

REGULATION NO. 2004/21

**ON THE PROMULGATION OF
A LAW ADOPTED BY THE ASSEMBLY OF KOSOVO
ON ENERGY**

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution (UNSCR) 1244 (1999) of 10 June 1999,

In conformity with sections 8.1, 9.1.44 and 9.1.45 of the Constitutional Framework for Provisional Self-Government in Kosovo (UNMIK Regulation No. 2001/9),

Taking into account a communication from the President of the Assembly of Kosovo, dated 20 May 2004, concerning the Law on Energy adopted by the Assembly of Kosovo on 29 April 2004,

Noting the reserved powers and responsibilities of the Special Representative of the Secretary-General under sections 8.1 (q) and (r) of the Constitutional Framework for Provisional Self-Government in Kosovo,

Recalling and without prejudice to UNMIK Regulation No. 2002/12 of 13 June 2002 on the Establishment of the Kosovo Trust Agency,

A. Hereby promulgates effective as of the date of signature, subject to section B below, the Law on Energy (Law No. 2004/8) attached to the present Regulation, and

B. Determines that:

(a) The provisions of the Law shall be without prejudice to the authority of the Special Representative of the Secretary-General in respect of his reserved powers and responsibilities under the Constitutional Framework for Provisional Self-Government in Kosovo;

(b) The following first preambular paragraph shall be deleted: "Pursuant to the authority given to him under United Nations Security Council Resolution 1244 (1999) of 10 June 1999";

(c) Article 2(g) shall be revised to state as follows: “promote the integration of Kosovo into the European Economic area and the inclusion of the electricity market in Kosovo into the Southeast Europe Electricity Market”;

(d) The words “international agreements to which Kosovo is a party” in Article 4.3 shall be deleted;

(e) The term “secondary legislation” in Articles 10 (f), 26.3, 30.3, 33.1(d), 35 and 37.2 shall be interpreted to mean “rules” issued by the Governmental Office or Entity having responsibility for energy matters;

(f) The term “Ministry” used throughout the Law shall be deleted and replaced by the term “Government Office or Entity”; and

(g) The terms (i) “distribution network”, (ii) “distribution system”, (iii) “transmission network” and (iv) “transmission system” used in the Law, the Law on the Energy Regulator (UNMIK Regulation No. 2004/20) and the Law on Electricity (UNMIK Regulation No. 2004/22) shall be interpreted to be used interchangeably between (i) and (ii), and (iii) and (iv), respectively.

These changes shall be reflected in the final official text of the Law.

Signed on this 30th day of June 2004.

Charles Brayshaw
Acting Special Representative of the Secretary-General



PROVISIONAL INSTITUTIONS OF SELF GOVERNMENT

KUVENDI I KOSOVËS
СКУПШТИНА КОСОВА
ASSEMBLY OF KOSOVO

Law No. 2004 / 8

ON ENERGY

The Assembly of Kosovo,

Pursuant to the authority given to him under United Nations Security Council Resolution 1244 (1999) of 10 June 1999;

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation 1999/1 of 25 July 1999, on the Authority of the Interim Administration in Kosovo,

Based on the authority granted to the Provisional Institutions of Self-Government by UNMIK Regulation No. 2001/9 of 15 May 2001, "On a Constitutional Framework of Self-Government," in particular Section 5.1(d), and 9.1.26(a) thereof,

Taking into account the authority reserved to the Special Representative of the Secretary General pursuant to Section 8.1(q) of the Constitutional Framework,

Recognizing the need to establish rules for the establishment of an energy market and other measures for the proper functioning of the energy sector in Kosovo,

Hereby adopts the following:

LAW ON ENERGY

Chapter 1
General Provisions

Article 1

This law defines the basic principles for an energy strategy and energy programs in Kosovo; the rules for ensuring the efficient use of energy and the use of renewable energy sources; the rules for establishing an energy market; and other measures necessary to ensure the proper functioning of activities in the energy sector.

Article 2

The purposes of this law are to:

- a). guarantee a safe, secure, reliable, and quality supply of energy;
- b). promote the efficient and economical use of energy resources;
- c). promote respect for the protection of environment in energy activities;
- d). provide the conditions for developing a modern energy market and to ensure competition in that energy market under the general principles of non-discrimination, transparency, equality and respect for consumer protection;
- e). promote investment in the energy sector;
- f). enhance the economic and social cohesion of Kosovo;
- g). promote the integration of Kosovo into the European Economic area with a view to its future accession to the European Union and as a first stage through the inclusion of Kosovo as a full partner in the Southeast Europe Electricity Market;
- h). promote the gradual approximation of the energy legislation of Kosovo to the European Union's energy legislation and the participation of Kosovo in all relevant international agreements that Kosovo is a party to or may become associated with.

Article 3

3.1. The terms used in this Law shall have the following meaning:

“co-generation” means a technological process involving the simultaneous generation of useful thermal and electrical energy;

“customer” means a wholesale or final customer of energy;

“codes” mean the published technical rules that establish the minimum technical design, operational requirements, and standards for energy including a grid code, a distribution code, an electricity standards code, a consumer protection code, electrical equipment code, a metering code, and a trade code;

“distribution” means the transport of electricity, heat, or natural gas on high-voltage, medium voltage, and low voltage distribution systems or medium and low pressure systems or pipes with a view to its delivery to customers, but not including supply;

“electricity” means the form of energy that can be transported by means of a current through metal wires;

“eligible customer” means any natural or legal person who is free to purchase energy from the supplier of his or her choice;

“energy” means any form of produced or obtained energy (electricity, heat, or natural gas) intended for supply or sale;

“energy efficiency” means an integrated approach aimed at influencing the amount and timing of electricity consumption in order to reduce primary energy consumption and peak loads by giving precedence to investments in energy efficiency measures, or other measures, such as interruptible supply contracts over investments to increase generation capacity, if the former are the most effective and economical option, taking into account the positive environmental impact of reduced energy consumption and the security of supply and distribution cost aspects related to it;

“energy enterprise” means a energy undertaking which performs one or more of the following energy activities: generation, transformation, transmission, distribution, supply, trade, or storage of electricity, heat, or natural gas on the basis of a license issued pursuant to the Law on the Energy Regulator, or without a license if no such license is required;

“energy market” means the interactive business and technical activities of energy enterprises and customers involved in the generation, trade, and supply of energy which determines the price of energy;

“Energy Regulatory Office” means the independent regulator of energy activities vested with the powers prescribed in the Law on the Energy Regulator, this law, and other laws that regulate the performance of energy activities;

“energy sector” means activities involving generation, distribution, transmission, transformation, trade, storage or supply of electricity, heat, or gas;

“final customer” means a customer purchasing energy for its own use;

“general conditions of energy supply” means the technical and economic obligations prescribed by the Energy Regulatory Office for the supply of energy to customers;

“generation” means the production of electricity, heat, or other forms of energy;

“heat” means any form of thermal energy which is transferred by water, steam, or other bearing medium;

“indicative target” means the targeted supply of energy generated from renewable energy resources or co-generation;

“license” means an authorization issued by the Energy Regulatory Office that allows the holder to perform an activity in the energy sector for which a license is required in accordance with its provisions;

“long-term planning” shall mean the planning of the need for investment in generation, transmission, and distribution capacities on a long-term basis with a view toward meeting the demand for electricity, heat, or natural gas in Kosovo and securing supplies to customers;

“metering device” means an instrument registered in the registry for certified metering equipment in Kosovo and used in the process of energy supply;

“Ministry responsible for Energy” shall mean the Ministry partly or wholly responsible for the energy sector;

“natural gas” means the gaseous fuel which releases energy through combustion or other chemical and physical process and which may be stored in storage facilities;

“system” means a system of connected equipment intended for the transmission and distribution of electricity, heat or natural gas to customers;

“producer” means a natural or legal person generating electricity or heat;

“renewable energy resources” means renewable non-fossil energy sources (wind, solar, geothermal, wave, tidal, hydropower, biomass, landfill gas, sewage treatment plant gas, and biogases);

“security of supply” means technical safety as well as assurance of an adequate amount of energy to serve the needs of the people of Kosovo;

“supply” means the sale, including resale, of energy in the form of electricity or heat or natural gas to customers;

“tariff” means a price for energy which is fixed or approved by the Energy Regulatory Office;

“tariff methodology” means the general principles prescribed by the Energy Regulatory Office which are applied in setting regulated prices;

“trade” means the purchase and sale transactions whereby interests in energy are transferred, without necessarily assuming ownership over the energy;

“transformation” means the process of turning fuels and renewable energy sources into energy;

“transit” means the transportation of energy across a national border without generation or consumption within that country;

“transmission” means the transport of electricity, heat, or natural gas on the extra high-voltage and high-voltage interconnected system or high pressure system or pipes with a view to its delivery to final customers or distributors, but not including supply;

“wholesale customer” means any natural or legal person who purchases energy for the purpose of resale inside or outside the system where they are established;

“market operator” means a legal person responsible for the organization and administration of trade in electricity and payment settlements among producers, suppliers, and customers. The Market Operator balances financial supply and demand ahead of time;

“distribution system operator” means a natural or legal person responsible for the operating, ensuring the maintenance of, and if necessary, developing the distribution system in a given area and, where applicable, its interconnections with other systems and for ensuring the long-term ability of the system to meet reasonable demands for the distribution of electricity or natural gas;

“transmission system operator” means a natural or legal person responsible for the operating, ensuring the maintenance of, and if necessary, developing the transmission system in a given area and, where applicable, its interconnections with other systems and for ensuring the long-term ability of the system to meet reasonable demands for the transmission of electricity or natural gas.

3.2. The other terms used in this Law shall have the meaning stipulated in the Law on Electricity or in the Law on the Energy Regulator.

Chapter 2 Strategy, Programs, and Balance

Article 4

4.1. The basic document that outlines the energy policy and planning for the development of the energy sector in Kosovo shall be the Energy Strategy.

4.2. The Energy Strategy shall:

- a). ensure a secure, reliable and quality energy supply;
- b). promote a long-term balance in energy sector development taking into account the fluctuations in energy consumption;
- c). maximize the use of energy resources available in Kosovo;
- d). promote the use of renewable energy resources;
- e). ensure the efficient use of energy;
- f). protect energy consumers;
- g). protect the environment in the performance of energy activities;
- h). promote investment in the energy sector;
- i). promote competition in the energy sector based on the principles of non-discrimination and transparency;
- j). facilitate the connection of the Kosovo energy system or its parts with European energy systems or the systems of other countries.

4.3. Obligations imposed by international agreements to which Kosovo is a party, with particular reference to the energy market investments, transit and connections to international or regional energy systems, shall form an integral part of the Energy Strategy.

4.4. The Energy Strategy shall cover a period of ten (10) years. The Energy Strategy shall be proposed by the Ministry Responsible for Energy after consultations with the Energy Regulatory Office, the system operators, and the regional oversight bodies, approved by the cabinet of Ministers, and adopted by the Assembly.

Article 5

5.1. Based on the Energy Strategy, the Ministry responsible for Energy shall prepare and adopt a Strategy Implementation Program for a minimum period of three years.

5.2. The Strategy Implementation Program shall define the activities to be implemented, including programs to:

- a). ensure that long-term development targets are met;
- b). provide directions for the development of the energy sector;
- c). provide incentives for the efficient use of energy;
- d). provide incentives for the investment in renewable energy sources and facilities for their exploitation;
- e). determine the required investment in public infrastructure and the anticipated extent of investment by private investors in energy-related activities.

5.3. The Strategy Implementation Program shall define the entities responsible for the performance of planned activities, and the time schedule for the realization of the Strategy policy and programs, the cooperation required with local governments and institutions in the area of development planning in the energy sector, and the cooperation required with energy enterprises and international organizations.

5.4. In order to ensure the financing of the Strategy Implementation Program, a special Fund shall be established pursuant to a separate law. That law shall determine the sources of funding, management bodies and their powers and responsibilities and other issues relevant to the Fund's operation.

5.5. Upon expiration of the period of the Strategy Implementation Program, the Ministry responsible for Energy shall report to the Assembly on the implementation of the Energy Strategy and propose necessary changes to the Energy Strategy.

5.6. The Ministry Responsible for Energy shall present an annual report to the Assembly on its activities under the Strategy Implementation Program together with a financial report of the Fund.

Article 6

6.1. The Ministry Responsible for Energy shall adopt a long-term and annual energy balances which will forecast energy demand, sources (types) of energy and measures to be implemented for meeting the demand. The long-term and annual energy balances for electricity shall be proposed to the Ministry Responsible for Energy by the transmission system operator after consultation with the Energy Regulatory Office.

6.2. The long-term energy balance shall be adopted for a period of ten (10) years. Updates to the long-term energy balance shall be adopted every two years.

6.3. The mandatory components of the long term energy balance document shall be:

- a). a forecast of the demand of individual energy sources by type;
- b). a forecast of the supply of individual energy sources by type;
- c). the manner in which supply requirements will be met for individual energy sources including primary (renewable and non-renewable energy sources) and final energy;

- d). a forecast for the emission of harmful substances from energy sources and the environmental impact resulting from the production and use of energy;
- e). a list of the required stock levels and reserve capacity in order to achieve the planned level of supply reliability.

6.4. An annual energy balance shall be adopted no later than December 15 of the current year for the following year.

6.5. The mandatory parts of the annual energy balance shall be:

- a). the annual consumption of individual energy stocks and stock levels and reserve capacities;
- b). the annual level of spare capacity (reserve margin) of energy plants and facilities;
- c). the required levels of operating stocks each year and the requirements related to energy efficiency for each year.

6.6. The Ministry Responsible for Energy shall enact Rules on Energy Balance, which will prescribe the content and manner of submitting data to be supplied by the Government bodies, local governments, energy enterprises, and system operators to the Ministry for the purpose of drafting the Energy Balance.

Article 7

The views of local governments shall be obtained to assist with the preparation and implementation of the Energy Strategy, the Strategy Implementation Program, and the Energy Balances for their respective municipalities.

Article 8

The relevant system operators, prepare development plans which are compatible with the Energy Strategy, Strategy Implementation Program, and Energy Balances.

Chapter 3 Energy Efficiency, Renewable Energy Resources, and Co-Generation

Article 9

9.1. An energy efficiency policy shall be an integral part of the Energy Strategy.

9.2. The purpose of the energy efficiency policy shall be to encourage the efficient use of energy and energy resources and to promote renewable energy sources and co-generation.

9.3. In monitoring sufficiency of supply, a cost effective energy efficient program can reduce the need for capital intensive additional generation. Demand side management and load shifting are important tools in creating energy balance and ensuring security of supply.

Article 10

The Ministry responsible for Energy shall perform the following tasks related to the implementation of an energy efficiency policy:

- a). prepare implementation programs to promote the efficient use of energy and renewable energy resources;
- b). prepare proposals for incentives for the efficient use of energy and renewable energy sources;
- c). monitor energy efficiency and the realization of potential savings;
- d). provide information to the public regarding energy efficiency issues;
- e). encourage energy audits and local energy saving development plans;
- f). prepare secondary legislation, after consulting the Energy Regulatory Office, for which promote the efficient use of energy and use of renewable energy sources;
- g). encourage the operation of non-governmental organizations acting in the public interest in the energy sector; and
- h). promote an increase in the contribution of renewable energy sources to electricity production in the internal market and regional markets for electricity in conformity with the indicative targets to be established in Article 12 of this Law.

Article 11

Other participants in the energy sector shall perform the following tasks related to the implementation of an energy efficiency policy and the promotion of renewable energy sources:

- a) when dispatching generation, the transmission system operator shall give priority to generation using renewable energy sources as permitted under the Grid Code and other applicable rules and regulations;
- b) system operators shall establish and publish standard rules on who bears the costs of technical adaptations, such as grid connections and grid reinforcements, necessary to integrate new generators feeding electricity produced from renewable energy sources into the interconnected system. Such rules shall be approved by the Energy Regulatory Office, shall be consistent with the Energy Strategy and shall be based on objective, transparent and non-discriminatory criteria, taking particular account of all the costs and benefits associated with the connection of these producers to the system;
- c) system operators shall provide any new generator wishing to be connected with a comprehensive and detailed estimate of the costs associated with the connection;
- d) system operators shall establish and publish standard rules relating to the sharing of costs of system installations, such as grid connections and reinforcements, between all generators benefiting from them. Such rules shall be approved by the Energy Regulatory Office, shall be consistent with the Energy Strategy and any applicable secondary legislation;

- e) the Energy Regulatory Office shall ensure that the transmission and distribution fees do not discriminate against electricity from renewable energy sources, including in particular electricity from renewable energy sources produced in peripheral regions, such as regions of low population density;
- f) the Energy Regulatory Office shall authorize and promote energy performance contracting, encouraging energy undertakings to install efficiency improvements with no initial cost, repaid through resulting bill savings;
- g) in setting tariffs, the Energy Regulatory Office may provide sources of funding through tariffs, implemented by third parties selected by competitive bidding, operating under transparent procedures.

Article 12

12.1. The Ministry responsible for Energy shall each year establish Indicative Targets for the consumption of electricity or heat generated from renewable energy resources or co-generation for the whole of Kosovo.

12.2. The Indicative Targets shall be set as a percentage of energy consumption in Kosovo for the following ten years.

12.3. The Indicative Targets shall be accompanied by a report that outlines the measures taken or planned, to achieve these Indicative Targets. Such report shall take into account:

- a). the principles of the energy market;
- b). the characteristics of the different renewable energy resources and generation technologies; and
- c). the need to maintain market competition between producers.

12.4. In accordance with the provisions of the Law on the Energy Regulator, the Energy Regulator Office shall ensure that the origin of electricity produced from renewable energy sources can be guaranteed as such according to objective, transparent, and non-discriminatory criteria.

Article 13

Energy enterprises that supply electricity, natural gas or heat must, at least once a year, inform their customers of trends and key statistics concerning energy consumption.

In this context, they may prepare programs that appropriately encourage and guide their customers towards the efficient use of the energy supplied, and the achievement of energy savings.

Article 14

14.1. Importers and manufacturers of consumer products which use energy in their operations shall attach an energy-efficiency label to their products, informing consumers of the energy consumption and other features of the products which are important for their energy efficiency.

14.2. The Ministry responsible for Energy shall prescribe the form and content of the labels, the manner of measuring and determining energy consumption, and other characteristics of the product, and the method for classifying the product with regard to its energy efficiency.

14.3. The requirements referred to in paragraph 2 of this article may stipulate that labels are compulsory for specific types of products.

14.4. The provisions of this Article shall apply to other marks of products and facilities such as an energy efficiency mark and an energy specification for buildings.

Chapter 4 Investments

Article 15

15.1. The promotion of investments in the modernization, rehabilitation and expansion of existing generation capacities, transmission and distribution systems shall be in the interest of Kosovo.

15.2. The construction of new energy plants and facilities and their maintenance and use shall be encouraged in Kosovo, provided that such construction is accordance with energy efficiency principles.

15.3. Prudent private investment in the energy sector of Kosovo shall be encouraged and favorable foreign investment and energy buy-back conditions shall be established for the purpose of attracting investment for the construction of new energy facilities and for the modernization, rehabilitation, and expansion of existing generation capacities, transmission and distribution systems.

Chapter 5 Economic Regulation of Energy Activities

Article 16

16.1. The economic regulation of activities in the energy sector shall be implemented in compliance with the Law on the Energy Regulator.

16.2. Energy activities in the energy sector shall be carried out on the basis of a license or without a license for those activities that are exempt from the licensing requirement in accordance with the Law on the Energy Regulator.

Article 17

17.1. Energy activities shall be carried out according to rules that regulate them as market-based or as public services.

17.2. All energy enterprises shall serve the interests of individual customers by providing a safe, efficient, and reliable supply of quality electricity, heat energy and natural gas; ensuring the efficient use of energy resources; respecting the protection of the environment; and preserving the health, life, and property of the people of Kosovo.

17.3. Additional public service obligations may be imposed by the Energy Regulatory Office on enterprises that carry out public services which shall relate to the security and reliability of supply, the regularity, quality and price of the supply, and the protection of the environment. Such obligations must be clearly defined, non-discriminatory, verifiable, and consistent with the directives of the European Union.

17.4. The costs and expenses incurred by energy enterprises in connection with paragraph 3 shall be acknowledged as justified costs and expenses.

Article 18

18.1. Energy prices shall be regulated or unregulated, depending on whether a market exists to sustain an unregulated price.

18.2. Regulated energy prices shall be charged on the basis of a tariff fixed or approved by the Energy Regulatory Office.

18.3. The regulated energy prices shall be fixed or approved in accordance with a tariff methodology prepared by the Energy Regulatory Office.

18.4. The tariff system shall provide incentives for the promotion of energy efficiency and management of demand side, including the promotion of the use of renewable energy resources.

18.5. Energy enterprises shall be entitled to apply for the recognition and compensation for non-recoverable, stranded costs.

18.6. Non-recoverable stranded costs shall be those reasonable costs resulting from investments made and transactions concluded by electricity enterprises prior to the coming into force of this law, and those costs cannot be recovered by reason of the establishing of a competitive market.

18.7. The Energy Regulatory Office shall determine the maximum amount and period of compensation of the accepted recognized non-recoverable stranded costs for energy enterprises in accordance with the rules and procedures on the Law on the Energy Regulator and the directives of the European Union.

Article 19

19.1. Energy enterprises who perform energy activities in the areas of electricity, natural gas or the supply of heat shall protect the confidential information obtained in the performance of their activities and tasks under this law, unless other laws require that such information be published or made available to government bodies.

19.2. The determination of what information is confidential shall be made in accordance with the Law on the Energy Regulator and secondary legislation issued by the Energy Regulatory Office.

Article 20

Energy enterprises shall prepare, submit for audit, and publish statements of accounts in accordance with the laws on accounting applicable in Kosovo. Energy enterprises which are not legally obligated to publish their annual accounts shall keep a copy of these accounts available to the public at their head office.

Chapter 6 Competition in Energy Activities

Article 21

21.1. All agreements between and decisions of related, associated, or merged enterprises, as well as all deliberate practices of two or more energy enterprises, shall be prohibited if they aim at the prevention, restriction, or distortion of competition in the energy market by:

- a). direct or indirect fixing of prices or other trade conditions;
- b). sharing markets or sources of supply;
- c). restricting or controlling the production, trade, technical development or investments in energy;
- d). applying different conditions for the same type of contract on certain persons which places them in an unequal position as competitors;
- e). concluding contracts conditional on one party assuming additional obligations or concluding additional contracts which, by their nature or in normal and customary practice are not related to the subject of the main contract.

21.2. All agreements and decisions prohibited under paragraph 1 shall be void.

Article 22

Energy enterprises with a dominant position shall not abuse such dominant position by:

- a). directly or indirectly imposing unjustified prices for the sale and purchase of energy or other unfair trade conditions;
- b). restricting the production, trade and technical development to the harm of

customers, including creating a shortage of commodities by withholding, destroying, damaging or unjustified processing of equipment;

- c). exercising economic dependence as a result of which there occurs the transformation, merger, incorporation, division, separation, or winding up of other enterprises, as well as the unjustified severing of long-term commercial relations.

Article 23

23.1. The acquisition, use and divulging of manufacturing or trade secrets in contradiction to fair trade practices shall be prohibited.

23.2. The acquisition of manufacturing or trade secrets shall contradict fair trade practices when it has been achieved through eavesdropping, penetration of premises, opening correspondence, photographing or investigating without the knowledge of the owner of documents or objects stored in a way that restricts access to them, as well as through fraud or offering benefits to persons who have access to the secrets by virtue of official or contractual relations.

23.3. The use or divulging of manufacturing or trade secrets shall be prohibited when those secrets were originally acquired on condition that they shall not be used or divulged.

Article 24

The Energy Regulatory Office shall enforce the provisions of this Chapter in accordance with the provisions of the Law on the Energy Regulator and any law on competition applicable in Kosovo

Chapter 7 **Restrictive Measures on Energy Supply**

Article 25

25.1. The Government may introduce restrictive measures for the supply of energy to consumers or impose special obligations on energy enterprises in the event of:

- a). any force majeure;
- b). any material accident with installations for the generation or transmission of electricity, heat energy or natural gas;
- c). any long-term sudden or unexpected shortage of energy capacity or energy carriage;
- d). any terrorist activities.

25.2. The Government may prescribe the following measures:

- a). impose constraints on trading with specific energy resources;
- b). prescribe special trading conditions;
- c). limit exports and imports of energy or prescribe special conditions for the export and import of energy;
- d). compel energy generation;
- e). impose an obligation to supply energy to selected customers only.

25.3. The Minister responsible for Energy shall announce the introduction of any restrictive measures by the use of mass media.

25.4. The manner and ways of restricting the producers and customers of electricity, heat energy and natural gas shall be established in a secondary legislation proposed by the Ministry Responsible for Energy and adopted by the Government.

25.5. Energy enterprises shall not be obligated to pay for any damage caused as a result of the restriction or interruption in the supply of electricity, heat, or natural gas in the cases under paragraph 1, with the exception of those cases in which the accidents or the long-term shortage have occurred through their negligence.

Chapter 8

Rights of Way and Access to Property

Article 26

26.1. The construction of new, and the expansion of existing, energy sites for the transmission and distribution of electricity, heat or natural gas shall be carried out on land belonging to an energy enterprise on which a right of construction is established.

26.2. If the construction or the expansion of existing energy sites referred to in paragraph 1 is on private land, the Energy Regulatory Office shall certify that such land is necessary for the transmission or distribution of energy and the owner shall be entitled to compensation for such right of construction at the fair market value.

26.3. If the construction or the expansion of the energy sites referred to in paragraph 1 is on non-private land, the Government or competent municipality, at the proposal of the Minister responsible for Energy, may transfer it or establish a right of construction on it in favor of an enterprise in accordance with the rules set out in a secondary legislation to this law and other applicable laws.

Article 27

27.1. Energy enterprises shall have a right to use gratuitously in reasonable instances of need some parts of buildings for fitting measuring devices and other equipment connected with the supply of electricity, heat, and natural gas.

27.2. Energy enterprises shall have a right to use gratuitously in reasonable instances of need bridges, roads, streets, sidewalks, and buildings not belonging to them for constructing, connecting, passing, and maintaining air and underground electricity lines, heat pipelines, gas pipelines, water pipelines.

Article 28

28.1. Natural and legal persons shall allow officials carrying out inspections according to this law to enter and pass through a person's property for the purpose of inspecting energy equipment, installations or systems.

28.2. Natural and legal persons shall allow energy enterprises to access their property on which there are facilities, appliances, networks, or energy systems for the purpose of checking and maintaining them, cutting trees or other vegetation that might obstruct the operation of facilities, appliances, networks or the system.

28.3. Natural and legal persons shall allow energy enterprises to access their property to inspect measuring devices situated on their property and may not prevent an energy enterprise from turning off measuring devices or other appliances used in the energy system.

Article 29

29.1. Energy enterprises shall compensate the owners or users of property for any damage caused in the course of exercising rights under this law, for limiting the use of its property, or for reducing its fair market value.

29.2. The Ministry Responsible for Energy shall determine the criteria and conditions of compensation in secondary legislation.

Article 30

30.1. Security zones shall be established around energy sites.

30.2. Within any established security zones, it shall be prohibited or subject to restrictions to construct or erect any building or establishment, to cut plants or trees, or to perform activities that may pose a threat to the security or uninterrupted operation of the energy installation, the safety of the property or the safety, life or health of persons.

30.3. The rules for determining the location, the size, the boundaries and the regime of the security zones, and the rights and the obligations of the owners of the property, shall be set forth in a secondary legislation adopted by the Government.

Article 31

Where owners or users of property perform unauthorized building development, enclosure, cutting, or other activity that violates rules for the security zones, and fail to remove such illegal construction or cease performing the unauthorized activity within a deadline set by an energy enterprise, the energy enterprise shall have the right to request that the Municipality remove the illegal construction or stop the activity at the expense of the owner or user.

Chapter 9 Supervision

Article 32

32.1. The Energy Inspectorate shall be established as a division in the Ministry responsible for Energy and shall perform matters of inspection and supervision under this Law.

32.2. The principle role of the Energy Inspectorate shall be to ensure the safe and reliable operation of energy equipment, installations, and systems.

32.3. The Energy Inspectorate shall be responsible for ensuring that energy enterprises carry out their activities in conformity with energy laws, technical regulations, standards and other rules which apply to the area of electric power, and the areas of heat energy, gas pipeline systems.

32.4. In the area of electricity, heat, and natural gas pipeline systems, the Energy Inspectorate shall exercise supervision of manufacturing, construction, performance and start-up tests, trial operations and use of equipment, plants, lines, installations and fittings, intended for the generation, transmission, distribution, metering, storage, protection and consumption of electricity, heat and gases.

32.5. Supervision activities may also be carried out by other authorities pursuant to special laws to control the impact energy activities on the environment and public health and to ensure that such energy activities comply with environmental protection and public health laws and standards.

Article 33

33.1. In the course of any inspection or supervision, inspectors of the Energy Inspectorate shall have the right to:

- a). inspect facilities, materials, and technical and other documentation in accordance with the purposes of the inspection or supervision, and to request the necessary proof or to take samples, and as required to use other professional organizations or experts;
- b). free access to energy facilities under their supervision;
- c). carry out inspections of the technical condition and safety of energy facilities at regular intervals or whenever required;
- d). issue statements of infringements of this law or its secondary legislation;

- e). issue written orders for shutting down energy facilities whenever findings of breaches necessitate such action.

33.2. All persons shall comply with the instructions issued by the energy inspectors in execution of their powers under this law.

Article 34

Natural or legal persons who own or operate energy facilities, equipment, systems or installations for which inspection supervision is prescribed under this Law shall inform the Energy Inspectorate immediately of any damage or faults which arise and which result in interruptions of supplies of energy sources or of energy, or if there is a risk to the lives or health of people, to traffic, to neighbouring facilities and to the surrounding areas.

Article 35

If an energy enterprise or any other legal or natural person carry out operations in violation of this law, its secondary legislation, technical regulations, standards or other rules enforced under this Chapter, the Energy Inspectorate may:

- a). send a written notice with mandatory instructions to remedy the breaches within a fixed period of time;
- b). propose to the Energy Regulatory Office that it suspend, modify or withdraw a license;
- c). propose to the Energy Regulatory Office that it imposes administrative penalties or fines;
- d). refer the matter to other competent authorities to take action beyond the inspectors range of competence;
- e). inform the public of any illegal operations.

Article 36

36.1. Inspectors of the Energy Inspectorate shall keep confidential any official or commercial secrets which may become known to them during or in connection with the performance of their inspections.

36.2. Inspectors of the Energy Inspectorate shall perform their activities on their own or in case of need jointly with other specialized control bodies as they see fit.

Chapter 10

Transitional Provisions

Article 37

37.1. Not later than twelve (12) months after the promulgation of this law, the Assembly shall adopt the Energy Strategy.

37.2. Not later than twelve (12) months after the promulgation of this law, the Ministry responsible for Energy shall adopt secondary legislation for the enforcement of this law.

37.3. Until such time that a Ministry Responsible for Energy is officially established in Kosovo, the powers, duties, and functions assigned to that Ministry pursuant to this law shall be carried out by the Energy Office of the Prime Minister.

Article 38

This Law shall enter into force upon approval by the Assembly and on the date that it is promulgated by the SRSG.

Law No. 2004 / 8
29 April 2004