



**Proposal of the European Commission  
for inclusion of Directive 2001/42/EC  
(SEA Directive)  
in the Treaty establishing the Energy  
Community**

**PHLG**

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## Treaty establishing the Energy Community (ECT) requirements

- **Art. 16** of the ECT - lists the *acquis communautaire* on environment covered by the ECT.
- Directive 2001/42/EC (SEA Directive) is not covered by the ECT.
- ECT covers different plans and programmes that may pertain the application of the SEA Directive.



## Proposed amendments to the ECT

- In Article 16, new point (vii) is added:  
"(vii) Directive 2001/42/EC [...]"
- In Annex II, new point 7 is added:  
"Each Contracting Party shall implement Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment by 1 January 2018."



# SEA Directive – adaptations (1/4)

## ***Article 2 of the SEA Directive, as adapted:***

**'plans and programmes'** shall mean plans and programmes, including those co-financed by the European Union, or *international financial institutions*, as well as any modifications to them:

- which are subject to preparation and/or adoption by an authority at national, regional or local level or which are prepared by an authority for adoption, through a legislative procedure by Parliament or Government, and
- which are required by legislative, regulatory or administrative provisions.



## SEA Directive – adaptations (2/4)

***Article 3(2) (a) of the SEA Directive, as adapted:***

*“(a) which are prepared for network energy, or, provided they contain network energy-related issues, in the fields of agriculture, forestry, fisheries, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use and which set the framework for future development consent of projects listed in Annexes I and II to Directive 2011/92/EU.”*

***Article 7 and 9 of the SEA Directive, as adapted:***

*“Contracting Party” – replaces “Member State”.*



# SEA Directive – adaptations (3/4)

## ***Article 11 (2) and (3) of the SEA Directive, as adapted:***

“2. For plans and programmes for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive *and other Energy Community legislation*, Contracting Parties may provide for coordinated or joint procedures fulfilling the requirements of the relevant *Energy Community legislation* in order, inter alia, to avoid duplication of assessment.

3. For plans and programmes co-financed by *international financial institutions*, the environmental assessment in accordance with this Directive shall be carried out in conformity with the specific provisions in relevant *Energy Community legislation*.”



# SEA Directive – adaptations (4/4)

## ***Article 13 (3) and (4) of the SEA Directive, as adapted:***

“3. The obligation referred to in Article 4(1) shall apply to the plans and programmes of which the first formal preparatory act is subsequent to the date referred to in Article 2(1) of Decision No. 2016/XX/MC-EnC. Plans and programmes of which the first formal preparatory act is before that date and which are adopted or submitted to the legislative procedure more than 24 months thereafter, shall be made subject to the obligation referred to in Article 4(1) unless Contracting Parties decide on a case-by-case basis that this is not feasible and inform the public of their decision.

4. Before **31 December 2021**, the Contracting Parties shall communicate to the Energy Community Secretariat , in addition to the measures referred to in Article 2(2) of Decision No. 2016/XX/MC-EnC, separate information on the types of plans and programmes which, in accordance with Article 3, would be subject to an environmental assessment pursuant to this Directive. The Secretariat shall make this information available to the Contracting Parties. The information will be updated on a regular basis.”

## ECT Decision - outcomes

- Amending the Treaty establishing the Energy Community and adapting the implementation of the SEA Directive.
- Addressed to the ECT Contracting Parties (CPs).
- Enters into force on the date of its adoption.
- CPs shall inform the Energy Community Secretariat of laws, regulations and administrative provisions brought into force to comply with the SEA Directive in accordance with Article 12 of the ECT by **1 January 2018**.