoring

Governments

▶ Ministerial Council

Ministries

▶ ~ COREPER

Fora

▶ Gas, Electricity, Oil, Social/
Customers

Regulators

▶ ERGEG (4 p.a.+ WGs)

▶ Ministerial Council(1p.a.)

▶ PHLG (4 p.a.)

▶ Gas, Electricity, Oil,
Social

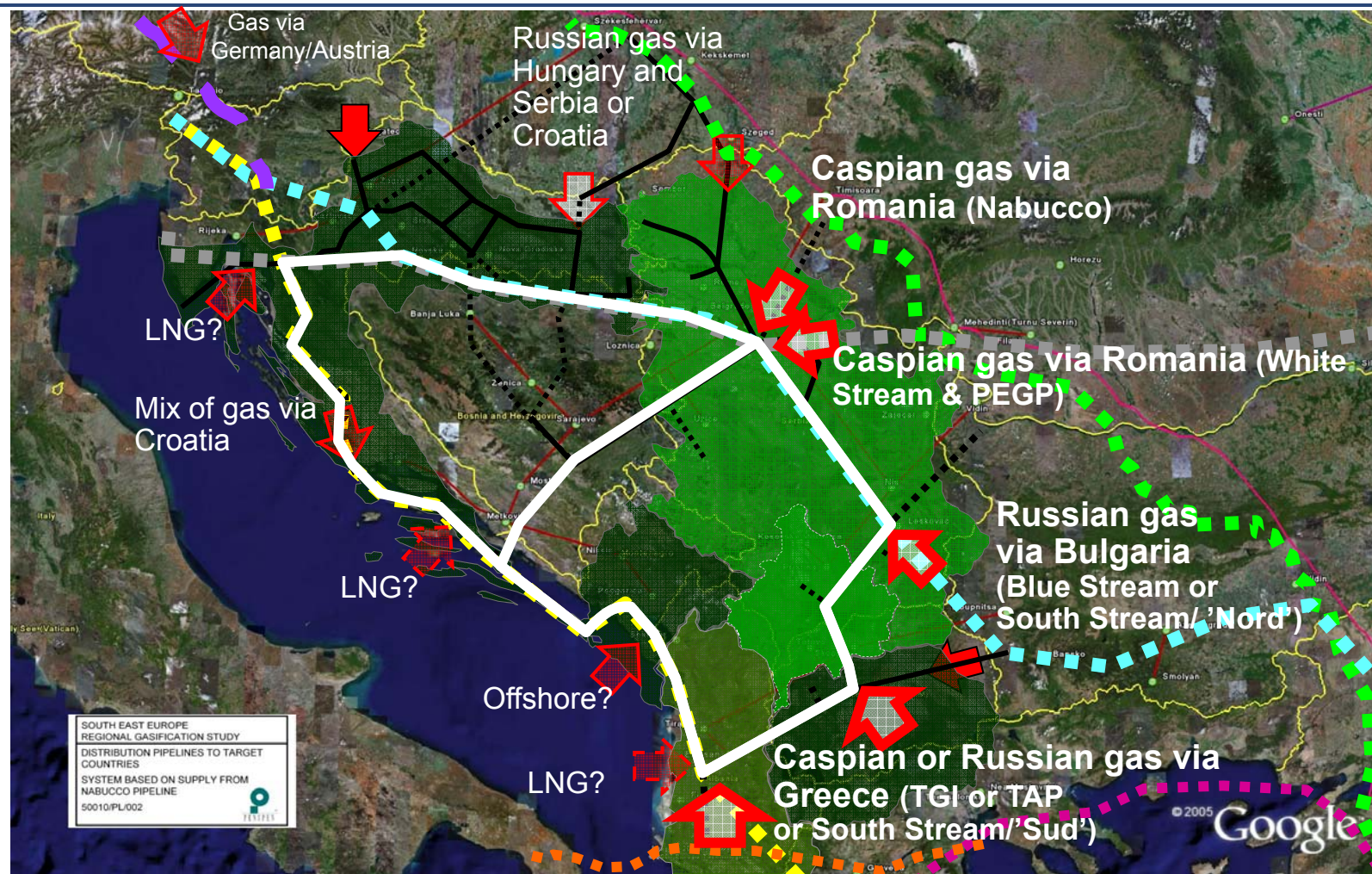
▶ ECRB (4 p.a.+ WGs)

AREAS OF WORK (1)

	Ministries/ ECS	Regulators/ ECRB
Electricity	<ul style="list-style-type: none"> ■ Implementation of the <i>acquis</i> ■ Electricity Forum 	<ul style="list-style-type: none"> ■ SEE CAO ■ Harmonization of trading licenses (wholesale) ■ Cooperation NRAs CB Investments („regulatory gap“/non-domestic investments) ■ Monitoring (Reg.1228/2003/EC); USAID Market Monitoring ■ Wholesale market opening ■ Regional balancing markets
Gas	<ul style="list-style-type: none"> ■ Implementation <i>acquis</i> ■ Gas Ring - „Investment Group“ ■ Gas Forum 	<ul style="list-style-type: none"> ■ Gas Ring – regulatory measures; cooperation NRAs CB Investments („regulatory gap“/non-domestic investments) ■ Tariffs CB ■ Monitoring (Reg. 1775/2005/EC)
Oil	<ul style="list-style-type: none"> ■ Construction ■ Oil Forum 	
Infrastructure	Investment Conference	

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GAS RING



SOURCE : ECA, SEE Regional Gasification Study World Bank and KfW

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AREAS OF WORK (2)

Ministries/ECS

Regulators/ECRB

RES/EEF

- Implementation plans
- TF RES, TF EEF
- Study 2009

Partly – as far as relevant for regulatory topics, e.g.:

- Priority access
- Biogas
- Balancing Markets
(until now not discussed)

Customers

- Social TF – Social Plans
- Social Forum

- „Vulnerable customers“
- Billing transparency
- Smart metering
- Quality of supply
- Tariffs – grid & energy

KEY CHALLENGES (1)

1. Implementation Legislation

Differences between the Contracting Parties widen over time

Acquis primary legislation is still:

- NOT sufficiently COMPLIANT with the key provisions of the Acquis
- NOT sufficiently COHERENT accross the region

The practical implementation of the Treaty is:

- FAR BEHIND the transposition of the Acquis and development of required LEGAL FRAMEWORK
- LAGGING BEHIND (in particular) in effective LIBERALIZATION of the END-USER SUPPLY market
- LAGGING BEHIND (in particular) in development of a common platform for efficient REGIONAL WHOLESALE TRADING of energy and/or capacity

KEY CHALLENGES (2)

2. Market rules

- Secondary market
- balancing
- harmonised licensing
- regionally coordinated CAM/CMP
- Lack of transparency – also on available data

3. Market place/competition

- import/export fees
- different treatment of national and CB flows (regulatory model, custom duties, excise et al)
- creating organized market places with sufficient liquidity
- Increasing the level of competition (in generation)

4. Independence of regulators

5. Regulated energy prices

REGULATED ENERGY PRICES

	Electricity (Y/N)	If yes, for which group of customers?	Gas (Y/N)	If yes, for which group of customers?
Albania	Y	All customers	N	There is no gas market in Albania
Bosnia and Herzegovina	Y	All customers	Y	All customers
Croatia	Y	Temporarily block tariffs depending on consumption	N	
FYR of Macedonia	Y	All connected below 110kV	Y	Industrial customers (There is no distribution network yet.)
Montenegro	Y	All customers	N	
Serbia	Y	All customers	Y	All customers
UNMIK	Y	All customers	<u>N/A</u>	<u>N/A</u>

Energy Community Regulatory Board (ECRB)



- ✓ shall discharge the tasks entrusted to it by Article 58 of the Energy Community Treaty → 1st ECRB meeting held in December 2006
- ✓ at the request of the European Commission, or on its own initiative and in accordance with the objectives of the Energy Community Treaty, shall undertake the **function of advising on statutory, technical and regulatory rules** in the region to the Energy Community Treaty Institutions.
- ✓ shall provide **advice to the Ministerial Council and the PHLG** with regard to monitoring and assessing the operation of the energy networks and network energy market and **issue recommendations** to the Parties when so entrusted by the Treaty or the Ministerial Council.
- ✓ shall **facilitate consultation, co-operation and co-ordination amongst regulatory authorities** to a consistent application of the Acquis Communautaire. The ECRB **makes recommendations** and reports with respect to the functioning of the energy markets.
- ✓ may **determine the existence of a serious and persistent breach** and **bring it to the attention** of the Ministerial Council.

Who are the Members of ECRB?

- ECRB consists of representatives from Regulatory Authorities from Contracting Parties, Participants and Observers to the Energy Community Treaty
- ECRB **Members** comprises high level representatives from eight* energy regulatory authorities of the Contracting/Signatory Parties:
 - Energy Regulatory Authority of **Albania** (ERE)
 - State Electricity Regulatory Commission of **Bosnia and Herzegovina** (SERC)
 - **Croatian** Energy Regulatory Agency (HERA)
 - Energy Regulatory Commission of the **FY Republic of Macedonia** (ERC)
 - Energy Regulatory Agency of **Montenegro** (REGAGEN)
 - Energy Regulatory Agency of the Republic of **Serbia** (AERS)
 - Energy Regulatory Office (ERO) of the United Nations Interim Administration Mission in Kosovo (**UNMIK**),
 - National Agency for Energy Regulation of Republic of **Moldova** (ANRE)*
(signed EnC accession protocol on 17Mar2010 and turned into a Member by 1 May after ratification of the protocol), and
 - a representative of the **European Commission**

Who are the Participants of the ECRB and what distinguishes them from the Members?



- ECRB is also attended by fourteen energy regulatory authorities EU MS of the so called **Participants**. These are currently:
 - E-Control (Austria)
 - SEWRC (Bulgaria)
 - ERU (Czech Republic)
 - CERA (Cyprus)
 - CRE (France)
 - BNetzA (Germany)
 - RAE (Greece)
 - HEO (Hungary)
 - AEEG (Italy)
 - Energiekamer (Netherlands)
 - ANRE and ANRGN (Romania)
 - RONI (Slovakia)
 - AGEN-RS (Slovenia)
 - OFGEM (UK)
- Participants have the right to **participate in the discussions**, however have **no voting rights**

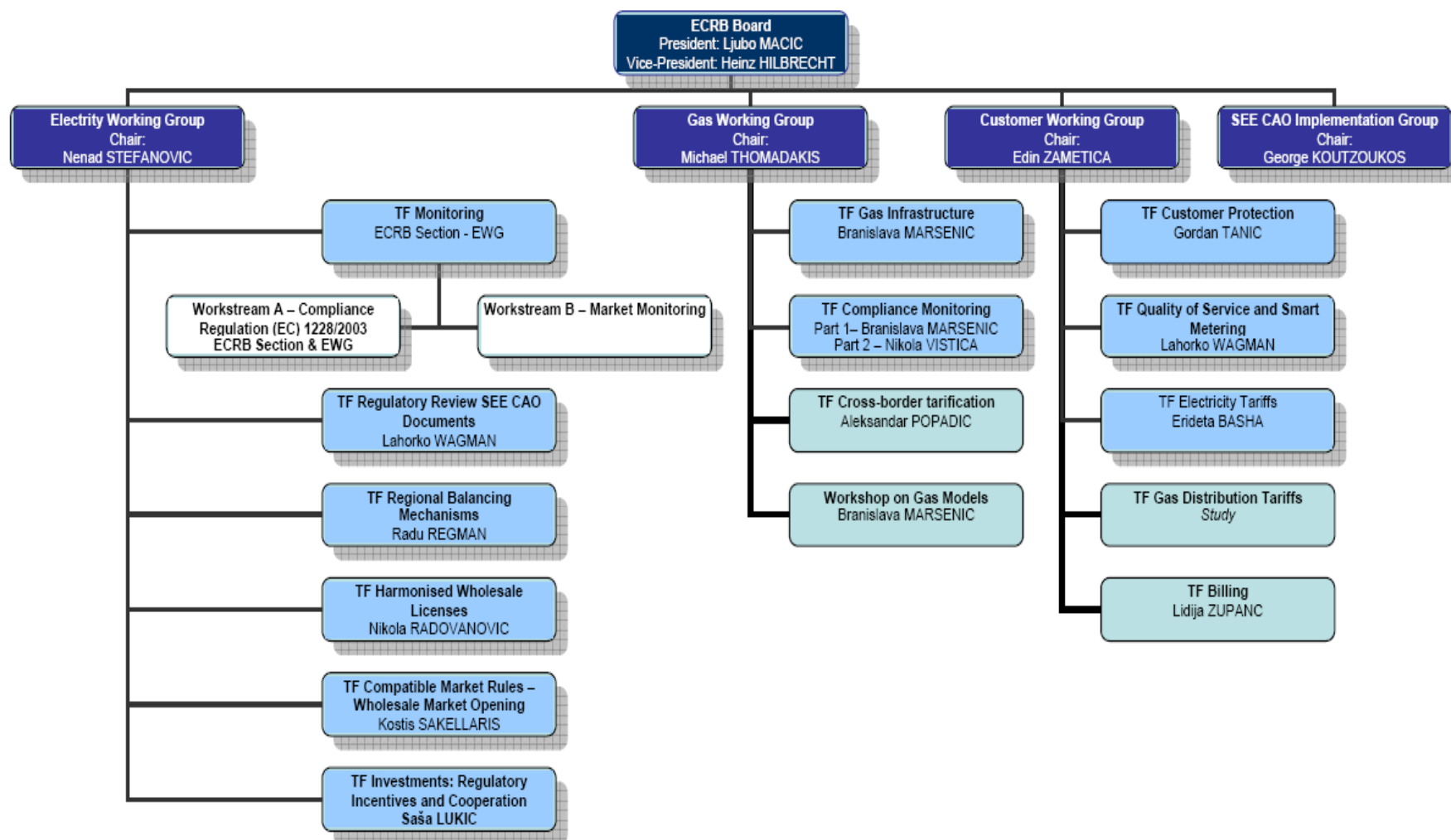
Who are the Observers to ECRB?

- ECRB allows **Observers** to its meetings, currently attributed to the following energy regulatory authorities:
 - GNERC (Georgia)
 - ANRE (Moldova)*
 - NVE (Norway)
 - EMRA (Turkey)
 - NERC (Ukraine)

**Moldova has signed the Energy Community accession protocol on 17 March 2010 and will be full fledged member after ratification of the protocol, by 1st May 2010*

- Observers do generally **not take part in the discussions**
- **Content**
 - Implementation of the Treaty (!) – *acquis* → no dynamic adjustment to EU *acquis* (e.g. 3rd package)!– requires Ministerial Council Decision
 - Deadlines
 - Institutional framework

ECRB structure and organisation



How is ECRB organizing its work?

- ECRB organises its work in three working groups (WGs):
 - **Electricity** working group (EWG)
 - **Gas** working group (GWG)
 - **Customers** Working Group (CWG)
- A fourth group was created with the purpose of bringing forward the project of creating a Coordinated Auction Office in SEE region and comprises both Regulators and Transmission System Operators under the Regulators' lead:
 - South East Europe Coordinated Auction Office **Implementation Group** (SEE CAO IG)
- ECRB and its Working Groups are supported by the **ECRB Section** of the Energy Community Secretariat, as a part of Energy Community Secretariat, located in Vienna

Which are the main topics of the ECRB Work Program?



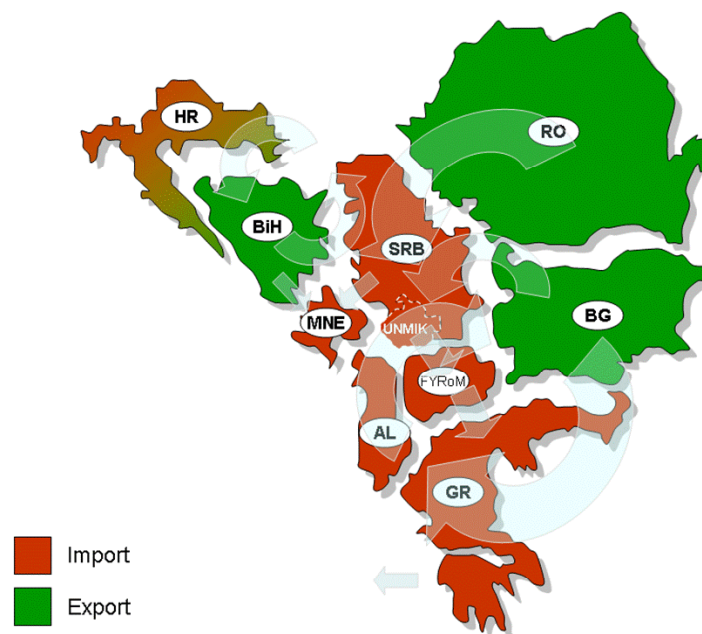
- **Electricity:** Congestion management and transmission capacity allocation, Regional Balancing Mechanisms, Compatible Market Rules, Wholesale Market Opening, mutual recognition of trading licenses, Cross Border cooperation, Coordinated Auction Office
- **Gas:** Cross border gas trade, interconnection and interoperability of transmission and transit pipelines, balancing and flexibility tools including storage and LNG facilities, cross border cooperation, transmission tariffs
- **Customers:** Protection of vulnerable household customers, quality of supply and commercial services, standards and incentives, tariff methodologies and transparency of prices
- **Coordinated Auction Office (CAO):** an Implementation Group (IG) provides the platform for regulators, network operators and users to coordinate the establishment of a CAO
- The ECRB Work Program provides detailed information on the activities of the ECRB and its Working Groups

Congestion Management in SEE Region



Congestion Management in SEE

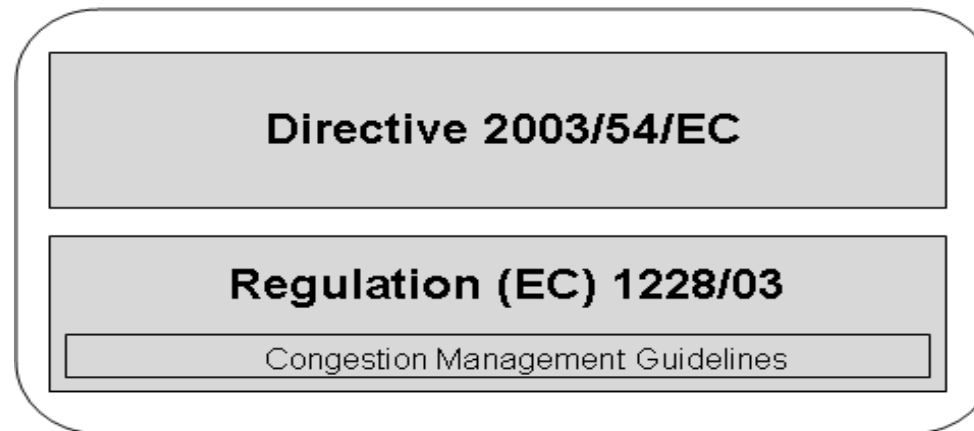
- SEE national transmission systems are faced with a complex international electricity market, transits and a growing number of market participants → SEE network designed during 70-80'ties
- Thus, Cross-Border congestions occur and create a barrier for international electricity trade within SEE (transits: North → South)
- Therefore it was necessary to implement proper rules for Market-based Congestion Management



Compliance with Regulation 1228/03 and CMG



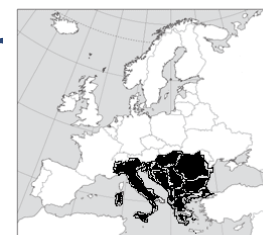
Energy Community Acquis on Electricity



- The Basic principles for Cross-Border Congestion Management are described in the Regulation (EC) 1228/2003 and CMG
- Regulation 1228/2003 is applicable in the SEE Region through the Energy Community Treaty
- SEE Region is working on Flow-based explicit coordinated auction scheme since 2004 (Dry-Run) involving TSO, regulators and traders

The 8th Congestion Management Region - SEE

- The most pressing issue was the **pending definition** of a **Congestion Management area** in the **South East European region** and definition of consisting countries as prerequisite for SEE CAO establishment
- The need of a definition for SEE region became **evident** during the **Action Plan drafting process for the CAO** as Regulation 1228/2003 and its Congestion Management Guidelines consists no definition for the SEE region
- At the same time, the definition is essential for the SEE CAO project as it **predefines** the **future participants** of the **SEE CAO**
- The so called 8th Congestion Management Region was established according to the approach used within the EU (ERGEG Electricity Regional Initiatives)
- The agreement on the South East European region was reached at the **Ministerial Council in June 2008**: The 8th Region was created by MC decision in June 2008
- The definition of the 8th Region was an important step towards the establishment of a SEE Regional Market for electricity



A Project Overview : The 8th Region

•As a result a common Coordinated Congestion Management method, including capacity allocation, is to apply for the **following territories**:

- the seven Energy Community Treaty Contracting Parties
- the neighboring countries **Bulgaria, Greece, Hungary, Romania and Slovenia**
- **Italy** with regard to the interconnections between Italy and the Contracting Parties to the EnC Treaty (DC undersea cables)
- **Austria**, as an important supporter of the SEE Coordinated Auction Office project got an observer status



SEE
13 contracting parties
24 borders
Population: 137,12 million

Regionally Coordinated Mechanism: SEE CAO



» Legal requirement of regionally coordinated CAM & CMP



Contracting Parties

Observers

Participants

8th Region - MC Decision 27.6.2008 regional CAM/CMP Reg. (EC) 1228/2003

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SEE Coordinated Auction Office (1)

- CEE and SEE TSOs decided to implement **Explicit Flow-based CA mechanism in SEE Region** ... vs. CWE, SWE and Nordic Region where Implicit NTC based mechanism is implemented (Market Coupling, Market Splitting)
- Coordinated Auctions and CAO are **in compliance with Regulation 1228/03** and CMG provisions
- All EnC contracting parties **support** the establishment of a Coordinated Auction Office in the SEE region
- **Via MoU the SEE TSOs of the Region supported the setting up of a CAO** at the MC meeting on 11 Dec 2008 in Tirana
- MC supported **Montenegro as location** for SEE CAO

SEE Coordinated Auction Office (2)

- **Steering Committee for Project Team** (responsible for establishing SEE CAO) was created and several meetings were held so far (TSOs and donors participate) –early 2009
 - Agreed structure for CAO Project Team
 - Budget
 - Co-financing by IFI's (subject to TSO co-financing!)
 - Structure: project company
 - Members
 - Project Team is not yet the CAO!
- **Action Plan** update shall be elaborated by SC Project Team (SEE TSOs)
- **ECS studies** related to SEE CAO (technical and legal study) terminated
 - waiting for the studies' outcomes: Business Plan, Auction Rules, NTC vs. Maximum Flow approach, etc.
- **NTC based approach** for SEE CAO as the **first step**
- **SEE Regulators** will have to **approve** CAO related rules and perform CA and SEE CAO **Monitoring** → regulators are waiting for SEE TSOs input

SEE Coordinated Auction Office (3)

- ECRB established **Ad hoc TF CAO Monitoring** → working on a **proposal** for approval of SEE CAO related documents and SEE CAO Monitoring (regional vs. national)
- Ad hoc TF CAO Monitoring is elaborating more in detail two possible approaches outlined in **CAO Monitoring proposal**:
 - **Regional monitoring**/approval by ECRB, and
 - **Monitoring**/approval **by NRAs** based on voluntary recommendations by ECRB
- Recommendations based on the assumption that Articles of Association for SEE CAO express that SEE CAO is established as a single mechanism for cross-border transmission of electricity in line with Title III of the Treaty and in accordance with the decision of the Ministerial Council on establishing the 8th region
- Each national regulator shall perform monitoring in the first phase

General Principles for Congestion Management



Regulation (EC) 1228/2003, Article 6:

“...Network congestion problems shall be addressed with non discriminatory **market based** solutions which give efficient economic signals to the market participants and transmission system operators involved...”

“... The **maximum** capacity of the interconnections and/or the transmission networks affecting cross-border flows shall be **made available** to market participants, complying with safety standards of secure network operation...”

No pro-rata allocation of capacity & No long term contracts

Regulation: Requirements for allocation schemes



- “... The maximum capacity of the interconnections and/or the transmission networks affecting cross-border flows shall be made available to market participants, complying with safety standards of secure network operation....”
- “... Congestion management methods shall be market-based in order to facilitate efficient cross-border trade. For this purpose, capacity shall be allocated only by means of explicit (capacity) or implicit (capacity and energy) auctions...”
- “...Capacity allocation at an interconnection shall be coordinated and implemented using common allocation procedures by the TSOs involved. In cases where commercial exchanges between two countries (TSOs) are expected to significantly affect physical flow conditions in any third country (TSO), congestion management methods shall be coordinated between all the TSOs so affected through a common congestion management procedure...”

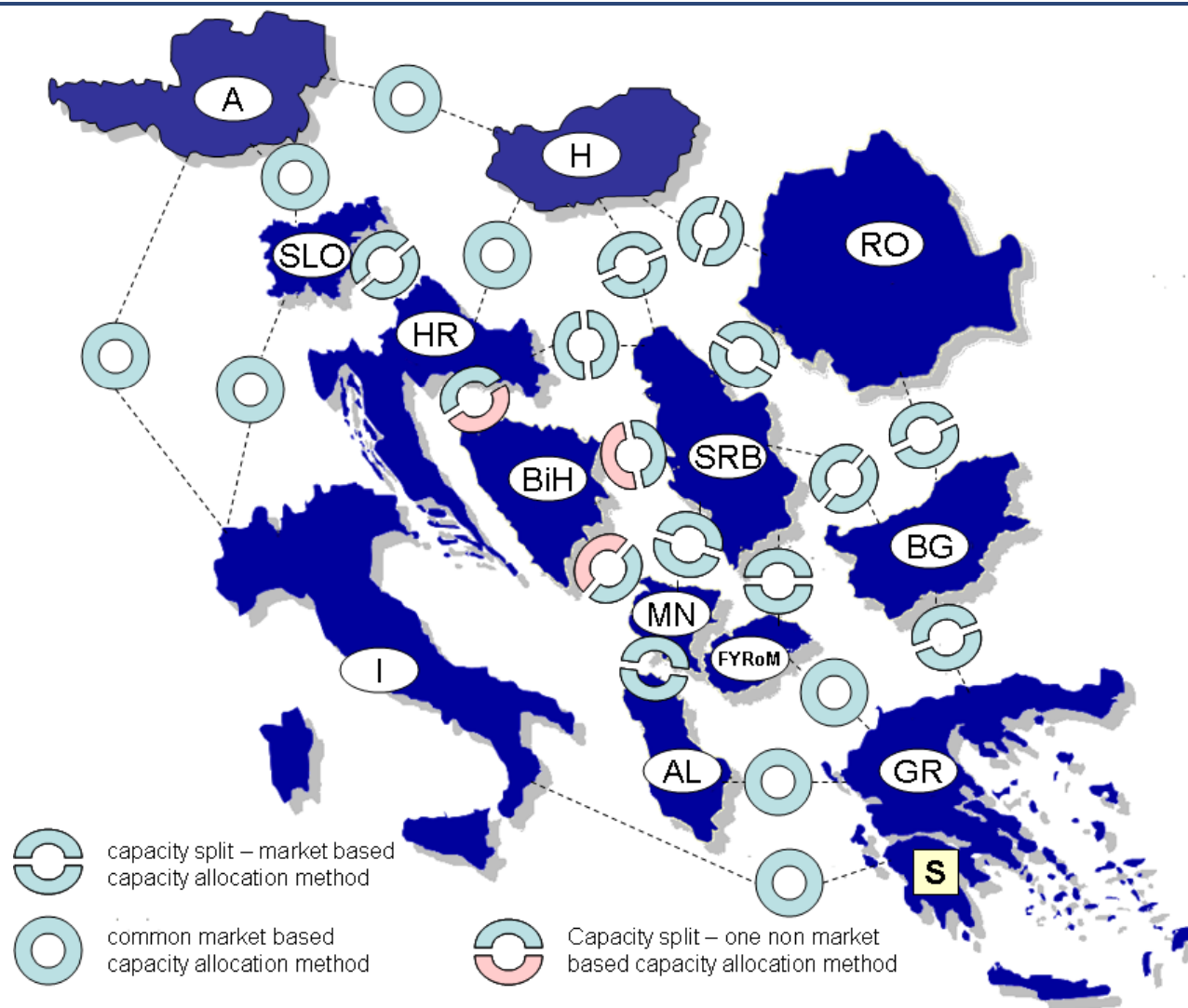
SEE Regulators actions on ERI reporting

- **Common structure for reporting by national regulators** to feed into overall reporting of ECS was agreed
- Database will be set up on ECRB website including indicators for market development → As part of their monitoring activity, national regulators will fill out this database for their national market
- Such approach **follows procedure used by EU regulators** for reporting to EC and used as basis for EC Annual Benchmarking Report on development of internal electricity and gas market → Comparability of results will be achieved
- ECRB agreed to **follow the transparency monitoring approach applied by ERI**
- Transparency Monitoring will be exercised by ECRB-Section
- ECRB welcomed suggestion of ERGEG to **include the 8th Region progress report as Annex to ERI/ERGEG reporting** in future, but keeping content responsibility with ECRB
- ECRB would welcome the invitation of ERGEG to present the progress made in the 8th Region at the Annual Regional Initiative Conferences in future

Cross-Border status play in 8th region

- SEE Regulators recognized a need for a **detailed overview** and benchmarking of current CB mechanisms in SEE as there is a necessity to work on **improving Cross-Border modalities in SEE**
- Necessary to investigate **how EnCT signatories are taking necessary steps** in order to **meet CMG requirements** and analyze their awareness of the progress they have to make in order to fulfill them
- Presented data are based on the findings out of the questionnaires elaborated by ECRB EWG and filled in by the regulatory authorities together with the TSOs from:
 - Albania, Austria, Bosnia and Herzegovina, Croatia, Hungary, Italy, FYRo Macedonia, Romania, Serbia, Slovenia, UNMIK

Existing Capacity Allocation Schemes in the 8th Region



►► Status quo:
bilateral
coordination
at best

►► THIS DOES
NOT MEET
THE LEGAL
OBLIGATIONS!

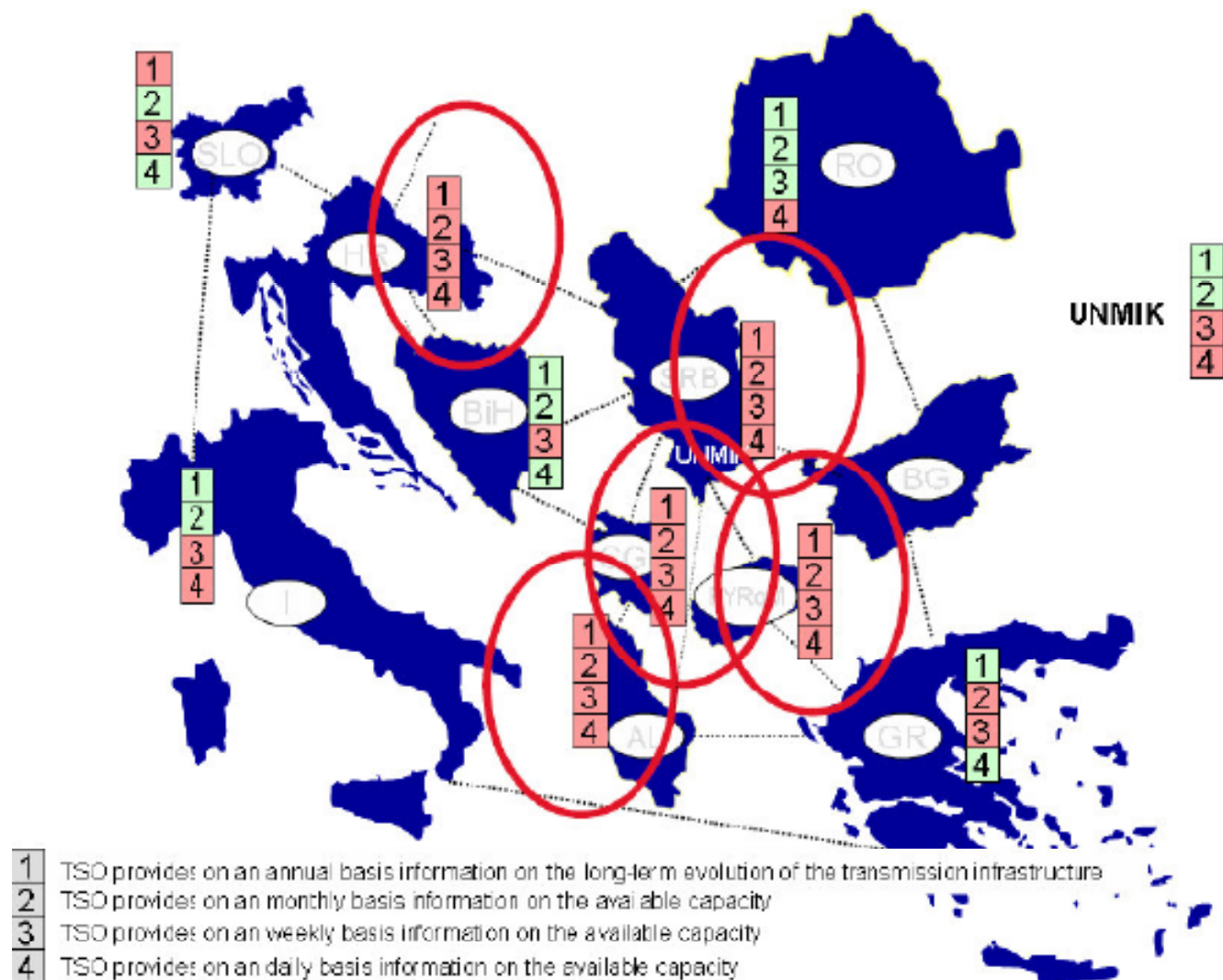
Congestion Management Guidelines: Transparency



“... TSOs shall publish all relevant data concerning cross-border trade on the basis of the best possible forecast. In order to fulfill this obligation the market participants concerned shall provide the TSOs with the relevant data. The way in which such information is published shall be subject to review by Regulatory Authorities. TSOs shall publish at least:

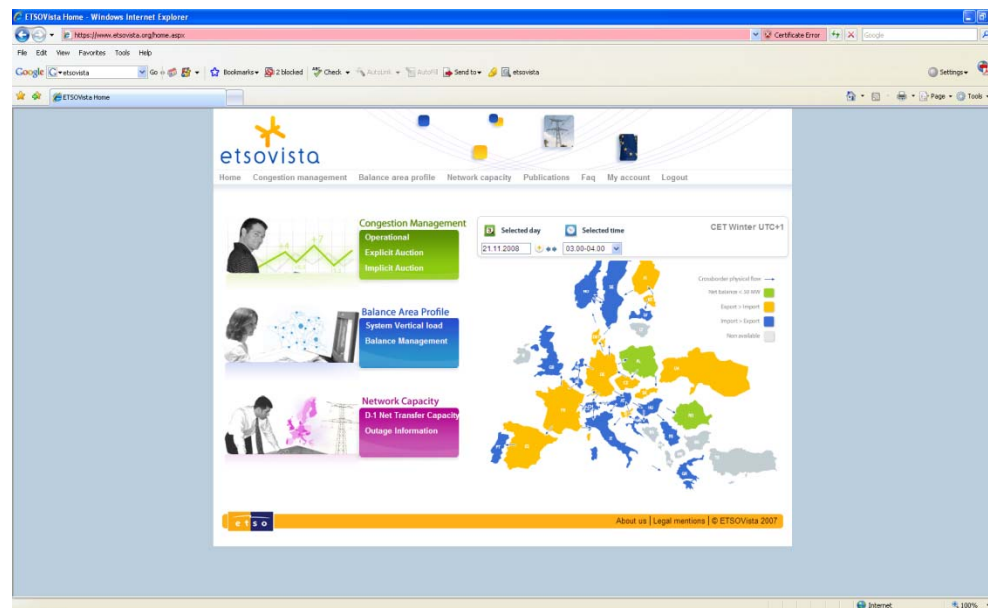
- (a) Annually: information on the long-term evolution of the transmission infrastructure and its impact on cross border transmission capacity;
- (b) Monthly: month- and year-ahead forecasts of the transmission capacity available to the market, taking into account all relevant information available to the TSO at the time of the forecast calculation (e.g. impact of summer and winter seasons on the capacity of lines, maintenance on the grid, availability of production units, etc.);
- (c) Weekly: week-ahead forecasts of the transmission capacity available to the market, taking into account all relevant information available to the TSOs at the time of calculation of the forecast, such as the weather forecast, planned maintenance works of the grid, availability of production units, etc.;
- (d) Daily: day-ahead and intra-day transmission capacity available to the market for each market time unit, taking into account all netted day-ahead nominations, day ahead production schedules, demand forecasts and planned maintenance works of the grid;...”

Electricity Transparency

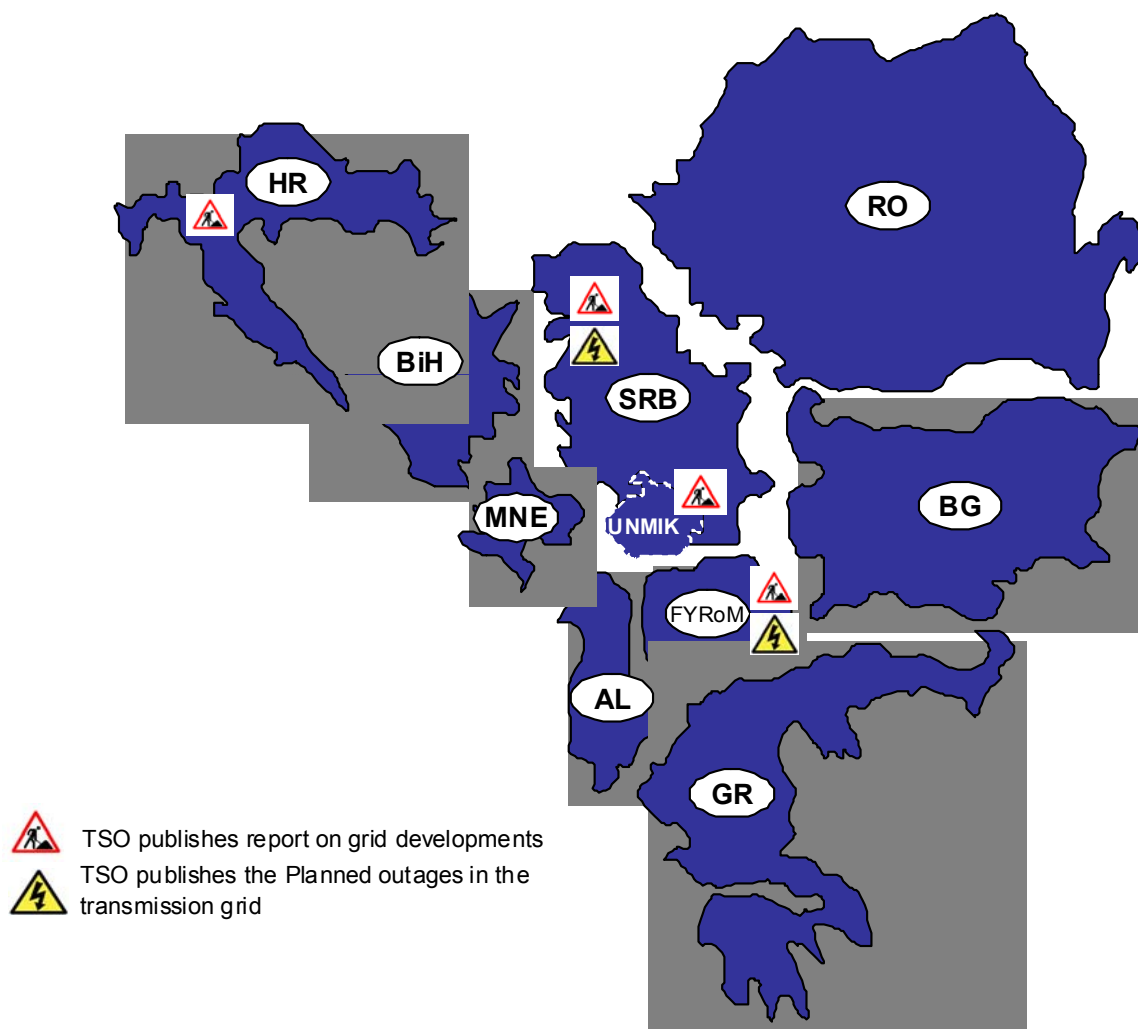


Transparency

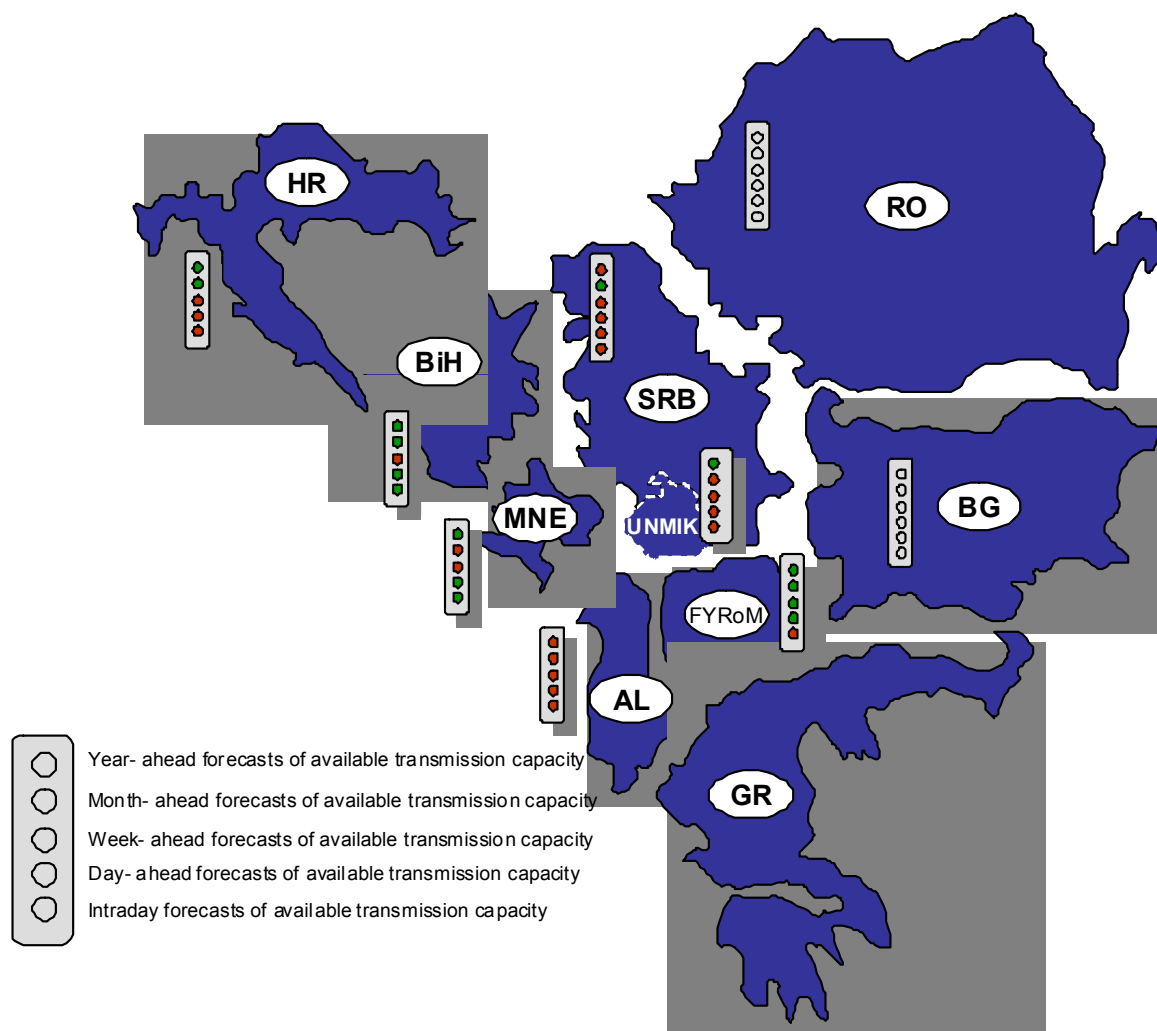
- Increased transparency can be noticed in SEE region
- TSOs of the contracting parties take part in the **ETSO Vista project** which foresees publication of Auction results, CB flows, available capacities, etc. (according to Regulation 1228/03 and CMG provisions)
- Furthermore, the EnC contracting parties increased the number of documents **available in English** in their web sites
- **Market Rules** will be **published** by all EnCT signatory parties soon (beginning 2010)



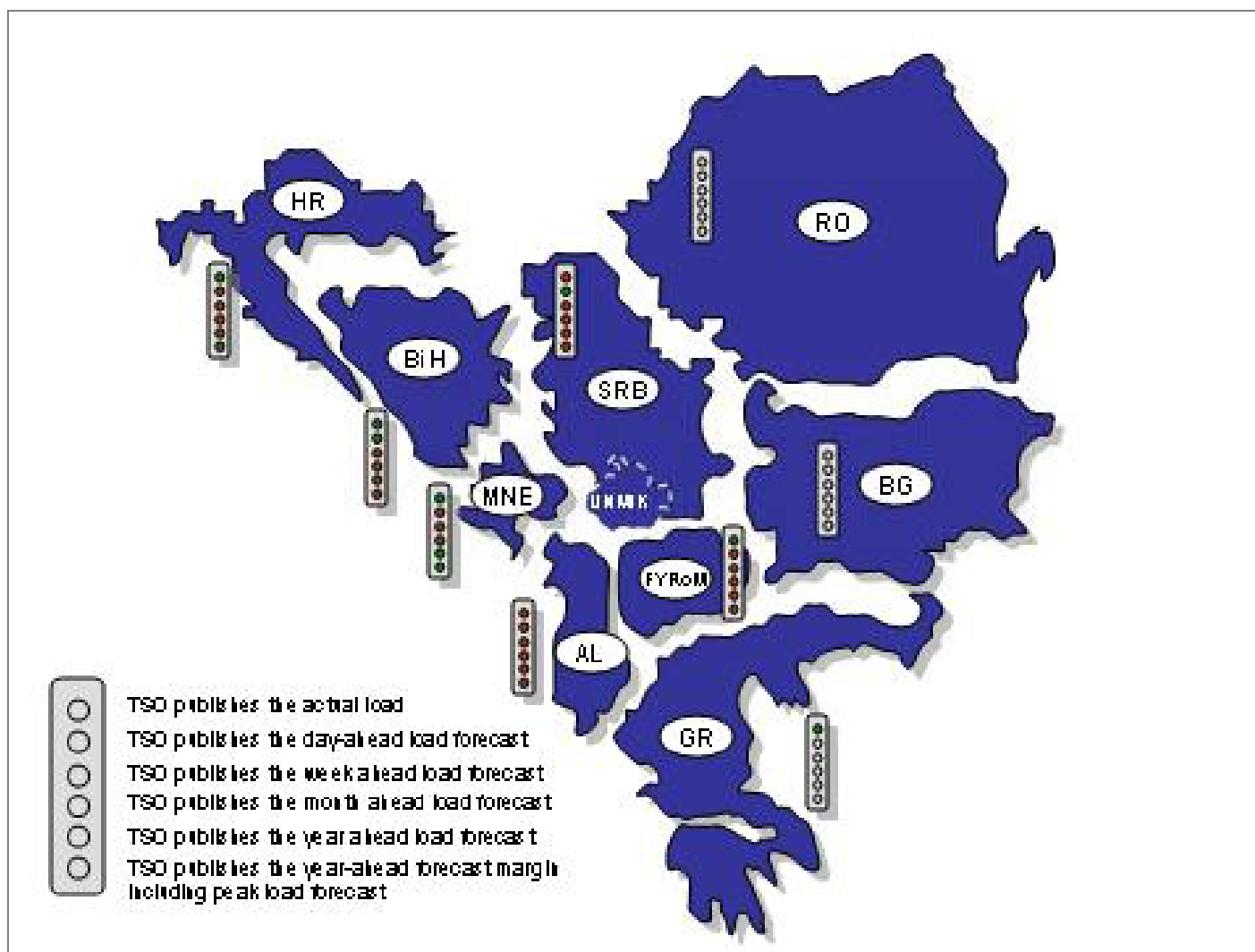
Information on grid developments and outages published in the Contracting Parties



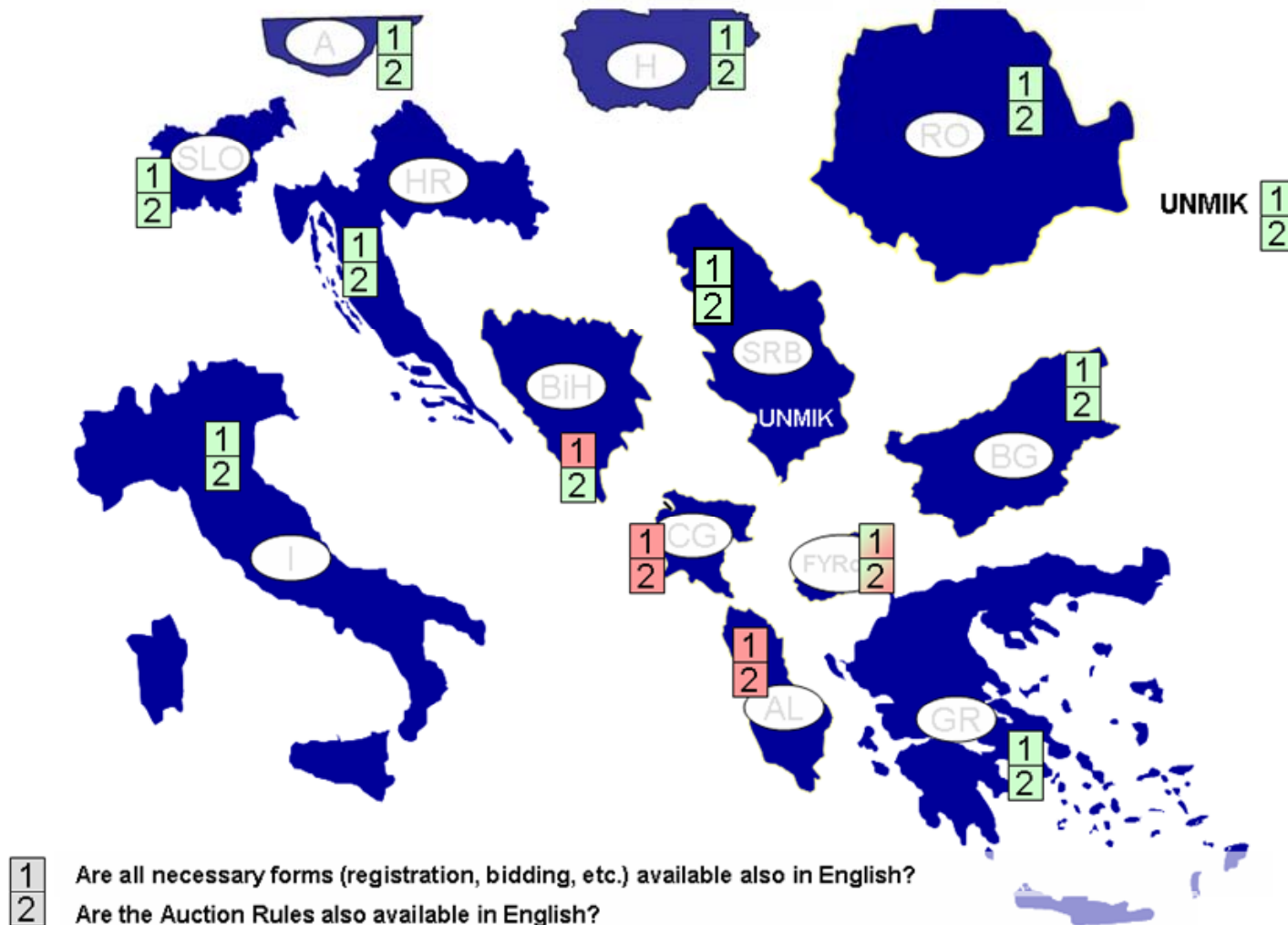
Information on Available Transmission Capacity published in the Contracting Parties



Load data published in SEE Region



Barriers for International Traders: Documents' Availability in English



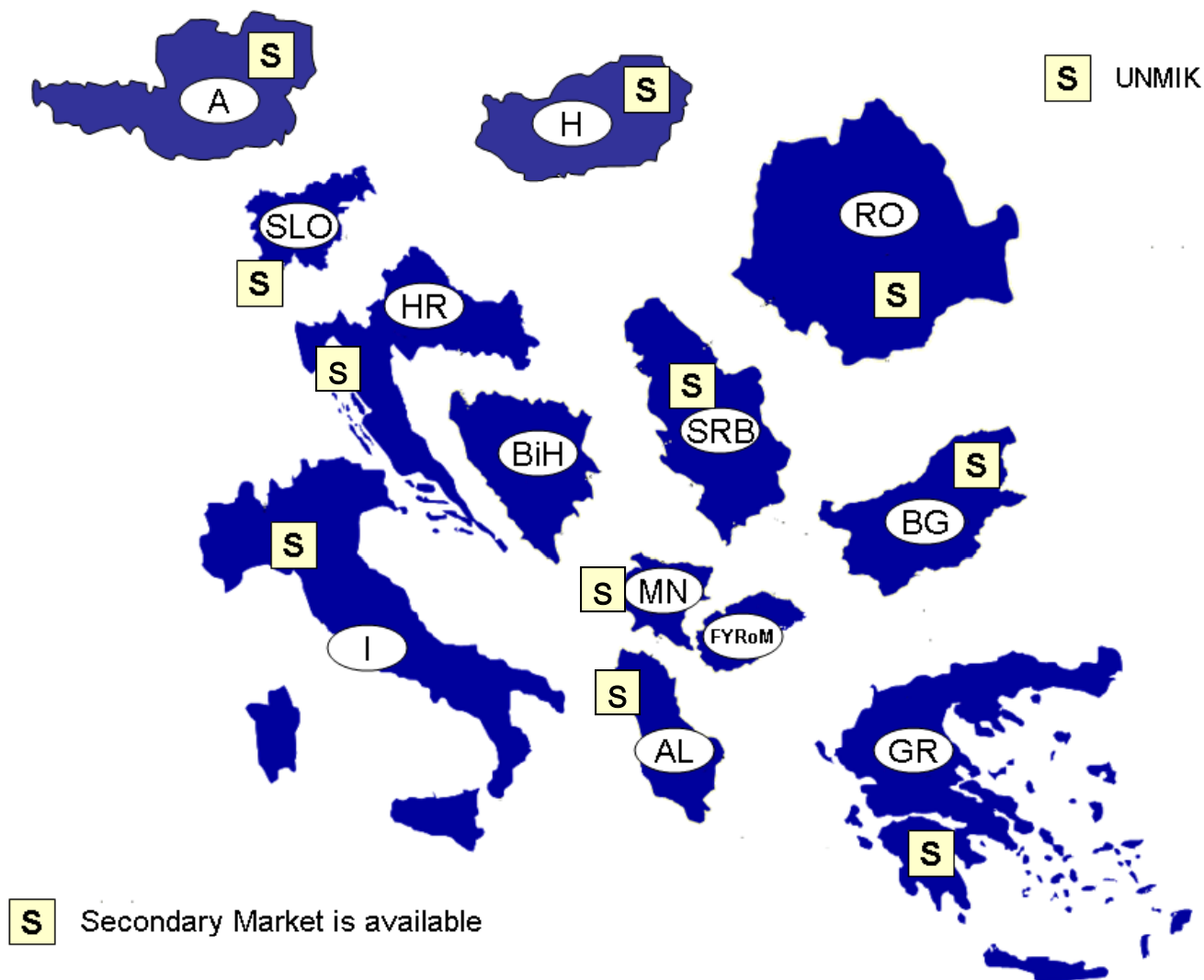
Congestion Management Guidelines: Secondary Market



„...Capacity shall be freely tradable on a secondary basis, provided that the TSO is informed sufficiently in advance. Where a TSO refuses any secondary trade (transaction), this must be clearly and transparently communicated and explained to all the market participants by that TSO and notified to the Regulatory Authority...”

Congestion Management Guidelines require the implementation of a secondary market

Secondary Market Availability (capacity transfer)



Regulation 1228/03:

Usage of Congestion Management income



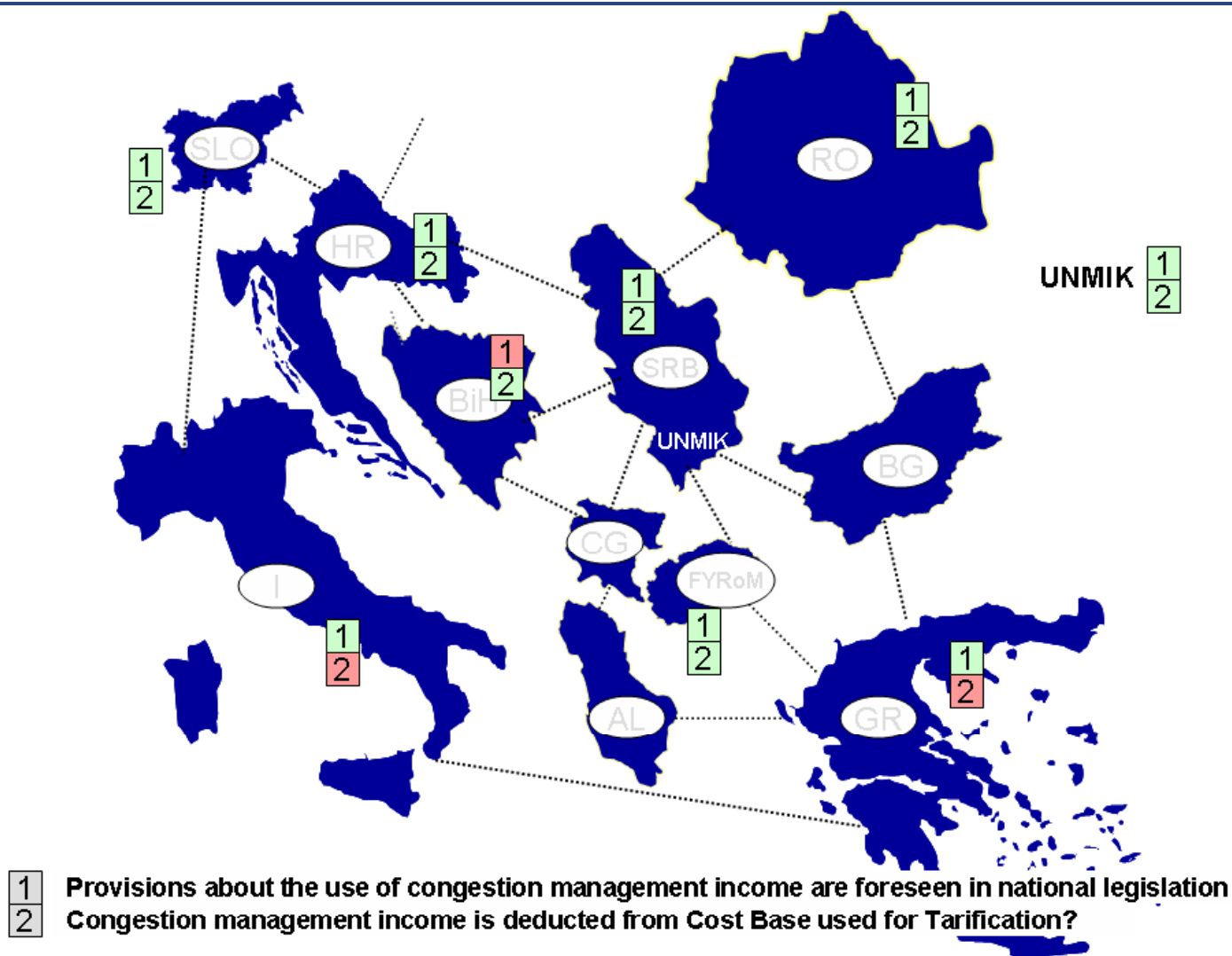
“... Any revenues resulting from the allocation of interconnection shall be used for one or more of the following purposes:

- a) guaranteeing the actual availability of the allocated capacity
- b) network investments maintaining or increasing interconnection capacities
- c) as an income to be taken into account by regulatory authorities when approving the methodology for calculating network tariffs, and/or in assessing whether tariffs should be modified...”

Findings in SEE Region:

- Most of the countries have already provisions in their legislation concerning the usage of congestion management income
- However, in some countries congestion management income is not deducted from the cost base in the national tariffication systems
- All countries fulfill at least one of three possible options for the usage of Congestion Management income described within Regulation (EC) 1228/2003

Usage of Congestion Management income in SEE Region



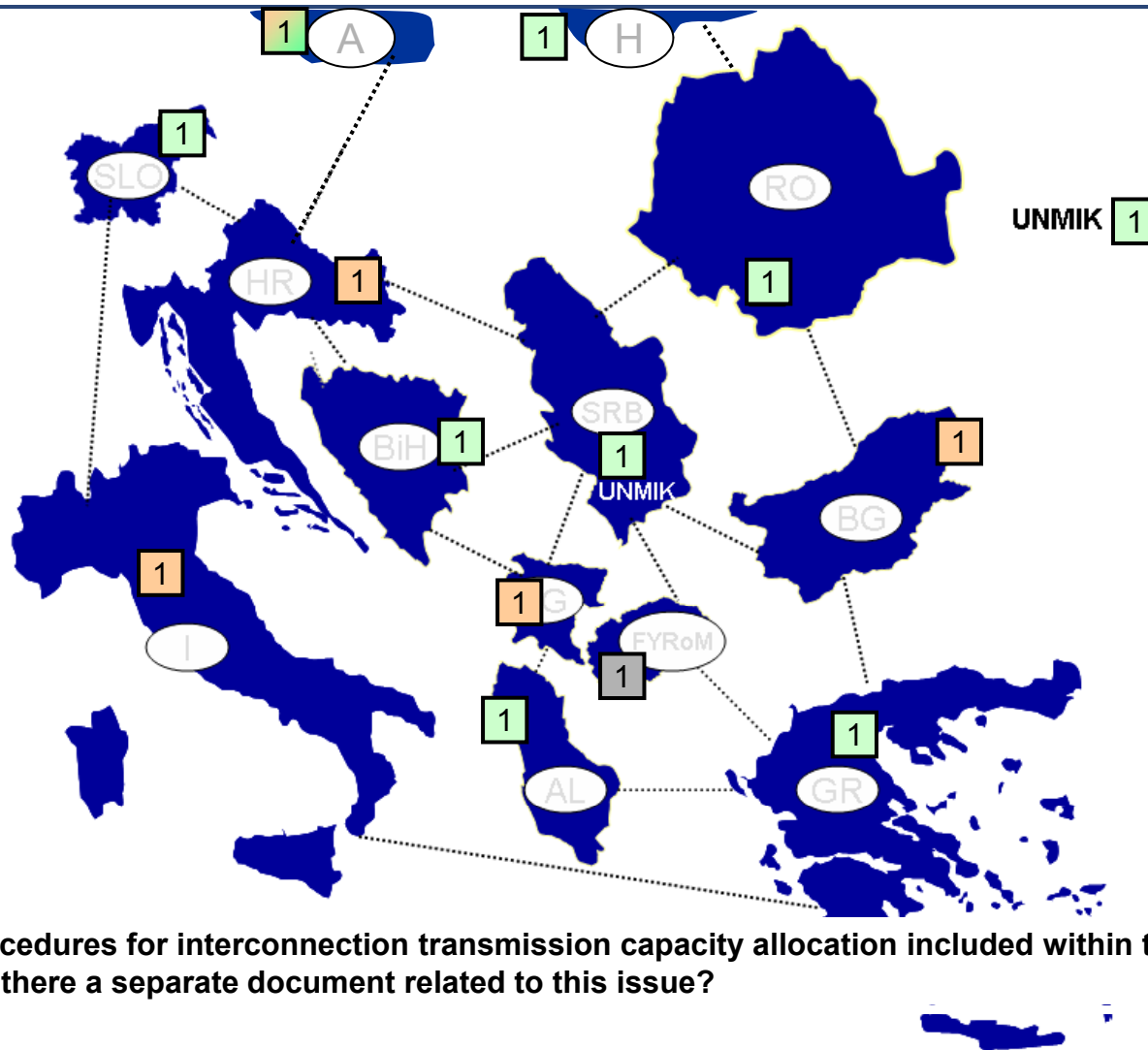


Market Rules and CB Capacity Allocation Rules



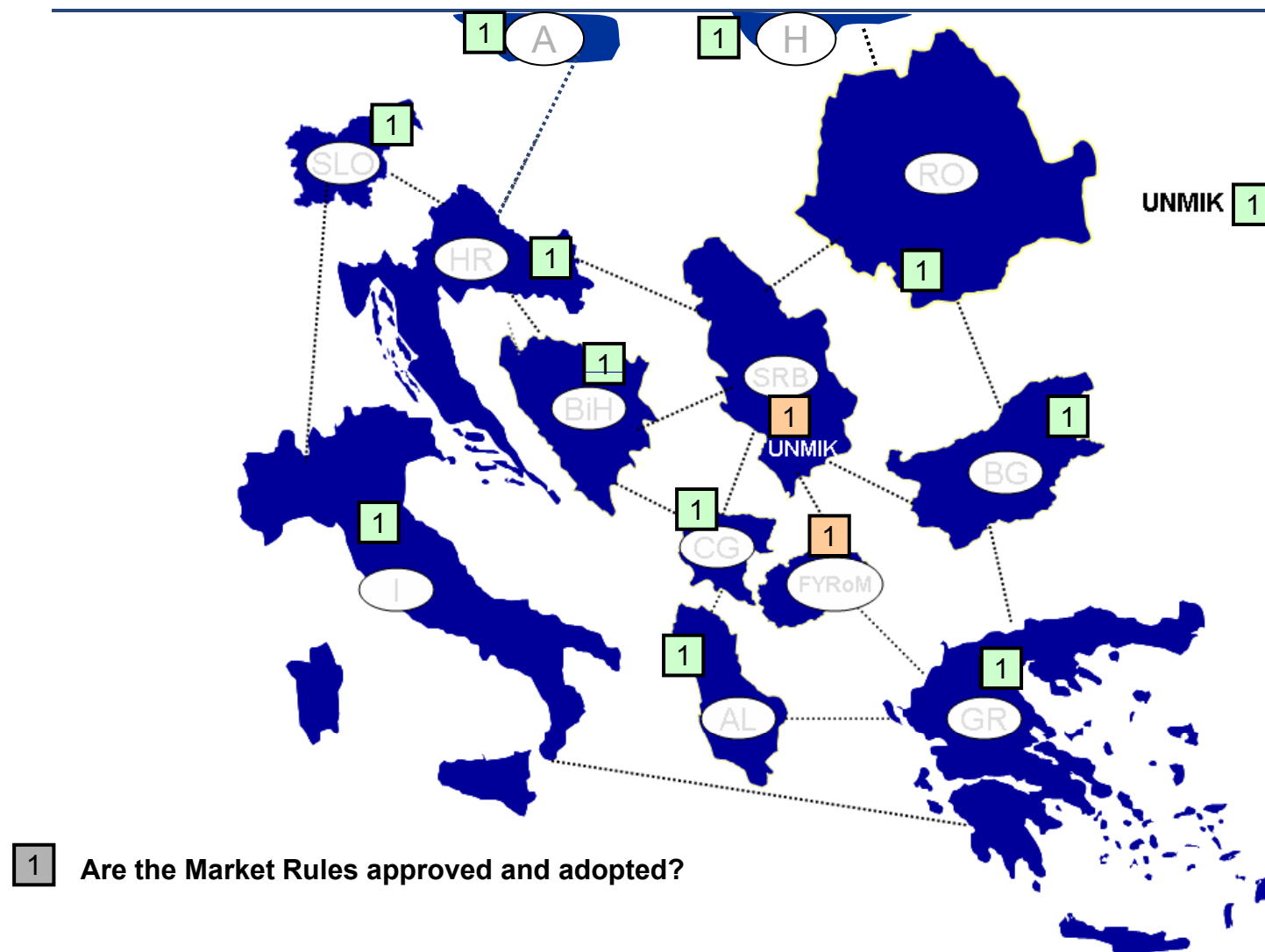
- **Market Rules** and **Rules for Capacity Allocation** in SEE are recognized as the **backbone of Electricity Market functioning**, as they describe relationship and responsibilities of market participants
- **High importance** → Establishment of a regional electricity market
- However, a big **variety of approaches** in SEE could be noticed regarding implemented Capacity Allocation mechanisms, but ...
- Also regarding SEE **Regulators obligations** and **responsibilities** on Market Rules and Rules for Interconnection Capacity Allocation
- SEE Regulators should be **empowered** to **approve** Market Rules and Capacity Allocation Rules in order to be able to **monitor** these TSO/ISO/TSMO/MO functions and thus work and contribute to the implementation of Regulation (EC) No.1228/2003 and CMG

Market Rules and CB Capacity Allocation Rules

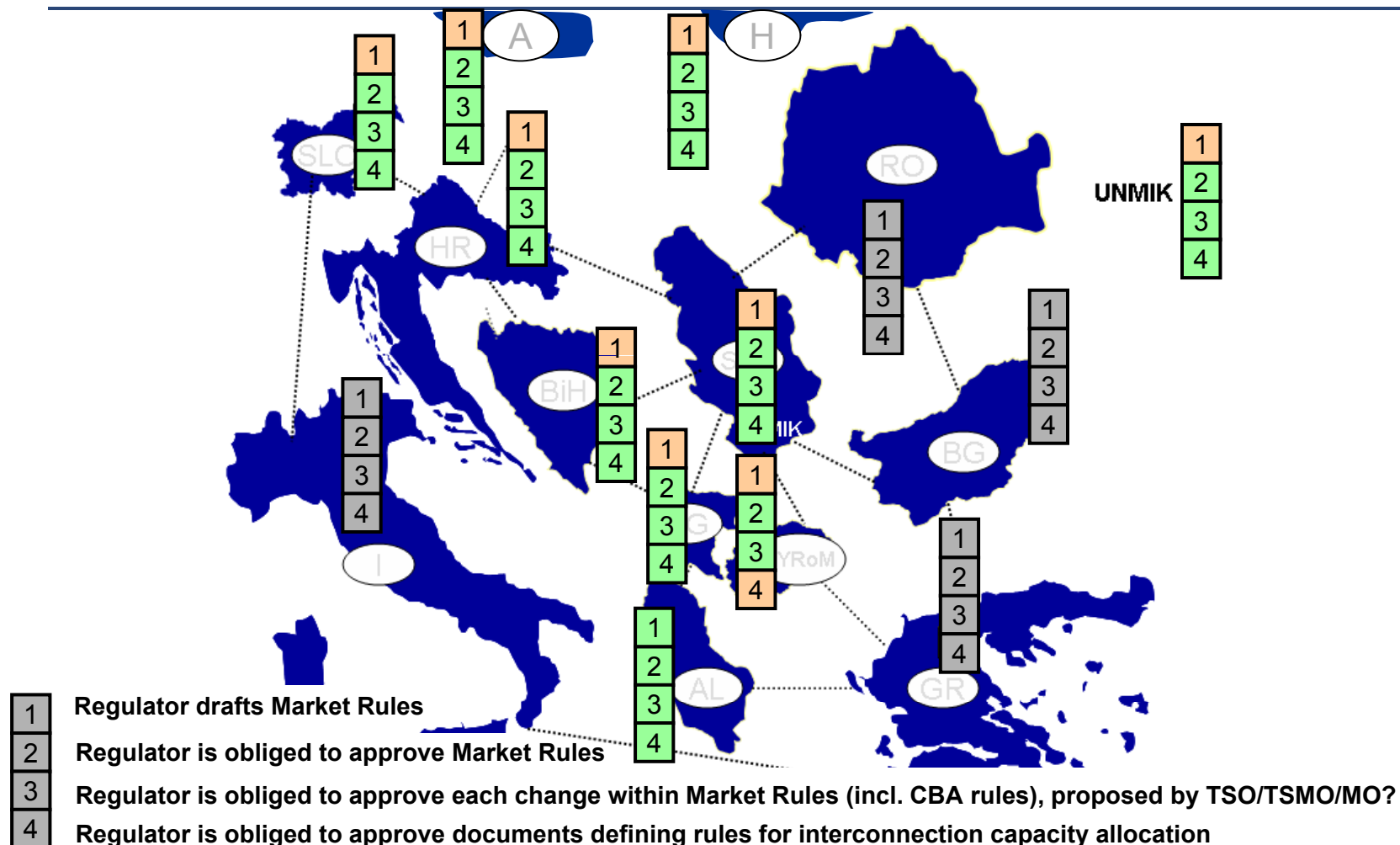


- 1** Are the procedures for interconnection transmission capacity allocation included within the document of Market Rules or is there a separate document related to this issue?

Market Rules: Implementation Status



SEE Regulators' responsibilities regarding Market Rules



Progress

- The Contracting Parties made significant **progress** towards reaching **full compliance** with the Regulation 1228/03 within the last year
- Especially **Transparency** regarding the **Allocation** of Cross-Border Capacity was **increased** within the last year
- Most of the contracting parties introduced a **Market-based** Capacity Allocation scheme (capacity split methodology - 50/50%)
- Most of the contracting parties perform **no Common Auctions** (except CRO-HU, AL-GR), but few SEE TSOs started negotiations (SRB-HU, SRB-CRO, SRB-BUG, SRB-RU)
- Most of SEE TSOs organize **NTC based auctions** on yearly, monthly, weekly and daily basis (no coordinated auctions)
- For definition of price of allocated capacity currently, two approaches are applied by the TSOs in the SEE Region: “**clearing price**” and “**pay as bid**”

Next steps and further regulatory activities ...



- SEE Regulators will elaborate **list of detected deviations** from Regulation 1228/03 and CMG, including an **explanation/motivation** for these deviations and assessing which of them are within the regulatory scope and how and by when to overcome them
→ **Roadmaps** shall be elaborated - already exist under auspices of EnCS - via the competent ministries, and in collaboration with the TSOs and regulators
- SEE Regulatory discussions will follow:
 - How SEE regulators should be empowered to approve and monitor Market Rules and Rules for Transmission Capacity Allocation
 - Recognition of each SEE TSOs individual deviations from CMG
 - Define Regulators' role within the process
 - Feasibility to harmonize CB issues with CMG
 - Timeframe for harmonization with CMG

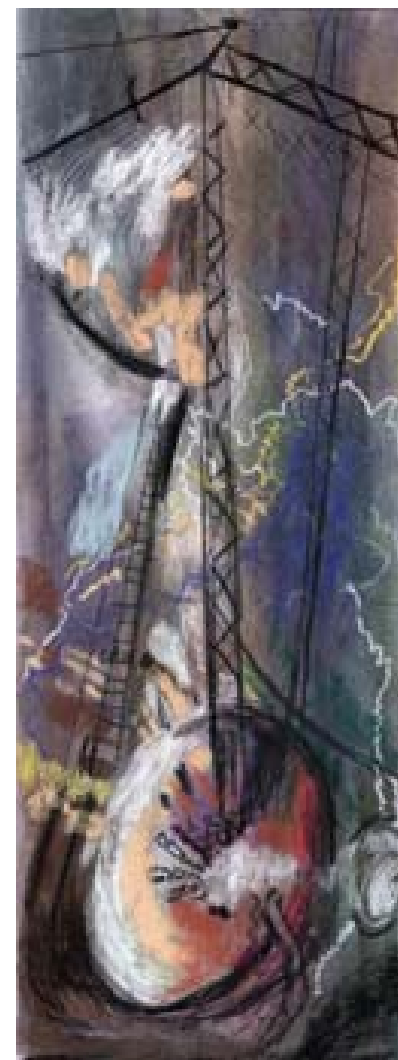
Generation Investment vs. Cross-Border Congestions



- Electricity **prices decreased** in SEE region due to effects of **economic crisis** and decrease of industrial consumption in SEE
- **Increased** number of **Generation** Projects in SEE could be noticed lately
- **Increased** number of **Wind-farms** in SEE shall require good regional interconnections as the national grids are very small and weak if isolated
- Stable functioning of the transmission grid is the main goal, but ... Could it be more difficult after construction of Wind-farms in future?
- Thus ... Harmonized Regional Congestion Management schemes have to be developed in SEE Region



Regional Balancing Mechanism in South East Europe



Regional Balancing Mechanism in SEE region (1)



- SEE RBM Proposal was developed by SETSO BM SG and SEETEC
- SEE RBM Proposal was presented at the 8th and 9th Athens Forum by SETSO BM SG and SEETEC
- 8th and 9th Athens Forum Conclusions asked SETSO BM SG and SEETEC to further elaborate the SEE RBM Proposal and required an active involvement of SEE Regulators within the RBM process
- ECRB EWG Draft Discussion Paper on SETSO BM SG/SEETEC Proposal on the proposed SEE RBM Mechanism (with ECRB EWG detailed observations on RBM Mechanism)
- ECRB EWG is reviewing Examination papers on RBM, elaborated by SETSO BM SG (SETSO TF)
- ECRB EWG actively participated in RBM Dry-run – BETSEE internet platform (November 2009)

Regional Balancing Mechanism in SEE region (2)

- Based on SEE TSOs concept, the final aim of RBM is:
 - To increase margins of balancing resources for SEE TSOs
 - TSOs obtain Balancing Energy (BE) in short period and under competitive market prices
 - To help TSOs to provide necessary tertiary reserve (fast and slow) easily (emergency help)
 - To ensure safe and secure system operation
 - To reduce TSOs costs for providing BE
 - To give opportunity to national market players to offer their short-term electricity surpluses via BETSEE/TSOs platform with lower prices

ECRB EWG views on RBM Implementation: National BM vs. Regional BM



- Coexistence of national balancing mechanisms and RBM
- TSOs keep long-term balancing contracts (reservation of production capacity/power)
- RBM/BETSEE represents actual state of play of market participants offers for BE depending on momentarily situation, introduced on BETSEE internet platform
- RBM itself cannot be a reliable source of BE for TSO needs on continuous basis
- Regulator's obligation is to check if TSO is buying BE at the lowest market price, and TSOs obligation is to chose BE offer at lower price
- RBM is voluntarily based

ECRB EWG views on RBM Implementation: Cross-border capacities for RBM



- Residual cross-border capacities are available for RBM – remaining capacities, not wanted by any other market participant just before the real time (have no value) – free for RBM
- Residual cross-border capacities are assigned on “first come-first serve” basis to involved TSOs at RBM
- To ensure that TSO do not act as “trader” and make profits out of the system (mediator between market participant and other TSOs)
- Could be achieved through close cooperation between involved Regulatory authorities

ECRB EWG views on RBM Implementation: Time-frames for border-capacities and RBM



- Present situation: transmission capacities allocation is allocated on monthly level in SEE (most of SEE) vs. BE is used in real time
- How RBM will manage to treat monthly allocations and derive/detect residual free capacities on intra-daily level?
- Non harmonized procedures of capacity allocation (for RBM and monthly allocation)
- Possible only if functional and fast software for automatic check scheduling of traders' nominated transactions after harmonized gate closure could be put in place, on daily and intra-daily level for the whole SEE region. It is priority condition for considering possibility for RBM implementation at the moment

ECRB EWG views on RBM Implementation: Legal Issues



- For balancing purposes, national regulation should remove limitations and enable TSOs to buy/sell electricity on the RBM and to exchange needed information
- Overall legislative benchmarking, including analysis of market rules, is needed to assess feasibility of RBM implementation
- Need to consider the further development of the RBM and its fitting into the present and future concept of the regional electricity market in SEE
- Implications of the voluntary nature of the proposed RBM must be further examined to ensure that cross-border transmission capacities for the intra-day time frame are maximized

ECRB EWG views on RBM Implementation: RBM Influences



- National regulations may need to be developed or adapted to deal with the relations between the TSO and the local BEPs acting on the RBM
- The compatibility between RBM at the international and local levels should be ensured by the technical and regulatory framework
- Behaviour of the TSOs on the RBM should be clear and transparent in relation to other partners. The regulatory framework shall prevent RBM to be abused for electricity trading.
- Influence of RBM on local markets or imbalance settlement has to be controlled by the regulation
- Participation of local generators on the RBM may in no way influence the imbalance price

ECRB EWG views on RBM Implementation: RBM Centralized Office



- Regulation must ensure no discrimination between TSOs and traders in their access to the Intra-day cross-border capacities
- Even if such mechanism introduce TSOs service costs, any TSOs additional fees are not acceptable, as it is part of TSOs basic activities, financed by tariffs
- It is not confirmed if RBM Office is needed? ECRB relation?
- Which entity would perform role of internet RBM mediator? Is there a need for Centralized RBM Office?
- Host RBM web site BETSEE; constant check of bidding procedures, software performance for executed BE transactions; evidence of payments; special contracts upon which BE transactions will be send to certain TSOs, etc.

ECRB EWG Conclusions and Next Steps

- Develop the regional automation scheduling software which could obtain day-ahead residual capacities after the commercial nominations (harmonization of gate closures)
- To further elaborate coexistence of RBM and national balancing mechanisms
- Step by step approach to introducing RBM
- Overall legislative benchmarking is needed for assessing feasibility of RBM implementation in SEE countries
- Present EU experiences with regard to regional balancing energy market implementation – ERGEG Best practice Balancing Guidelines
- Additional organizational questions: need for Centralized RBM Office, relation with ECRB?
- Proposal for transitional period for RBM, through Dry-run, in order to gain experience, define obstacles and thus give time for practicing and preparing each system for RBM full implementation

Market Monitoring in SEE Region



Market Monitoring

- Market Monitoring activities are **necessary** for each national electricity market in order to provide its well functioning based on non-discrimination and transparency
- As the regulators are entities which approve Market Rules and give guidelines for Market Design, they should also **develop Market Monitoring tools** in order to **check** if these rules and recommendations are fully respected and implemented
- There is **no active and liquid electricity market in SEE** which could be fully monitored by regulators, using and implementing usual Market Monitoring schemes, indicators and approaches
- **Only Cross-Border activities in SEE Region** could be fully and broadly examined and monitored by regulators at the moment
- SEE Regulators need to timely acknowledge and **learn how to monitor** all performances within electricity markets in order to provide non-discriminative and transparent participation for all participants in the electricity markets

USAID Market Monitoring Project in SEE Region (1)



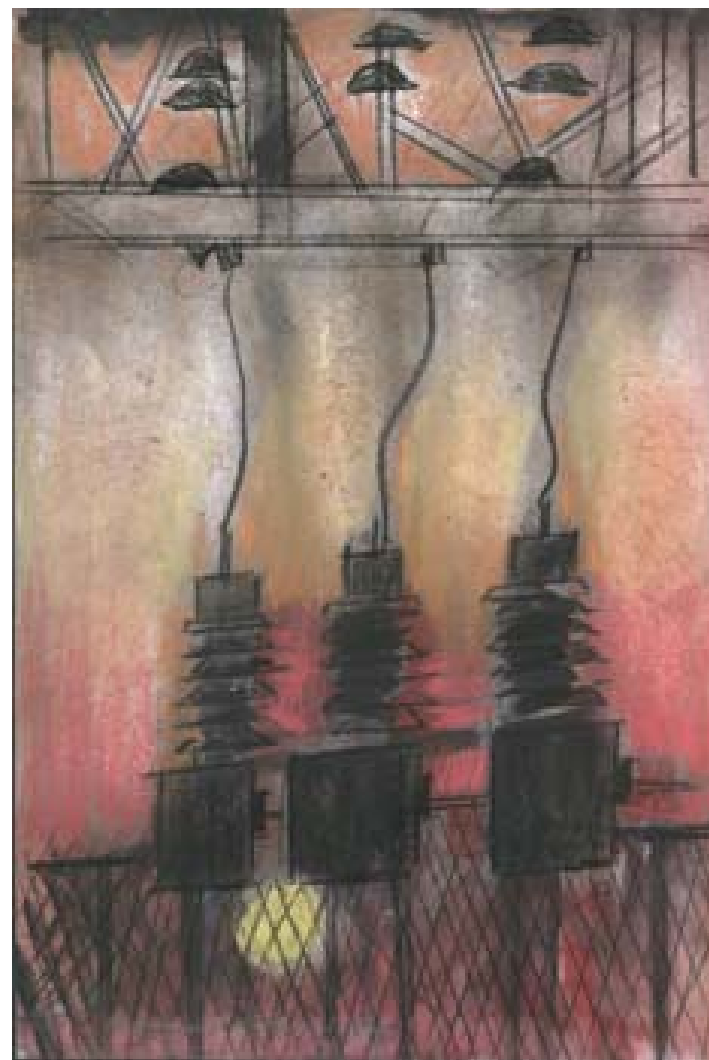
- **MM Project** was initiated after invitation from the 8th Athens Forum in June 2006 to establish a market monitoring Pilot Plan, which became effective in December 2006
- 12th Athens Forum (May 2008), ECRB and ECRB EWG **recommended continuing MM Plan** under a two-year **transition phase** that would lead to sustainable operations within ECRB, including extension of MM project - CAO Monitoring modalities and education of SEE regulators on general MM activities
- **Primarily** involves **Cross-Border transmission capacity market** - ensuring maximum capacity is available on the interconnections and that this capacity is allocated and used in a non-discriminatory manner
- **MM Project** is designed with **goals**:
 - 1) to ensure accurate estimates of cross-border transfer capacity
 - 2) to ensure proper utilization of reserved capacity (i.e., no hoarding or over-scheduling)

USAID Market Monitoring Project in SEE Region (2)



- Until today: **Cross-Border Monitoring** – USAID/PE produced **Quarterly Reports** and various templates due to the importance of maximum and non-discriminatory access to interconnectors
- ECRB EWG recommended changing Quarterly Report format and starting more operational phase: learning phase for regulators and direct cooperation between TSOs and regulators on data collection and analysis
- USAID/PE recently presented its **proposal for MM indicators** within MM general work-stream:
 - **Seven monitoring screens** to accomplish the objectives for **monitoring Cross-Border** transmission capacity market
 - Market Monitoring proposal was **agreed and supported by ECRB EWG**, based on PE Screens proposal
 - **MM Dry-Run** has **started successfully** with Screen 1 in **November 2009**

Wholesale Market Opening in SEE Region



Specificities of SEE Electricity Market (1)

- **Absence** of full **unbundling** in SEE region
- **Various types of organization** of the electric power sector exist in particular SEE countries
- Existence of **dominant national players** (“Champions”) in SEE → to be integrated into the wholesale market, paying respect to the obligation of unbundling in line with EU Directives
- **Lack of electricity** in SEE region: Each national power system is just hardly covering its electricity demand !
- Outcome: **High electricity prices** in SEE region in last years, but recently decrease due to the world economic crises !
- **Implementation of cost-reflective tariff systems** in all SEE countries is one of the major prerequisites for WMO, which will enable gradual transition of electricity prices from social to market values !

MARKET OPENING NOVEMBER 2009



Contracting Party	Electricity Threshold	Switching
ALBANIA	All non-household	One large customer
BOSNIA AND HERZEGOVINA	All non-household	Two large customers
CROATIA	All customers	All non-household customers
The Former Yugoslav Republic of Macedonia	Connected on 110 kV (those who do not perform public service activity)	Only the customers connected to the transmission network (110 kV) - 9 out of 10
MONTENEGRO	All non-household	One large customer
SERBIA	All non-household	No switching reported
U N M I K	All non-household	Two large customers

Specificities of SEE Electricity Market (2)

- Unrealistic **low electricity prices for tariff consumers** in SEE
 - e.g. in Serbia all non-household consumers, and household consumers consuming over 200,000 kWh annually, are free to choose a supplier
 - **de jure 47% of the market is contestable for new entrants**
 - **due to low regulated retail tariffs de facto there is no consumers' interest for entering open market**
- Outcome: Large industrial consumers are **not willing to exercise their eligibility** due to low tariff prices and prefer to remain within national regulated tariff → Problem !
- New Draft Energy Law in Serbia: eligibility, creation of SERPEX
- SEE WM Absurd: WMO is a kind of “Reverse Process” in SEE region: While WMO reduces electricity prices in EU countries, WMO shall increase electricity prices in SEE region → electricity price as **social dimension** in SEE → provide only protection of vulnerable customers !
- WMO is affected by **Public Service Obligations** (PSO) and national procurements for electricity in SEE
- It is impossible to start WMO in SEE regional market immediately or in a very near future without taking any accompanying measures, according to SEE regulators' opinion

Specificities of SEE Electricity Market (3)

- It is necessary to take an efficient **Step-by-step approach** when introducing the WMO in the SEE region
 - The first step should be solving cross-border mechanisms via SEE CAO IG
 - Complete Regional Market Design comes at the very end („Mosaïque pieces concept“), whereby the national market designs need to be adjusted gradually, based on the participants' consensus on the desired level of integration
- WMO is mainly driven by **political influence** and **national strategies !**
 - Regulators could just **support** WMO and **propose** solutions, but cannot decide or make strong influence to decisions ...
- WMO issue has to be discussed at political level, after regulators' conclusions and proposals for WMO in SEE region
 - WMO issue should be discussed at the Ministries' level !

WB Study on Wholesale Market Opening in SEE

- Study Status of Play: POYRY/NordPool finalized the Study (recently sent to Regulators, TSOs, Ministries, EFET)
- SEE stakeholders' (EWG) comments were presented to POYRY/NordPool + discussion between TSOs, regulators, traders and Consultants
- Important: WMO Study covers all countries within the 8th Region (all CPs + Romania and Bulgaria)
- Consultants accepted most of regulatory concerns for SEE region
- Consultant's proposal based on gradual transition of big industrial consumers from tariffs to open market (consumers should exercise their eligibility) + Action Plans
- WMO Workshop on consumers' role and position was held in September 2009 → all SEE stakeholders were invited, including EFET and EURELECTRIC

Investments in transmission and generation infrastructure

Regulatory measures and incentives



The main goal of WMO in SEE Region: Investments in infrastructure - role of regulators

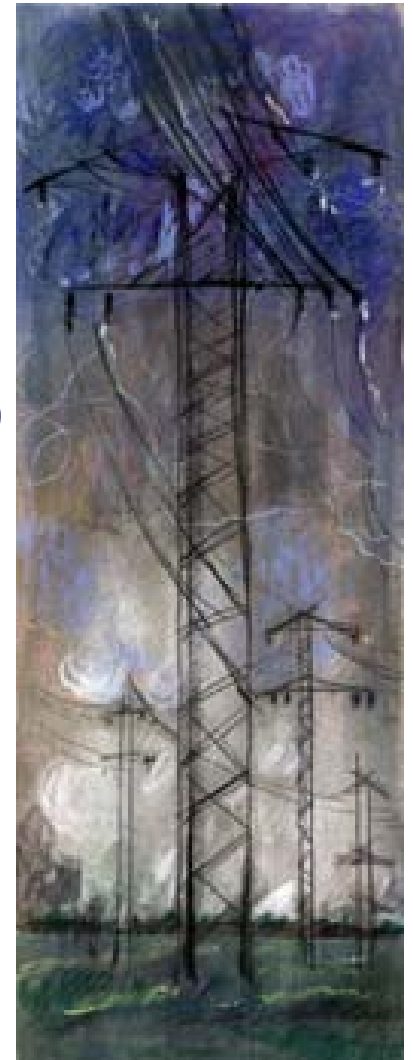


- Contracting parties agreed to implement the *acquis communautaire* on electricity, gas, environment, competition and renewables with a view to realize the objectives of the Treaty and to create a regional gas and electricity market within SEE capable of attracting investment
 - Harmonized regional approach for EnC energy market remains the key requirement for the promotion of investments in the SEE Region – in comparison with small size of the national markets
 - Realization of necessary infrastructure calls for stable regulatory and market framework, a common regulatory approach on regional level, creation of a single energy market without internal frontiers, developing competition on a broader geographic scale
 - Investments in new transmission line projects remain a key requirement for developing a liquid and competitive electricity market in SEE → thus eliminate bottlenecks enabling market integration
 - Facilitating and stimulating new investments is a core responsibility of both national legislation and regulatory praxis
 - Need for coordinated project planning was also recognized by proposal for new legislative measures for EU gas and electricity internal market (“3rd Package”)
-

Cross-Border cooperation of regulators: Investment projects of regional dimension



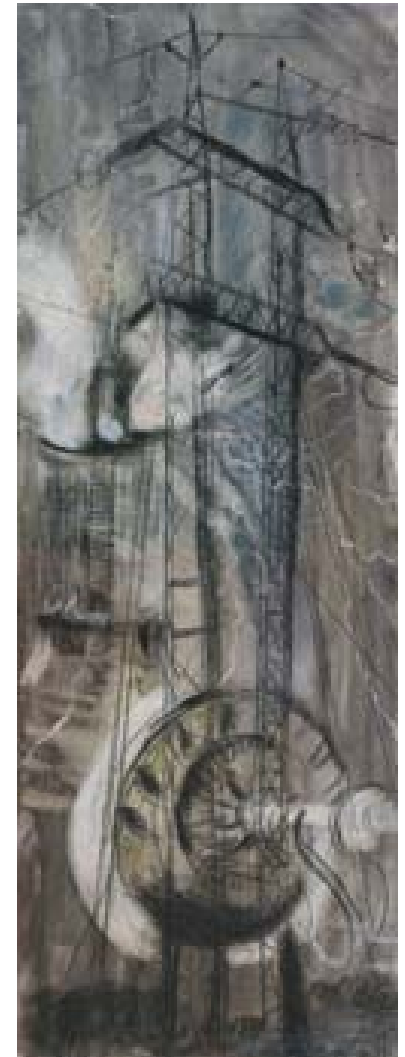
- **Regulatory instruments** for stimulating investments in new infrastructure projects
- **Powers of regulators** as regards cooperation and harmonization of regulatory rules related to projects crossing more than one border of Contracting Parties (“cross border investments”)
- **Improvements** of related regulatory and legislative provisions are **necessary** in order to define possible regulatory options for promoting investments
- **Pure regulatory instruments** and mechanisms could provide **facilitation of investments** based on best practice solutions from European experience



Possible regulatory instruments and responsibilities



- **Tariff incentives** without or within Article 7, Regulation (EC) 1228/2003 exemptions (regulatory rules harmonized across borders)
- For **regulatory tariff setting** Article 3, paragraph 6 (EC) Regulation 1228/2003 requires that
“The costs incurred as a result of hosting cross-border flows shall be [...] taking into account investment in new infrastructure”
- **Coordination of regulatory activities** is a key requirement for facilitation of the investments for projects crossing national borders



Cross-Border investments:

Two key challenges for regulatory systems



1. **Harmonization of regulators rules:** especially if a single market models is to be applied to the whole infrastructure (this might involve a “one stop shop” for capacity bookings)
 2. **Non-domestic investments:** CB projects sometimes exceed the infrastructure necessary for covering national demand. National investments plans do not necessarily include interconnections to other markets from/to which they do not expect imports/exports - NRAs will typically not accept to including (interconnection) costs, which are of benefit only for customers of neighboring markets, only in the national RAB
- From the investors’ point of view there are basically two approaches to grid investments:
 - **Fully regulated approach** - addresses a core principle of market liberalization, namely that it is the responsibility of TSOs to meet reasonable market demand and eliminate congestion by adding new capacities
 - **Contract’ approach** - in some cases investment is required which is of benefit for network users and consumers outside the network where the investment is made → This question is widely known as discussion of “non-domestic investments” and links to the so-called “regulatory gap” – NRAs powers are typically limited to the national boundaries of their market-3rdPac

Existing models in Contracting Parties

- Regulatory investment incentives – regulatory competences as regards non-domestic investments
 - Regulatory gap also exists for EnC
- National and regional competences regarding investment planning
 - Regulators of the SEE region do not have harmonized responsibilities in relation to investment projects
 - Some regulators do not have power with regard to cross border transmission line investment plans at all
 - Cooperation of regulators regarding cross border transmission investments in SEE region so far is insignificant
- Cooperation of SEE TSOs + Investors which invest in generation invest in transmission grid simultaneously (e.g. Albania)

Recommendations for SEE

- Regulators to assess other options of facilitating investments, namely to develop regulatory investment incentives:
 - Incentive tariff models supporting the promotion of new investments
 - Capacity agreements (deposits)
 - Higher rate of return for new investments for a specified period of time or a shorter depreciation schedule to mitigate the volume and the revenue risk
 - “Negative incentive” using congestion revenues which are not re-invested for system expansion for tariff reduction or others
 - For the purpose of incentivizing investment, national regulators should commit themselves to a certain tariff methodology for a long-term
- NRAs should be empowered to recognize extra-territorial costs in their RAB as far as beneficial for the national customers (regul. gap)
- Regional investment planning - national regulators need to be empowered to approve the reasonability of these investment plans – 3rd EU Energy Package can be used, requiring TSOs to develop 10 year EU wide investment plan for review by the newly introduced Energy Regulatory Agency (ACER)

Licensing issue in SEE Region



Proposal for a Harmonized System of Wholesale Trade Licensing in the 8th Region



- **Article 34** of the Treaty allows the Energy Community to take Measures concerning mutual recognition of licences
- ECRB prepared a **Discussion Paper on the possibilities of establishing a harmonized system of licensing in the 8th Region**
- Focus has been put on **licensing of wholesale traders**, with the need to **make difference between wholesale trading and the supply activities** of the market participants → Supply is assumed to be of national character and subject to national licensing requirements
- **Two Work-streams** were established in order to make the work on licensing issues more efficient:
 - SEE CAO Work-stream
 - General Work-stream

CAO Work-stream

- ECRB assumed that **SEE TSOs will follow the concept adopted in the CEE region - outcome of the investigation:**
 - No licensing issues have been raised in **CEE region** and **licenses are not a prerequisite for participation in the allocation mechanism** that is conducted presently within Prague office, nor is it envisaged as a prerequisite for the participation in the allocation scheme that will be conducted by Freising CEE CAO
 - **Nominations remain within the competences of the national TSOs**, and licensing requirements might be in place for the actual nominations, but this issue has not been further investigated by ECRB EWG

General WS: Survey results 8th Region

- Regulatory proposal was elaborated **using experiences** of the **work** already conducted under the **Licensing and Competition Committee of ERRA** as a starting point
- Based on the survey results on current licensing regime of wholesale traders, **two basic models of licensing regimes were identified in the 8th Region:**
 1. **Explicit request for license** with *4 sub-models dependant on the request for national or wider presence and differentiation between trade and transit:
 - National presence (trade & transit)
 - National presence (only trade)
 - Wider presence (only trade)

*Only national companies (trade & transit)
 2. **No licensing requirements**, but other specific solutions apply

General Work-stream: Available options (1)

1. HARMONISATION OF LICENSING PROCEDURES

- Underlying question behind this approach is: **what would be the potential benefits** of its implementation?
- **Implementation would require** changes to the individual legal frameworks within the 8th Region, which could be lengthy, and only result in giving the licenses the same “weight”, without resolving burning issues
- **Legal enforcement** of this option would require a Measure of MC of EnC (Decision or Recommendation) based on the presence of political will and support

2. ABOLITION OF LICENSES

- **The most recommended by EFET** and traders in general, as it would mean taking this topic off the agenda
- **Regulatory oversight over traders** is conducted via the **administrative relation** established between the traders and the regulator by **issuing a license**
- Although necessary regulatory supervision could also be established by other means, **this would still not be a sufficient means of efficiently ensuring fair market conduct**
- **Legal enforcement** of this option would require a Decision of MC of EnC, in order to ensure that all jurisdictions involved will implement the requirement for abolition

General Work-stream: Available options (2)

3. FADE OUT OF LICENSING IN EACH JURISDICTION COMPLEMENTED WITH OTHER MEASURES ENSURING A LEVEL PLAYING FIELD FOR TRADERS WHILE ENSURING FAIR MARKET CONDUCT

- It means the **abolition of licenses for wholesale traders, but gradually**
- **It ensures: proper conduct from traders via contracts and other mechanisms**, such as bank or other financial guarantees, established **between TSO/MO and market participants** (including traders), on the other hand
- **It means: traders would not be licensed, but their proper market conduct is ensured primarily through contractual and financial responsibility**
- **Licenses obsolete under the following Assumption: regulatory oversight over traders is ensured in another manner set out in relevant legislation**, such as the possibility of the regulator to **seek the relevant data** from the traders themselves or Balance Responsible Party, and be **equipped with the necessary legal instruments to ensure fair market conduct**
- In order to be fully set up, this model assumes that **all of the abovementioned mechanisms are fully in place before the final abolition of wholesale trading licenses** can take place
- **Decision of MC of EnC to set up necessary mechanisms ensuring proper market conduct of the traders**, both in terms of **setting up their financial responsibility and their susceptibility to regulatory oversight**, which would be followed by verification of the full implementation in the 8th Region

General Work-stream: Available options (3)

4. ONE LICENSE VALID IN THE REGION

- Often mentioned **as an ideal solution**, but one that is **the hardest (if not impossible) to implement**
 - **Problems lie** both in the **issuing procedure** and the **enforcement**, mainly **legal nature**: in the 8th Region it is generally not possible to issue a license to a foreign entity as national regulators do not have administrative powers over foreign entities
 - Requires the absolute same conditions for **issuing a license** and the exact same monitoring rights of all the regulators involved, in order to ensure a level playing field
 - Regarding the **enforcement**, the situation is much more **complex**, e.g. in case trader makes an infringement in a jurisdiction, and it requires revocation of trading license.
 - **Very heavy legal requirement** to give possibility for all regulators to **sign legally binding multilateral international agreements** with other regulators, by which they could regulate monitoring functions, rights and obligations of regulators in the “one license valid in the whole region” concept
 - Fact that **there are jurisdictions** in the region **without licensing requirements** (Italy, Austria, Slovenia) - **hard to justify the need to (re)introduce licensing** requirements for wholesale traders
-

ECRB EWG recommendation on Licensing Options



- ECRB discussed and analyzed presented four Options taking into consideration:
 - Advantages and disadvantages
 - Scope of facilitating trade across borders
 - Reduce the barriers for new market entrants
- ECRB concluded that the preferred option which should be pursued in the 8th Region is the **Option 3**:
 - ✓ **FADE OUT OF LICENSING IN EACH JURISDICTION
COMPLEMENTED WITH OTHER MEASURES
ENSURING A LEVEL PLAYING FIELD FOR TRADERS
WHILE ENSURING FAIR MARKET CONDUCT**

Next steps

- Given that the same issue is being discussed on European level and a **study** (results expected around March 2010) will be commissioned based on discussion results of **ERGEG** and in cooperation with the European Commission, **the recommendations of ECRB paper therefore remain preliminary** to the extent of **possible alignment with the result of the ongoing discussions on European level**
- **ECRB will continue cooperation with the EC and ERGEG** in this respect and **develop a final position** after finalisation of the EU study
- It is suggested that the **PHLG based on the final ECRB recommendations** – expected to be presented to PHLG in **Q2-Q3 2010** – and in preparation of the work of the MC, **will develop a position on:**
 - o Whether Measures under Art. 34 should be taken
 - o Which approach should be implemented
 - o Task ECRB to elaborate legislative steps that need to be taken in the 8th Region
- Based on the advice of the PHLG, the MC might take a final decision on Measures in line with Article 34 of the Treaty

Conclusions



Conclusions (1)

- The Contracting Parties made a progress regarding the compliance with Regulation 1228/03 and the Congestion Management Guidelines
 - Full implementation of the *Acquis* as minimum set of a harmonized regulatory framework
 - It is necessary to define the next steps in order to meet Regulation 1228/03 and CMG compliance in SEE
 - Establishment of SEE CAO will be an important step and should help establishing a SEE Regional Electricity Market without barriers for traders
- Outcome: SEE CAO Auction Rules as SEE regional document approved by SEE Regulators, but also provide ...

Conclusions (2)

- Harmonization of rules and regulations between the SEE Contracting Parties
- Transparency of relevant market information and prices
- Equal market access to all
- Co-existence of bilateral and exchange trading
- Implementation of Balance responsibility for wholesale market participants
- Generator – Supplier unbundling, at least removal of traditional Full Supply Contracts between Generators and Suppliers/Eligible Customers
- Outcomes of WB study on WMO in the 8th Region could be supported by SEE stakeholders and Ministries
- Introduction of regulatory investment incentives promoting investment on national basis

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