Conclusions of the 75th Permanent High Level Group

Location: Energy Community Secretariat, Vienna
Date: 8 April 2025

1. Opening and adoption of the Agenda

01. The meeting was chaired by Ms. Ana Gogoladze for Georgia and Ms. Yolanda Garcia Mezquita for the European Commission.

02. The Permanent High Level Group (PHLG) approved the agenda of the meeting, including changes proposed by the European Commission and Contracting Parties.

2. New *Acquis*

03. The Contracting Parties referred to their invitation to the European Commission (as per the conclusions of the 2024 Ministerial Council) regarding the new environmental acquis: the Habitats Directive, the Birds Directive, as well as the Water Framework Directive and its Daughter Directives. Considering the extensive consultations with the Contracting Parties to be launched based on the same Ministerial Council conclusions, the PHLG called upon the Secretariat to initiate those in the framework of the Task Force on Environment based on the drafts to be provided by DG Environment. The PHLG requested the Secretariat to present the conclusions of these consultations for further consideration by the PHLG.

04. The Contracting Parties invited the European Commission to present a proposal for a Ministerial Council decision prolonging the Gas Storage Regulation for adoption by the Ministerial Council in 2025. The European Commission presented the scope of the adaptations of the Commission Regulation (EU) 2024/264 of 17 January 2024 amending Regulation (EC) No 1099/2008 of the European Parliament and of the Council on energy statistics, as regards the implementation of updates for the annual, monthly and short-term monthly energy statistics for adoption at the next PHLG meeting in June 2025. The draft PHLG Decision will be made available to the Contracting Parties in due course.

05. The Contracting Parties invited the European Union to present a proposal for the full adaptation of REMIT in a package with the new implementing and delegated acts, for possible adoption by the Ministerial Council in 2026.

06. The European Commission presented an approach on proceeding with the Decision on the mutual recognition of guarantees of origin. The Contracting Parties invited the European Union to present a proposal for adoption of the Decision by the Ministerial Council in 2026.

07. The Contracting Parties invited the European Commission to present the adaptation of Commission Delegated Regulation (EU) 2024/1366 of 11 March 2024 supplementing Regulation (EU) 2019/943 of the European Parliament and of the Council by establishing a network code on sector-specific rules for cybersecurity aspects of cross-border electricity flows for possible adoption by the Ministerial Council in 2026.

08. The European Commission presented a list of delegated acts under Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources and Commission's decisions under Directive 2009/28/EC. The PHLG invited the Renewable Energy Coordination Group to engage in a technical exchange on these acts. The Contracting Parties invited the European Commission to present draft proposals of adapted acts for possible adoption decision in due course. The Energy Community Secretariat was invited to perform its duties and to inform the PHLG on the adoption of EU implementing acts.

3. Electricity Integration Package

09. As mandated by the Ministerial Council in December 2024, the Secretariat updated the PHLG on the progress achieved by the Contracting Parties in the transposition of the Electricity Integration Package with the view to launching decision-making by correspondence on cases regarding the non-transposition.

10. The Secretariat presented the status of the submission of Market Coupling Operator Integration Plan (MCO IP) by the Nominated Electricity Market Operators of EU Member States and Energy Community Contracting Parties and the ACER's request for submission of the proposal for an amendment of the Capacity Calculation Regions (CCRs).

4. Governance of the Energy Union and Climate Action

11. The Secretariat briefed the PHLG on the status of the adoption and implementation of the National Energy and Climate Plans (NECPs) and of the Integrated Progress Reports under the Governance Regulation. The Secretariat has informed the PHLG about its activities facilitating donor coordination in order to help the effective support for efforts necessary to implement NECPs and achieve energy and climate targets.

5. Carbon pricing

12. The Secretariat reported to the PHLG on progress with the applicable MRVA implementation and existing gaps. The Secretariat will follow-up to the report with dedicated outreach to the Contracting Parties, focusing on addressing the gaps identified or communicated by the Contracting Parties to the Secretariat.

13.

The Contracting Parties have stressed the necessity to coordinate the existing technical assistance programmes in order to effectively increase administrative capacities of the Contracting Parties.

14. The Secretariat reported to the PHLG on the feedback received from the Contracting Parties regarding their preferred carbon pricing scenarios, and reminded those that have not yet done so to communicate their preferences to the European Commission and the Secretariat well in advance of the informal Ministerial Council in July 2025. Based on the feedback received so far, the European Commission pointed to possible areas for closer cooperation to be further discussed ahead of the Informal Ministerial Council.

6. AOB

15. PHLG took note of the results of the decision-making procedure by correspondence in February 2025 on a number of dispute-settlement cases listed in Appendix II of the 2024 Ministerial Council conclusions. None of the proposed cases were adopted. The European Commission and the Secretariat expressed strong concerns about this outcome. They stressed that voting against or abstaining from voting on clear-cut cases regarding undisputed non-transposition within the deadlines set out the respective Energy Community acquis undermines the dispute settlement mechanism in Title VII of the Treaty and jeopardizes the attainment of the objectives of the Treaty.

16. The Secretariat informed the PHLG of the schedule of events in 2025 marking the 20th Anniversary of the Energy Community, including the 20th Anniversary of the signing of the Energy Community Treaty on 17 July 2025 in Athens, back-to-back with the Informal Ministerial Council meeting.

STATEMENT OF THE REPUBLIC OF SERBIA

The Republic of Serbia underlines that it is of outmost importance that the Secretariat timely, within one week from adoption in the EU, informs the PHLG about the adopted Commission delegated acts when mandated so by the Ministerial Council (ex. in decisions incorporating REDII, Governance Regulation) and sufficiently in advance of the PHLG meeting submits draft adapted versions to allow for proper preparation, insure eficiant and effective discussion.

The Republic of Serbia retains the right to provide comments when a draft decisions and proposals for incorporation of new legal acts will be submitted and kindly remindes its request that sufficient time for meaningful discussion with the Contracting Parties is ensured.

The Republic of Serbia brought to the attention of the PHLG the correspondence with the Energy Community Secretariat and the EU Commission that the decisions adopted by the Secretariat concerning gas storage targets were adopted in breach of the Energy Community Treaty and invited the EU Commission when presenting a proposal for Ministerial Council decision on extension of the Gas Storage Regulation, to amend Article 6a(7) of the Regulation and and secure the right to adopt the decisions under capacity of PHLG and the Ministerial Council.

The Republic of Serbia reminds that decisions by correspondence should be taken if "the matter warrants the taking of the decision by correspondence" in between the meetings as allowed by the Ministerial Council's Rules of Procedure. If once a decision was put for voting and was not adopted, the decision has been taken, and the cases have been decided - they are *res iudicata* (a principle of EU law that pusruant to Article 94 of the Energy Community Treaty, the Energy Community institutions are obliged to respect) and cannot be voted again.

Moreover, the Ministerial Council was not informed of the results of the procedure at all, which is absolutely worrying and puts into question the functioning of the institutions, the performance and the transparency of the Secretariat. Even though the Rules of Procedure of the Ministerial Council only require explicitly that the Secretariat informs when a decision is adopted, for the sake of transparency and clarity - such information should be shared also in case of different voting result.

The Republic of Serbia invites the Secretariat to transparently and timely share the results of voting procedures in future, and it invites all Parties and institutions to respect the decisions taken by the Presidencies (at which meetings the dispute settlement cases are put on the agenda) as to whether such matters warrant decision making by correspondence. It also invites the Secretariat and the current and future Presidencies and the Vice-Presidency to respect the procedural rules when preparing the agendas and - unless the PHLG identifies Measures to be included as "A" items for adoption by the Ministerial Council without further discussion - in any other case to include the topics in the agenda of the Ministers for discussion.

With regard to donor coordination activities, the Republic of Serbia invites the Energy Community Secretariat, to keep its activities limited to assisting the coordination by the European Commission of the donors' activity and provide administrative support to the donors as stipulated in the Energy Community Treaty, and to coordinate activities jointly with Contracting Parties if requested.

Regarding the Decision on the mutual recognition of guarantees of origin and its adoption by the Ministerial Council in 2025, Serbia kindly requests recognition of the diligent efforts undertaken and the comprehensive transposition and implementation of obligations related to guarantees of origin within the Contracting Parties. Serbia requested to receive timely the draft decision, so that a negotiation position could be properly prepared.

The Republic of Serbia calls on the Energy Community Secretariat, the European Commission, and all Contracting Parties of the Energy Community to use a status-neutral tone regarding Kosovo* in all forms of statements (this designation is without prejudice to positions on status, and is in line with United Nations Security Council Resolution 1244).