



Key Recommendations of the Thematic Working Group on Energy

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About the process

These recommendations stem from consultations with stakeholders across all Western Balkan countries and the EU within the Thematic Working Group (TWG) on Energy. Discussions focused primarily on the importance of the rule of law and human rights including the need to extend and revise the Treaty Establishing Energy Community, and a just and inclusive energy transition. The process involved two consultation meetings with 40 regional experts and other stakeholders, as well as a public conference held in September. This conference aimed to analyse the primary findings from the consultation process and to establish a set of recommendations for enhancing energy reforms. The Renewables and Environmental Regulatory Institute (RERI) facilitated the consultation process, alongside a core group of energy experts from each of the six Western Balkan countries.

Due to the upcoming tectonic shifts (ETS, CBAM, Energy Community Treaty expiration date) in legal frameworks governing energy systems in the region, we wish to focus on issues that need to be tackled urgently. The recommendations were prepared by the Renewables and Environmental Regulatory Institute (RERI), which coordinated the group, and was discussed by the wider Thematic Group and finally adopted in September 2023. In our view these two fields are: 1) the rule of law and human rights including the need to extend and revise the Treaty Establishing Energy Community, and 2) a just and inclusive energy transition. The aim is to provide a shorter list of recommendations than in 2022 and make them achievable and actionable before the next Forum in 2024.

Deficiencies in the energy policy context of the Western Balkan countries

The Western Balkans region is struggling in the early stages of the energy transition. A more decisive approach is necessary to shift from fossil fuels and comply with the international obligations undertaken during the previous decade. Most of the Western Balkan region is fossil fuel dependent. In 2022, more than 30 % of electricity was produced from a single fossil fuel (coal). Coal represents almost 50% of the entire primary energy supply of the Western Balkans. The share of renewables is modest while traditional biomass accounts for 13% of total energy supply and is strongly tied to energy poverty. Energy and carbon intensity of the Western Balkans is very high and efficiency low. For example, the average carbon intensity of electricity generation in Bosnia and Herzegovina, Montenegro, Serbia, and Kosovo amounts to 1.4 tCO₂/MWh, while the EU average is 0.255 tCO₂/MWh.

Equally, energy import dependency of the region is below the EU average. (e.g., 27% in Bosnia and Herzegovina to 59% in North Macedonia). Historical carbon emissions from coal power plants are roughly 80 million tons annually. Electricity production is accompanied by emissions of acid gasses and particles which is greater than from all other combustion plants in Europe combined and this affects the health of all Europeans, including EU citizens. The region is, however, equivalent to only 6% of total EU ETS trading volume.

Moreover, the region currently depends on the import of the fossil gas from Russia. However, the WB countries do not rely on the supply of fossil gas at the same levels as the EU countries. In 2020, the share of fossil gas in the total energy supply of the Western Balkans was 8% (compared to 23.7% in EU).

Not all the Western Balkan countries have signed the necessary international agreements and adopted the policy decisions to provide policy infrastructure for this kind of transition. Most countries submitted their Nationally Determined Contributions to United Nations Framework Convention on Climate Change (UNFCCC.) So far, only Albania and Macedonia have adopted National Energy and Climate Plans (NECPs) whereas the establishment and implementation of national monitoring reporting and verifying and the EU Emissions Trading System is still patchy across the region. Paris Agreement and the Global Methane Pledge create broad framework for decarbonisation while climate and energy targets established by the Decision of the Ministerial Council of the Energy Community No 2022/02/MC-EnC set up more concrete

goals to be achieved. Energy Community (EnC) Contracting Parties from the Western Balkans are all in the EU accession process and slowly advancing towards harmonization with the EU energy and climate legislation. All countries have made significant commitments by signing the Sofia Declaration while remaining reluctant to adopt ambitious decarbonisation commitments due to the absence of a solid investment framework.

1. Evaluating the State of Human Rights and the Rule of Law

The design and implementation of international obligations is a multifaceted issue. It concerns the rule of law, security of supply, investment opportunities etc. It provides the basis for strategic policy processes and reforms such as the Green Agenda for the Western Balkans, a regional roadmap for achieving the energy transition towards decarbonisation. It is also tightly linked to the issue of improving the state of human rights. At the moment, citizens of the Balkans breathe heavily polluted air, their health is jeopardized, and the poorest amongst us are not being properly helped to improve their life conditions and basic wellbeing. The current state of energy systems in the Western Balkan countries do not provide the basis for their citizens to enjoy the right to a clean, healthy and sustainable environment as a basic human right, as defined by the United Nations (Resolutions from the Human Rights Council in 2021 (A/HRC/RES/48/13) and the General Assembly in 2022 (A/RES/76/300)). Western Balkan countries, as we pointed out last year, need to comply with national and international policy agendas and legal frameworks and fulfil the obligations undertaken in order to maintain and improve the rule of law.

The Energy Community Treaty (EnC) expires on 1st of July 2026. Under the existing rules and regulations governed by the Treaty, as of January next year, all power plants in the Western Balkans are at risk of illegal operation, due to high emissions of pollutants. The discrepancy between the formal adoption of EnC rules and the lack of their implementation creates a dangerous legal vacuum. To avoid that, 1) the Treaty will expire; or 2) the Treaty will be prolonged without any changes or 3) the Treaty will be amended and prolonged.

In order to evaluate the successes and challenges of the previous 20 years of implementation and assess all the options available going forward, a sound analysis is needed. Over the years, the EnC has grown and is now regulating many energy-related issues which were not originally under its jurisdiction, all of which has been approved by the governments (i.e. Ministerial Council consisted of ministers of energy) of the contracting parties and not by their respective parliaments. It did not include parliaments (the European Parliament and the national parliaments of Western Balkan countries) in the negotiations, nor did it allow for non-state actors (civil society, academia, businesses) to contribute to the design of the Treaty. This assessment should engage the lawmakers as much as possible.

Recommendations:

Who	European Commission; Energy Community Secretariat
What	<p>In order to re-establish and improve the legal framework governing the regional energy market(s), the EU should facilitate/finance an independent assessment report to the European Parliament (and the national parliaments) on the implementation of the Energy Community Treaty accompanied by a proposal for further actions in order to induce an appropriate debate on EU level. The report should:</p> <ul style="list-style-type: none">▪ Offer ambitious but realistic options for coal phase out including funding options;▪ Asses costs and benefits of different options for ETS inclusion in the region (integration into EU ETS vs establishing regional ETS);▪ Asses and propose deadlines for establishing GHG monitoring, reporting and verification (MRV) systems as a precondition for carbon pricing mechanism;▪ Asses different funding mechanisms for supporting the just and inclusive energy transition, taking into account social and economic circumstances, namely energy poverty and burden for the consumers.
How	The development of the report should include all interested parties, including non-state actors, national parliaments and the European Parliament.
Benchmark	The report should be adopted by the end of 2025.
Who	European Commission, Energy Community, the EU and its member states, Western Balkan countries
What	instead of extension of the Treaty Establishing Energy Community without changes, the extension to the Treaty should include necessary amendments in order to overcome current obstacles in application of the Treaty.
How	Within these negotiations national parliaments and the European Parliament should be given a prominent role in monitoring, consultations and/or evaluation of the implementation. The Treaty should design a more effective and operational approach in case of breaches and non-compliance with the applicable legal and policy framework by the member states, including, but not limited to, establishment of effective enforcement of the Treaty, as well as proportional mechanisms for prevention of illegal state aid, pollution and breaching of human rights, which resulted from breaching the Treaty.
Benchmark	An inclusive and multistakeholder dialogue to be launched in 2024, aiming at adopting the best policy and legal options based on above mentioned assessment report.

2. Just and Inclusive Transition

Western Balkan countries are highly exposed to the energy security risks, climate change impacts, and are suffering from harmful emissions from fossil fuel combustion and the ever-present energy poverty. Decarbonization of the Western Balkans energy sector(s) is the least costly option to reduce overall carbon emissions and to improve air quality in the region but also in all of Europe. Fossil fuel dependency, high energy intensity and GDP per capita of the Western Balkan countries provide an opportunity for disproportionately cost-effective investments into decarbonisation. It is thus of utmost importance to provide energy operators from the Western Balkans with the market access and means to conduct investments and pursue ambitious energy transition agenda(s). Coal phase-out supported by appropriate investment efforts and led by local operators is a prerequisite for a just transition and re-development of the coal dependent regions and communities. The introduction of ETS and CBAM will make further significant impacts on the countries in the region. Kosovo and Albania will not be significantly affected by CBAM unlike other countries with significant exports from sectors covered by the CBAM. The German Watch discussion paper¹ concludes that the introduction of a carbon pricing mechanism for the industry and power sectors in the form of a CO₂ tax or an emissions trading system is the best option for WB6 countries to respond to the CBAM. It is also a measure that several of them have already announced.

Energy system needs to be decarbonized but also decentralized and democratized through the adoption of a bottom-up approach. Prosumers, citizen led renewable energy initiatives need to be supported in order to secure the supply and general energy security, support the real transition towards a decarbonised energy system. On a broader, political level, and of real importance for the Berlin Process, enabling and supporting a citizen-led energy mechanism has the potential to decisively contribute to the EU accession process. It would improve energy security and help to ease tensions related to dependence on Russian gas or Chinese loans for infrastructure. Overall, it would help solve the geopolitical challenges and regional cross border disputes and greatly enhance regional cooperation.

This approach must have energy poverty eradication as one of its goals and key measures of success. Energy poverty rates in the Western Balkans are among the highest in Europe and the rising energy prices are making it harder for citizens to cope. At its root, the issue concerns the inefficient burning of wood in outdated highly inefficient stoves. Household heating is the single largest type of energy use in the Western Balkan region. Biomass is the fuel with the largest share in residential energy use (45% in 2020), accounting for more than 60% of all energy used for heating.²

¹ German Watch, Impacts of the EU Carbon Border Adjustment Mechanism on the Western Balkans and Ukraine: Policy Options for Governments - a Discussion Paper

² RES Foundation/The Greens/EFA, Tackling the immediate challenges of Energy Poverty in Western Balkans, the Possible Role for the EU

The situation affects the structure of energy consumption in cold winter months and produces significant losses on the grid. It affects vulnerable citizens, their quality of life and wellbeing; it disproportionately affects women; it also creates significant air pollution.³ Most recently, due to the energy crisis caused by the war in Ukraine, vulnerability amongst the energy poor has become even higher. The support must be delivered first where it is most needed. Subsidies are needed for the most disadvantaged citizens. As concluded in the RES/Greens EFA study published earlier this year a number of publicly supported schemes are available for the improvement of residential energy efficiency.⁴ Most of the available public subsidies support beneficiaries who already have income, access to retail banking, and are not considered risky customers for bank loans. However, the energy poor in the Western Balkan countries usually do not have access to commercial bank money. Hence, the existing support schemes discriminate those in poverty because the required levels of their co-investment commonly exceed their means.

To the best of our knowledge, only the Serbian Government has taken initial steps to implement the Energy Community Policy Guidelines on identifying and addressing energy poverty.⁵ In Serbia, the National Coalition for Decreasing Energy Poverty, which notably includes representatives from civil service but also relevant non-state actors including CSOs, has adopted the definition of energy poverty. Further steps are now needed to implement the Guidelines. The Guidelines also provides recommendations on how to identify and measure the number of energy poor as a necessary first step to establish benchmarks and measure progress. The Guidelines set out short- and long-term measures on how to address energy poverty effectively in line with energy transition goals.

Recommendations:

Who	EU and its member states, Western Balkan states
What	Establish a dedicated fund to finance economic restructuring of the coal regions from different sources (e.g. combined national and EU funds), based on the existing funding schemes of the European Commission; closely monitor the utilization of these funds to ensure that the funds are spent for the purpose for which they were granted;
How	An independent monitoring mechanism should be established that includes government officials, parliamentarians and civil society representatives.

³ Bankwatch, Comply or Close 2023: five years of deadly legal breaches by Western Balkan coal plants

⁴ RES Foundation/The Greens/EFA, Tackling the immediate challenges of Energy Poverty in Western Balkans, the Possible Role for the EU

⁵ Energy Community Policy Guidelines on identifying and addressing energy poverty in the Energy Community Contracting Parties (PG 02/2022/29 Aug 2022)

Who	Western Balkan states
What	Western Balkan states should properly calculate the number of energy poor according to Energy Community Guidelines. ⁶
How	It seems that the Guidelines need to be adjusted as the prescribed methodology underestimates number of citizens in the state of the energy poverty in the Western Balkans. Therefore, the design of any policy intervention needs to take this methodological challenge into account.
Benchmark	Guidelines implemented by all the WB states, monitored by the Energy Community Secretariat.
Who	Western Balkan states
What	Western Balkan governments should adopt national programmes to address and swiftly eradicate energy poverty.
How	In promptly solving the extreme energy poverty, Western Balkans governments should favour no regrets options and practical solutions (e.g. improving the efficiency of the existing stoves or enabling affordable replacement with more efficient devices). Investing in energy efficiency of the building is also desirable, but they take more time and resources. Ideally, these two measures should be implemented simultaneously. When choosing a standard for the new devices, advanced EU standards should be observed.
Benchmark	National programmes adopted and monitoring and reporting schemes are established.
Who	The EU and its member states
What	The EU should introduce a new dedicated programming and implementation mechanism for the Western Balkans at national level and redesign the programming of the EU support to effectively target those at risk from serious and adverse consequences of energy poverty.
How	The new programme should broaden its participation to non-state actors from the region with recognised experience on these issues.
Budget	The EU should set aside a dedicated budget for energy poverty eradication within the IPA multi-country support framework.

⁶ Energy Community Policy Guidelines on identifying and addressing energy poverty in the Energy Community Contracting Parties (PG 02/2022 / 29 Aug 2022)