

Future Renewables Support and Auction Scheme in Kosovo

Explorative note on the foundation for a workshop

Version 2.0

22 December 2020

For:



Reading note:

The present document is structured in two Parts. Part 1 is a design note on a possible approach on how to develop the future Kosovo renewable support and auction scheme. Part 2 provides an overview of the legal framework governing Kosovo's renewable energy policy and the transitioning to a market-based mechanism. Both parts were developed by different short-term experts.

Part 1 – Design Note

*Design Note regarding the approach on how to develop the future
Kosovo renewable support and auction scheme*

Written by



Introduction

This part of the document, part 1, is solely meant as an explorative note on the approach to renewable auction in Kosovo and is meant as the foundation for a workshop (and associated power point slide deck) on the legislative and regulatory approach to it.

In other words, it presents some key consideration in regard to assumptions that affect the auction design, the auction design options themselves, and criteria to conclude which design option are most appropriate. As part of the auction design, the note also touched on possible financial support schemes.

This part of the document is structured as follows: the next selection briefly highlights the project objective, followed by key assumptions that will have significant ramification for the design and outcome of an auction, auction design option (tree), and finally a brief presentation of key criteria.

Background

The Kosovo renewable support scheme has been based on a 10-year action plan issued by the Ministry of Economy and Environment. The scheme was characterised by a Feed-in Tariff (FIT) support scheme and was implemented by the Energy Regulatory Office. Within this role, the regulator established the relevant mechanisms for deploying the support scheme covering inter alia the renewable capacity targets, the procedures for the granting of the support, the requirements for producers of renewable energy, the take-off mechanisms through KOSTT, and the refinancing of the scheme. The above-mentioned action plan ends in 2020 and while it reached the stipulated targets, it only brought about mediocre results with regard to tapping the full potential of renewable energy in Kosovo. At the time of this note, a new renewable support scheme is due to be developed and adopted,

which requires the government, regulator and relevant stakeholders to agree on the design characteristics of the future support mechanism.¹

Within the context of developing this new mechanism, it is widely accepted that Kosovo needs to move away from FiT and instead move to a system based on international best practice that supports the promotion of significant renewable capacity in a sustainable manner. In this endeavour, various challenges will have to be mastered by this new regime and many ongoing developments in the sphere of renewable promotion open a wide array of design options. One of the main elements for central planning of additional renewable generation capacity are auctions for large-scale projects. The latter will be a focal area of the new support scheme aiming at attracting investment and fulfilling international obligations of Kosovo.² Moreover, coupled with a chosen new financial support scheme, the auction is commonly used to promote competition and thus use economic forces within the auction design to reduce the outcome with regard to financial support being given by the government. In other words, two but intertwined considerations are facing Kosovo, on the one hand which auction design to use to identify the most economic project, and, on the other hand, which financial support mechanism to deploy in support of the winning project.

Objective

The overarching objective of the project is to support the legislative and regulatory design of long-run sustainable renewable auction for Kosovo and within this context the financial support mechanism.

¹ In addition to and as a prerequisite for any implementation of a future renewable support scheme, the government also needs to formalise new renewable energy targets out to 2030. As stressed above, the existing National Renewable Action Plan adopted by the Ministry of Economy in 2013 provided targets up to and including 2020. Accordingly, in line with international best practices, Kosovo needs to draft and adopt new renewable energy targets in the form of the integrated National Energy and Climate Plan. While the drafting of the document has started, neither the formal basis in the form of a new Law on Climate Change nor new targets have been adopted or formalised yet.

² Additional information on the background and an overview of the legal framework of the Kosovo Renewable Energy Policy can be found in Part 2 of this document.

That is, this note explores the design options that are sustainable and in the best interest of Kosovo through minimizing the associated cost or impact on consumers prices.

Approach

The first step in deciding on the preferred and final design of the Kosovar renewables support and auction scheme is to specify which basic assumptions are to be regarded as given framework for the subsequent design. These relate to political, legal and regulatory, as well as legacy considerations which are to be treated as hard limitations and input for the next steps. Based on these assumptions, the design questions listed below will need to be answered in order to come to preferred high-level designs (Preferred Design Options). These Preferred Design Options provide answers for all design questions and constitute a complete design, each of which will subsequently be assessed against the criteria outlined in the end of this note. The answers to the design questions have wide ranging implications and impact for the auction in terms of execution, outcome, the financial support scheme, and the needed legislative and regulatory environment. An overview of the proposed approach is provided below in Figure 1.

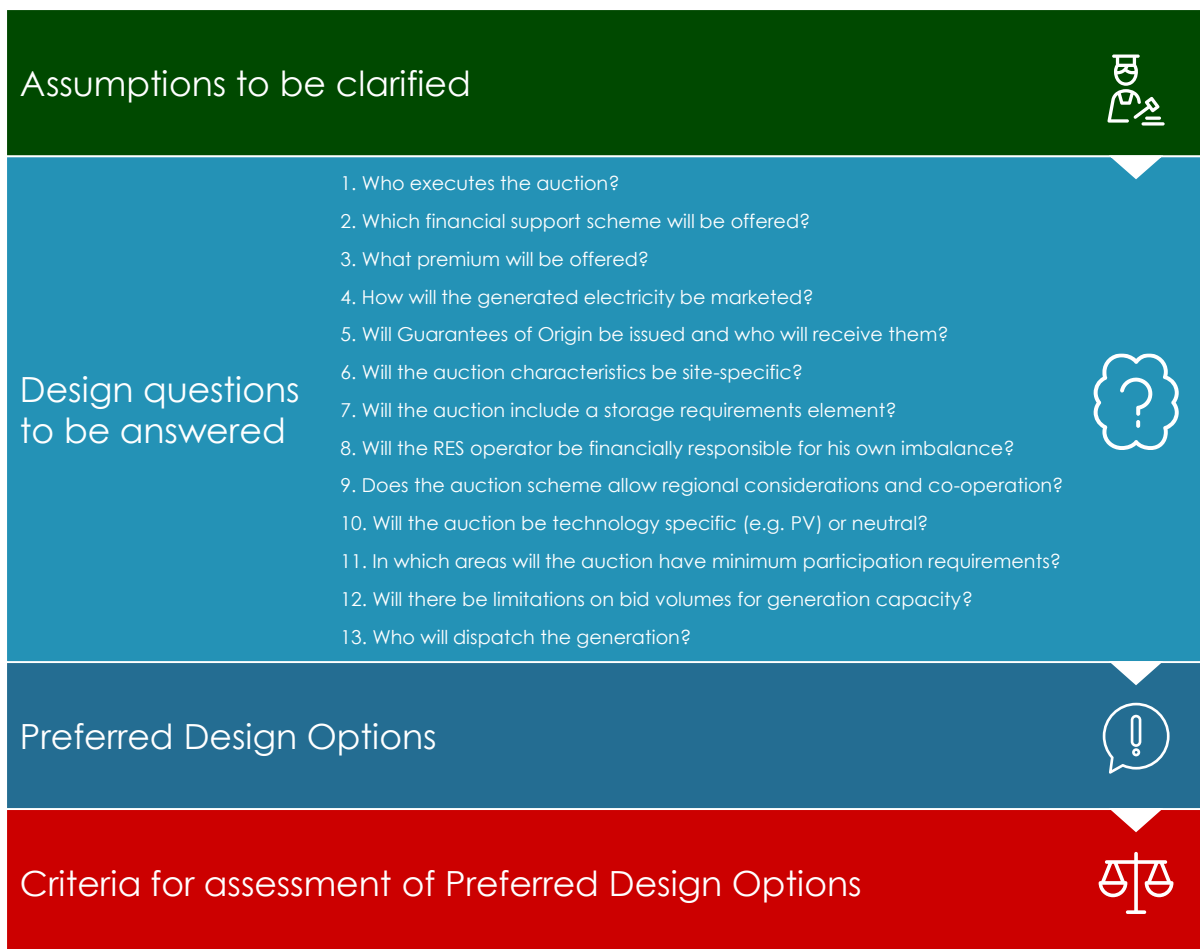


Figure 1: Overview of proposed approach

Assumptions

The following are key assumption that will need to be decided as they underpin the discussion of the auction design. That is, while these assumptions are not directly auction design options, they influence the auction design through determining the auction outcome, or eliminating possible design options.

The assumptions listed below encompass both assumption that have already been decided upon or where the decision is still outstanding.

Supporting new or existing capacity

This assumption reflects whether the auction is to be used to support new or also maintain existing capacity. The latter references that this tool could be used to also subsidize and thus maintain capacity that otherwise would not continue to operate in the market.

Our suggestion is to use the auction exclusively for the allocation and support of **new capacity**.

Wholesale Market participation

One of the clear assumptions on the future Renewables Support and Auction Scheme is that only national projects, i.e. those which would be realised within Kosovo, are considered. A central question, which however would need to be clarified, depending on the financial support scheme and marketing design, is whether the energy produced shall be marketed in the wholesale trading segment of Kosovo or **sold on the organised day-ahead market operated by ALPEX after their go-live**. The latter option is suggested but needs to be supplemented with a fallback strategy in case of a delay of the ALPEX go-live.

Capacity to be auctioned

This assumption reflects how the capacity quota, which underpin the to-be-auctioned generation capacity is, determined. This decision can be driven by a variety of factors that have different implications for the auction's credibility and stability. Moreover, it has significant ramifications for the technology of the pursued projects. As such the capacity could be set according to policy (e.g. NDCs, RES targets including by type, etc.) or adequacy mechanism. Moreover, these two factors can be driven by national, regional, or European wide considerations.

Our suggestion is to have the tendered capacity volumes be stemming from **adequacy mechanisms based on regional considerations** to avoid over-procurement. In any case, it is indispensable for planning purposes regarding both the state-budget and market impact that the capacity targets are pre-defined in a thorough and reliable manner before moving ahead with the auction.

Lots size

This assumption reflects whether there is to be any size restriction on the to-be-auctioned projects within a specific auction. The size can have a substantial effect on the business case of projects and thus careful consideration needs to be taken prior to any auction. On the other hand, if the to-be-auctioned lots are too big it will negatively impact on the competitive nature of the auction. The current working assumption is that lot sizes are adequate to allow for economies of scale but not too big to saturate the auction.

Participation of bidders

This assumption reflects whether there is going to be any restrictions on who can participate. To this end our suggestion is to have the auction open to **all credible interested parties**. While the consideration of what is credible is another key assumption, in this case it is meant to be any party capable of executing a renewable project. In the end, any further limitation will have significant impact on the competitive nature of the auction and lead to more expensive renewable projects.

Risk mitigation

A key assumption, especially with regard to applied financial support scheme, is whether projects will be receiving any form of risk mitigation support including through payments or guarantees not related to the generated electricity.

RES project legacy considerations

This assumption reflects whether the auction is designed for or takes consideration of existing legacy related matters. To this end, the working assumption is that the auction will be for **new projects only**. In the case of Kosovo, this means that all RES projects that have been preapproved by the regulator and that are awaiting deployment under the old scheme can participate in an auction, but do not have special rights or considerations. In other words, the suggestion is to set up this new assignment and support scheme as a distinct separate mechanism.

Refinancing of support scheme

A significant question that will have ramification for the entire process, but in particular for the type of financial support scheme and who will receive the Guarantee of Origin, will be how the financial support scheme will be financed—if any scheme is offered. A wide variety of possibilities exist (e.g. via tariffs, state budget, cross subsidization—including via Guarantee of Origins, handling fee, mixture, etc.) and carefully deliberation will be necessary to avoid an unfair burden of any key stakeholders.

Liability protection for executing entities

A key legislative consideration that will need to be clarified prior to executing the first auction is if the auction design itself or the legislative framework surrounding the auction provides adequate liability protection for which ever entity executes the auction. That is, the entity should be protected from lawsuits other than when it

disregards or does not follow the principles for the auction. In other words, there needs to be protection in place to protect the executing entity from frivolous lawsuits by bidders.

Design Options³

This section contains a preliminary list of key design questions which need to be answered at best in an explicit fashion in order to identify the Preferred Design Options and the associated required legislative and regulatory adjustments.

³ Extensive trilateral technical discussions were undertaken between EBRD consultant, Energy Community Secretariat, and OMNIA. During the meeting, the parties discussed the various design options and what might be appropriate choices. For a summary of the outcome and the OMNIA recommendation please see Annex 3.



1. Who executes the auction?

2. Which financial support scheme will be offered?⁴

3. What premium will be offered?

4. How will the generated electricity be marketed?

5. Will Guarantees of Origin be issued and who will receive them?

6. Will the auction be site-specific?

7. Will the auction include a storage requirements element?

8. Will the RES operator be financially responsible for his own imbalance?

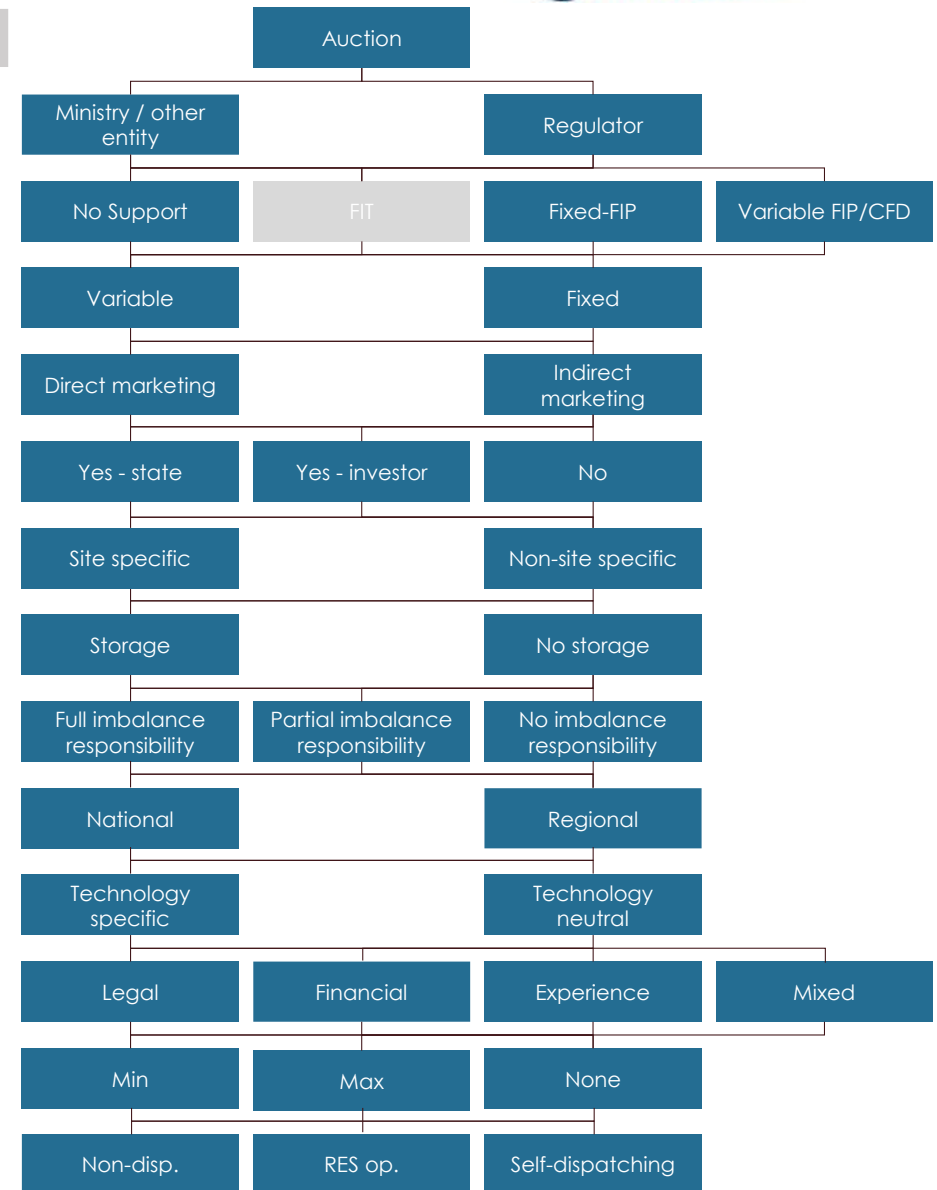
9. Does the auction scheme allow regional considerations and co-operation?

10. Will the auction be technology specific (e.g. PV) or neutral?

11. In which areas will the auction have minimum requirements?

12. Will there be limitations on bid?

13. Who will dispatch the generation?



⁴ It is our assumption that the Kosovo Government intends to transition away from feed-in tariffs.

Criteria

This section will briefly outline the criteria used to analyse and, to some extent, judge the design option for their appropriateness.

Energy Community/EU acquis compliant

A criterion will have to be whether the design option is in line with Energy Community and/or EU legislation and suggestions on renewable energy auctions and support schemes.

Legislative change/hurdle

This criterion will assess which legislative change the design option will require, what hurdles it will face, and thus with what ease the design option can be implemented.

Speed and ease

This criterion will go beyond the legislative ease and consider and assess design options with regard to general speed and ease of implementation.

Transparency

Transparency is one of the key pillars of the EU's internal energy market. Transparency assures that a fair participation is possible by eliminating information asymmetry and thus promoting competition and liquidity. Accordingly, it is important to assess every design option against how transparent it is and how easy it is to communicate the final design. Lastly, transparency of both the auction scheme and the overall renewables support scheme will also allow wholesale market participants to assess implications on their market activity.

Non-discriminatory

Much like transparency, non-discrimination is a key pillar of EU's internal energy market. While the assumptions contain some level of discrimination already (mainly against fossil fuel and non-Kosovo projects) this criterion assesses the extent to which possible participants are excluded. The aim of this criterion is to keep the discrimination and exclusion of participants as low as possible.

(Competitive) Market distortion

While the intention is to deploy and operate a competitive driven energy market in Kosovo, any support scheme in one form or another leads to a distortion of the market. The aim of the criterion is to give an indication to which extent the design

option leads to market distortion, whether this distortion is necessary and appropriate and in which direction the distortion is.

Administrative costs

Different design options come with different cost required for both setting-up the scheme and operating it.

Transaction costs

Finally, any design option needs to be assessed for its associated transaction cost for market participants.

Part 2 – Legal Overview

Kosovo renewable energy policy

Legal overview – Transitioning to the Market Based Mechanism

Written by

Krenar Bujupi

Executive summary

Pursuant to the Energy Strategy of the Republic of Kosovo 2009-2018 and the applicable legal framework, and those deriving from the Energy Community Treaty (ECT), the Ministry of Economic Development has determined the Renewable Energy Sources (RES) goals for period covering 2011- 2020, by taking into consideration the opportunities and potentials of RES available in Kosovo. In line with the legal obligations, and in order to meet the objectives for energy from renewable energy sources, the Energy Regulatory Office issued special regulation to determine the requirements and procedures for acceptance to the support scheme, the rights and obligations of producers of electric energy from renewable sources accepted under the support scheme, rights and obligations of KOSTT in financing of the support scheme, and integration of electricity produced from renewable energy sources into the electric energy system. In order to ensure meeting the RES targets issued by MED, in 2014 the Regulator has also adopted a system of feed-in tariffs aimed at stimulating electricity generation from water, wind, solar and biomass.

Even though feed-in-tariffs were the preferred instrument in the early RE adoption stages because they provided a stable revenue stream for the developers, today they are widely considered to be overcompensating the investors in RE. Feed-in-tariffs established in the last decade reflect fixed contract prices, which in most cases are more expensive than the costs of renewables that can be procured under competitive terms today. Therefore, a market-based approach will have to be introduced in order for the market to decide the price of the support required. Like other countries in the region, Kosovo now must adapt to the European Commission's new policy framework for climate and energy, which mandates that national support schemes for renewable energy need to be more compatible with the internal electricity market, be more cost-effective and provide greater legal certainty for investors. In response to the EC's policy framework, subsidies, in the form of feed-in-tariffs, should be phased out entirely in the 2020-2030 timeframe.

The current feed-in-tariff support scheme has attracted private investment in RE for all sources, however it is evident that the targets for small hydro (under 10MW) and biomass seem to have been too ambitious. As opposed to the targets for solar and wind energy that are over the limits that the Ministry has set, the hydro energy has more than 100 MW available for the developers that could be supported by the

feed in tariffs. Due to the falling prices of solar and wind power generation technologies, as well as to a lack of sustainable hydropower potential in the country, this report has been prepared only for introduction of market-based mechanism for wind and solar generation.

The first section of this part of the document, part 2, presents the current authorization process and current support scheme, based on the legal framework presented in the third section. This section explains how the legislation is being currently implemented, which together with the list of relevant articles in the third section, should provide for a clear picture in analysing the support scheme for RES in Kosovo.

Second section of the report presents the legal obligations and legislative barriers for an Auction process and a short summary of recommendations on necessary amendments to the primary and secondary legislation or amendments to the regulatory framework for introduction of competitive mechanisms for RE procurement, depending on Kosovo's policy decisions.

The annexes of the report contain the review of the legislation (primary and secondary acts of legislation) that has been carried out, only pertaining to the transitioning of the current feed-in-tariff (set by ERO) based support for investment in RES into a market based mechanism (or auctioning) process, in determining the level of support for the investments in RES. The articles of legislation have been presented without commentary because this section of the report is only meant to focus the discussions on the legislation pertaining to the transition to auction process for determining the level of supported to be granted for RES.

Background

About 96% of Kosovo's domestic electricity generation comes from two unreliable coal-fired (lignite) power plants (57-year-old Kosovo A and 36-year-old Kosovo B) with a net operating capacity of about 900-950 MW. Both plants are poorly maintained and operate well below their installed capacity. After the planned decommissioning of Kosovo A (now planned for 2023), there will be a considerable supply shortfall, and new generation capacity will be required. Furthermore, during winter months, given the prevalence of electricity use for heating, shortfalls are

more acute and require importing, often expensive electricity, from the neighbouring countries.

By Decision of Energy Community no. D / 2012/04 / MC-EnC of the Council of Ministers of the Energy Community of South East Europe (EC SEE), and as a signatory of the Energy Community Treaty, Kosovo has committed to achieve by 2020 a renewable energy target of 25% as a share of total primary energy consumed. In line with these targets, the Ministry of Economic Development (MED) set renewable targets for each technology. These targets translated into allocated quotas for each technology that would be supported through a fixed feed in tariff for a period of guaranteed offtake.

The primary legislation in Kosovo has been amended to transpose as much as possible the Third Energy Package of the EU. In regard to the Renewable energy the primary legislation is partially in compliance with the Directive 2009/28/EC that lays down the support for the use of electricity from renewable sources, applicable to the countries of the Energy Community as well. These obligations have been described in the Law on Energy, Article 15 where it states (paragraph 1) that Government shall establish annual and long-term renewable energy targets for the consumption of electricity, thermal energy generated from renewable energy sources and from cogeneration and energy from renewable sources used in transport. A National Renewable Energy Action Plan to reach twenty-five percent (25%) share of energy from renewable sources in gross final energy consumption for an agreed in 2020 was adopted by the Government.

On 24 November 2015, the Secretariat published the Policy Guidelines, where it confirmed the applicability of the Guidelines on State Aid for Environmental Protection and Energy (EEAG) 2014-2020 to the Contracting Parties of the Energy Community, making it clear that Kosovo (as a Contracting Party) should comply with the EEAG. Starting from 2017, EEAG requires that any type of support in the form of operational support or investment-based should be granted through competitive procedures based on clear, transparent and non-discriminatory criteria.

In the recent years, auctions have proven to be the most cost-efficient way in developing renewable generation capacities. Through the auction process the bidders are encouraged to reveal the lowest costs that would be needed for building new generation capacities, and by encouraging competition among

different developers, the authorities can ensure that the financial support is given in a transparent manner without unduly burdening the electricity consumers.

Authorization Process and procedures for granting eligibility to the Support Scheme

The Law No. 05/L-081 on Energy has established the RES policy, which aims to promote the economic and sustainable exploitation of the local potentials of RES, in order to meet the needs for energy, increase the security of supply and environmental protection, which is an integral part of the Energy Strategy of the Republic of Kosovo. For the purpose of implementing RES policies, the respective Ministry, according to the legislation in force, has determined with a special sub-legal act the energy targets of RES in accordance with requirements of relevant Third Energy Package Directive of the European Union.

Table 1 below presents RES targets, as revised by the Administrative Instruction No. 05/2017 of MED. In order to meet the legal obligations to achieve the mandatory target for RES by 2020, the Ministry of Economic Development issued Administrative Instruction no. 05/2017 defining annual and long-term energy targets by RES. As opposed to previous Administrative Instructions no. 01/2013, the share of Photovoltaic Energy was increased to 30 MW of installed capacity and Biomass share was increased to 20 MW with the new Administrative Instruction No. 05/2017 on RES targets.

Descriptions	Unit	Targets
Solar	MW	30
Natural gas/ Biomass	MW	20
Wind	MW	150
Hydro	MW	240
Existing Hydro	MW	48.18
Zhuri Hydro	MW	300
Total Capacities	MW	793.18
Total indicative RES targets	%	29.89

Table 1: Overview of targeted allocation quotas

Law No. 05/L-84 on the Energy Regulator has established that the construction of new generation capacities (RES), shall be undertaken in line with authorization procedures as described in this law, and shall be carried out by the Regulator, in line with objective, transparent and non-discriminatory criteria. In order to achieve the targets for generation of electricity from RES, as set forth in the abovementioned Administrative Instruction, and in accordance with the legal mandate provided by the Energy Legislation in force, 1) the Rule on Authorization Procedure for Construction of New Generating Capacities, 2) the Rule on Support Scheme and 3) the Decisions on Feed in Tariffs have been implemented by the Regulator.

Referring to article 43 of LER, and according to duties of the Regulator, the Regulator has approved the Rule on the authorization procedure for construction of new generation capacities from RE sources. Rule on Authorization Procedure for Construction of New Generation Capacities Based on RES was first approved by the ERO Board on 29.08.2011, it was amended on 11.11.2014, and on 27 April 2017 when it was harmonized with the changes on primary legislation, with a goal of transposing third energy package of EU.

Under the Rule on Authorization, the procedure of granting Authorization is initiated with the submission of the application with required evidence and documentation. ERO is responsible for initial review of application and communication with applicant until completion of evidence and documentation. Afterwards, ERO Working Group reviews the application and makes the final evaluation. Once the Working Group considers the application complete it will be presented on the next Board meeting for a decision. The same process applies for first step Preliminary Authorization and for final step Authorization.

RES developers wanting to invest in renewable energy in Kosovo need first to be registered in Kosovo, after which they can start the procedures to obtain necessary land, environmental, connection agreement consent, and then together with the technical and financial information the applicant applies to ERO for Preliminary Authorization. If the applicant has gathered all required documents and consents, ERO will issue a preliminary authorization for duration of one year. By the end of the deadline, the applicant needs to transform the Preliminary Authorization to a final Authorization, which allows for actual construction of the generation capacities.

Preliminary Authorizations issued by ERO confirm that the investor meets financial and technical qualification requirements and has adequate staff to develop, Future Renewables Support and Auction Scheme in Kosovo

construct and manage the generation facility (RES plant). Decisions on the Notice of Preliminary Authorization stipulate that applicants have proven their eligibility for the construction of new generating establishments, nevertheless, they have not yet met the other requirements relevant to the commencement of construction of new generation establishment before fulfilling all the conditions and requirements set out in the applicable legislation. Such decisions oblige the applicants that within a period of one (1) year (with a possibility of extension for another 6 months) from the issuance of preliminary authorization, they must meet other legal requirements and make a written request in order to be granted with final authorization for construction.

Upon issuance of a decision for preliminary authorization, such decision defines the availability of the targets as well as the admission of the applicant to the Support Scheme and the automatic guarantee of the feed-in tariff as well as the guarantee of the sale of electricity for the period determined by legislation in force.

To transform the authorization from the preliminary authorization to the final authorization for construction, all applicants are required to transform the “consent” to the actual Land Permit, Environmental Permit and Construction Permit. These permits are issued either by the local government (land and construction permits) and central government (water and environmental permits). If the land is private, then the applicant should make necessary arrangements for the right to that land. As stated, all the permits need to be obtained within a year from the time when the Preliminary Authorization was issued. After obtaining all necessary permits the applicant needs to apply to ERO for the final Authorization for construction, once that is obtained the applicant can start construction immediately.

Each applicant, in order to obtain the final Authorization is subject to regularity analysis and correctness of legal, administrative, technical, financial and environmental documentation, plant, land use rights, technical solutions of the connection and environmental consent, issued by relevant institutions in accordance with the activity that entities have requested for obtaining a final Authorization for allowing construction of new generating capacity from RES. Final Authorization issued by ERO opens the way for initiating the construction of the plant and confirms that the investor has been provided with all necessary contracts and permits (land use, water use, grid connection, environmental permit, construction permit, etc.) required for such purposes.

Even though Article 15 of Law on Energy states that the Ministry prepares the sub legal acts containing the measures to achieve renewable energy targets, based on Administrative Instructions 06/2017 On the support schemes for electric energy produced from renewable energy sources and other duties derived from the Law on Energy Regulator, Law on Electricity and Law on Energy, the Regulator has approved the Rule on Support scheme, which has defined the support for all renewable energy. According to Administrative Instructions 06/2017, Article 9, Paragraph 2, "the Regulator shall determine the methodology for setting regulated tariffs for purchase of electric energy from renewable sources by the market operator". In addition, Article 9 Paragraph 4, states that "feed-in-tariffs shall be determined for the main categories of electric energy generated from renewable sources, of the present Administrative Instruction and in line with the Administrative Instruction for targets of Energy from Renewable Energy Sources".

The Rule on Support Scheme applies mainly to the generators who are admitted into the support scheme to be supported by the feed-in-tariffs, but it also determines the rights of the generators who are willing to generate under regulated framework and self-consumption generators.

Rule on Support Scheme for RES Generators, has been first approved on 23rd of December 2014 by the Board of the ERO, and has been again amended on 27th of April 2017 when it was harmonized with the changes on primary legislation, with a goal of transposing third energy package of EU. Feed-in-tariffs, as voluntary support schemes for electricity produced from hydro, wind, and biomass power plants, are introduced in accordance with the Rule on the Support Scheme.

Regarding promotion for developing renewable, ERO issued the Decision V_673_2014 on 23rd of December 2014 where it has determined feed-in tariffs (wind and solar photovoltaic), with a PPA for 12 years of guaranteed offtake, with prices as presented in Table 2 below:

Feed-in tariffs applicable to RES	
RES	€/MWh
Wind	85.00
Photovoltaic	136.40
Small Hydro Power Plants	67.47
Biomass	71.30

Table 2: Overview of feed-in tariffs for renewable energy sources in Kosovo

According to the Law on Electricity no. 05 / L-85, the entity holding the market operator license, KOSTT, is obligated to manage the Renewable Energy Fund. KOSTT accumulates the revenues required to purchase electricity from RES, through the charge for energy from renewable energy sources. The collected revenues are used to supplement the difference between the market price of electricity and feed-in-tariffs for the suppliers. Suppliers are obliged to purchase at first priority all electricity produced by RES and admitted in the scheme. The feed-in-tariffs scheme has tariff annual adjustment according to inflation, for each RES technology.

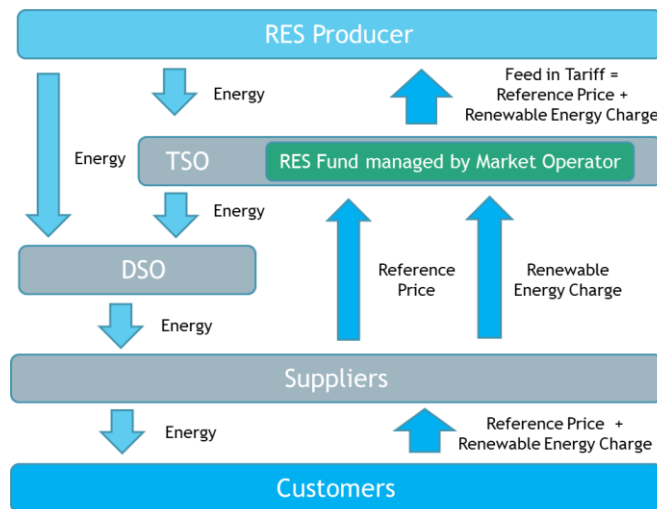


Figure 2: Overview of scheme for renewable energy marketing and settlement in Kosovo

It has to be noted that the admission to support scheme (which in other word is the availability to enter into PPA with feed-in-tariffs) depends whether there is capacity available based on already issued Preliminary Authorization. For example, the capacity for wind energy generation is limited to 150 MW until 2020, and ERO have already issued Preliminary (and final) Authorization for all 150 MW, which means that

any new applicant interested in solar energy will have to be put on a waiting list (or pending application).

Having in mind the above-mentioned definitions, Table 3 below present the current registry of applicants, and their Authorization status:

Solar Applications – Targeted Capacity by Ministerial Decision 30 MW		
Final Authorizations included in Support scheme feed in tariff (in operation)	10	MW
Preliminary Authorizations included in Support scheme feed in tariff ⁵ (need Final Authorization to be constructed)	20	MW
Preliminary Authorization (pending) not included in support scheme	82.3	MW
Wind Applications – Targeted Capacity by Ministerial Decision 150 MW		
Final Authorizations included in Support scheme feed in tariff (in operation)	33.8	MW
Final Authorizations included in Support scheme feed in tariff (under construction)	114	MW
Preliminary Authorization (pending) not included in support scheme	235	MW

Table 3: Overview of scheme for renewable energy marketing and settlement in Kosovo

Transitioning to Auction Process - Auctions as an alternative to predefined FITs

On the 24th of November 2015, the Secretariat of Energy Community published the Policy Guidelines, where it confirmed the applicability of the Guidelines on State Aid for Environmental Protection and Energy (EEAG) 2014-2020 to the Contracting Parties of the Energy Community, making it clear that Kosovo (as a Contracting Party) should comply with the EEAG. The Energy Community Secretariat first published policy guidelines on Reform of the Support Schemes for Promotion of Energy from Renewable Sources on the 21st of December 2015 where among others it is recommended that:

- Grant any type of support to renewable energy producers through a competitive bidding process.
- Introduce support schemes based on feed-in-premium.
- Establish a renewable energy operator which will manage the support scheme.

⁵ ERO decision to determine these 20 MW with a feed in tariff set by them has been challenged in court
 Future Renewables Support and Auction Scheme in Kosovo

- Consider “shallow” approach for the charging regime related to connection to the grids.
- Introduce balance responsibility for large renewable energy producers.

The Energy Community Secretariat has also issued policy guidelines on competitive Selection and support for Renewable Energy in March 2018, which was prepared by the European Bank for Reconstruction and Development and the Energy Community Secretariat in collaboration with the International Renewable Energy Agency, where among other it is recommended that:

- That auction schemes are structured to allow lessons to be learnt at initial stages – notably by holding a “pilot” auction at the start of a broader auction scheme.
- Nominate a credible institution to administer the auction. This institution should have an active role in shaping the design of the auctions (if it does not already have primary responsibility for designing them).
- For each auction, policy makers should set fixed quantity limits in terms of the amount of RE generation capacity to be supported.
- Consider using a price ceiling.
- Consider location specific auctions – however, If the RE segment is well-established so that a number of developers are well-placed to develop projects, the choice of location should be left to the market, with policy makers focusing on providing detailed and specific criteria.
- Ensure that bidders have the technical capacity to deliver the project.
- Define the support mechanism - Support could be provided to projects through a contract-for-difference with the successful bidder (instead of a power purchase agreement). This presupposes the existence of a reference electricity price at which a producer can be realistically expected to sell electricity (for example, a liquid day-ahead electricity market accessible to the RE producer). When such a reference price does not exist (in particular, when no liquid day-ahead electricity market covering the area exists), policy makers should provide support in the form of a guaranteed purchase at a feed-in-tariffs (where the level of the tariff is determined by an auction).

Granting support through competitive bidding process has been already envisaged in the legal framework in the energy sector in Kosovo. The principles of competitive bidding process are presented in Paragraph 4 of Article 15 of the Law

on Energy where it states that, “the Ministry shall prepare and issue sub-legal act containing adequate measures intended to achieve the renewable energy targets, and any such measures shall take into account: 4.1. principles of a competitive energy market; and 4.2. the characteristics of renewable energy sources and generation technologies.”

The competitive bidding has also been presented in the same Administrative Instructions 06/2017, that has determined the use of feed-in-tariffs today. Paragraph 1 of Article 9 of Administrative Instructions 06/2017 On the support schemes for electric energy produced from renewable energy sources states that “the electric energy producers from plants that utilize renewable energy sources shall be qualified for admission in the Support Scheme and shall be entitled to enter into agreement with the market operator for sale of electric energy with (feed-in) tariffs or premium payments on top of electricity price sold in the market which is applied up to the level of fulfilment of targets for renewable energy sources”. While giving authority to the Regulator to determine the methodology for regulated tariffs, the Administrative Instruction in Paragraph 3, Article 9 also envisages that “after establishment of regulatory framework, support may be granted as premium on top of electricity price, as well as that this premium may be granted on a competitive process ensuring meeting the targets in most cost-effective way.”

Apart from making reference to competitive bidding and feed-in-premiums concepts in the Administrative Instruction 06/2017, Article 8 Paragraph 5, also gives reference to other means of support, where it is stated that “the utilization of renewable energy sources can also be supported by other measures, determined by the Regulatory, and others relevant institutions.”

The same legal principles of competitive energy market apply to Regulatory Decisions on RES. Article 9 states that “the Regulator shall define the tariffs which are applicable separately to the electricity generated by the RES Generating Facilities admitted to the Support Scheme, which can be Feed-in-tariffs (Feed-in-tariff or feed-in-premium and other support means) and separately for Generators under Regulated Framework.”

Legal and Procedural Barriers – Support through Competitive Bidding

The process of promoting RES through feed-in-tariffs, so far has been ensured mainly by the Support Scheme, which was issued by ERO, and having in mind the process of implementation, ERO has also ensured that secondary legislation is aligned to the rights and obligations of RES developers. Having in mind that the process of promoting RES, has been in force prior to the adaptation of current Energy Laws, which were adopted in 2016, the Laws have incorporated this process and ERO ensured that the secondary legislation is aligned with all the necessary articles to ensure successful construction of new RES capacities. One such example is also Article 8 and 23 of the Law on Electricity, which have created the basis of Renewable Energy Fund and the basis for signing PPA, which again is approved by ERO, between the system operator (KOSTT) and RES developers.

Because the process of the RES promotion remained within the responsibilities of ERO, Article 43 of the Law on Regulator was not amended, and as such it limits the government involvement for implementing tendering processes outside the authorization process. For this purpose, if the government takes a lead as the entity responsible for the Auction process, it would require changes to primary legislation or new legislation in order to assign these powers to the Government, so that the Government can have a legal basis to ensure the rights of the winning bidder to have an authorization to construct new generation capacities, to sign a PPA, and to pass those costs to the electricity consumers through ERO. This is due to reasons that in issuing the Rule on Support Scheme, the Regulator also relies on many other legal powers and regulatory authority that they have been given by the primary legislation, including passing the feed-in-tariffs to the consumers. Once the process is taken from the Regulatory authority and placed on the Government authority, then it will be almost impossible to have an auction process without amendments to primary legislation or introduction of new primary legislation to provide the government with the authority to complete the process. Article 43 and 44 of the Law on Energy Regulator specify the following:

- “Article 43 Authorization Procedure for Construction of New Capacity
 - Paragraph 1. Construction of new generation capacities, new systems for the transmission and distribution of gas, including interconnectors,

and direct electricity lines and direct pipelines for the transmission of natural gas shall be undertaken in line with authorization procedures as described in this law, except where paragraph 1 of Article 44 of this Law specifically permits the use of a tendering procedure.

- Article 44 Tendering Procedure for Construction of New Capacity
 - Paragraph 1. The Government may authorize the launching of a tendering procedure for the construction of new generation capacities if the Regulator issues a written decision that the authorization procedure under Article 43 of this Law has not resulted successfully in either: 1.1. the building of sufficient electricity generation capacity to ensure security of supply or to meet environmental targets; or 1.2. accomplishment of objectives related to the use of renewable energy sources/or ensuring adequate efficiency.
 - Paragraph 2. Any determination by the Regulator under paragraph 1 of this Article shall be consistent with Kosovo's obligations under the Energy Community Treaty.
 - Paragraph 3. A tendering procedure authorized by the Government under paragraph 1 of this Article shall be conducted by the Public Private Partnerships Inter-Ministerial Steering Committee, as per the Law on Public Private Partnership. The Regulator shall serve as an ex officio member in conducting such a tendering procedure."

Both the Authorization Procedure and the Rule on Support Scheme are aligned with each other, but to be eligible for the support scheme, the developers need to apply to the support scheme when applying for the Authorization to construct new RES capacities. The Rule on Support Scheme states clearly in paragraph 1 of the Article 4: Only applicants who apply to obtain the authorization for constructing new generating capacities for electricity generation by the Regulator, pursuant to the Rule on Authorization Procedure, shall be admitted to the Support Scheme. Article 14 of the Authorization procedure states that: Decision on Preliminary Authorization guarantees the applicant that the energy generated from Renewable Energy Sources shall be included in the Support Scheme, according to legal provisions set in the Rule on Support Scheme.

On the other hand, the Rule on Support Scheme clarifies in cases where there are no available targets to be supported, the deadlines of Preliminary Authorization are frozen until there are available targets to be accepted in the Support Scheme. Article 6 paragraph 7 and 8 of the Support Scheme specify:

“Starting from the moment the available target have been met, by issuing Notices for the Decisions on Preliminary and Final Authorizations upon the request of the RES Generating Facility to enter the Support Scheme, the Regulator shall specify in the relevant decisions that the process of admission to the Support Scheme shall be suspended until the available targets are free, pursuant to the relevant Administrative Instruction for setting targets as issued by the Ministry responsible for energy sector. The Regulator shall consider these Applications as “pending” Applications for admission to the Support Scheme.”, and

“The Applicant to whom the Notice for the Decision on Preliminary Authorization or Decision on Final Authorization is issued with a note by ERO, pursuant to paragraph 8 of the Article 6 of this Rule, the time limits set out by the Rule on Authorization Procedure shall start to run, not starting from the date of the issuance of the relevant decision, but from the date of written notice by the Regulator for admission to the Support Scheme.”

Having in mind that the Support Scheme is linked to the Rule on Authorization, including the fact that the level of support was determined by the Regulator and not through tendering procedure (auction process), the process of promoting RES is considered to be in line with the Article 43. Therefore, having an auctioning process to decide on which developer is eligible for support prior to obtaining an authorization from ERO to construct the new generation capacities might lead to breach of Article 43 because it is by definition a tendering procedure.

While having this in mind, the only possible way according to current legislation for the Government to initiate tendering procedures for RES is if the Authorizations procedures have failed (Article 43 and 44 of Law on Energy Regulator). According to Article 43 Authorization Procedure for Construction of New Capacity, Paragraph 1. Construction of new generation capacities shall be undertaken in line with authorization procedures as described in this law, except where paragraph 1 of Article 44 of this Law specifically permits the use of a tendering procedure. Article 44 Tendering Procedure for Construction of New Capacity Paragraph 1. The Future Renewables Support and Auction Scheme in Kosovo

Government may authorize the launching of a tendering procedure for the construction of new generation capacities if the Regulator issues a written decision that the authorization procedure under Article 43 of this Law has not resulted successfully in either: 1.1. the building of sufficient electricity generation capacity to ensure security of supply or to meet environmental targets; or 1.2. accomplishment of objectives related to the use of renewable energy sources/or ensuring adequate efficiency. Paragraph 2. Any determination by the Regulator under paragraph 1 of this Article shall be consistent with Kosovo's obligations under the Energy Community Treaty.

Having in mind that currently the indicative targets set by the Government of Kosovo exceed the mandatory targets for renewable energy 2020 that are set by the Energy Community treaty, it is going to be impossible for ERO to determine that the authorization procedure has failed to meet the environmental targets. Administrative Instructions of Ministry of Economic Development Article 3 state that "1.1. Mandatory target of renewable energy sources until 2020 is 25% of the gross final consumption of energy, as defined with article 4 of the Council of Ministers of the Energy Community Decisions No. D/2012/04/MC-EnC" and "1.3. The indicative renewable energy source target for 2020 shall be 29.89% of the gross final consumption of energy".

In addition, Law No. 04/L-045 On Public-Private-Partnership, has established that the scope of this law does not apply for the construction of new generation capacities unless otherwise directed by the Law on Energy Regulator. According to Article 2, paragraph 1. The provisions in this law shall govern Public-Private-Partnerships for the provision of Public Services and/or Public Infrastructure in all economic and social sectors, including, but not limited, to: 1.2. energy infrastructure, excluding the construction of new energy generation capacities. According to Article 2, paragraph 2. this law shall not apply to: 2.5 the construction of new energy generation capacities, which shall be governed by Law 03/L-185 (Refers to the previous law) on the Energy Regulator, unless otherwise determined in such law.

Entire legislation in Kosovo pertaining to the new RES generation including the original Administrative Instructions of MED 02/2013 has been adopted to be implemented through the Rule on Authorization of new RES capacities, and regardless of the Support Scheme that is decided, the Rule on Authorization could be amended to be aligned with the new market-based mechanism. Each

applicant in order to obtain the final Authorization is subject to regularity analysis and correctness of legal, administrative, technical, financial and environmental documentation, plant, land use rights, technical solutions of the connection and environmental consent, issued by relevant institutions in accordance with the activity that entities have requested for obtaining a final Authorization for allowing construction of new generating capacity from RES. Final Authorizations issued by ERO open the way for initiating the construction of the plant and confirm that the investor has been provided with all necessary contracts and permits (land use, water use, grid connection, environmental permit, construction permit, etc.) required for such purposes. Having the developers obtain Preliminary Authorization, would also ensure that no bid bond is needed because all developers have already shown that they are credible and have serious intention to complete their projects.

Due to the reasons mentioned above, the legislation limits the role of the government in administering the auction process, while it allows ERO to exercise its powers to provide support through competitive bidding rather than by pre-determining that support through feed-in-tariff decision. In addition, without changes to the primary legislation, any competitive bidding process relies on a process where developers obtain a Preliminary Authorization prior to being eligible to apply to an auction process, which would lead to capacity only auction. Having a preliminary authorization for construction of RES capacities, according to the existing legislation also enables the municipalities and other bodies to allocate the land without further competitive procedure. This puts the responsibility of choosing a site to the developer, as they would need to obtain a Preliminary Authorization prior to the auction process. Depending on the chosen auction process, the Regulator may need to make necessary amendments to the Rule on Support Scheme, and the Rule on Authorization process.

On the other hand, if the government decides that auction process should be site specific or that additional support need to be provided to the developer, then it would be necessary to amend the Law on Energy Regulator to achieve these results. The legislative changes become necessary especially because they would need to be aligned with Energy Laws and Public Private Partnership Law.

Auction Process Administered by the Regulator

Considering that Kosovo is in early stages of electricity market liberalization, and that it does not have a real access to a liquid day-ahead electricity market, considering an auction system such as feed-in-premium will likely result in less interest from investors. Providing support in the form of guaranteed purchase at a feed-in-tariff, where the level of the tariff is determined by the auctions, is the most adequate approach having in mind the maturity of the electricity market in Kosovo.

With that in mind, to allow for an auctioning mechanism to be developed in Kosovo the Rule on Support Scheme needs to be revised. Apart from amending the Rule on Support Scheme to simply introduce new Auctioning Process, the revision will be needed to remove any language that relates to feed-in-tariffs determined by the Regulator that currently exist in the Rule on Support Scheme, and will also need to introduce the new auctioning process into the Support Scheme.

The government needs to be specific in ensuring that any Government Decision taken for capacity that will be supported, specifically refers to the new auctioning process, in order to avoid any challenges from the current developers that are on waiting lists, and not to the previous indicative targets for promoting the renewable energy capacities. Therefore, ensuring that the current developers who are placed on the waiting list with the current Rule on Support Scheme, are not an obstacle to the new auctioning process.

This means that for all applications for developing RES in Kosovo who have gone through the process of Authorization, could be supported by a different approach on how Regulator DEFINES what tariffs are applicable for this support. Today's support relies on prices of feed-in-tariff, or a fixed price paid to generators for the energy they produce, which are currently set by the Regulator. The Regulation also assumes that all the interested investors have applied and received a Preliminary Authorization from the Regulator. Apart from the Regulator determining the tariffs by themselves and not through an auction process, the entire Regulatory secondary legislation that currently supports the RES with feed-in-tariffs is already aligned with the approach to have an auction system with a fixed price for investors that have been issued a Preliminary Authorization.

Even when reading Article 9 of the Support Scheme there is no limitation to fixed price tariffs being "defined" as a result of an Auction process, where developers

currently holding Preliminary or final Authorization could bid for the lowest fixed price support. To achieve this, amendments to the Rule on Support Scheme would be needed, to introduce new Auctioning Process, while also ensuring that any Government Decision taken for capacity that will be supported specifically refers to the new auctioning process. This could lead to a pilot auctioning process where the current 80 MW of solar developers, and 235 MW of wind developers, could bid for a fixed price support for a limited capacity that could be auctioned as a first step of Kosovo towards competitive energy market mechanisms. Having in mind that it is a common practice to allow for pilot auctions, an initial fixed price auction for investors that have already received Preliminary Authorization would also provide the institutions with a chance to learn lessons to organize a different auctions process, where more capacity could be auctioned. With existing pool of authorizations, the Kosovo authorities can implement a pilot auctioning process immediately, even without any change in primary legislation, and may decide to auction 9 MW for solar developers, having in mind that there are 82 MW of different projects with Preliminary Authorization for constructing solar projects, and 235 MW for wind developers.

Although there are many different ways an auction process may be planned, if the auction is not for capacity only, then it is likely that changes would be required to the Rule on Authorization Process to relax or amend some of the existing requirements. For different auction process the Regulator could amend the Rule on Authorization and the Rule on Support Scheme, having in mind specific auction process and knowing the intentions of the government on the project size and site of the project. The Government's role will remain limited in only deciding how much capacity will be auctioned for RES that will be supported, while the auctioning process will be the responsibility of the Regulator. It has to be noted, that there are no legislative restrictions for the Regulator to involve as many institutions as it deems necessary to support the auction process. Moreover, because currently the Regulator ensures that the off-taker (KOSTT) has enough liquidity to support the Renewable energy, and because the Regulator also approves the PPA between the developer and KOSTT, it is most reliable institution to administer the auction process.

Auction Process Administrated by the Government

As mentioned above the Rule on Support Scheme and the Rule on Authorization Process for Construction of New Capacities from RES are interconnected and approved by the Regulator. Referring to article 43 of LER, and according to duties of the Regulator, the Regulator has approved the Rule on the authorization procedure for construction of new generation capacities from RE sources. Any support currently provided by the Regulator is linked to the Rule on Authorization. The Rule on Support Scheme states clearly in paragraph 1 of the Article 4: “Only applicants who apply to obtain the authorization for constructing new generating capacities for electricity generation by the Regulator, pursuant to the Rule on Authorization Procedure, shall be admitted to the Support Scheme.”

The process of obtaining the Preliminary Authorizations as is implemented today ensures that the developers have already well defined due to the fact that once the developers have the Preliminary Authorization, they are also guaranteed the support. Auctions for larger projects such as 50 MW solar power plant, or any other project that is site specific, would be very hard to implement with the current Authorization Procedure, which requires the investors to have the site already identified and entered into agreements, either with the public or private entities. The current authorization procedure essentially limits sites to one developer, but also in most cases, if the site is publicly owned, it would be hard for any public entity to provide many developers with the rights to specific sites. In addition, current authorization procedure also assigns the responsibility of developing clear projects to the developer, such as being registered entities in Kosovo, technical feasibility study, final implementation Project, evidence on the right to use land etc.

Therefore, the primary legislation and the secondary legislation limit (Article 43 and 44 of the Law on Energy Regulator) the role of the government in administering or being responsible for any auction process. For the government to direct the auctioning process, the Law on Energy Regulator has to be amended to specify such provisions of Government involvement. And those provisions then need to be implemented through the Rule on Authorization and Rule on Support Scheme, issued by ERO. According to reasons mentioned above, if the Government wants to lead the tendering process, the amendments in primary legislation should define the cases when the Government is allowed to start tendering procedure, but in no case the tendering procedures should limit the application of the Rule on

Authorization after the tendering procedures have completed, which would ensure that such a project is built according to the other Energy legislation provisions in Kosovo.

If the Government intention is to do large site-specific projects, where it would be allowed to also provide additional support for the developers such as different duration of PPA and other financial support regarding the infrastructure, such provisions need to be firstly added to the primary Legislation. Example of these large site-specific projects would be the governments expressed interest to build 50 MW solar power plant. There might be specific cases when the Law on Strategic Investments could be used by the Government, but again it is highly likely that new legislation would be needed, because even the Law on Strategic Investments does not envisage tendering procedures (auctions).

Conclusions

The Rule on Authorization and the Rule on the Support Scheme are central legislation, which deal with all aspects of construction and support provided for the RES generators in Kosovo. Depending on the approach that the Government of Kosovo would wish to take, both of these Rules (with necessary amendments) should remain in force. Final Authorizations issued by ERO, based on the Rule of Authorization ensure the way forward in initiating the construction of the plant and confirm that the investor has been provided with all necessary contracts and permits (land use, water use, grid connection, environmental permit, construction permit, etc.) required for such purposes.

The amendments in the primary legislation should be considered only if the Government is leading and deciding on the auction process. If it is decided that the Regulator should continue its mandate to promote the investment in RES generations through Rule on Support Scheme, then it is unjustifiable to go through the changes in primary legislation, when any process can be integrated within the current primary legislation and would need amendments only pertaining to the two Rules (Authorization and Support Scheme). If a Decision by the Government is taken to increase the capacity of RES generator that would be supported through an auction mechanism, it would be in the Government mandate to issue such Administrative Instructions that would require the Regulator to make necessary

changes to its Rules in order to support any auctioning process that was determined in those instructions.

On the other hand, if the Government wants to lead the tendering process, the amendments in Primary legislation are necessary, and these amendments should define the cases when the Government is allowed to start tendering procedure, but in no case the tendering procedures should limit the application of the Rule on Authorization, and revised application of the Rule on Support Scheme.

Having in mind the large number of developers who already have obtained the Preliminary Authorization, best course of action would be to Amend the Rule on Support Scheme by introducing new provisions for auction process and have a pilot auction with fixed prices. As is the case with the provisions on RES generating facilities under regulated framework, who sell their energy on referent market price, and the self-consumption, the auction process can be introduced as an additional support mechanism outside of current Support Scheme. ERO's main concern on transitioning to auction system were rights of developers that are currently on the waiting list (Article 8 of the Rule on Support Scheme) for the support scheme, however, a clear distinction between the current support scheme and auction process will limit any challenges that current developers would have. This distinction would be also possible by the Government when deciding on how much capacity would be auctioned. The pilot auctions can be implemented immediately having in mind that all the holders of current preliminary authorization that are "on hold" have a chance to take part in an auction process. It is recommended that any developer wishing to take part in auction process needs to relinquish the current rights to remain in the waiting list of the current support process.

As a next step, depending on different auction process that the Government would want to take, the Regulator may amend the Rule on Support Scheme, as well as the Rule on the Authorization process, in order to relax the requirements of the Preliminary Authorization, thereby ensuring that developers could more easily obtain the Preliminary Authorization for the purposes of being eligible for the Auction Process. This would ensure that most developers wishing to participate in auction process could easily obtain Preliminary Authorizations and thus Article 43 of the Law on the Energy Regulator would still be respected.

Annex 1 - Primary legislation pertaining to the support scheme in Kosovo

For the purposes of reviewing the legal framework pertaining to the support scheme in Kosovo, this section lists most of the relevant articles from primary legislation pertaining to the RES support in Kosovo. In preparing this report, the following laws were deemed relevant for the purpose of the review: 1) Law on Energy, 2) Law on Electricity, 3) Law on Energy Regulator, 4) Law on Public-Private-Partnership, and 5) Law on Allocation for Use and Exchange of Municipal Immovable Property.

Kosovo is a signatory to the Treaty establishing the Energy Community which was signed on 25 October 2005, ratified and entered into force on 01 July 2006 and entered into force on 1 July 2007. Based on this, Kosovo has undertaken legal obligations to fulfil all obligations related to the energy sector, which also stipulates the mandatory obligation to achieve RES targets by 2020.

Law no. 05/L-081 on Energy

The law on energy has established the RES policy, which aims to promote the economic and sustainable exploitation of the local potentials of RES, in order to meet the needs for energy, increase the security of supply and environmental protection, which is an integral part of the Energy Strategy of the Republic of Kosovo. For the purpose of implementing RES policies, the respective Ministry, according to the legislation in force, has determined with a special sub-legal act the energy targets of RES in accordance with requirements of relevant directive of the European Union.

- “Article 12 Renewable Energy Policies
 - Paragraph 1. The purpose of renewable energy policies is to promote economic and sustainable utilization of local potentials of renewable energy sources, in the function of fulfilling energy needs, enhancing security of supply and improving environmental protection.
 - Paragraph 2. Renewable energy policies are an integral part of the Strategy.

- Article 13 Implementation of Renewable Energy Policies Paragraph 1. With the aim of implementing renewable energy policies, the Ministry shall:
 - para. 1.1. prepare the ten (10) year renewable energy action plan, in accordance with the requirements of the respective directive on renewable energy, and is going to be approved by the Government.
 - para. 1.2. determine renewable energy targets by means of special sub-legal act, in harmony with the requirements of the respective European Union directive on renewable energy;"
- "Article 15 Renewable Energy Targets
 - 1. The Government shall establish annual and long-term renewable energy targets for the consumption of electricity, thermal energy generated from renewable energy sources and from cogeneration and energy from renewable sources used in transport. A National Renewable Energy Action Plan to reach twenty-five percent (25%) share of energy from renewable sources in gross final energy consumption for an agreed in 2020 shall be adopted by the Government. After adoption the National Renewable Energy Action Plan shall be submitted to the Energy Community Secretariat.
 - 2. On reaching the objective of twenty-five percent (25%) share of energy from renewable sources in gross final energy consumption in 2020, Kosovo can enter in cooperation mechanisms with other Contracting Parties of the Energy Community or with European Union Member States. The framework for the cooperation mechanisms shall be adopted by the Government by separate sub-legal act.
 - 3. Long-term renewable energy targets shall be developed for a ten (10) year period, according to the methodology as determined by sub-legal acts, approved by the Ministry.
 - 4. The Ministry shall prepare and issue sub-legal act containing adequate measures intended to achieve the renewable energy targets, and any such measures shall take into account:
 - 4.1. principles of a competitive energy market; and
 - 4.2. the characteristics of renewable energy sources and generation technologies.
 - 5. The Ministry drafts and publishes the report on the realization of long-term renewable energy targets annually, as part of the report on the

implementation of the National Renewable Energy Action Plan and Strategy Implementation Program specified in paragraph 7 of Article 7 of this Law. The report shall include a progress analysis of the realization of renewable energy targets, particularly taking into account the impact of climatic factors. This analysis shall also indicate the extent of measures undertaken for the realization of renewable energy targets and possible remedies to be on track of reaching the objectives”

- “Article 17 Promotion of Investments in the Energy Sector
 - Paragraph 1. The construction of new energy plants and facilities, and their maintenance and use shall be encouraged, as long as such actions are in compliance with Kosovo's obligations towards the Energy Community and all other laws in force in Kosovo.
 - Paragraph 2. Encouragement of private investments in the Kosovo energy sector and establishment of a favourable environment for investments, by fulfilling efficient technology and environmental requirements, in accordance with obligations under the Energy Community and applicable legislation in Kosovo.
 - Paragraph 3. There should be established the support schemes and facilities for the encouragement and promotion of energy generation from renewable sources and co-generation, including equipment for the construction of new energy facilities.”

Law no. 05/L-845 on Electricity

Pursuant to the electricity law, the entity holding the market operator license, KOSTT, is obliged to manage the Renewable Energy Fund, which compensates the difference between reference price and FiT. The costs of the Renewable Energy Fund are compensated through the charge on the transmission level for all suppliers of electricity

- “Article 8 Electricity generation from renewable energy sources and cogeneration
 - Paragraph 7. Compensation, payments of energy generated from renewable sources is done according to compensation fees for electricity generated from renewable energy sources, collected by

the Market Operator by the end customer supplier, with the exception of the quantity for which the producers have signed a contract for sale under the provisions of this law.

- Paragraph 8. The Regulatory shall make arrangements to compensate the additional costs to the suppliers from purchasing electricity under the terms of this article by means of a specific charge on the services of the system operators, which shall be applied in a transparent and non-discriminatory manner to all suppliers connected to the respective system, proportionate to the purchased energy from renewable sources.
- Paragraph 9. In compliance with the Law on Energy Regulator, the Regulatory shall draft the Methodology of tariffs to be paid by suppliers for electricity generated from renewable energy sources. This Methodology shall include provisions for compensation of suppliers for the additional cost of purchasing electricity generated from renewable energy sources."
- "Article 23 Market Operator paragraph 9. The Market Operator is responsible for:
 - para. 9.8. conclusion of sale and purchase agreements for the obligatory portion of electricity generated from renewable energy sources and cogeneration;
 - para. 9.9. collection of payments for supporting electricity generation from renewable energy sources and cogeneration, from all suppliers, including suppliers with public service obligations;"

Law no. 05/L-84 on the Energy Regulator

This law has established that the construction of new generation capacities (RES), shall be undertaken in line with authorization procedures as described in this law, and shall be carried out by the Regulator, in line with objective, transparent and non-discriminatory criteria.

- "Article 43 Authorization Procedure for Construction of New Capacity
 - Paragraph 1. Construction of new generation capacities, new systems for the transmission and distribution of gas, including interconnectors, and direct electricity lines and direct pipelines for the transmission of

natural gas shall be undertaken in line with authorization procedures as described in this law, except where paragraph 1 of Article 44 of this Law specifically permits the use of a tendering procedure.

- Paragraph 2. The authorization procedure for the construction of facilities referred to in paragraph 1 of this Article shall be carried out by the Regulator, in line with objective, transparent and non-discriminatory criteria. Criteria for issuing such authorizations shall correspond to the criteria determined in respect of licensing in Article 30 of this Law.
- Paragraph 4. The Regulator shall establish specific procedures for the authorization of construction of small decentralized and/or distributed generation. Such procedures related to new capacity or to energy efficiency/demand-side management measures which shall take into account their limited size and potential environment impact. The procedures and criteria shall be made public.
- Article 44 Tendering Procedure for Construction of New Capacity
 - Paragraph 1. The Government may authorize the launching of a tendering procedure for the construction of new generation capacities if the Regulator issues a written decision that the authorization procedure under Article 43 of this Law has not resulted successfully in either: 1.1. the building of sufficient electricity generation capacity to ensure security of supply or to meet environmental targets; or 1.2. accomplishment of objectives related to the use of renewable energy sources/or ensuring adequate efficiency.
 - Paragraph 2. Any determination by the Regulator under paragraph 1 of this Article shall be consistent with Kosovo's obligations under the Energy Community Treaty.
 - Paragraph 3. A tendering procedure authorized by the Government under paragraph 1 of this Article shall be conducted by the Public Private Partnerships Inter-Ministerial Steering Committee, as per the Law on Public Private Partnership. The Regulator shall serve as an ex officio member in conducting such a tendering procedure.
 - Paragraph 4. Any such tendering procedure shall be designed according to objective, transparent and non-discriminatory criteria

and shall be conducted in full accordance with the applicable provisions of the Law on Public-Private Partnerships."

Law no. 04/L-045 on Public-Private-Partnership

This law established that the scope of this law does not apply for the construction of new generation capacities unless otherwise directed by the Law on Energy Regulator.

- "Article 2, paragraph 1. The provisions in this law shall govern Public-Private-Partnerships for the provision of Public Services and/or Public Infrastructure in all economic and social sectors, including, but not limited, to:
 - 1.1. transport, including railway system, transport in rails, airports, roads, tunnels, bridges, parking, public transport;
 - 1.2. energy infrastructure, excluding the construction of new energy generation capacities.
- Article 2, paragraph 2. This law shall not apply to:
 - 2.5 the construction of new energy generation capacities, which shall be governed by Law 03/L-185 (Refers to the previous law) on the Energy Regulator, unless otherwise determined in such law."

Law no. 06/L-092 on Allocation for Use and Exchange of Municipal Immovable Property

This law establishes the allocation of municipal property for the construction of new generation capacities from RES.

- "Article 21 Allocation for use of immovable property of the municipality for special cases 1. Competition procedures shall not be followed in the following cases:
 - 1.1. when the request for allocation for use is made by central institutions of the Republic of Kosovo. The request shall be addressed by the Head-leader of the relevant institution and it should determine the purpose and public interest which is in full concordance with Local Development Plan;

- 1.2. diplomatic and consular representations, and international institutions which have agreements with the Republic of Kosovo. The request shall be addressed through the Ministry of Foreign Affairs;
- 1.3. allocation for use of immovable property of the municipality for the purpose of implementing investments in the renewable energy production sector.“

Annex 2 - Secondary Legislation pertaining to the support scheme in Kosovo

In order to achieve the targets for generation of electricity from RES, as set forth in the abovementioned Administrative Instruction, and in accordance with the legal mandate provided by the Energy Legislation in force, 1) the Rule on Authorization Procedure for Construction of New Generating Capacities, 2) the Rule on Support Scheme and 3) the Decisions on Feed in Tariffs have been implemented.

Administrative Instruction (MED) No. 05/2017 Renewable Energy Source Targets

In order to meet the legal obligations to achieve the mandatory target for RES by 2020, the Ministry of Economic Development issued Administrative Instruction no. 05/2017 defining annual and long-term energy targets by RES. As opposed to previous Administrative Instructions no. 01/2013, the share of Photovoltaic Energy to was increased to 30 MW of installed capacity and Biomass share was increased to 20 MW with the new Administrative Instruction No. 05/2017 on RES targets. The table below presents RES targets, as revised by the Administrative Instruction No. 05/2017 of MED.

Renewable Energy Sources	Unit	Targets according to AI 05/2017
RES target	%	29.89
Solar	MW	30.00
Natural gas/Biomass	MW	20.00
Wind	MW	150.00
Existing HPP	MW	46.21
New HPP	MW	240.00
Total RES	MW	486.21
Zhuri	MW	305.00

Table 4: Renewable Targets of Kosovo

Article 3 of Administrative Instructions 05/2017 on Mandatory and indicative target for renewable energy sources state that:

“Paragraph 1.1. Mandatory target of renewable energy sources until 2020 is 25% of the gross final consumption of energy, as defined with article 4 of the Council of Ministers of the Energy Community Decisions No. D/2012/04/MC-EnC”

“Paragraph 1.3. The indicative renewable energy source target for 2020 shall be 29.89% of the gross final consumption of energy”

Administrative Instruction (MED) NO. 06/2017 on Utilization and Support of Energy Generation from Renewable Sources

The purpose of this Administrative Instruction is to determine types of renewable energy sources utilized for generation of electric and thermal energy, plants that will be supported to use renewable sources for production of energy, utilization conditions, technical standards, defines the support scheme and measures for cooperation like statistical transfer, joint support schemes and the joint projects for achieving the overall renewable energy targets.

Article 7 of Administrative Instructions 06/2017 on procedures for authorizing construction of new energy capacities from renewable sources state that:

“Paragraph 1. The Regulator shall determine special procedures for authorizing construction of new capacities for production of energy from renewable sources.”

Article 9 of Administrative Instructions 06/2017 on the support schemes for electric energy produced from renewable energy sources state that:

“Paragraph 1. The electric energy producers from plants that utilize renewable energy sources shall be qualified for admission in the Support Scheme and shall be entitled to enter into agreement with the market operator for sale of electric energy with (feed-in) tariffs or premium payments on top of electricity price sold in the market which is applied up to the level of fulfilment of targets for renewable energy sources.

Paragraph 2. The Regulator shall determine the methodology for setting regulated tariffs for purchase of electric energy from renewable sources by the market operator.

Paragraph 3. After establishment regulatory framework, support scheme for power plants from Group 2 (over 100 kW), Article 4 of the present Administrative Instruction may be granted as premium on top of electricity price. The premium may be granted on a competitive process ensuring meeting the targets in the most cost-effective way.

Paragraph 4. Feed-in tariffs shall be determined for the main categories of electric energy generated from renewable sources as determined under par 1.1 (under 100 kW) and 1.2 (over 100 kW) of article 4 of the present Administrative Instruction and in line with the Administrative Instruction for targets of Energy from Renewable Energy Sources."

Rule on Authorization Procedures for Construction of new Generation Capacities from RES

Referring to article 43 of LER, and according to duties of the Regulator, the Regulator has approved the Rule on the authorization procedure for construction of new generation capacities from RE sources. Rule on Authorization Procedure for Construction of New Generation Capacities Based on RES was first approved by the ERO Board on 29.08.2011, it was amended on 11.11.2014, and on 27 April 2017 when it was harmonized with the changes on primary legislation, with a goal of transposing third energy package of EU.

- Article 1 of the Rule on Authorization: "the purpose of this Rule is the establishment of the authorization procedure for construction of new generation capacities for large generation capacities from Renewable Energy Sources and establishment of simplified procedures for construction of new generation capacities from Renewable Energy Sources."
- "Article 2, Scope
 - Paragraph 5. this Rule does not include the Authorization Procedure for construction of generators with fossils, new systems for transport and distribution of gas, including interconnectors, direct electricity lines and direct gas pipelines for transport of natural gas, which shall be treated with a special rule, pursuant to Article 43 of Law on Energy Regulator.
 - Paragraph 6. This Rule does not cover a tendering procedure, which is prescribed in Article 44 of Law on Energy Regulator.
 - Paragraph 7. If a new generation capacity is to be tendered or constructed as a result of implementing a tendering procedure, it shall not be subject to this Rule for authorization."
- Article 4 paragraph 2: "The Regulator shall review all applications for Authorization for construction of new generation capacities from Renewable

Energy Sources, submitted in accordance with this Rule, and shall ensure that all applications are dealt with in an objective, transparent, and non-discriminatory manner.”

- “Article 7 Application Procedure, Paragraph 1. The application for authorization for new large-scale generation capacities and small-scale generation capacities shall be completed and submitted to the Regulator in the format specified in Appendix 1 or Appendix 2 of this Rule.”
- “Article 7 Application Procedure, Paragraph 3. Application for authorization shall be accompanied by following documents:
 - 3.1 certificate of applicant's registration as a Business Organization, issued by the agency authorized to register business organizations;
 - 3.2 status on foundation of the enterprise;
 - 3.3 Audited Financial Report for last three (3) years, certified by the competent institution or certified financial auditors;
 - 3.4 The Feasibility (Implementation) Study carried out for new generation capacities;
 - 3.5 Business Plan, including: total cost of investments and financing manner; Financial Economic Assessment of the project including Financial Statements of the project;
 - 3.6 Final Implementation Project;
 - 3.7 evidence by the competent court that the applicant is not in a bankruptcy situation, its business is not administrated by a judge, its commercial activities are not suspended;
 - 3.8 evidence by the competent institution that the applicant has complied with legal obligations regarding tax payment in the country where he is registered as a legal entity;
 - 3.9 evidence by relevant authorities that confirm that the applicant has fulfilled all applicable requirements in accordance with relevant legislation in Kosovo (depending on the project), including the right on the use of land, where required.
 - 3.10 agreement for connection to the network, for the new generation capacity;
 - 3.11 evidence on technical and financial capability, as well as experience of the applicant to construct, own or lead generating projects.

- 3.12 Evidence regarding the right on use of land for the property status of the land that shall be used for construction of new generation capacities (decision on granting the consent for investments by the competent local or central body, agreements, contracts for utilization of the private or public land, possession documents, copies of the plan, etc.)
- 3.13 evidence confirming that the planned plant is in accordance with environmental laws in Kosovo (Environmental Consent, Environmental Permit, after construction of new generator);
- 3.14 evidence on the type, safety, quality of solar panels/photovoltaic as well as Certificate on recycling (TUV Certificate) where required;
- 3.15 information on the organizational structure, including biographies of the management and professional staff of the applicant;"
- "Article 14 Issuance of Decision on Preliminary Authorization
 - 1. The Regulator shall issue the Decision on Preliminary Authorization to the applicant, if it is verified that the applicant has proved its suitability for construction of new generating capacities, but the applicant has not fulfilled yet other requirements according to paragraph 4, arising under other applicable legislation regarding the construction of new generation capacities.
 - 2. Decision on Preliminary Authorization does not entitle the holder to continue the construction of new generation capacities prior to fulfilling all relevant criteria and conditions as well as obtaining a Final Authorization, in accordance with this Rule.
 - 3. Decision on Preliminary Authorization guarantees the applicant that the energy generated from Renewable Energy Sources shall be included in the Support Scheme, according to legal provisions set in the Rule on Support Scheme.
 - 4. Decision on Preliminary Authorization can be issued even if the following requirements have not been met: Agreement for connection to the network, Construction Permit, Water Consent and Water Permit in case of hydro power plants. Such evidence shall be submitted upon the submission of the request for conversion of Decision on Preliminary Authorization into Final Authorization, according to Article 15 of this Rule.

- 5. Decision on Preliminary Authorization shall confirm that the applicant will be granted a Final Authorization within twelve (12) months for large-scale generators
- 6. The time limit provided in paragraph 5 of this Article can be extended for another time period of six (6) months for large-scale generators, if the applicant in its written request convincingly justifies the extension of time limit.
- 7. Following the expiry of time limit provided in paragraph 6 of this Article, the Decision on Preliminary Authorization shall be repealed by default, and it will not be reviewed by the Regulator's Board."
- "Article 15 Request for Conversion of Preliminary Authorization into Final Authorization, Paragraph 2. The evidence that shall be submitted for conversion of Decision on Preliminary Authorization into Final Authorization for large-scale generators are as follows:
 - 2.1 Agreement for connection, depending on the voltage level;
 - 2.2 Water Consent or Water Permit, in case of hydro power plants, pursuant to Law on Waters; and
 - 2.3 Construction Permit issued in accordance with Law on Construction, in the Republic of Kosovo."
- "Article 16 Granting of Final Authorization
 - Paragraph 2. If the Regulator determines that an applicant has met all necessary requirements and criteria in accordance with this Rule, it shall issue a Final Authorization.
 - Paragraph 4. Final Authorization shall stipulate that the applicant shall construct the new generation capacities, in accordance with the dynamic plan of the project presented by the applicant and approved by the Board for large-scale generators and small-scale [...]"

Rule on Support Scheme for RES generators

Even though, Article 15 of Law on Energy states that the Ministry prepares the sub legal acts containing the measures to achieve renewable energy targets, based on all duties derived from the Law on Energy Regulator, Law on Electricity and Law on Energy, the Regulator has approved the Rule on Support scheme, which has

defined the support for all renewable energy. The Rule on Support Scheme applies mainly to the generators who are admitted in the support scheme to be supported by the Feed in tariff, but it also deals with the generators who are willing to generate under regulated framework and self-consumption generators. The Rule on Support Scheme for RES Generators, has first been approved on 23rd of December 2014 by the Board of the Energy Regulatory Office and has been again amended on 27 April 2017 when it was harmonized with the changes on primary legislation, with a goal of transposing third energy package of EU.

- Article 1, paragraph 2 This Rule sets:
 - “para.2.1 The principles of supporting RES Generating Facilities admitted to the Support Scheme;
 - para.2.2 The eligibility criteria for admission to the RES Support Scheme;
 - para.2.3 The application procedure for admission to the RES Support Scheme;
 - para.2.4 The procedure for funding the RES Support Scheme;
 - para.2.5 The principles of supporting RES Generating Facilities, in accordance with the Regulated Framework;
 - para.2.6 The principles of supporting RES self-consumption generators.”
- “Article 4 Limitation of the capacity for admission to the Support Scheme
 - Paragraph 1, Only applicants who apply to obtain the authorization for constructing new generating capacities for electricity generation by the Regulator, pursuant to the Rule on Authorization Procedure, shall be admitted to the Support Scheme.”
- “Article 5 Request for Admission to the Support Scheme
 - 1. The written request for admission to the Support Scheme shall be submitted to the Regulator in line with Annex 1 of this Rule.
 - 2. The request for admission to the Support Scheme must be filed when applying for the issuance of the Authorization pursuant to the Rule on Authorization Procedure.”
- “Article 6 Admission to the Support Scheme
 - 1. By the Notice for Decision on Preliminary Authorization, within the relevant decision, the Regulator shall define whether the targets are

available for the applicant to be automatically qualified for admission to the Support Scheme.

- 2. In case the Applicant applies directly to obtain the final authorization and submits a request for admission to the Support Scheme, the Regulator, within the relevant decision shall define the available targets, and the applicant shall be qualified by default to be admitted to the Support Scheme if the RES Target is available.
- 3. The Notice for Decision on Preliminary Authorization or the Decision on Final authorization issued by the Regulator and which determines the admission of the Applicant to the Support Scheme, shall by default guarantee them the Feed-in Tariff.
- 4. When ERO issues a Notice for Decision on Preliminary and Final Authorization, in compliance with the Rule on Authorization Procedure, whereby the available targets are met, it shall notify all the other applicants for the meeting of targets, as well as the impossibility to guarantee a Feed-in Tariff in accordance with the present Rule."
- "7. Starting from the moment the available target have been met, by issuing Notices for the Decisions on Preliminary and Final Authorizations upon the request of the RES Generating Facility to enter the Support Scheme, the Regulator shall specify in the relevant decisions that the process of admission to the Support Scheme shall be suspended until the available targets are free, pursuant to the relevant Administrative Instruction for setting targets as issued by the Ministry responsible for energy sector. The Regulator shall consider these Applications as "pending" Applications for admission to the Support Scheme."
- "Article 8 Register of the Support Scheme
 - 1. The Regulator shall create and continuously update the register of Support Scheme for electricity generated by the Renewable Energy Sources.
 - 2. The Regulator shall create a register which shall contain the applications admitted to the Support Scheme and the RES Generating Facilities which are pending to be admitted to the Support Scheme.

- 3. The applications considered as “pending applications” shall be registered in the waitlist according to the date of issuance of the Notice for the Decision on Preliminary or Final Authorization.
- 4. The ERO, when creating the register and applying the procedures for “pending applications” for admission to the Support Scheme, shall equally treat the possessors of the Notices on the Decision on Preliminary or Final Authorization and shall act in compliance with the chronological order in the register.
- 5. The ERO shall notify the Applicants which have been registered in the waitlist according to the order of their Applications, when the available targets become free.
- 6. The Register of Support Scheme shall be published in the internet website of the Regulator and shall be updated according to the new applications.”
- “Article 9 Tariffs under the Support Scheme
 - 1. The Regulator shall define the tariffs which are applicable separately to the electricity generated by the RES Generating Facilities admitted to the Support Scheme, which can be Feed-in Tariffs (Feed-in Tariff or Feed-in Premium and other support means) and separately for Generators under Regulated Framework.
 - 2. By a relevant decision, the Tariffs referred to in paragraph 1 of this article, shall be adapted to inflation on a yearly basis, after the first year of operation. The exact dates for the correct manner for applying the inflation shall be determined by a Power Purchase Agreement (PPA). The inflation rate shall be determined by the rate of change over the previous 12 months, at the level of “Prices of the domestic industrial product – capital goods NACE Rev2”, Index for 15 countries of Eurozone (ea15), published by Eurostat”
- “Article 11 Rights and obligations of RES generators admitted to the Support Scheme
 - 1. RES Generating Facilities admitted to the Support Scheme shall: 1.1 be entitled to sell their electricity output to the Market Operator through a Power Purchase Agreement for a period of 10 to 12 years, depending on the technology, and with a Feed-in Tariff price; 1.2 be

liable for 25% of their total imbalance costs; 1.4 be entitled to priority dispatch.

- 2. The sale of electricity to the MO shall be covered by a Power Purchase Agreement, which shall be concluded between the RES Generating Facility and the Market Operator.
- 3. Power Purchase Agreements (hydropower, solid biomass) shall have a duration of 10 years, while the Power Purchase Agreements for the electricity generated by photovoltaic panels and wind generators shall have a duration of 12 years, with prices (Feed-in Tariffs) applicable in the Support Scheme;
- 4. PPA is guaranteed for all the generating units which have been admitted to the Support Scheme and, in accordance with this Rule, the Power Purchase Agreements with MO shall be concluded within thirty (30) days following the admission to the Support Scheme, entitled the commercial operation, in accordance with paragraph 7 of this Article.
- 5. The Feed-in Tariff price of the RES Generating Facility shall be the price applicable at the time of admission to the RES Support Scheme. Any future changes of the Feed-in Tariff shall not affect the RES operators already admitted to the Support Scheme."
- "Article 13 Funding of the RES Support Scheme
 - 1. The additional costs incurred support the development of RES projects admitted to the Support Scheme is compensated through the Renewable Energy Fund, managed by the MO. The MO reports to the Regulator on the operation of the Renewable Energy Fund on a quarterly basis.
 - 2. The Renewable Energy Fund finances the costs associated with:
 - 2.1 The difference between the Reference Price and the Feed-in Tariff;
 - 2.2 The compensation for the imbalance costs to reflect the provisions in Article 11 paragraph 1.2 of this Rule;
 - 2.3 Costs incurred by the MO in managing and operating the fund and any other costs necessary for the implementation of this Rule, if so decided by ERO."
- "Article 17 Power Purchase Agreements

- 1. The MO shall draft the Power Purchase Agreements for electricity generated by RES Generating Facilities admitted to the Support Scheme or are under the Regulated Framework.
- 2. The MO shall draft the Power Purchase Agreements for sale of electricity generated from RES and admitted to the Support Scheme or are under the Regulated Framework with suppliers.
- 3. The Power Purchase Agreements should include provisions on the grounds of which the RES Generating Facility admitted to the Support Scheme or are under the Regulated Framework pledges to comply with the obligations set throughout the duration of the agreement.
- 4. The Power Purchase Agreements prepared under paragraphs 1 and 2 of this Article shall be approved by the Regulator, upon a consultation with third parties. The ERO may instruct the MO in any moment before signing the Power Purchase Agreements, in order for it to make the changes in the draft-models as it deems necessary."

Regulatory Decision V_673_2014 on Feed in Tariffs

Feed-in tariffs, as voluntary support schemes for electricity produced from hydro, wind and biomass power plants, are introduced in accordance with the Rule on the Support Scheme. KOSTT accumulates the revenues required to purchase electricity from RES, through the charge for energy from renewable energy sources. The collected revenues are used to supplement the difference between the market price of electricity and FIT for the Suppliers. Suppliers are obliged to purchase at first priority all electricity produced by RES and admitted in the scheme. The FIT scheme has tariff annual adjustment according to inflation, for each RES technology. Feed-in Tariffs differ for each technology.

Regarding promotion for developing renewable, ERO has approved feed-in tariffs (wind, biomass and solar photovoltaic), with a PPA for 12 years of guaranteed offtake on Feed in tariff prices.

Feed-in tariffs applicable to RES	
RES	€/MWh
Wind	85.00
Photovoltaic	136.40
Small Hydro Power Plants	67.47
Biomass	71.30

Table 5: Overview of feed-in tariffs for renewable energy sources in Kosovo

Annex 3 – Technical discussions with EBRD consultants regarding design options

Technical meetings were held during which the various design options were discussed. While the EBRD (DLA Piper and Guidehouse) and WB consultants (OMNIA) and Energy Community had no divergent position on many of the listed design options, there was dissent on key options. Differences centred on the nature of subsidization, the balance responsibility, the dispatch control, forecasting responsibility, and technology neutrality of auctions. This annex briefly outlines the divergent positions, preliminary agreement and OMNIA recommendations.

Subsidization

It is common practice to offer some form of financial subsidization scheme for generated electricity from renewable sources—although merchant projects are emerging in Europe. In general, there are two subsidization schemes; Feed-in-Tariff and Feed-in-Premium.⁶

Feed-in Tariff (FIT)

Under a FIT scheme, power producers receive a fixed payment for each unit of electricity fed into the grid, independent of the electricity market price. This means that the producer does not receive any remuneration directly from the wholesale market. The grid operator is responsible for integrating the produced electricity into the power system and market.

Feed-in Premium (FIP)

In contrast to FIT, in a FIP scheme the renewable generator markets the generated electricity directly in the electricity market.⁷ In addition to the market revenue, the renewable generator receives a premium payment on top. The premium payment can be fixed or variable (sliding). An important condition for FIPs (fixed or sliding) is the existence of a market reference price such as a day-ahead market (DAM).

A fixed FIP refers to a fixed premium per, for example, MWh that is paid on top of the market price at which the renewable energy is sold. The premium does not change.

⁶ . There is also a scheme called Contract-for-difference although in its the functionality sit between a FIT and a FIP scheme.

⁷ Although the marketing could also be done on behalf of the renewable generator via an offtaker—either through stated mandated offtaker or third party offtaker.

With a fixed premium, the auction is designed such that a bidder submits a bid in which, amongst others, bidders compete on the premium by which the market price for a unit of electricity fed into the grid is supplemented with.

A sliding FIP means that the premium varies depending on the reference price (i.e. the market price), keeping the sum of the reference price and the support payment constant. The sum is referred to as the strike price determined in the auction process. While the composition of the revenue stream for the renewable generator depends on the market price, the revenue per unit of generated electricity is fixed and independent of the market price.

The specific design of a FIP must be carefully considered as this will have a great influence on the exposure of renewable generators to market signals.

Agreement

The agreement reached during technical meetings was to recommend designing the subsidization to be a FiT while no organised market exists, but to include a conversion clause which, once an organised market is in place, would transition the subsidization scheme to a FIP. Due to entrenched differences, no recommendation could be reached with regard to the precise nature of the FIP (sliding versus fixed) and it was concluded that this should be determined by an auction committee.

Recommendation

OMNIA recommends the use of a fixed FIP to minimise the subsidization volume and market price risks to the government of Kosovo. Fixed FIP provides certainty to the government of Kosovo about the size of the support awarded to renewables. This way government of Kosovo can ensure the affordability of the renewable support scheme and impact on tariffs. In contrast to this, a sliding FIP pricing mechanism mainly insulates the investors from market conditions, creating a system in which renewable generators have no interest in reacting to market signal including during periods of oversupply of electricity.

Balancing arrangements

In general, Article 5 of the Electricity Regulation 2019/943 provides that all market participants shall be either balance responsible parties or shall contractually delegate their responsibility to a balance responsible party. Renewable energy source producers who benefit from the support scheme shall be subjected to standard balancing responsibilities as soon as a liquid intra-day market exists. As long as such a

market is not in place, (partial or full) exemption from balancing responsibilities may be considered compliant from a State aid perspective. Currently, in Kosovo a cap of 25 % of balancing costs is in place.

The difference in opinions is with regard to which extend balancing responsibility can be taken on by renewable generators. This topic is connected to the design options of forecasting and dispatch control.

It should be stressed that the difference in opinion is only in reference to the situation in which an intra-day market is in place. That is, in the absence of an intra-day market, which is common tool to accommodate optimization in the face of day-ahead forecast imprecision, it is difficult for RES generators to achieve a reasonable risk minimization possessed by weather and other environmental conditions outside of their control.

Agreement

The agreement reached is that a joint note presents the various options and recommends that an auction committee should make final decision.

Recommendation

OMNIA recommends implementing a scheme in which the renewable generator has full imbalance responsibility and is a balancing responsible party. As part of this role, the RES producer will need to undertake forecasting, nominate its intended generation and ultimately be financial responsible for imbalances.

It should be stressed that OMNIA does not preclude the option of offtaker taking on the nomination and ultimately imbalance responsibility. However, renewable generator should still assist the offtaker in forecasting. Also, in the case an offtaker takes on the role of balancing responsible party on behalf of the renewable generator, there needs to be clear contractual definition on the distribution of cost arising from imbalances and to some extent the offtaker should be given dispatch control.

It should be stressed that the offtaker could operator as an accumulator for RES producers and offer hedging and economies of scale opportunities with regard to imbalances.

Lastly, please note that OMNIA position is in line with Paragraph 108 of EU's Guidelines (2014/C 200/01) on State aid for environmental protection and energy 2014-2020

which states that it is expected that “exemptions from balancing responsibilities should be phased out in a degressive way.”

Technology-neutrality of auction

During technical meetings, EBRD consultant has presented a strong preference for wind auctions. This position was not shared by OMNIA nor the Energy Community.

It should be stressed that EU, based on Paragraphs 109 of EU Guidelines (2014/C 200/01) on State aid for environmental protection and energy 2014-2020, advocates for use of technology neutral auctions. However, the guidelines, based on Paragraph 110, do permit technology specific auctions if one of the following applies:

- To accommodate the longer-term potential of a given new and innovative technology,
- the need to achieve diversification;
- network constraints and
- grid stability and
- system (integration) costs

At this point, the EBRD consultant has not made it clear which of these justifications would apply in the case of a wind specific auction in Kosovo.

Agreement

The auction committee shall decide on whether an auction round will be technology-neutral or specific. The EBRD would wish the first auction round to be wind specific, to which no objections were raised subject to fulfilling paragraph 110 of the EU Guidelines (2014/C 200/01) on State aid for environmental protection and energy 2014-2020. Moreover, it was iterated that subsequent auctions rounds should be conducted in a technology-neutral manner to allow all market players to access the auction and to ensure an open and fair competition between all available technologies.

Recommendation

OMNIA recommends to pursue technology neutral auctions as this allows the auction to harness market forces to select the lowest cost source of renewable energy and thus to minimize the cost of subsidization to consumers.

However, with regard to the fist auction, OMNIA as a neutral position in large part as this seems to be a topic that will be closely monitored and pursued by the Energy

Community. Additionally, it currently is not clear how EBRD, given paragraph 110 of EU Guidelines (2014/C 200/01) on State aid for environmental protection and energy 2014-2020, will justify a wind auction. Furthermore, assuming a fixed FIP and full imbalance responsibility, the market conditions imposed would limit the negative impact from the first auction being solely a wind auction.