

Energy integration in the EU via *interconnections:* Moldova and the EaP

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Content of today's discussion:



- ❖ Means of energy integration in the EU
- ❖ 4 Waves of legislative transformations
- ❖ Third Energy Package: What does it mean?
- ❖ The cross-border cooperation and the interconnection
- ❖ Hard “means” of integration - infrastructure
- ❖ Unbundling in Moldova and in the EaP region
- ❖ Legal “know-how” from the Association Agreement
- ❖ Interconnections in Moldova
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Means of energy integration in the EU

There are two ways of energy integration in the EU.

“Soft” means:

- Normative harmonization: “four generations” of Energy Packages
- Top-down, Eurocentric

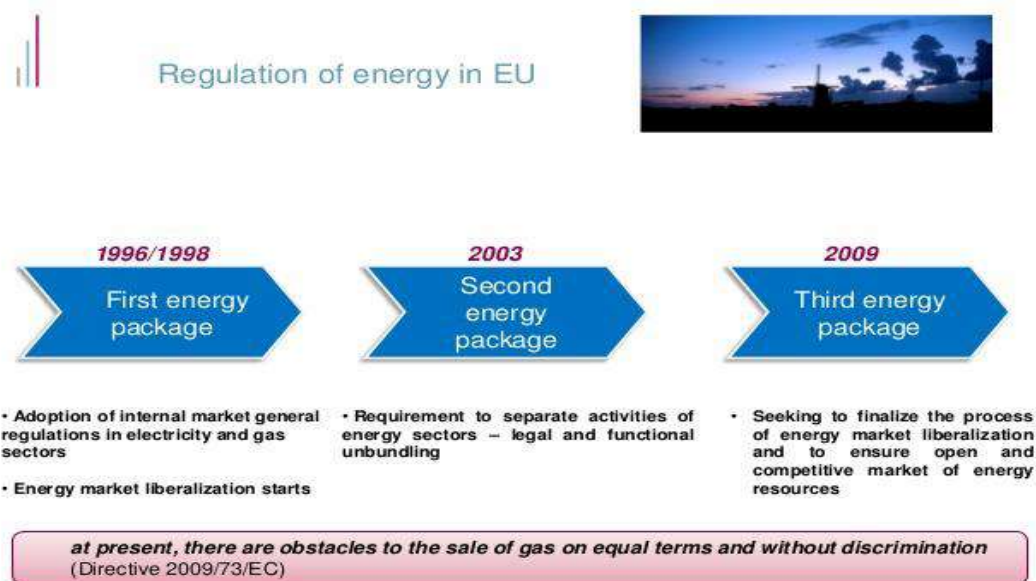
“Hard” means:

- Physical infrastructure: cross-border interconnections and cooperation between TSO
- Horizontal, state-to-state approach

Measures within the EU and at the EaP state national level.

“Soft” means of energy integration in the EU

The transformation of the energy market in the EU and increasingly in the converging Eastern neighborhood went through several waves:



Fourth Energy Package (2019) – applies new rules for incentivizing the renewables, energy efficiency, and attracting investments in the sector.

Why the “Third Energy Package” does matter?

Third Energy Package constitute creates a legal interconnectedness between the EU and the region.

Three legal arteries:

- Directive 2009/72/EC for the internal electricity market
- Directive 2009/73/EC for the internal gas market
- Regulation EC/713/2009 on Agency for the Cooperation of the Energy Regulators

Outcomes:

- Unbundling of energy supply (generation, producing) and the transportation operations;
- Increased transparency over the pricing policy;
- Better oversight of the market by the energy regulators;
- Improved cross-border collaboration between the state institutions.

Unbundling: General principles and particular one (Ukrainian case)

Unbundling

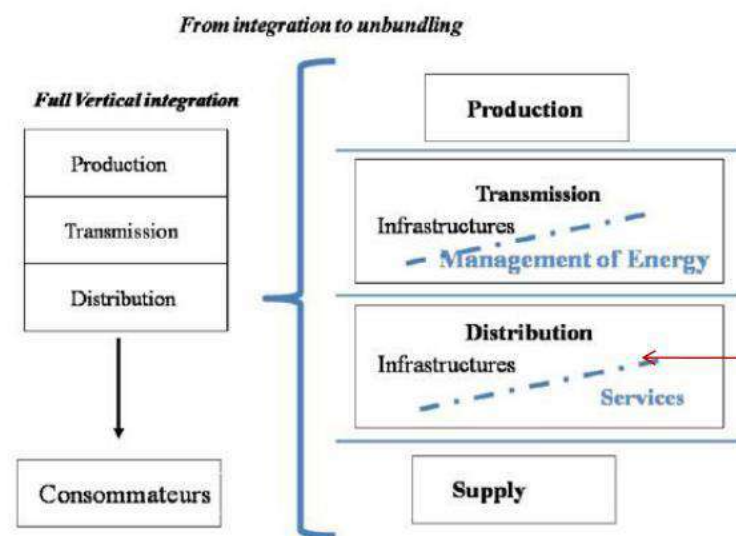
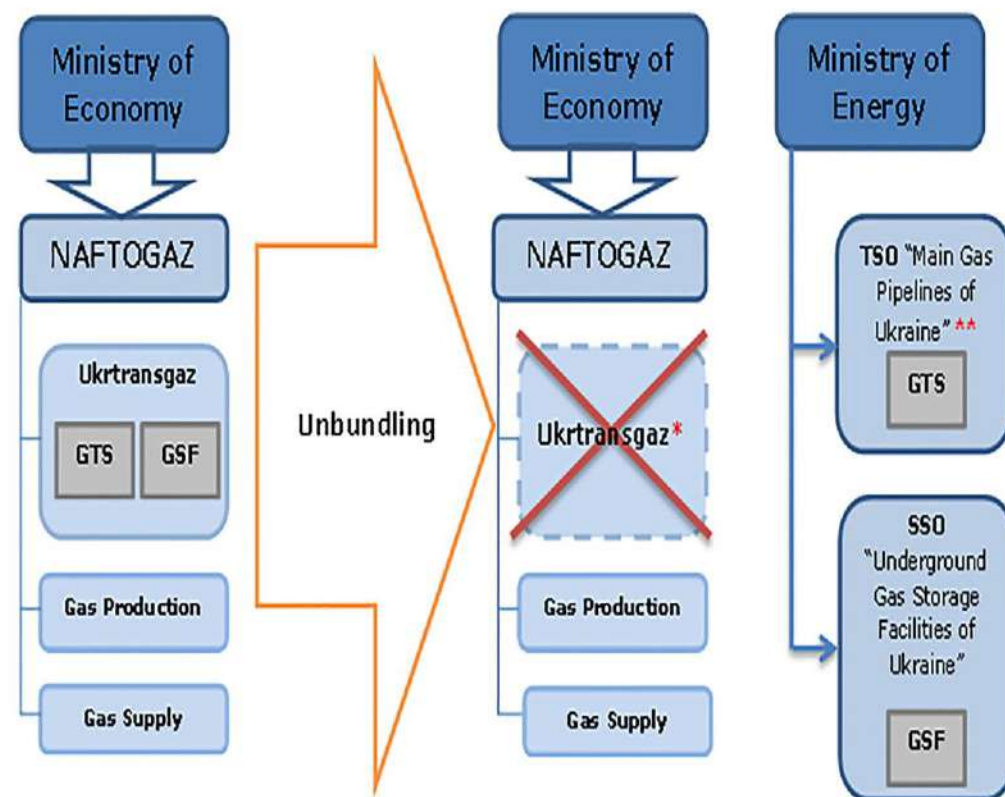
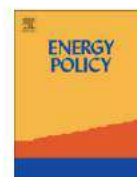


Fig. 2. Options for unbundling a fully integrated electricity industry.

The unbundling option for distribution proposes a view that clearly **distinguishes between the owner of the network and the operator of the network.**



“Unbundling” principle: *What for? (1)*

“Article 9” of the Directive 2009/72/EC on electricity (Chapter IV) and the Directive 2009/73/EC on gas market (Chapter III).

Both Directives foresee identical provisions, except the scope of implementation. The provisions in the electricity directive refers to “*transmission system operators*”, while in the case of gas sector, the attentions draws to “*transmission, storage and LNG*” capacities.

Member States shall ensure that from 3 March 2012:

(a) each undertaking which owns a transmission system acts as a transmission system operator;

“Unbundling” principle: What for? (2)

Same “Article 9”:

(b) the same person or persons are entitled neither:

(i) directly or indirectly to exercise control over an undertaking performing any of the functions of generation or supply, and directly or indirectly to exercise control or exercise any right over a transmission system operator or over a transmission system; nor

(ii) directly or indirectly to exercise control over a transmission system operator or over a transmission system, and directly or indirectly to exercise control or exercise any right over an undertaking performing any of the functions of generation or supply;

(c) the same person or persons are not entitled to appoint members of the supervisory board, the administrative board or bodies legally representing the undertaking, of a transmission system operator or a transmission system, and directly or indirectly to exercise control or exercise any right over an undertaking performing any of the functions of generation or supply; and

(d) the same person is not entitled to be a member of the supervisory board, the administrative board or bodies legally representing the undertaking, of both an undertaking performing any of the functions of generation or supply and a transmission system operator or a transmission system.

From “unbundling” to “increasing cross-border cooperation”

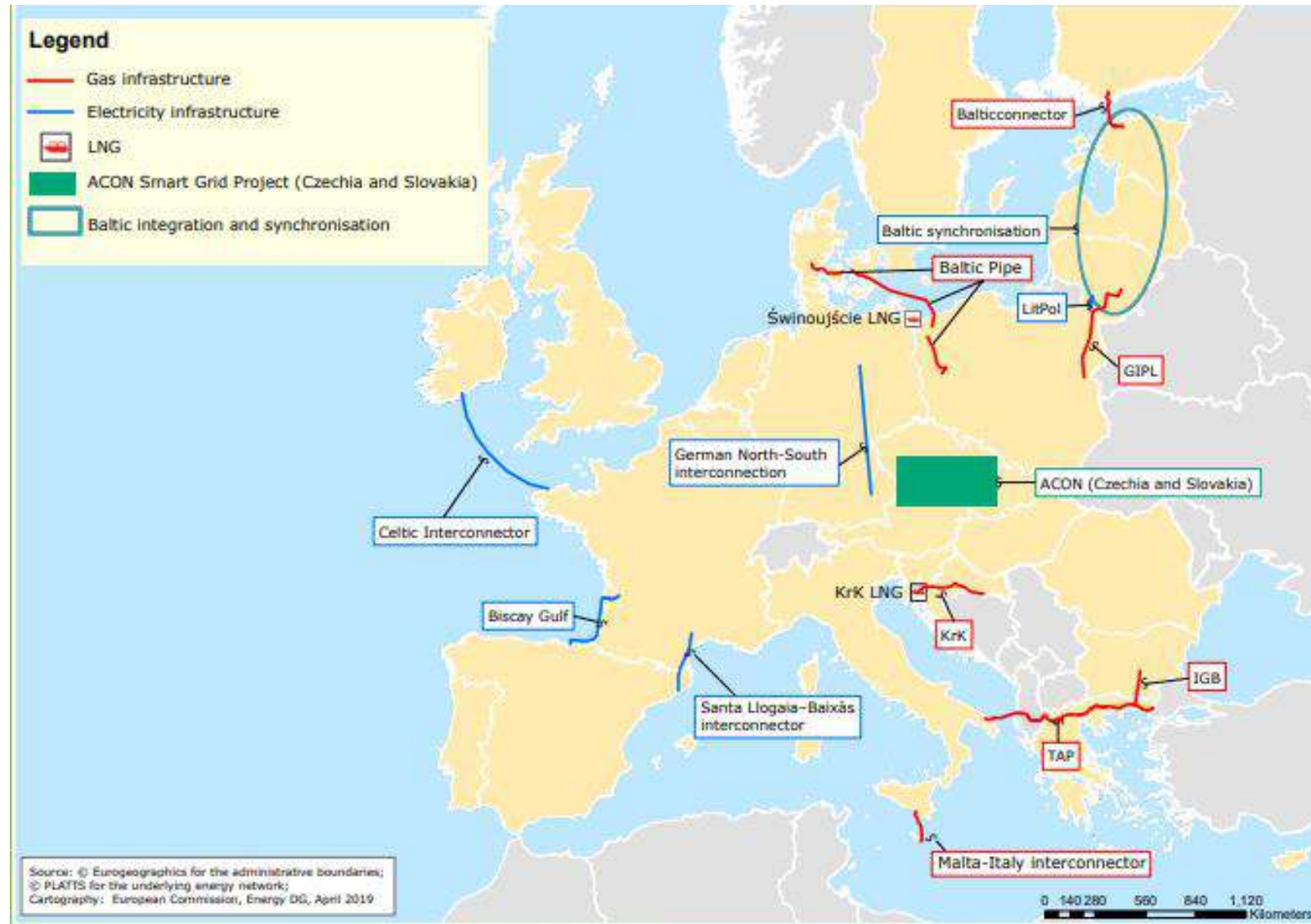
In the course of establishing the EU internal market, the Third Energy Package has also created the ground for future cooperation between the system operators across Europe and the neighboring countries.

- **Regulation EC/713/2009** on Agency for the Cooperation of the Energy Regulators (ACER) – facilitator of cross-border cooperation in the EU, investigation of market abuses and coordination of penalties on Member States, not their application.

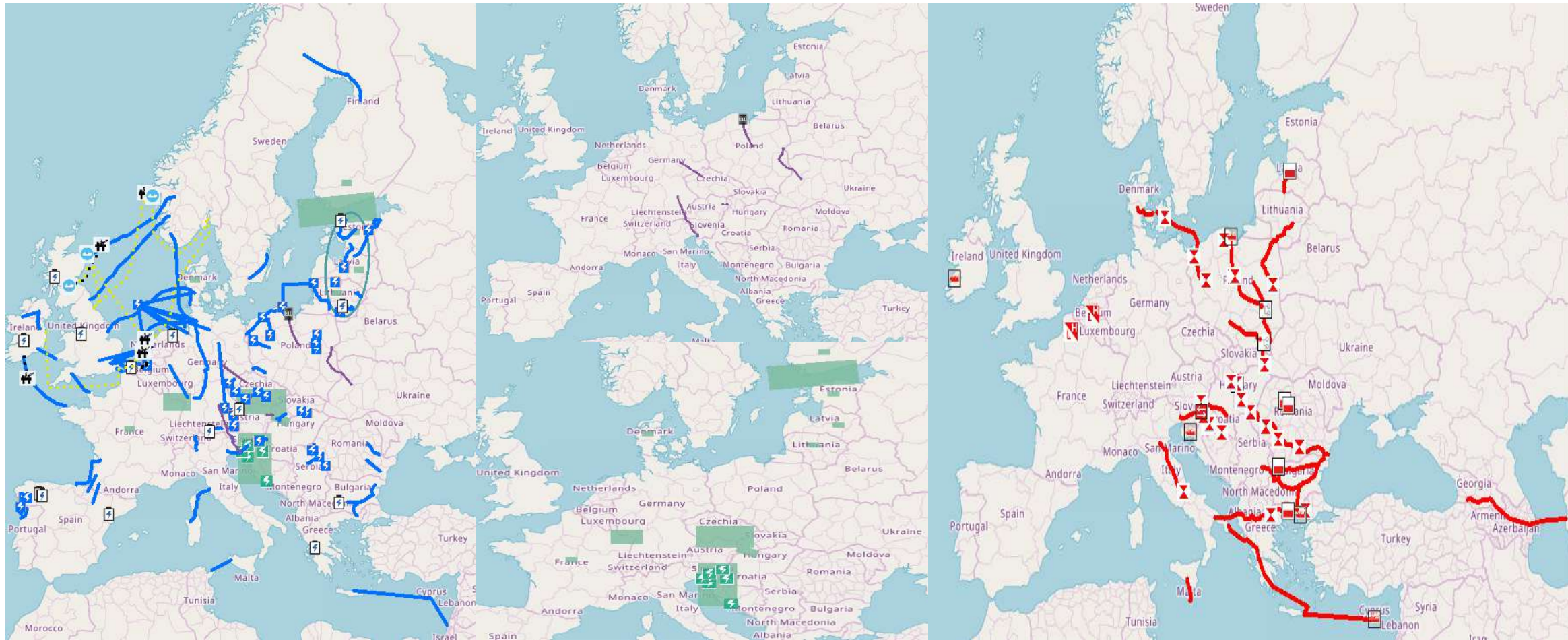
In continuation of the cooperation between the European national energy regulators:

- **Regulation 714/2009** for electricity Network Transmission System.
- **Regulation 715/2009** for gas Network Transmission System (updated in 2010).
- **Regulation (2019/942/EU)** that empowers the Agency for the Cooperation of the Energy Regulators (ACER)

Cross-border interconnections in EU and beyond



Energy Map for priority projects of the EU

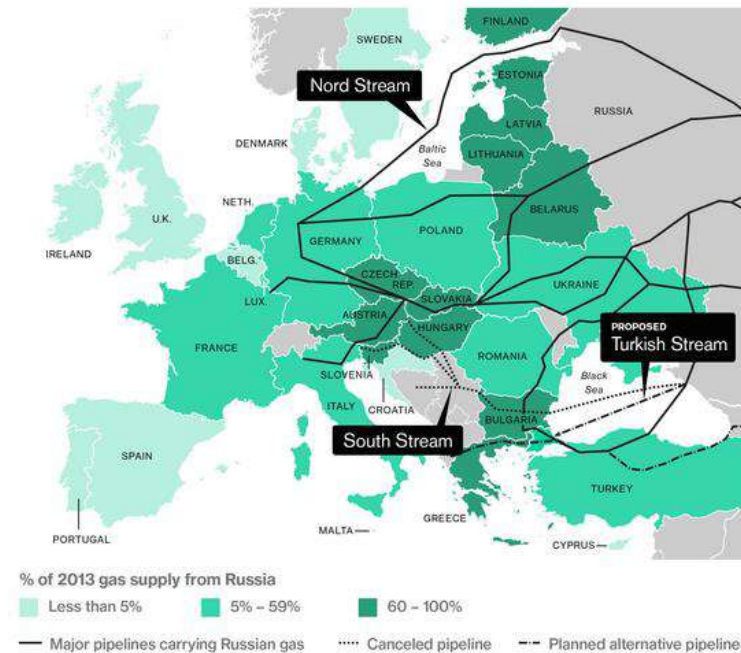
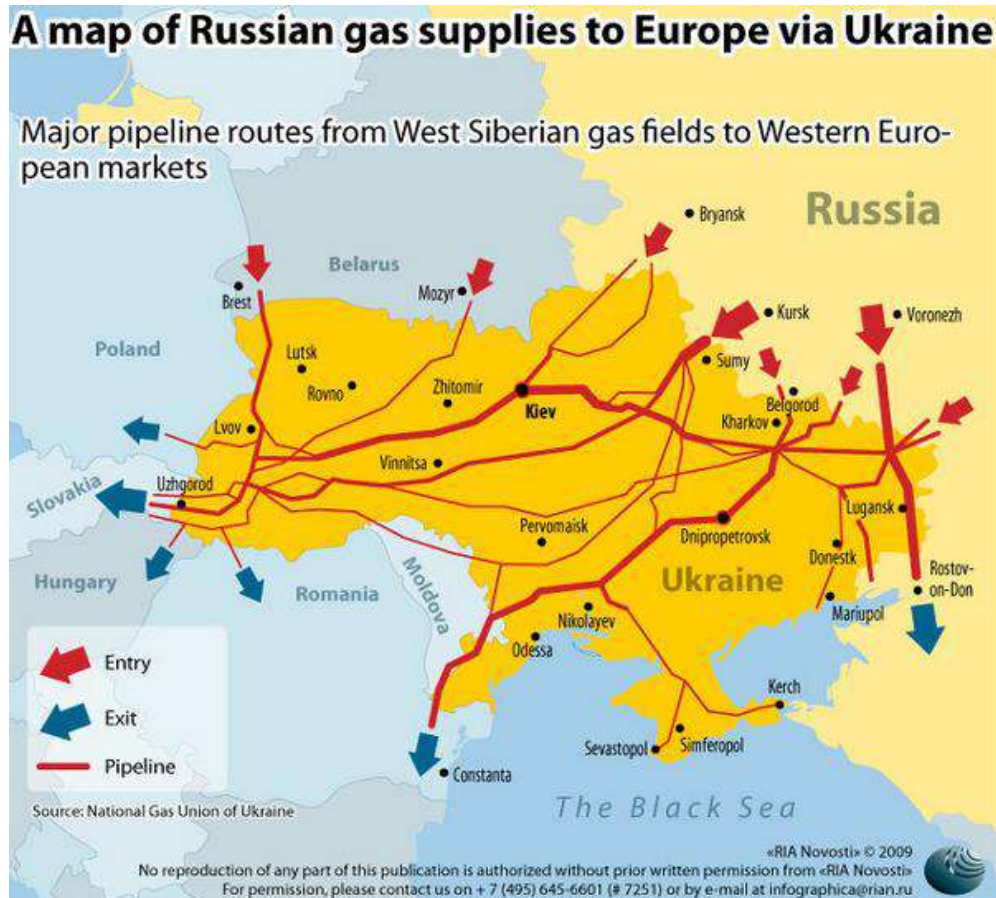


Source: [Map of EU energy networks](#)

“Hard” means of energy integration in the EU (1)

Context:

- **2008-2009** Russia-Ukraine gas crisis



“Hard” means of energy integration in the EU (2)

The preoccupation of the EU for the electricity, gas and oil security supply creates a spillover effect:

- **2009:** Directive 2009/119/EC on minimum oil stocks
- **2013:** Regulation (EU) No 347/2013 on trans-European energy (available budget of EUR 5.5 billion for 2014-2020)
- **2014:** Energy Security Strategy – energy efficiency, domestic production, developing interconnection infrastructure and capacities to reversing/redirectioning the flows\
- **2015:** Energy Union - connected, modern energy grid, resilient to external shocks, more competitive and better fit e energy market
- **2017:** Regulation 2017/1938 regarding the security of gas supply
- **2019:** Regulation (EU) No 2019/941 aimed at safeguarding the security of electricity supply, which involves ensuring adequate interconnection across the EU
- **2019:** Directive 2019/692/EU – expand the applicability of 2009 Gas Directive (Third Energy Package) to cross-border gas pipelines with third countries, including the unbundling and the security of supply (ex: “Nord Stream 2”).

“Unbundling” in Moldova: from law to practice

- The import of normative “know-how” came through the Association Agreement (2014) and the membership in the Energy Community (2010).

Key-aspects:

- non-discriminatory approach;
- legal approximation;
- diversification
- prevalence of the Energy Community Treaty
- Inter-alia mentioning of the “unbundling” principle
- Open commitment to ensuring infrastructure for energy supply

Association Agreement and the energy supply (1)

Preamble – *security of supply, infrastructure development and approximation*

- *“COMMITTED to enhancing the security of energy supply, facilitating the development of appropriate infrastructure, increasing market integration and regulatory approximation towards key elements of the EU acquis, and promoting energy efficiency and the use of renewable energy sources;*
- *ACKNOWLEDGING the need for enhanced energy cooperation, and the commitment of the Parties to implement the Treaty establishing the Energy Community (‘the Energy Community Treaty’);”*

Title IV Economic and Sectoral Cooperation, Chapter 14 on Energy Cooperation – *diversification, infrastructure, security of supply*

Article 77:

- *(d) energy infrastructure, including projects of common interest, in order to diversify energy sources, suppliers and transportation routes in an efficient economic and environmentally sound manner, inter alia, through the facilitation of loan and grant funded investments;*
- *(e) enhancement and strengthening of long-term stability and security of energy supply and trade, transit and transport on a mutually beneficial and non-discriminatory basis in accordance with EU and international rules;*

Association Agreement and the energy supply (2)

Title V Trade and trade-related matters (“DCFTA”) , Chapter 11 – third party access, Energy Community as “first among equals”

Art 348 (Transit):

- *“The Parties shall take any necessary measures to facilitate transit, consistent with the principle of freedom of transit, and in accordance with Articles V.1, V.2, V.4 and V.5 of GATT 1994 and Articles 7.1 and 7.3 of the Energy Charter Treaty, which are incorporated into this Agreement and made part thereof.”*

Article 249 (Transport):

- *“As regards transport of electricity and gas, in particular third party access to fixed infrastructure, the Parties shall adapt their legislation, as referred to in Annex VIII to this Agreement and in the Energy Community Treaty, in order to ensure that the tariffs, which shall be published prior to their entry into force, the capacity allocation procedures and all other conditions are objective, reasonable and transparent and that they do not discriminate on the basis of origin, ownership or destination of the electricity or gas.”*

Article 254 (The priority given Energy Community Treaty):

- *“... the provisions of the Energy Community Treaty or the provisions of the Union legislation made applicable under the Energy Community Treaty shall prevail...”*
- *“In implementing this Chapter, preference shall be given to the adoption of legislation or other acts which are consistent with the Energy Community Treaty or are based on the legislation applicable in the Union.”*

Obligations of EU energy acquis approximation

Third Energy Package – unbundling principle:

- Directive 2009/72/EC for the internal electricity market
- Directive 2009/73/EC for the internal gas market

More EU energy acquis – access to transmission systems for third parties:

- Directive 2005/89/EC on safeguard security of electricity supply and infrastructure investment
- Regulation 714/2009 on access to the network for cross-border exchanges in electricity
- Regulation 715/2009 on conditions of access to the natural gas transmission networks
- Regulation 994/2010 on measures to safeguard security of gas supply

Key-aspect: The deadline of implementation is set out and assessed by the Energy Community

The membership in the Energy Community (1)

The Energy Community (2006) has the goal to extend the EU energy acquis towards neighboring regions, which include the Western Balkans and the Black Sea countries.

Almost 95% of Community's activities are financed by the EU. In fact, the EU (member) is represented in the organization by the European Commission.

Specific goals:

- Creating an integrated pan-European energy market
- Ensure stable energy supply and competition
- Supporting the construction of new infrastructure allowing cross-border energy trade
- Regional integration for the Western Balkans (2016)



The membership in the Energy Community (2)

The Energy Community Treaty (2006) – the essentiality of the activity is guided by EU energy acquis transposition, continuous approximation

Art. 10: “*Each Contracting Party shall implement the acquis communautaire on energy...*”

Art. 25: “*The Energy Community may take Measures to implement amendments to the acquis communautaire described in this Title, in line with the evolution of European Community law.*”

Membership



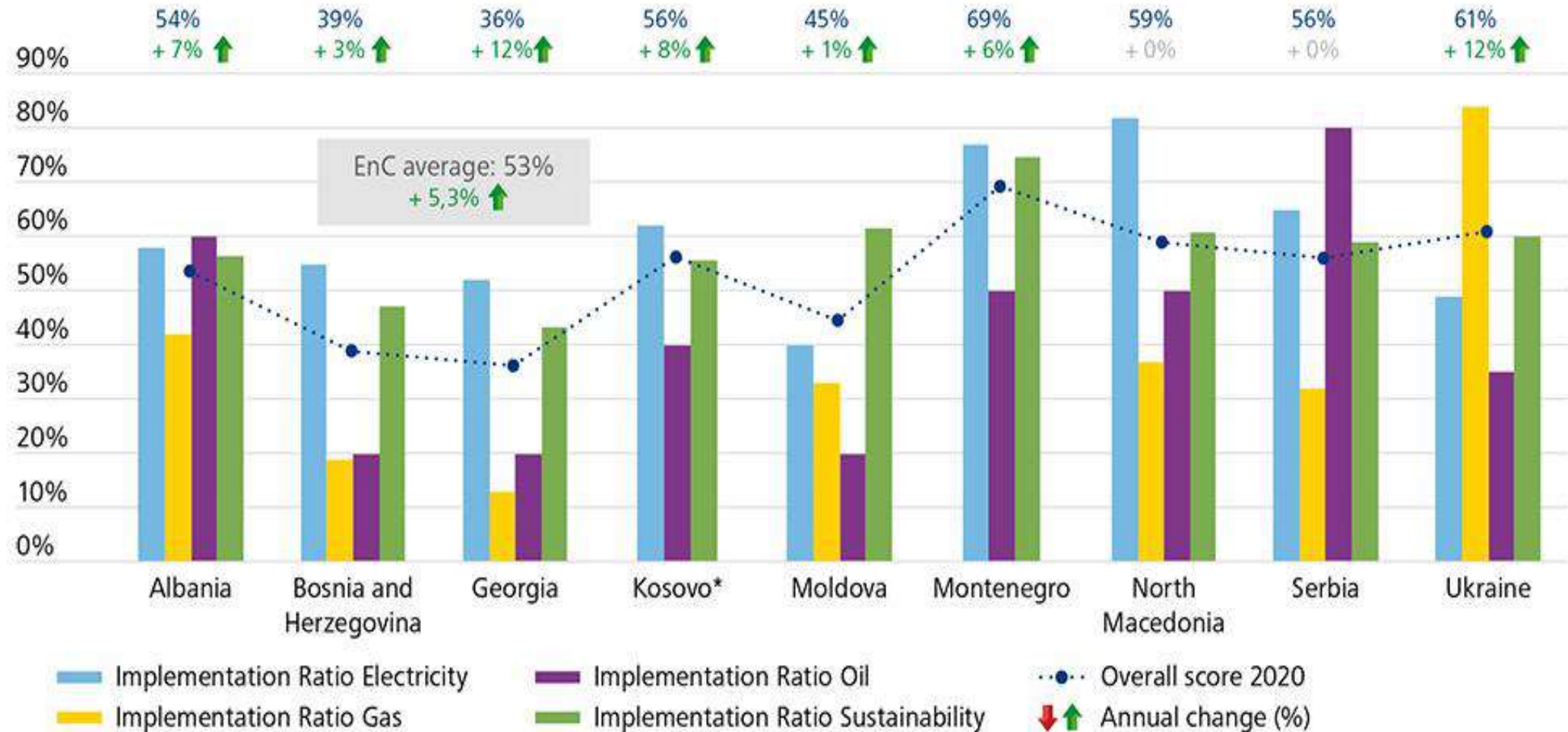
How Moldova fulfill the “unbundling” obligations? (1)

The overall assessment of the Energy Community for 2020 is as follows:

- Legal transposition of the Third Energy Package is partially done, but the implementation lags behind
- Lack of operational interconnections on gas and electricity
- One trader wins all procurements (*“Energocom”*)
- Failed attempt to unbundle and certify in the electricity field (*transmission, distribution operators*)
- Unbundling in the gas sector is ongoing, but slow (*independent transmission operator*)

Source: [2020 Annual Implementation Report of the Energy Community](#)

Energy Community (2020): Regional Perspective on Implementation



How Moldova fulfill the “unbundling” obligations? (2)

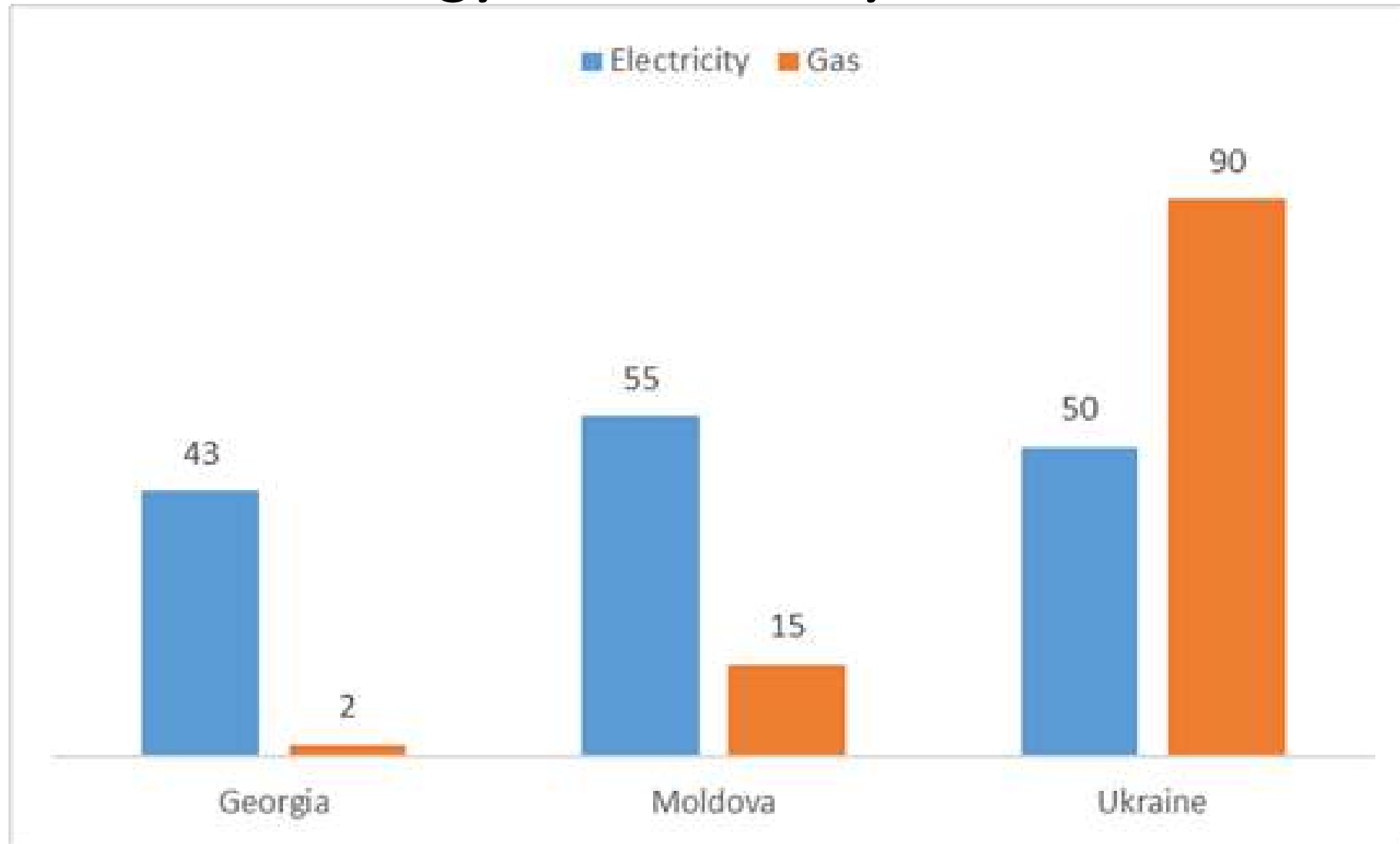
	Electricity	Gas
Unbundling	55% - the functional and legal unbundling is well-progressed with the <i>distribution</i> ; unbundling has failed with the transmission system operator (“Moldelectrica”) - <i>from ownership unbundling to independent system operator.</i>	15% - none of the transmission operators (<i>Moldovatransgaz and Vestmoldtransgaz</i>) is ready for certification; until the end of 2019, Moldova has derogated from the implementation of the unbundling principle.

Moldova compared to Ukraine and Georgia – “unbundling”

	Electricity	Gas
Moldova	First attempt <u>failed</u> for the transmission system operator. Only the distribution operators are certified. The change of the law is required.	The unbundling procedure is undergoing, but with a <u>slow pace</u> . No certification is yet to be made.
Ukraine	The unbundling <u>did not start</u> for the transmission operator, for which the primary law needs amendment. The distribution operators are legally unbundled.	The <u>unbundling of the transmission system operator</u> is done and in compliance with the Third Energy Package. The <u>storage and distribution operators are also legally unbundled</u> (informational, accounting).
Georgia	The unbundling of transmission and distribution operators <u>is taking place</u> .	The legislation that foresees the unbundling (ownership, independent system operator) has been in place since December 2019. There is no practical measure to implement the unbundling.

Unbundling in Moldova, Ukraine and Georgia

Energy Community, 2020, %



Projects of interconnections in Moldova (1)

Multilateral:

- Requires the transposition of the Regulation 347/2013 on trans-European energy
- The framework energy law (Energy Law of 2017) should be amended
- Participation in the strategic cross-border infrastructure projects in gas and electricity
- Trans-Balkan Corridor Bidirectional Flow between Moldova and Ukraine Project was not shortlisted for the financing in 2020

Projects of interconnections in Moldova (2)

Bilateral

- *The Iasi-Ungheni-Chisinau gas interconnector* with Romania is finished (2020), but it is not operational – new gas operator on the market (Transgaz), capacity to cover the needs of the national consumption



- *The Isaccea-Vulcanesti-Chisinau asynchronous power line interconnection*, with back-to-back stations, with Romania expected in 2024



The main obstacles for interconnection

1. *Inconsistent and inefficient unbundling* process in gas and electricity
2. *Unfinished amendments* into the primary legislation (gas, electricity)
3. *Monopolists* on the market (Moldovagaz, Energocom), partially because of lack of interconnections and therefore competition
4. *Ineligibility* for European financing for the cross-border infrastructure projects
5. *Slow adoption* of regulation (347/2013) that facilitates the integration in the Trans-European energy infrastructure

Recommendations:

1. Designing **road maps** for energy market integration dedicated to the EaP state that are contracting parties (Ukraine, Moldova, Georgia) similar to those in place for Western Balkans
2. Close internal (civil society) and external (Energy Community) **monitoring** of the legal amendments related to the unbundling in the gas and electricity
3. Using of the **conditionality mechanism** by the EU to speed-up the approximation to the urgent EU energy acquis
4. **Internationalizing** the solving of the gas debt issue concerning the consumption of gas in the Transnistrian region, by involving the Energy Community/EU in the dialogue with the Russian gas operator
5. **Accelerating** the interconnection projects with Romania through dynamic inter-governmental and public-private partnerships cooperation, using the high-level political contacts
6. **Continuation of the EU4Energy program** (July 2016-June 2021) as part of the new package for 2030 Deliverables for the EaP, with a focus on supporting the interconnection within the region and in the Trans-European energy infrastructure.

Thank you for attention!