

How far is Macedonia in fulfilling the requirements under the Energy chapter of the acquis?



Introduction

Macedonia's progress under Chapter 15 of the *EU Acquis - Energy* has been somewhat inconsistent over the past few years. The reforms of the energy sector are high on the Macedonian government's agenda although their implementation started only in 2005/2006, in particular with the entering into force of the Energy Community Treaty for Southeast Europe (ECTSEE) in 2005. According to the ECTSEE's rules member countries have to align their legislation in energy with the EU's regulations. Therefore the reform process that started in Macedonia in 2005 has been partly successful, but it is ongoing process will most likely accelerate in the following years. The possibilities of having sustainable energy production from other alternative energy sources, such as hydro, wind, biomass or solar energy, which have a high potential for exploitation and energy production, are still there, ready to be explored.

This report will investigate the positive developments and setbacks of the reforms in the energy sector in Macedonia since 2005. It will serve as a guide into what has been done so far, in which areas progress has been slower or reversed, which areas have great potential for development and what lies ahead in the development of the country's energy market.

The idea behind this brief is to describe the situation in the energy sector while using the Progress Reports of the European Commission as our primary source and benchmark for the progress of the country on its path toward the EU.

Problems identified in the Macedonian Energy sector:

- **The current law on energy is incompatible with EU regulations and directives**
 - **A range of secondary legislation is missing**
 - **As well as non-cost reflective tariffs;**
 - **The autonomy of the regulators is still weak;**
 - **There is a clear understaffing of departments, agencies and other bodies dealing with energy issues;**
 - **Last but not least the development in energy efficiency and renewable energies is lagging behind.**
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Review of the Chapter 15 in EC Progress Reports (2005-2009)

Several components of the overall energy sector are of main importance to the European Commission (EC) when preparing the Progress Report, such as:

1. Internal energy market – in Macedonia the highest progress was in 2007, the lowest in 2009;
2. State aid – no real progress in over 4 years;
3. Renewable energy – most progress achieved in 2007, only slight improvements in 2008 and 2009;

4. Energy efficiency – good development throughout 2007 and 2008, deterioration in 2009;
5. Nuclear energy and safety and radiation protection – steadily improving in the sector since 2005.

1. Internal energy market.

When carefully analyzing the EU Progress Reports of the past 5 years, the uneven progress in the Energy Chapter is clearly visible. The first example are the reforms in the internal energy market. This section assesses the opening up of the electricity and gas markets, i.e. allowing competition in a previously state regulated field. The most important element of the implementation of the free energy market is the Law on Energy which regulates that market and the unbundling of the production from distribution and supply. This law was adopted in 2006, as one of the requirements resulting from the membership of the Energy Community. It received fairly good remarks from the foreign community, which stated that it “[...]has made notable progress in the energy sector, in particular as regards internal energy market related legislation.”¹ Also included are the privatization of the state-owned distribution company and the unbundling of the gas transmission and distribution, as well as the clearance of the ownership of the gas system. However, three years since the first reforms in the energy market, the country has received a lot of criticism of the slow pace of reforms and of the regress that it had made in some areas (e.g. the amendments to the Law on Energy in 2008 – besides electricity Production Company ELEM was granted with a license for trade with electricity on the regional market).

The proper implementation of legislation is one of the problems. The capacity of the Energy Regulatory Commission is far from meeting the requirements of the ECTSEE. Furthermore, proper energy prices that correspond to the market demand and supply are still not in place. Over the years, these issues have been mentioned in every progress report published by the Commission. For instance, in 2006 it was stated that: “administrative capacity should be significantly strengthened [...]”², then in 2007 “there is[...]insufficient independence with regard to the process of defining the regulated prices on other markets where there is little or no competition. The prices are based on government decisions and are lower than those recommended by the ERC.”³ In 2008, “[...]collection rates are still not sufficient to ensure viability of the system. The ERC does not have proper regulatory authority over the operations of all independent power producers...”⁴ Last but not least, the 2009 report brings nothing new to the stage, rather, it notes that the situation has worsened due to several energy disputes the country had. As stated

“[t]he Secretariat issued a reasoned opinion for noncompliance of the country with the Energy Community Treaty pointing[...]the position and structure of the state-owned generating company that discriminates against nondomestic electricity and forecloses the

¹ European Commission, *Commission Staff Working Document, The Former Yugoslav Republic of Macedonia Progress 2006 Report*, Brussels 8.11.2006, page 37.

² *Ibid.*, page, 36.

³ European Commission, *The Former Yugoslav Republic of Macedonia, 2007 Progress Report, accompanying the Communication from the Commission to the European Parliament and the Council, Enlargement Strategies and Main Challenges 2007-2008*, Brussels 6.11.2007, page 41.

⁴ European Commission, *The Former Yugoslav Republic of Macedonia, 2008 Progress Report, accompanying the Communication from the Commission to the European Parliament and the Council, Enlargement Strategies and Main Challenges 2008-2009*, page 47.

regulated market to the detriment of consumers, and the fact that regulated distribution tariffs breach the principle of cost-reflectivity.”⁵

2. State aid and energy efficiency.

Macedonia also faces challenges in the implementation of proper measures on state aid and energy efficiency. For years the country has struggled with the ownership of the thermal power plants and it still has not adopted proper legislation that will divide the management of the coal (lignite) reserves from the electricity generation company. The situation is not much better regarding energy efficiency. Concerning legislation, among other documents, there is an Energy Efficiency Strategy adopted in 2004, and a Rulebook on the energy efficiency performance of buildings that was adopted in 2008, both of which were due to be amended this year. A separate law about energy efficiency does not exist. The Energy Agency which is responsible for the implementation of the policies in the area of renewable energy and energy efficiency is understaffed and its work is not well coordinated with other relevant institutions. Several municipalities in the country are working on raising the awareness of this important issue in their respective municipalities⁶, however at the national level the country is still at an early stage concerning proper implementation of energy efficiency measures.

3. Renewable energy.

The overall situation is better regarding renewable energy (RE) as some progress has been noticed over the years. A new Strategy on Renewable Energy was published in Spring 2010. The field of RE saw the highest progress in 2007, when the government adopted a decision to open tenders for building 60 small hydropower plants, while also publishing a tender for sale of land for construction of windmills at four locations.⁷ In 2008 the government adopted legislation on renewable energy sources and in 2009 the first photovoltaic solar power plant was commissioned. The Rulebook for obtaining the status of preferential producer for those opting to produce energy from renewable sources was also adopted. The plans for building 60 small hydro power plants ended in a concession agreement for the construction of 16 plants. The tender for the large hydroelectricity plants has not been successful, although the government hired the IFC to help the authorities in the construction of viable tender documentation. How this situation will proceed is not yet known.

4. Nuclear energy and safety and radiation protection

The country made significant progress in nuclear safety and radiation protection over the past four to five years. It started moderately with hardly any measures in place dealing with this highly sensitive issue. However things gradually improved and in 2008 for instance, “[...]the Law on Radiation was amended to include a provision on nuclear safety. The administrative capacity of the Radiation Safety Directorate has been reinforced...efforts have been made to prevent and combat illicit trafficking of

⁵ European Commission, *The Former Yugoslav Republic of Macedonia, 2009 Progress Report, accompanying the Communication from the Commission to the European Parliament and the Council, Enlargement Strategies and Main Challenges 2009-2010*, Brussels 14.10.2009, page 49.

⁶ See Municipality Karpos:

http://www.karpos.gov.mk/index.php?option=com_content&view=article&id=369&Itemid=126 and Municipality Aerodrom: <http://www.momee.org.mk/infomacef/2009/81%20InfoMACEF.pdf>

⁷ 2007 Progress Report, page 42.

radiation sources[...]the administrative capacity to enforce[...]radiation protection regulations has improved, but requires further strengthening.”⁸ This process is successfully moving forward.

The overall conclusion is that Macedonia’s progress in the energy sector has been slow, positive in some areas, but with generally unsatisfactory assessment. The same problems have persisted throughout the years, such as:

- the capacity of the Energy Regulatory Commission;
- the proper functioning and staffing issues of the Energy Agency and the departments in the Ministry of Economy in charge of the energy sector;
- the improper implementation of legislation; changing of legislation without following the EC’s or ECTSEE’s rules;
- the lack of proper strategies; etc.

These issues need to be addressed and solved, as they weaken the country’s energy position in the region.

The next section discusses the current issues and prospects in Macedonia’s energy field.

Energy Challenges Macedonia faces.

I. New Energy Law

Macedonia adopted the Energy Law in 2006 in order to adjust its legislation to the norms set by the Energy Community and the EC. As mentioned above, this Law was created to establish the gradual opening of Macedonia’s energy market. However, the government in 2008 introduced amendments to the law which threatened to hinder free trade regarding electricity and market competition. With these changes, the main producer of electricity (state owned Electrani Makedonija – ELEM) also became the main supplier for big consumers (factories, etc.). In article 19 of the law the words “supplier of electricity for the big tariff consumers” from the previous law are replaced with “the regulated producer of electricity”.⁹ With these and other amendments, ELEM got an advantage on the electricity market over other companies such as EVN, which only deal with electricity supply and distribution and not with electricity generation. It was justifiably feared that the new law will establish a monopoly of ELEM in the electricity market.

After the suggestions from the Energy Community Secretariat and the EC, the government has agreed to amend the law. What has been suggested is a new comprehensive law that will address a variety of issues in the energy sector. One of them is the liberalization of the energy market as an issue that was pointed to by the Energy Community Secretariat. The suggestion was for ELEM to remain energy producer, without the right to import electricity.¹⁰ An incentive for these changes to take place is the

⁸ 2008 Progress Report, page 48.

⁹ Official Gazette of the Republic of Macedonia, *Zakon za izmenuvanje i dopunuvanje na zakonot za energetika*, no. 106, 27.08.2008, page 8.

¹⁰ Silvana Jovanovska, “Delegacija na Energetskata Zaednica doaga vo Makedonija, Strujata ke prostrui po evropski terk”, *Vremeonline*, 20.01.2010, <http://www.vreme.com.mk/DesktopDefault.aspx?tabindex=0&tabid=1&EditionID=1919&ArticleID=131552>

market competition which will eventually, in time, lower the electricity price, and without the current government protection electricity producers will work on their maximum to make profit. "The new law should motivate ELEM to produce as much electricity as possible, if it wants to earn more money...For now, smaller companies purchase electricity from ELEM and from 2012 they will import it on their own. Thus the country will abolish the double role that ELEM has on the market, as a producer and supplier of electricity."¹¹

The new law on energy was supposed to be created by all involved parties (the Ministry of Economy, the European Community, the energy companies: EVN, MEPSO, ELEM, the Regulatory Commission for Energy and other experts) and adopted by June 2010. However the law is momentarily in parliamentary procedure and has not been put to voting so far. In addition to the new energy law, there is a range of missing secondary legislation that needs to be drafted and adopted. Without accompanying secondary regulations and directives, the new law cannot be properly implemented. Therefore it is essential that the government maintains continuity in the legal drafting of secondary legislation.

II. Electricity prices.

Prices for energy consumption have been a burning issue for the authorities since the privatization of the energy sector and liberalization of the energy market started. As prices need to be adjusted according to the rules of the market, the Macedonian authorities were advised by the international and European energy community to start with the preparations to amend them as soon as possible. Therefore, the Government began with preparations of a plan for price liberalization, and some progress has been made so far. In this respect the Regulatory Energy Agency receives substantial financial and technical assistance from the EC with two Twinning projects that should strengthen its capacity regarding the price policy and the preparation of the methodology (non-tariff or tariff) for the rulebooks. Since this issue also has a strong social dimension, the authorities should be more cautious and bear the overall political, economical and social situation in the country in mind while dealing with it.

III. Development trends.

The future agenda regarding the development of the energy sector in Macedonia can be found in the National Programme for Adoption of the Acquis Communautaire, Revision 2010¹². The focus (short, middle and long term) is on the following issues:

- **Energy Strategy 2008-2020**

This strategy will establish Macedonia's long term goals in energy development for the purpose of safe energy supply. The document is prepared by the Macedonian Academy for Sciences and Arts. The Government adopted the Strategy for the Development of the Energy Sector for the period of 2008-2020 with a vision up until 2030 in September 2010.

- **Strategy for Renewable Energy**

This strategy was adopted in September 2010. Like the Energy Strategy, it was prepared by the Macedonian Academy for Sciences and Arts with the assistance of the relevant institutions and

¹¹ Ibid.

¹² More info about the NPAA can be found on SEP web page:
<http://www.sep.gov.mk/Default.aspx?ControllID=Npaalzvestai.ascx>

international organizations. In the next period, in accordance with the Energy Law, the authorities plan to adopt all the relevant documentation for aligning Macedonian legislation with EU legislation concerning the use of renewable energy.

- **New Energy Efficiency Strategy and activities**

In 2009, the authorities began to update the existing Energy Efficiency Strategy from 2004. The accent in the updated strategy will be put on increasing energy efficiency in the country and on developing the best ways to achieve that, such as: reducing energy consumption; promoting new technologies with a high degree of energy efficiency; promoting measures for increasing energy efficiency; promoting public awareness; reducing the negative impacts on the environment caused by production, transmission, distribution and use of electricity, etc. Macedonia also receives considerable amount of foreign assistance for different energy efficiency activities, such as: the programme for improving energy efficiency in buildings, which is being implemented together with the Austrian Development Agency and comprises several projects. Furthermore, there is the ongoing GEF Project for Sustainable Energy (since 2007), as well as the UNECE Project for energy efficiency which is at its final stage, and the USAID pilot project for energy efficiency in the housing sector for families with low incomes, which was launched in December 2009. Another important event concerning energy efficiency was the adoption of the highly anticipated National Energy Efficiency Action Plan in 2010.

What remains to be done in the near future:

- New law on energy drafted with EEC Guidance (still in procedure)
- Adopting the necessary secondary legislation
- Amending the Rulebook on tariffs with the help of EEC and EC
- Allowing other companies bar ELEM (the main electricity production company in the country) to operate as energy suppliers
- Strengthening the role of the Regulatory Commission, as well as keeping the government's authority outside its work
- Strengthening the capacity of other agencies and departments especially the Energy Agency
- Developing strategies and action plans for increasing the energy efficiency and use of the energy from renewable energy sources

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