

INFRASTRUCTURE

ENERGY SECTOR

1.75

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Electricity				
Regulation of electricity prices to be abandoned (but vulnerable customers to be protected), allowing new investments in the modernisation and revitalisation of coal and electricity production.	2016			√
Intra-day market to be introduced.	2020			√
Consider introducing carbon pricing instruments.	2020			√
Introduce grid connection reservation security mechanism e.g. bank guarantee or cash collateral by developers in order to avoid existing grid queues holding up capacity.	2020	√		
Renewables				
Incentive system to be tailored to accelerate investments in the renewables sector and follow the EBRD and Energy Community policy guidelines.	2018	√		
To improve the provisions of the Law on Agricultural Land pertaining to the utilization of the state-owned agricultural land for non-agricultural purposes, such as the development of renewable energy projects, in a way to regulate in more detail the conditions for granting the public agricultural land to renewable energy investors.	2020	√		
Energy Efficiency				
Adoption of a functional model contract to govern energy supply contracting.	2017			√
Improvement of capacities of the PPP Commission and other notable public stakeholders in respect of both energy performance contracting and energy supply contracting projects involving the public and private sector.	2017			√

CURRENT SITUATION

Electricity

The legal framework for electricity in Serbia is set out under the 2014 Energy Law, with the latest amendments adopted in 2021, which for the most part transposes the European Union's (EU) Third Energy Package.

The main authorities responsible for this sector are: (i) the Serbian Government; (ii) the Ministry of Mining and Energy (the "Ministry of Energy"); and (iii) the Energy Agency.

State-owned enterprises Elektromreža Srbije (EMS), Elektroprivreda Srbije (EPS) and EPS Distribution, company that was finally separated from EPS in the end of 2020, remain

the dominant players in the sector. EMS is the transmission system operator. EPS is engaged in the production, wholesale and supply of electricity. EPS's ex subsidiary EPS Distribucija carries out the distribution and operates the distribution system.

The electricity market is fully liberalized on paper. Households and small consumers remain, for the time being, entitled to opt to be supplied under regulated prices (unlike other consumers which do not have the right to regulated prices). There is an intention to phase out the regulated supply of electricity, but the Energy Agency has taken the position that there is still a need for the regulation of electricity prices. On the other hand, the Energy Agency has allowed an increase of regulated prices - starting from the

latest increase was in December 2020. The experts agree that this increase is insufficient and that new increases should be expected.

Despite the liberalisation, EPS remains the single most dominant supplier with around 98% of market participation.

The day-ahead market is operated by the joint-stock company South East European Power Exchange (SEEPEX). SEEPEX has not yet introduced intra-day market, however, they are actively working on it, and according to the announcements, it can be expected that it will be introduced during 2022.

Renewables

In April 2021, the Law on the Use of Renewable Energy Sources was adopted, which separated issues related to incentive measures for the production of electricity using renewable energy sources from the Law on Energy, that are now regulated by a separate law.

Incentives are provided in the form of a market premium system and feed-in tariffs (only for small facilities). Both systems will be implemented through an auction process and refer to the price of electricity, taking on balance responsibility and the right to priority access to the system. In the premium system, the authorized contracting party will not purchase electricity, but will pay the premium if the realized price at the auction is higher than the reference market price (prices on the SEEPEX day-ahead market). Also, for an energy entity that produces electricity from renewable sources and which does not have the status of a temporary privileged producer in terms of market premium system, or the status of a privileged producer in terms of feed-in tariff, the possibility of obtaining a guarantee of origin and status of producer of electricity from renewable sources energy is envisaged.

By replacing the old system that rewarded everyone by order and introducing auctions, it will be possible to attract a new cycle of investments and achieve a competitive price for the purchase of electricity. The next step is the adoption of bylaws that will regulate in detail the conditions and procedure for acquiring the right to incentive measures.

In order to harmonize the national regulations of the Republic of Serbia with the legal framework of European Union, the Law on RES introduces the status of consumer-producer for the first time. The consumer-producer is

defined in the RES Law as the final customer who has connected his own facility for production of electricity from RES to the internal installations, whereby the produced electricity is used to supply own consumption, and the surplus produced electricity is delivered to the transmission system, distribution system, i.e. closed distribution system.

The “guaranteed supplier” (i.e. EPS) assumes balance responsibility for RES producers. Support is provided for the allowed percentage of balance deviation, which will be regulated by a bylaw. Balancing support for RES producers will exist until the establishment of an organized intra-day electricity market, as determined by the Energy Agency of the Republic of Serbia.

The Law on RES also introduces the concept of strategic partnership and provides the possibility of conducting a public call for the construction of power plants that produce energy from RES through the selection of a strategic partner. The Government may determine that the construction of a power plant using RES is a project of importance for the Republic of Serbia in terms of the law governing the construction of facilities, except for power plants in protected areas.

In order to reduce the use of fossil fuels and dependence on fuel imports, the Law on RES defines the status of biofuels, bio liquids and fuels from biomass. In the event that biofuels, bio liquids and biomass fuels that are not produced from waste meet the sustainability criteria and achieve savings in greenhouse gas emissions, energy produced from these fuels can be: a) taken into consideration for the purposes of calculating the share of energy from RES in gross final energy consumption and final energy consumption in all forms of transport (including fulfilment of obligations of fuel suppliers to achieve the share of RES), and b) subject to financial incentives, in accordance with the Law on RES, incentives for the use of innovative technologies and new sources of RE, such as renewable hydrogen, and incentives for the production of “advanced” biofuels). Regarding the use of RES in transport, the Law on RES determines for the first time the use of electricity from RES in the transport sector, as well as the use of “green” hydrogen.

Energy Efficiency

In April 2021, a new Law on Energy Efficiency and Rational Use of Energy was adopted, the aim of which is to create a legal framework for measures that will increase the efficiency of use of energy and reduce energy consumption.

The law upgraded the existing basis of the Law on Efficient Use of Energy with new energy policy goals whose foundations were established by European Union regulations (amended Energy Efficiency Directive and Directive on Energy Performance of Buildings, Directive on Eco-Design and relevant EC Regulations).

The law envisages the establishment of the Directorate for Financing and Encouraging Energy Efficiency within the Ministry of Mining and Energy, the purpose of which is to provide funds to meet the objectives of the law.

Similarly as the previous law, it explicitly defines the energy services company (ESCO) and sets rules for energy performance contracting in line with the EU acquis, with the aim to provide a comprehensive legal framework for energy efficiency arrangements.

To enable the implementation of these general possibilities, the Rulebook on Model Energy Service Contracts for the Implementation of Energy Efficiency when Users are from the Public Sector (ESCO By-Law) was adopted in May 2015.

The ESCO By-Law prescribes two models of ESCO agreements, one for public buildings and one for public lighting. It requires public-private partnerships (PPP) to be established between the relevant public partner (e.g. a municipality, a public company, the state) and the relevant private partner (i.e. an ESCO company) on a long-term basis.

The energy efficiency market is still developing. Energy performance contracting (EnPC) projects in the area of public lighting have been initiated in a significant number of local municipalities, while the market is yet to see a successful cooperation between the public and private sector in the area of public buildings.

The energy supply contracting (ESC) has also started functioning recently, primarily with public sector facilities such as schools and hospitals being the main point of interest. However, some of the implementation aspects, such as public budgeting, remain a point of misunderstanding for the public sector.

Unlike EnPC, ESC arrangements are still not governed by any by-law, nor is there a prescribed model available. The most notable difference between ESC and EnPC is in that EnPC implies backing the project with guaranteed sav-

ings, unlike the ESC, which focuses on a renewed arrangement regarding energy supply where the private partner guarantees the continuous provision of a certain minimum amount of energy. It is expected that, once the ESC model is regulated too, a much needed certainty will be brought into the sector, allowing for successful cooperation between the public and private sectors.

The energy efficiency of buildings is dealt with in a special chapter which prescribes obligations for publicly owned buildings, new buildings and buildings used for non-residential purposes. Publicly owned buildings with a total usable area of more than 250 m² used by state administration bodies and other bodies and organizations of the public sector as well as public services are required to have a certificate of energy performance, and for buildings used by central government the obligation of energy rehabilitation. The obligations of investors in new buildings have also been specified with regards to the equipment with devices for regulation and measurement of the delivered amount of thermal energy, where there is also domestic hot water.

POSITIVE DEVELOPMENTS

Electricity

SEEPEX membership grew to 25 members.

Renewables

The legal framework for a new package of incentive measures for the production of electricity from renewable energy sources has been adopted, that envisages a competitive process for awarding incentives. The adoption of a completely new law indicates giving priority to sustainable production of electricity from renewable energy sources, which is extremely important in the long run in order to avoid paying high fees for the production of CO₂ emissions that will increase in the European Union in the upcoming years.

The Decree on the Conditions, Manner and Procedure Of Giving State-Owned Agricultural Land for Use for Non-Agricultural Purposes was adopted, which prescribes exceptions when it is possible to use state-owned agricultural land for non-agricultural purposes, in accordance with the Law on Agricultural Land. This decree enables a constructions of facilities for production of energy using renewable energy sources of wind and sun even on agricultural land, which creates an even more favourable environment for investors.

Energy Efficiency

A new Law on Energy Efficiency and Rational Use of Energy has been adopted. The competent Ministry has already launched the first project in this area and announced a public call for local governments to allocate funds for the replacement of carpentry in households, which is expected to continue in the upcoming years and significantly contribute to reducing energy consumption.

REMAINING ISSUES

Electricity

Coal remains dominant resource for electricity generation – more than 70% of annual production comes from the coal-fired power plants.

Coal mines are in a relatively poor shape and in need of extensive modernisation in order to meet demand. Some major thermal power facilities will also need to be phased out or overhauled. It is not clear whether Serbia will have enough funds for these investments.

It can often be heard that an electricity price increase in Serbia would be justified, but vulnerable customers must be protected.

Renewables

In addition to the adopted base law, it is necessary to adopt bylaws on the basis of which tenders will be announced, investors will be attracted and, consequently, facilities for production of electric energy from renewables will be built.

The Decree on the Prosumer has been adopted, and work is underway on eleven more bylaws that should regulate the application of the provisions of this law in more detail.

The Decree on the Conditions, Manner and Procedure Of Giving State-Owned Agricultural Land for Use for Non-Agricultural Purposes was adopted, but it is limited only to agricultural land of 6, 7 and 8 classes.

Energy Efficiency

As to energy performance contracting (EnPC), apart from the need to have consistent practices in the formal prepa-

ration of projects fully in line with the ESCO By-Law and the PPP legislation, the challenges ahead also include the need to reduce subsidies, which keep energy prices on an artificially low level, and to introduce further sector-specific incentives for energy efficiency projects in the relevant regulations (notably, real estate and tax-related regulations) as well as the need to further raise financiers' awareness of the practical feasibility of ESCO projects.

As to energy supply contracting (ESC), the adoption of a model contract by the relevant authority (i.e. the Ministry of Mining and Energy) would be very helpful in addressing projects involving both the public and private sectors and removing the existing ambiguities. The public sector is still overly careful in considering prospective projects, while the understanding of this concept and its practical implementation is still lacking on the authorities' side. This specifically relates to an absence of understanding of public budgeting procedures, with some important projects involving hospitals and schools in Serbia still lagging behind as a result thereof. Even though the Ministry started working on a model ESC contract which would allow for a greater transparency and feasibility of projects on the market, the relevant model has not yet been adopted.

The challenges ahead relating to both EnPC and ESC arrangements remain the same and require continuous work:

- capacities of the PPP Commission to be improved (including better understanding of EnPC and ESC projects' specifics);
- sharing of knowledge and existing know-how among various public entities to be strengthened and supported (especially in the case of minor Serbian municipalities);
- practical implementation of the rules relevant to determining the value of projects that are PPP-specific and of the rules of public budgeting needs to be improved, and the capacities of the public sector to be strengthened.

Implementation of the Law on Energy Efficiency and Rational Use of Energy has not yet been accompanied by relevant bylaws.

FIC RECOMMENDATIONS

Electricity

- Regulation of electricity prices to be abandoned (but vulnerable customers to be protected), allowing new investments in the modernisation and revitalisation of coal and electricity production.
- Intra-day market to be introduced.
- Consider introducing carbon pricing instruments.
- Prescribe targeted energy savings, as required by Directive 2012/27/EC and its amendment 2018/2002/EC. The preparation of proposals for the revision of energy efficiency targets in terms of their increase is underway. It is also necessary to anticipate the reduction of “specific consumption” of energy, i.e. consumption per unit of product.
- Introduce grid connection reservation security mechanism e.g. bank guarantee or cash collateral by developers in order to avoid existing grid queues holding up capacity;

Renewables

- Bylaws which will regulate the incentives in more detail should be tailored to accelerate investments in the renewables sector and follow the EBRD and Energy Community policy guidelines.

Energy Efficiency

- Adoption of a functional model contract to govern energy supply contracting.
- Improvement of capacities of the PPP Commission and other notable public stakeholders with respect to both energy performance contracting and energy supply contracting projects involving the public and private sectors.