

# Screening report

## Montenegro

### Chapter 15 – Energy

**Date of screening meetings:**

Explanatory meeting: 27-28 February 2013

Bilateral meeting: 10-11 April 2013

## I. CHAPTER CONTENT

The objectives of EU energy policy are competitiveness, security of supply and sustainability. The energy *acquis* consists of rules and policies notably regarding competition and state aid, including in the coal sector, conditions for equal access to resources for prospection, exploration and production in the hydrocarbon sector, the internal energy market (opening up of the electricity and gas markets), the promotion of renewable energy sources and energy efficiency, nuclear energy and nuclear safety and radiation protection. As regards international agreements, the chapter contains the Energy Charter Treaty and related instruments.

As regards **security of supply**, the *acquis* requires Member States to hold oil stocks equivalent to 90 days of average daily net imports or 61 days of average daily inland consumption, whichever of the two quantities is greater, and to report regularly to the Commission on hydrocarbon production, imports and prices. A body for the management of crisis situations needs to be set up.

For natural gas Member States and gas companies need to be prepared for supply disruption, through clear and effective emergency plans and incorporating fully the EU dimension of any significant disruption. Member States must ensure [by 3 December 2014 at the latest] that in the event of a disruption of the single largest infrastructure, they are able to satisfy total gas demand during a day of exceptional high demand. Reverse flows are to be established in all cross border interconnections between EU countries. Member States must also define general, transparent and non-discriminatory policies on security of electricity supply, compatible with the requirements of a competitive single market for electricity.

Under the EU rules aiming at completing the **internal energy market** is based on the EU's rules on competition and state aids. Member States must ensure open and competitive markets for electricity and gas, adhering to the principles of transparency, non-discrimination, third-party access, cross-border transmission, security of supply and sustainability. Transmission and distribution system operators are to be unbundled. Universal electricity services must be guaranteed and vulnerable customers be granted adequate protection. An independent regulatory authority must be designated as responsible for the efficient functioning of the markets. An independent transmission system operator (TSO) is equally crucial for the functioning of the internal electricity and gas markets.

The promotion of **renewable energy** and **energy efficiency** is part of the Europe 2020 agenda. The EU target for renewable energy is to reach a share of 20% renewable energy in final energy consumption by 2020. Effective measures have to be in place to stay on the trajectory as defined in the National Renewable Energy Action Plans. By the same date a 20% reduction in Europe's annual primary energy consumption is to be achieved. The energy efficiency *acquis* requires measures to increase efficiency at all stages of the energy chain: generation, transformation, distribution and consumption. The measures focus in particular on the building and energy services sectors, where the potential for savings is greatest. Other measures include the introduction of smart meters and clearer product labelling. An enforcement body is required in particular for labelling and minimum efficiency standards.

As regards **nuclear energy**, the Euratom Supply Agency has exclusive rights to conclude contracts for the supply of nuclear materials, which must be notified (with exceptions). Undertakings also need to have relevant accountancy capacities. Member States must establish a national legislative, regulatory and organisational framework for the nuclear safety of installations, including a competent and independent regulatory authority. Member States shall also be ultimately responsible for the management of spent fuel and radioactive waste, and need to develop an adequate framework for this. The European Council has repeatedly emphasised the importance of a high level of **nuclear safety** in candidate countries. Member States must ensure

the protection of workers and the population from the risks arising from ionising radiation, by complying with the EU *acquis* on **radiation protection**, covering authorisation and reporting of practices and operational protection of workers and population in normal circumstances, strict controls on radioactive sources, supervision of shipments and of radioactive waste, environmental monitoring, control of contamination of foodstuffs and an appropriate framework for emergency preparedness.

## **II. COUNTRY ALIGNMENT AND IMPLEMENTATION CAPACITY**

This part summarises the information provided by Montenegro and the discussion at the screening meeting. Montenegro indicates that it can accept the *acquis* regarding energy and does not expect any difficulties in implementing it by accession.

Montenegro stated that it is familiar with the main pieces of the EU energy *acquis*, which to a large extent has already been incorporated into the national legislative framework, as resulting from Montenegro's membership to the Energy Community.

However, it indicated that it will request special attention during negotiations as regards Directive 2009/119/EC imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products, an area in which Montenegro's level of alignment and implementation is very preliminary, particularly as regards the level of oil stocks.

Finally, it should be noted that nuclear energy is neither produced nor used in Montenegro.

### **II.a. Characteristics of Montenegro's energy system**

Energy is, alongside tourism and agriculture, a priority area for Montenegro's national development plans. Reforms began in earnest in 2006, following the entry into force of the Energy Community Treaty, to which Montenegro is a Contracting Party. This was followed by the adoption in 2010 of a new Energy Law, as well as the Energy Efficiency Law. Oil is governed by the 2010 Law on Exploration and Production of Hydrocarbons (amended in 2011). The framework law to transpose the nuclear safety *acquis* (The Law on Ionizing Radiation Protection and Radiation Safety) was adopted in 2009.

The new energy development strategy, which should govern the sector until 2030, has been prepared with the assistance of the EU. It is undergoing a Strategic Environmental Assessment, with the aim of finalising (and adopting) it by the end of 2013. This will be followed by the adoption of an action plan to implement this strategy.

The newly adopted Energy Policy (adopted in 2011) identifies priorities similar to those of the EU:

- Security of the energy supply
- Development of the competitive energy market
- Establishing competition in market activities
- Sustainable energy development

Montenegro's energy profile is not unusual for the region: for a total consumption of 30 petajoules (PJ), down from a high of over 35 in 2008. Some 36,9% of this was consumed by households, businesses and public authorities, 39% by the transport sector, and 24,1% by

industry. The proportion used by industry is in decline: it was 56,5% in 1990, and 42,9% in 2007.

The largest part of Montenegro's consumption of energy and fuel (38,8% in 2010) came from coal. Oil and oil derivatives provided a further 34%, with hydro power the next largest source (22%). Oil and oil derivatives are 100% imported. Montenegro is very dependent on coal and on imported power.

As regards power supply, 33,7% came from coal-fired plants in 2010, and the rest mainly from hydropower plants. The three largest production sites (two hydropower plants and a thermal plant) provide 86% of Montenegro's power production. Power imports, which had reached 54,7% in 2007, had been reduced to zero by 2010.

The biggest consumer of energy is the "KAP" aluminium factory in Podgorica, followed by the steelworks and railways. KAP is directly connected to the transmission system. The future of this aluminium plant is unclear: the decrease in production of aluminium is the reason why Montenegro's imports of power decreased so substantially. The aim is that Montenegro would become an energy exporter in the near future as a result of a continued decrease in consumption by KAP, but also as Montenegro plans to build new production capacity.

The main (policy-making) institution is the Ministry of Economy, which covers the energy sector as a whole, energy efficiency, as well as mining and geological exploration. Some 21 full-time employees work on the energy sector in the Ministry. The main regulatory body is the Energy Regulatory Agency, an independent body with 28 employees. Within the Administration for Inspection Affairs, there are 5 persons dealing with energy.

Nuclear energy issues fall within the responsibility of the Ministry of Sustainable Development and Tourism, under the Environmental Protection Sector (linked to the Ministry). The regulatory agency for nuclear matters is the Environmental Protection Agency (where some 5 persons work on these questions). The number of persons working in the energy sector has increased in recent years. Montenegro is aware, however, that this is still not enough and aims to increase its capacity (both in numbers but also in quality, through training).

A large number of other administrations and institutions intervene in the sector. For instance, the Ministry of Sustainable Development and Tourism, whose competences over spatial planning, construction and environmental protection intersect with energy, or the Ministry of Transport and Maritime Affairs as regards the transport of dangerous goods. Municipalities also have certain competences, as regards spatial planning and construction at a local level, and there are energy managers in each municipality.

Of the companies involved, Elektroprivreda Crne Gore (EPCG AD) is the power generation utility, as well as distribution and supply utility. Crnogorski elektroprenosni sistem (CGES AD) is the Transmission System Operator. Crnogorski operator tržišta električne energije (COTEE DOO) is the market operator. There are two big companies operating in mining: Rudnik uglja AD Pljevlja (RUP), and Rudnik mrkog uglja "IVANGRAD" AD Berane. Jugopetrol AD Kotor and Montenegro Bonus D.O.O. Cetinje are the main players in oil and gas.

There is currently no gas market or related infrastructure in Montenegro. However, the development of a gas market represents an important objective for Montenegro. As a small market, (estimated at 600 million tonnes, or some 740 million m<sup>3</sup> per year until 2030), the

commercial attractiveness of gas investments in Montenegro is limited. However, Montenegro stands to benefit from a number of regional initiatives such as the Gas Ring or the Ionian-Adriatic Pipeline, which are designed to bring gas to the region and improve the interconnection of the countries in the region.

Montenegro's level of alignment with the *acquis* has been aided by Montenegro's membership and active participation in the Energy Community, which seeks to expand the EU internal energy market to the neighbouring countries. By way of example, Montenegro is implementing the second package of the internal energy market, as well as important elements of the energy efficiency *acquis*. But the most recent EU legislation on energy efficiency of October 2012 is not yet part of the Energy Community *acquis* and Montenegrin legislation is not aligned with this.<sup>1</sup> As regards renewables, Montenegro indicated that it still needs to prepare the national strategy, and work on renewable energy (notably biofuels) in transport. Intensive legislative work is expected in the coming months for Montenegro to implement the third package and the 2009 Directive on Renewables, within the deadlines agreed by the Energy Community (January 2015 and January 2014, respectively). The most recent energy efficiency texts are not yet part of the Energy Community *acquis* and consequently Montenegrin legislation is not aligned with this.

## **II.b. Hydrocarbons**

Montenegro is currently fully dependent on imported oil products. Most of the products are imported from Greece as the largest oil company, Jugopetrol, is owned by Hellenic Petroleum. There are a further 44 wholesale companies and 89 retail companies. There are no pipelines or refineries.

Montenegro's petroleum products sector is regulated by the 2010 Law on Energy, but also by the 2010 Law on Air Protection, the 2008 Law on General Product Safety, the 2009 Law on Inspection, as well as a number of pieces of secondary legislation (such as the Decree on the method of setting maximum retail prices of petroleum products, Decree on limit values of the content of pollution materials in liquid fuels of oil origin, and Rules on manner and conditions for issuance, change and revoke license for energy activities).

Montenegro stated that Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorisations for prospection, exploration and production of hydrocarbons is partially transposed into the **Montenegrin Law on Exploration and Production of Hydrocarbons (Law on Hydrocarbons)** which establishes a procedure to manage hydrocarbons as state property, the manner of awarding the concession for production, as well as other elements related to the implementation of upstream operations.

Montenegro has already started drafting the amendments to the Law on Hydrocarbons to reach full conformity with EU Directive 94/22/EC. Areas to be addressed by the amendments to the Law on Hydrocarbons include, *inter alia*, the possibility to eliminate a bidder from the tendering process on grounds of national security, and reporting obligations to the European Commission and publication in the Official Journal.

Currently, there are no activities of production or research of hydrocarbons activities in Montenegro, either onshore or offshore. The tender for the award of the Concession for offshore production in Montenegro is ongoing.

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<sup>1</sup> Directive 2012/27/EU on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC.

Montenegro imports no crude oil and has no oil refining activities in the country. It considers that Council Regulation 1995/2964/EC on registration for crude oil imports and deliveries will not apply to Montenegro.

As regards Council Decision 1999/280 regarding a Community procedure for information and consultation on crude oil supply costs and the consumer prices of petroleum products, the Ministry of Economy currently collects a range of prices and defines the maximum retail price of petroleum products, based on the Council Decision, every 10 working days.

Unlike gasoline and diesel oil products, the retail prices for LPG are left to the market. Imports of petroleum products are fully liberalised and an import licence for petroleum products is not required in Montenegro. From June 2012, all customs duties on imports of gasoline and heating oil were removed.

Montenegro is not a member of the International Energy Agency.

As regards Council Directive 2009/119/EC imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products, the 2010 Energy Law provides for building up the strategic oil product stocks whilst foreseeing that the Government should adopt a regulation defining the manner by which strategic oil product stocks be managed. The provisions of the aforesaid articles of the Energy Law comply with Directive 2006/67/EC. A Proposal for a Decree on strategic oil products stocks, which is partially in compliance with the provisions of Directive 2009/119/EC, has been prepared by the Ministry of Economy, but not yet adopted.

Currently there are no strategic reserves of petroleum products or crude oil in Montenegro. Montenegro has no stockholding body. The total storage capacity in the country is around 210,000 tons. According to unofficial estimates, this corresponds to some 40-45 days of consumption, although these are entirely tanks for commercial use. Furthermore, only a small part of existing capacity is operational and the major part of idle capacity requires substantial investment and maintenance. In addition a dispute on the ownership of much of this capacity (following the separation from Serbia) still has to be resolved.

### **II.c. Internal energy market**

Montenegro stated that the ‘third internal market package’ in relation to **electricity** (Directive 2009/72/EC, Regulation (EC) No 714/2009 and Regulation (EC) No 713/2009) is partially transposed into Montenegrin legislation through its 2010 Energy Law and through numerous pieces of secondary legislation. Montenegro already mostly implements the second internal market package as this is the current *acquis* in force in the Energy Community. Montenegro has indicated that it intends to complete this process (third energy package) through the adoption of a new Energy Law, foreseen by 1 January 2015.

Montenegro already applies most of the provisions of universal service rights to customers in electricity. According to Montenegro, the remaining provisions to enable foreign companies to obtain a supply license and supply customers in Montenegro will be assured in the above amendments.

Montenegro’s public Supplier is defined as Elektroprivreda Crne Gore AD – EPCG (Electric Power Industry of Montenegro J.S.C.). Electricity transmission, distribution and public supply are public services. Customer protection is mostly ensured, with different customer protection measures by suppliers, supply of vulnerable customers and measures against energy poverty. Since 2008, Montenegro has been applying subsidy programs for socially

weak household customers. The concept of protection of vulnerable customers in the Energy Law will be broadened also to socially weak household customers.

The Third Package requirements for the authorisation procedure for new generating capacity are mostly implemented and 5 authorisations have already been issued. Montenegro indicated that the remaining criteria are to be defined in the amendments of the Energy Law.

As regards transmission, the 2010 Energy Law defines the rights, obligations and responsibilities of Transmission System Operator (TSO), and the national rules on operation of transmission system (Grid Code). It also forbids the national TSO from taking part in any activities in generating, supplying and trading of electricity; enables non-discriminatory access to transmission system, and gives priority to Renewable Energy Sources in dispatching.

Montenegro has adopted the Ownership unbundling model to unbundle the TSO. The Government of Montenegro has a majority (55%) shareholding in both the power utility (CGES) and the TSO (EPCG). Regarding unbundling, certification (including certification related to third countries), obligations of TSO and dispatching and balancing, Montenegro stated that it will align its legislation through the (planned) amendments to the energy law and resulting by-laws.

In the area of tariff methodologies, Montenegro already implements Commission Regulation (EU) 838/2010 on laying down guidelines relating to the inter-transmission system operator compensation mechanism and a common regulatory approach to transmission charging, as well as Commission Regulation (EU) 774/2010 on laying down guidelines relating to inter-transmission system operator compensation and a common regulatory approach to transmission charging.

The national grid code was adopted in 2011, in compliance with ENTSO-E guidelines. Capacity Allocation Rules were adopted in 2011. It establishes non-discriminatory and market criteria for capacity allocation and curtails allocated capacity only in case of system emergency.

Montenegro's Distribution System Operator (DSO) is a subsidiary of the national power company EPCG. EPCG has licenses for generation, distribution and supply. Functional unbundling has been completed, and legal unbundling will take place under the upcoming amendments to the 2010 Energy Law. The existing Energy Law defines the rights, duties and responsibilities of the DSO. Further alignment will be carried out under the amendments to the 2010 energy law, for instance explicitly specifying that undertakings which own a distribution system are DSOs or defining transparency in procurement of energy to cover losses. Distribution costs represent an important problem for the power system, with commercial losses accounting for over 50% of total losses in previous years. According to the information from the EPCG, losses in the distribution network in 2012 were around 21%.

Montenegro established the Montenegrin Electricity Market Operator (COTEE) in July 2011 as a fully state-owned limited liability company. It is unbundled from the TSO via the ownership unbundling model. The 2010 Energy Law defines the organisation and management of the electricity market, activities related to the production of electricity from renewable energy sources and high-efficiency cogeneration. In this area, Montenegro stated that its Energy Law and secondary legislation are partly compliant with Third Energy Package and with Directive 2008/92/EC.

Regulation (EU) No 1227/2011 on wholesale energy market integrity and transparency is not implemented in Montenegro. Montenegro indicated that this Regulation will be included in the upcoming revisions of the Energy Law.

Montenegro's market rules were adopted in July 2012. They define (inter alia) the reception and registration of market participants, the rights, obligations and responsibilities of participants in the electricity market, and the balancing mechanism. Montenegro's electricity market consists of the wholesale and retail markets. The market was opened to all eligible customers (except households) on January 1<sup>st</sup> 2009. However, eligible customers connected to the distribution system continue to have access to regulated prices, and the proportion of customers switching supplier is very small. The planned opening for household customers is 1<sup>st</sup> January 2015 (in line with the Energy Community timetable).

Regulatorna Agencija za energetiku (REGAGEN), Montenegro's **energy regulatory authority**, was established in 2004. It is legally distinct and functionally independent from other public or private bodies. The energy law defines its responsibilities and the means to guarantee its independence and transparency of its decisions. For instance, the law states that the NRA's decisions must be fully reasoned and justified, subject to judicial review and are available to the public. The NRA's decision-making is protected ex-ante and ex-post. Its NRA's budgetary autonomy is protected by having a separate annual budget allocation and the right to implement this autonomously. The NRA also receives funds from licenses and dispute resolution.

There are 27 staff posts of the NRA, all of which are currently filled. Montenegro has identified the need for further capacity building of the NRA (particularly for regulation of gas sector activities). The independence of the NRA staff is also defined in detail: they do not seek or take direct instructions from any government or other public or private entity when carrying out the regulatory tasks and they are not allowed to receive gifts from the energy sector.

The 3 NRA board members are appointed by the Parliament following a proposal by the government for a fixed term of 5 years, renewable once. These appointments are made on the basis of a rotation scheme to ensure different end dates for the terms of all board members. On appointment, the board members have to sign a declaration of impartiality and that they have no interest in any energy sector undertaking. A board member may be relieved from office during his or her term only in specific conditions, such as breaches of the independence or impartiality of the NRA, or having been found guilty of serious misconduct under national law. Montenegro stated that its Energy Law is to be changed as regards the possibility that the Parliament dismisses all Board members if the Parliament rejects the NRA's report. The amendment of the law will either remove this provision or detail the conditions whereby such a dismissal can take place.

The duties and functions of the NRA are to set the full range of price and tariff methodologies for regulatory revenue and prices (including regulated tariffs for tariff customers, tariffs for access to transmission and distribution networks). These tariff methodologies and the approved tariffs must ensure that there are no cross-subsidies. The NRA also carries out a number of monitoring duties.

As regards the promotion of regional co-operation, Montenegro stated that its Energy Law is partly compliant with Directive 2009/72/EC and Regulation (EC) No 713/2009 (establishing an Agency for the Cooperation of Energy Regulators). The missing requirements are to be transposed into the Energy Law under the planned amendments.



As regards the **internal market for gas**, Montenegro has no gas market and it is not connected to any international gas infrastructure. Gasification is not expected before 3-5 years. However, the basic legislative framework (for the second package) is in place in the 2010 Energy Law although implementing legislation has not yet been adopted. According to Montenegro, the framework for this (and the third package) will be created through the amendments to the 2010 Energy Law.

The regulatory authority for gas is the National Regulatory Authority; the NRA's responsibilities in this area are similar to those for the electricity sector.

The TSO, DSO and Supplier of Last Resort are not determined (although the energy law defines the rights, duties and responsibilities of Transmission and Distribution System Operators). The DSO and Public Supplier will be unbundled after the number of customers reaches 100,000. Gas transmission, distribution and public supply are public services. Gas infrastructure requires authorisation.

#### **II.d. Security of supply**

Montenegro stated that Directives 2005/89/EC concerning measures to safeguard security of electricity supply and infrastructure investment, and 2004/67/EC concerning measures to safeguard security of natural gas supply have been fully transposed into national legislation through the 2010 Energy Law. However, the 2004 Directive was repealed by a new Regulation (Regulation (EU) No 994/2010 of 20 October 2011 concerning measures to safeguard security of gas supply), which is to be transposed under the planned new Energy Law.

Montenegro's security of supply, and that of the region as a whole, is imperilled by the impact on the Energy sector of the difficulties of the Aluminium Plant Podgorica "KAP". KAP has been without a supplier since the beginning of 2013 after EPCG and state-owned company Montenegro Bonus cancelled their contracts because KAP did not pay its bills. However, following an opinion of the Administration for Inspection Affairs on the possible effects on the environment and on the production facilities of KAP resulting from a sudden cut-off of the electricity supply to KAP, as well as the legal responsibility of the TSO for the safe and reliable functioning of the Transmission System, the electricity supply to KAP was re-established, with the expectation that a plan to address the situation would be quickly devised. Since the end of February 2013, when EPCG stopped supply of (unpaid) electricity, the electricity for this operation was drawn by CGES from the European interconnectors. Following a letter from ENTSO-E in May regarding the need to urgently rebalance the Montenegrin grid and return to the European interconnectors the electricity owed for this period, and the persistent refusal of KAP to initiate and implement a conservation plan of its production units, in order to resume a system balance, and then to pay for the balance of energy consumed, the Ministry of Finance filed a request for bankruptcy procedures. CGES began, as of June returning to the European interconnectors some of the power that KAP had consumed. Talks are ongoing to resolve how the remainder can be returned, in particular to the Serbian TSO Elektromreža Serbia.

#### **II.e. Renewable energy**

Montenegro stated that it has partially implemented Directive 2009/28/EC on the promotion of the use of energy from renewable sources, through the 2010 Energy Law and accompanying secondary legislation. The mandatory national overall target and measures for the use of energy from renewable sources are transposed: Montenegro's national target for the share of energy from renewable sources in gross final consumption of energy in 2020

is 33% (according to the methodology of the 2009 Directive). According to Montenegro, this target will be adopted later this year through a Governmental Decision. To implement this, Montenegro plans to adopt a National Renewable Energy Action Plan by 2014. Other provisions regarding statistical transfers and joint projects between Member States and third countries are to be introduced into national legislation through amendments of Energy Law. Additional interventions are required to establish more stringent rules on simplified licensing and permitting procedures, equipment standards, and efficiency criteria.

Biofuels and bioliquids are not recognised in national legislation. The 2010 Energy Law needs to be amended by new provisions regulating the use of biofuels and bioliquids.

Montenegro declared that amendments to the 2010 Energy Law would also encompass provisions on guarantees of origin and grid access, placing obligations on the system operator to connect renewable energy installations.

## **II.f. Energy efficiency**

Montenegro stated that, the main framework for transposing the energy efficiency *acquis* is the 2010 Energy Law and the 2010 Law on Energy Efficiency. The following Directives are partially transposed:

- Directive 2012/27/EU on energy efficiency,
- Directive 2010/31/EU on the energy performance of buildings,
- Directive 2010/30/EU on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products,
- Directive 2009/125/EC establishing a framework for the setting of eco design requirements for energy-related products,

A number of other pieces of legislation also impact on the sector: Law on Spatial Development and Construction of Structures, Public Procurement Law on technical requirements for products and conformity assessment and the Market Inspection Law.

Montenegro stated that Directive 2012/27/EU on energy efficiency is partially transposed in Montenegro. Amendments to the Law on Energy Efficiency by July 1 2014 and Amendments to the Law on Energy by January 1 2015 will cover a number of the remaining issues to finalise transposition of the 2012 Energy Efficiency Directive, such as definitions, revising the adopted energy efficiency target, supply-side energy efficiency, mechanisms for financing and technical support, schemes for monitoring and verification of achieved results as well as reporting obligations. The amendments to the law will result in updates of the various rulebooks.

Montenegro stated that Directive 2010/31/EU of the European Parliament and of the Council of 17 May 2010 on the energy performance of buildings is partially transposed in Montenegro. The remaining elements of Directive 2010/31/EU are to be covered in the Amendments to the Law on Energy Efficiency by July 1 2014 followed by an update of the relevant rulebooks in accordance to the amended provisions of the Law on Energy Efficiency by July 1 2015.

Montenegro stated that Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products (as well as the resulting implementing legislation) is partially transposed in Montenegro. It indicated that

the remaining elements will be covered in amendments to the Law on Energy Efficiency by July 1 2014 followed by update of the relevant rulebooks by July 1<sup>st</sup> 2015.

Montenegro stated that Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of eco design requirements for energy-related products (recast), as well as the resulting implementing legislation, is partially transposed in Montenegro through the 2010 Law on Energy Efficiency as well as the 2011 Law on technical requirements for products and conformity assessment. In addition, the obligations of the manufacturers and importers including those related to providing consumer information for each type of products (covered by the implementing regulations) will be transposed in the relevant bylaw (rulebook), which is under preparation.

Neither Regulation (EC) 1222/2009 of the European Parliament and of the Council on the labelling of tyres with respect to fuel efficiency and other essential parameters, nor Regulation 2422/2001 of the European Parliament and of the Council on a Community energy efficiency labelling programme for office equipment are implemented. Montenegro indicated that it intends to do so by January 1st 2018.

Montenegro intends to transpose the remaining energy efficiency provisions through the planned new Energy Law, replacing the 2010 Energy Law, as well as amendments to the 2010 Energy Efficiency Law. The former is foreseen by January 1 2015, the latter by July 1 2014. Montenegro indicated that this will be followed by updates of the relevant rulebooks by January 1 2016.

## **II.g. International agreements**

Montenegro signed the Energy Charter Declaration in November 2012, and Montenegro has thus acquired the status of Observer. Montenegro indicated that it will prepare formal Accession Reports. After approval by the Government these will be presented to the Energy Charter Conference (by the end of this year).

Montenegro will then start with its ratification procedure in order to finalise accession, estimated to take place during the beginning of 2014.

## **II.h. Nuclear energy**

Montenegro's 2007 Energy Development Strategy until 2025 does not envisage the development of nuclear energy (Nuclear Power Plants). There are no nuclear installations in Montenegro, no nuclear plant and no other fuel-cycle facility. However, Montenegro stated that the draft energy law does not rule out the possibility that Montenegro could develop nuclear energy in the future.

Montenegro declared that the basic legal framework is the 2009 Law on Ionising Radiation Protection and Radiation Safety. This dates from 2009 although it has also been amended twice and resulted in 17 implementing regulations. The law gives a legal basis for the adoption of 17 secondary legislation act acts for its implementation. Due to amendments to EU directives, the law should be amended in 2015.

There is no research reactor and no other facility for production of radioactive substances (this is forbidden by the Law on Ionising Radiation Protection and Radiation Safety). Given the size of Montenegro, there are only a small number of users of radioactive material: Montenegro has very few activities related to ionising radiation. The use of radioactive

materials is limited to the application in medicine, industry, agriculture, training and scientific research (universities), and thus the number of radioactive sources in Montenegro is very low. There is no interest in the supply of ores and nuclear fuels.

There are 5 persons employed in the Department for protection from ionizing radiation and radiation safety in the Environmental Protection Agency. The Ministry of Sustainable Development and Tourism, the Directorate for Inspection Affairs and the Ministry of Internal Affairs each have one person covering nuclear matters.

As regards supply of fuels, Montenegro indicated that it does not intend to participate in the establishment of the **Euratom Supply Agency**.

### **II.i. Nuclear safety of nuclear installations, International agreements & Accession to international Conventions in the area of nuclear energy**

The regulatory framework related to the protection of the health of workers and the general public against the dangers arising from ionising radiations is established in Montenegro's framework law (Law on Ionising Radiation Protection and Radiation Safety) and implementing regulations. Montenegro stated that its legislation is not fully aligned with the provisions of the Euratom Treaty and secondary legislation, and is lacking an on-line system for measurement of intensity of ambient dose of gamma radiation in air (GDR network).

The regulatory framework infrastructure is established for Safeguard system (inspection, sanctions, and counting) in order to make certain that nuclear materials are not diverted from the intended uses.

As regards the provisions on the Euratom Treaty on guarantees for peaceful uses, Montenegro stated that it will require additional efforts for full alignment with provisions of the Euratom Treaty.

The 2009 Law on Ionising Radiation Protection and Radiation Safety is not harmonised with Council Directive 2009/71/EURATOM establishing a Community framework for the nuclear safety of nuclear installations. Thus, in spite of the fact that the Law currently prohibits the construction of nuclear installations and associated installations, Montenegro has to implement various provisions of the aforementioned Directive, such as those relating to the national regulatory body in the field on nuclear safety.

### **II.j. Euratom Treaty: External relations**

Montenegro is a party to 15 conventions and agreements in the area of radiation protection, radiation and nuclear safety. These include the Vienna Convention on Civil Liability for Nuclear Damages, the Convention on Physical Protection of Nuclear Material, the Convention on Assistance in the Case of a Nuclear Incident or a Radiological Emergency, Treaty on Non-Proliferation of Nuclear Weapons, Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water, Treaty on comprehensive prohibition on nuclear tests with the Protocol, Treaty banning placing nuclear and other weapons of mass destruction on the seabed and the ocean and their subsoil, International Convention for the Prevention of Acts of Nuclear Terrorism (executed succession to the signature/State union Serbia and Montenegro did not deposit the instrument of ratification), Agreement on the Privileges and Immunities of the International Atomic Energy Agency, the Statute of the International Atomic Energy Agency, Joint Convention on the Safety of spent Fuel Management and safety of Radioactive waste Management, Agreement between Montenegro and the International Atomic Energy Agency for the application of safeguard measures

related with the Treaty on the Non-Proliferation of Nuclear Weapons, Additional Protocol to the Agreement between Montenegro and the International Atomic Energy Agency for the application of safeguards related with the Agreement on Non-Proliferation of Nuclear Weapons and the Protocol to the Agreement between Montenegro and the International Atomic Energy Agency for the application of safeguards related with the Treaty on the Non-Proliferation of Nuclear Weapons, Protocol amending the Vienna Convention on Civil Liability for Nuclear Damage and the Convention on Supplementary Compensation for Nuclear Damage.

As well as adopting Amendments of the Law on Ionising Radiation Protection and Radiation Safety, Montenegro intends to join the Convention on Nuclear Safety, adopt the amended Convention on Physical Protection of Nuclear Material (both will take place in parallel to amendments to the Law on Ionising Radiation Protection and Radiation Safety), join the ECURIE and EURDEP systems and sign the IAEA Code of Conduct on the Safety and Security of Radioactive Sources with the Supplementary Guidance on the Import and Export of Radioactive Sources.

### **II.k. Radioactive waste and spent fuel management.**

Council Directive 2011/70/Euratom of 19 July 2011 establishing a community framework for the responsible and safe management of spent fuel and radioactive waste is significantly transposed within Montenegro's national strategies, laws and implementing regulations.

The main operator and holder of the licence for warehouse treatment of radioactive waste is the Limited company "Centre for Ecotoxicological Testing", which has 10 employees in that sector. Other operators or legal persons that manage radioactive waste are holders of a license for radiation activities. Chapter VI of the 2009 Law on Ionising Radiation Protection and Radiation Safety covers radioactive waste management. Radioactive waste from civilian activities is stored in Montenegro: there is no waste of nuclear origin such as spent fuel. Radioactive waste producers encompass the costs for their management. Radioactive waste from civilian applications of radioactive isotopes is stored in Montenegro: there is no waste from nuclear installations and no spent fuel. Radioactive waste producers (holders of licences to conduct radiation activity) cover the costs for their management of that radioactive waste, whereby is applied the principle of 'the polluter pays'.

In the area of radioactive waste, Montenegro stated that it has established a system of control, a management system, regulatory inspections, monitoring, documentation and reporting and enforcement actions.

Montenegro declared that in terms of the full transposition of Council Directive 2011/70/Euratom into national law, it will amend the Law on Ionising Radiation Protection and Radiation Safety, and this will be followed by a revision of secondary legislation. These amendments will also define requirements for licensing and operation of storage and disposal facilities for radioactive waste-independent authority for revision of Safety Report.

### **II.l. Nuclear safeguards**

Montenegro stated that the regulatory framework (legislation, inspection, sanctions, counting) for making certain that nuclear materials are not diverted from their intended use is established in Montenegro through the 2009 Law on Ionising Radiation Protection and Radiation Safety, the 2011 Law on Inspection Supervision, as well as a number of other pieces of legislation, primary and implementing.

Montenegro does not have any nuclear facility generating nuclear power, nor any research reactor or isotope generating reactors, and thus does not have either spent fuel facilities, nor has any plans to develop such facilities. The 2009 Law on Ionising Radiation Protection and Radiation Safety prohibits (i.a.) the construction of nuclear power plants, plants for production of nuclear fuel and utilization of spent nuclear fuel, research with the aim of production and use of nuclear weapons, use of radioactive and nuclear materials for manufacturing of weapons of mass destruction, as well as trade (export, import, transit) of nuclear materials on the territory of Montenegro. Furthermore, Montenegro declared that it has no interest in the supply of ores and nuclear fuels.

Montenegro has declared the existence of nuclear material in the form of calibration sources, and that in this sense, it regularly reports IAEA regarding the implementation of the Agreement on Safeguards measures. Montenegro has indicated that it needs to establish a training centre to strengthen the administrative capacities.

### **II.m. Radiation Protection**

Montenegro considers that Council Directive 96/29/EURATOM, the cornerstone of radiation protection in the EU, is significantly transposed within national strategies, laws and implementing regulations. Montenegro is working to strengthen its inspection services through training, as well as carrying out 160 inspections. It has also developed an environmental radiation monitoring programme (since 1998), carried out by the Environmental Protection Agency. This programme covers radionuclides in air, soil, rain, rivers, lakes and sea, drinking water, food, animal foodstuffs etc. Montenegro is also able to carry out emergency radioactivity monitoring.

The latest Report on the state of environment in Montenegro concludes that the value of the total effective radiation dose for an individual older than 17 years is 3.94 mSv/year. Although this is about 64% higher than the reference value, it cannot be regarded as extremely high in relation to this reference value. This is mainly due to the effect of radon gas ( $^{222}\text{Rn}$ ) in dwellings, which requires special attention.

Montenegro lacks an efficient national system for radon protection, although it has taken steps to protect the population from radioactive radon gas. By its own admission, it also needs to establish on-line monitoring system (GDR network) to comply with provisions from Directive 96/29. Montenegro considers that Council Directive 97/43/EURATOM (medical directive) is significantly transposed, whereas Council Directive 90/641/EURATOM related to protection of outside workers is not transposed. Montenegro stated that both are to be implemented through amendments to the Law on Ionising Radiation Protection and Radiation Safety and the resulting secondary legislation to implement this Law.

Council Directive 2003/122/EURATOM on control of high activity closed radioactive sources and Council Regulation 1493/93 on shipments of radioactive substances are mainly transposed. Montenegro stated that it intends to implement both through amendments to the Law on Ionising Radiation Protection and Radiation Safety and the resulting secondary legislation to implement this Law.

Council Directive 2006/117/EURATOM on the supervision and control of shipments of radioactive waste and spent fuel is partially transposed. Montenegro stated that it intends to implement this through amendments to the Law on Ionising Radiation Protection and Radiation Safety and the resulting secondary legislation to implement this Law.

Montenegro considers that it has already highly transposed Council Directive 89/618/EURATOM on informing the general public about health protection measures to be applied and steps to be taken in the event of a radiological emergency into national legislation.

Montenegro has indicated willingness to join the ECURIE early information exchange system established under Council Decision 87/600/EURATOM.

Montenegro considers that the *acquis* on contamination of foodstuffs and feedstuffs Post Chernobyl (2008/733, 2009/1048, 2006/1635 and 2000/1609) and the *acquis* on Future Accidents (1987/3954, 1989/2218, 1990/770, 1989/944, 1989/2219) are transposed into national legislation.

### **III. ASSESSMENT OF THE DEGREE OF ALIGNMENT AND IMPLEMENTING CAPACITY**

Overall, as member of the Energy Community, Montenegro has already attained a reasonable level of alignment and already implements a substantial part of the *acquis* in this chapter, albeit not the most recent texts. Montenegro already implements the second package of the Internal Energy Market, but not the third. The 2009 Renewable Energy Directive, having only just been transposed to the Energy Community, is not yet implemented, and the most recent amendments and consolidation of the energy efficiency *acquis* have not yet been taken over. Montenegro's alignment with the nuclear *acquis* is partial.

Given the level of alignment, Montenegro should have few difficulties implementing most of the additional *acquis* and has indicated not only its intention but also the timetable to do so, through major amendments to 3 packages of legislation: the energy law (in two parts, one of which will be specifically for renewable energies), the energy efficiency law, and the Law on Ionising Radiation Protection and Radiation Safety to prepare for the full implementation of the *acquis* on nuclear safety and radiation protection.. All of this is foreseen until 2015 for the main legal amendment, although resulting implementing legislation will be required for many aspects.

Montenegro should have few problems in carrying out this legal adaptation. Its existing administrative capacity to implement the *acquis* should be mostly sufficient, although additional capacity at the regulatory authority could be required to tasks stemming from new responsibilities under the Third Package of the Internal Energy Market. Careful attention should be paid to a few areas such as the timely build-up of oil stocks, ensuring full unbundling of actors in the power sector, developing the means to implement the energy efficiency and developing a programme to ensure alignment with the nuclear safety *acquis*.

#### **III.a. Hydrocarbons**

Montenegro is at a very preliminary stage of alignment with Council Directive 2009/119/EC imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products. Montenegro needs to develop concrete plans for *acquis* alignment on hydrocarbons, particularly as regards the requirements to hold oil stocks equivalent to 90 day of net imports. Montenegro will also need to determine its regime for holding stocks and establish the necessary administrative capacity to control and manage these stocks.

Montenegro considers that adopting a Decree on strategic oil products stocks, taking over most of the Directive 2009/119/EC, is one of its highest priorities. This Decree will define the requirement of 90 days coverage, including the manner of formation, maintenance and management of strategic stocks of oil and oil products. Priority must be given to developing a suitable stock-holding body to oversee the build-up, maintenance and reporting of

emergency oil stocks. Montenegro intends to meet these requirements by 2023 at the latest (in line with Montenegro's Energy Community obligations) although it has also indicated that it could apply an earlier deadline. Montenegro's level of implementation of this element of the *acquis* is very preliminary.

The Law on Hydrocarbons needs to be amended to be fully in line with the EU Directive 94/22/EC.

### **III.b. Internal energy market**

Montenegro has achieved a high level of legal alignment with most of the internal energy market *acquis* under the 'second package' and has indicated its intention to implement the 'third package' mainly through an important revision of the 2010 Energy Law (and resulting implementing legislation), due for adoption by January 1 2015. Montenegro does not foresee substantial difficulties in aligning and implementing this legislation.

Concerning administrative capacity, Montenegro's regulatory authority has adequate capacities to implement the 'second package' of the internal energy market, although liberalisation in Montenegro is still at a preliminary stage: full market opening (to households) is only foreseen by January 1 2015 and eligible consumers connected to the distribution network continue to have access to regulated prices. Distribution losses will require special attention.

Implementation of the 'third package' in electricity is within the existing capacities of the NRA, although Montenegro has also indicated that there are some areas where administrative strengthening could be required. The NRA benefits from both adequate resources and independence to carry out its existing tasks.

Overall, in this area, Montenegro's legislation needs to be amended regarding unbundling, certification (including certification related to third countries), obligations of TSO and dispatching and balancing. The process to switch supplier is well-defined although the 3 week deadline remains to be transposed. Current legislation also needs to be amended as regards the right of large non-household customer to contract simultaneously with several suppliers. The (planned) amendments to the energy law and resulting by-laws should ensure this alignment.

To ensure implementation of the ownership unbundling requirements, Montenegro will also need to put in place effective safeguards, should the state maintain majority shareholdings in some of the entities (such as the TSO and the main utility). In addition, the governance of unbundled and their work in practice will have to be verified in the light of the requirements of the Third Package, in the context of a certification procedure, to ensure that there is full separation between the transmission activities and the generation interests.

In the area of promotion of regional co-operation, Montenegro's Energy Law is partly compliant with Directive 2009/72/EC and Regulation (EC) No 713/2009 (establishing an Agency for the Cooperation of Energy Regulators) and has reached a high degree of alignment by virtue of membership of the Energy Community. Full alignment will be reached under the planned amendments to the energy law.

In the gas sector, the basic legislative framework only partially implements the *acquis*. A number of provisions are already ensured, for instance as regards public service obligations and customer protection, universal service rights to customers in gas. However, Montenegro has no gas market, it is not connected to any international gas infrastructure, and gasification



is not expected before 3-5 years, which is also the timetable for amending Montenegro's legal framework.

The provisions of the Energy Law will need to be amended to enable foreign companies to obtain a supply license and supply customers in Montenegro. Supplier switching is already well defined but the deadline of 3 weeks is to be transposed in the Energy Law. The law will also need to be amended to specify explicitly the model of TSO unbundling, designate the TSO and ownership of distribution system within DSO.

### **III.c. Security of supply**

Montenegro has already reached a high degree of alignment in this area. Montenegro is currently implementing Directives 2005/89/EC concerning measures to safeguard security of electricity supply and infrastructure investment, and the predecessor of Regulation EU 994/2010 concerning measures to safeguard security of natural gas supply. The latter will be transposed under the revisions of the Energy Law; in the absence of any gas market or connections this is of limited concern in the medium term.

The unauthorised consumption of electricity by KAP aluminium company needs to be resolved. The extraordinary compensation programme which was agreed with ENTSO-E to return the power that KAP had consumed without authorisation has been completed. Further settlements need to be agreed with the Serbian transmission system operator. However, KAP continues to operate without a long-term solution for the supply of electricity due to existing debts to the electricity provider. This matter needs to be resolved as a matter not only of the internal energy market and fair competition but also security of supply of the region given the resulting drain to Montenegro's and the region's power sector (see also chapter 8, competition policy).

### **III.d. Renewable energy**

Montenegro has reached a partial level of alignment as regards renewable energy. It has transposed and it is partially implementing Directive 2009/28/EC on the promotion of the use of energy from renewable sources. A specific revision of the 2010 Law covering renewable energy should in the future will allow for full implementation. According to the Directive's methodology, Montenegro's national target for the share of energy from renewable sources in gross final consumption of energy in 2020 is 33%, and Montenegro will need to adopt a National Renewable Energy Action Plan to meet this target<sup>2</sup>. Other amendments will have to cover biofuels and bioliquids including measures to be able to reach the sectoral target for renewable energy in transport.

Montenegro's administrative procedures in this area are mostly harmonised with the *acquis*. Additional procedures are required to establish more stringent rules on simplified permitting and licensing procedures, equipment standards, and efficiency criteria. Montenegrin legislation is partly harmonised with the 2009 Directive as regards guarantees of origin and grid access, placing obligations on the system operator to connect the renewable energy installations.

### **III.e. Energy efficiency**

Montenegro has achieved alignment with part of the Energy Efficiency *acquis*, though not yet all of the relevant EU legislation (including Directive 2012/27/EU on energy efficiency,

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<sup>2</sup> In the framework of the Energy Community Montenegro has committed to conceive and submit such plan by 30 June 2013.

Directive 2010/31 on the energy performance of buildings, Directive 2010/30/EU on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products, Directive 2009/125/EC establishing a framework for the setting of eco design requirements for energy-related products, and Regulation (EC) No 1222/2009 on the labelling of tyres with respect to fuel efficiency and other essential parameters is not transposed at all.

Montenegro has also indicated that it intends to revise its basic framework Law on Energy Efficiency by July 1 2014 which, alongside the amendments to the Law on Energy by January 1 2015, will prepare for a complete transposition of the energy efficiency *acquis*. A number of additional elements need to be updated, such as measures according to the Energy Performance of Building Directive e.g. those related to cost-optimal levels and the nearly zero-energy building concept. Substantial secondary legislation will also be required before full alignment can be achieved (such as updates of the relevant rulebooks) by January 1 2016.

### **III.f. International agreements**

Montenegro will need to sign and ratify the Energy Charter Treaty and related protocols and amendments and has indicated an intention to do so. It estimates that it could finalise its accession process to the Energy Charter Treaty during 2014.

### **III.g. Nuclear energy**

In the absence in Montenegro of any nuclear energy production or use, much of this section is of limited relevance to Montenegro.

Montenegro partially implements important provisions of the *acquis* on nuclear safety and radiation protection particularly in the areas relevant to the country (where there are only a small number of users of radioactive material and very few activities related to ionising radiation) through the 2009 Law on Ionising Radiation Protection and Radiation Safety. It intends to amend this law in order to transpose the remaining elements of the *acquis*.

Additional efforts are needed for full alignment with the Euratom Treaty (for instance as regards the provisions on the Euratom Treaty on guarantees for peaceful uses, and Montenegro will be required to implement important provisions, such as establishing an on-line radiation dose rate monitoring system (GDR network), strengthen administrative capacity (particularly in the radioactive waste management), signing and ratifying key international conventions, and addressing radioactive waste disposal.

Montenegro's regulations related to the management of radioactive waste are mainly in compliance with EU requirements and IAEA standards. However, improvements are needed for full alignment. These will be covered by the amendment of the 2009 Law. These amendments will identify requirements for licensing and operation of storage and disposal facilities for radioactive waste-independent authority for revision of Safety Report. However, there are also no clear provisions for assurance funds for decommissioning of storage facility. Full implementation of Council Directive 2011/70/Euratom will also require a decision on permanent disposal issues.

With regard to the guarantees for the peaceful use of nuclear material, additional efforts are needed so that the legislation of Montenegro is fully aligned with the relevant provisions of the Euratom Treaty.

Montenegro has already significantly transposed (and it is implementing) the radiation protection *acquis* and has built up an inspection and monitoring programme. It has also reached a high degree of implementation of Council Directive 89/618/EURATOM on public information and is prepared to implement Council Decision 87/600 (ECURIE system) The *acquis* on contamination of foodstuffs and feedstuffs post Chernobyl as well as in the event of a future accident is transposed. However, Montenegro needs to make additional efforts for full alignment with provisions of Chapter III of the Euratom Treaty (Health and Safety). There is also a need to establish an on-line radiation dose rate monitoring system (GDR network), nuclear safety issues, portal monitors. Challenges are related both to transposition and implementation. However, the use of radioactive materials is limited to the application in medicine, industry, training and scientific research (universities), and thus the amount of radioactive waste in Montenegro is very low.

Montenegro needs to pay special attention to building an efficient national system for radon protection. It also needs to make additional efforts for full alignment with provisions from Directive 96/29 such as the need to establish an on-line monitoring system (GDR network). Council Directive 97/43/EURATOM (medical directive) is significantly transposed, whereas Council Directive 90/641/EURATOM related to protection of outside workers is not transposed. Both are to be implemented through amendments to the Law on Ionising Radiation Protection and Radiation Safety and the resulting implementing regulations.

Montenegro has indicated that it does not intend to participate in the establishment of the **Euratom Supply Agency**.