

PROPOSAL FOR A
GENERAL POLICY GUIDELINE
FUTURE JOINT ACT ON SECURITY OF GAS SUPPLY

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

Having regard to Article 47 of the Treaty establishing the Energy Community ("the Treaty") and item VI of the Procedural Act 2006/01/MC-EnC on the Adoption of Internal Rules of Procedure of the Ministerial Council of the Energy Community,

Recalling its conclusions of the 12th meeting in Kiev in 2014 identifying as one of the priorities for the nearest future the adaptation of the Regulation (EU) 994/2010¹ (hereafter security of gas supply Regulation) in the Energy Community legal order so as to create fully operational framework for security of gas supply between Member States and the Contracting Parties.

Noting the European Commission's announcements in its Energy Union Communication² to propose preventive and emergency plans in gas supply at regional and EU level, including the Energy Community Contracting Parties in the context of the revision of the security of gas supply Regulation.

Stressing the objective of the Treaty establishing the Energy Community to create a stable regulatory and market framework between the EU and the Contracting Parties.

Recalling the various instruments of the Treaty including Title II allowing to extend the EU acquis to the Energy Community and Chapter IV of Title IV allowing to establish rules applicable between the EU Member States and the Contracting Parties ensuring mutual assistance in the event of disruption of energy.

Noting the upcoming review of the Regulation (EU) No 994/2010 at EU level and an announcement of the European Commission reflected in the 12th Ministerial Council conclusions to involve the Contracting Parties in this review.

Recognising the lack of established practice in the use of Title IV in the Energy Community and therefore a need to respect the institutional processes, decision making and rights of the Contracting Parties, of the EU Member States and the EU institutions.

Stressing the need to establish clear competences and responsibilities for the implementation of a regulatory framework ensuring security of gas supply.

Having regard to the role of the Commission foreseen by Article 4 of the Energy Community Treaty in conjunction with Article 3(c).

Recognising the conclusions drawn in the Stress Test Communication which included also the assessment of risks related to disruption of supply of gas in the Energy Community Contracting Parties.

¹ OJ L 295, 12.11.2010

² *ibidem*

THE MINISTERIAL COUNCIL ADOPTS

this General Policy Guideline which represent the political consensus reached in the Ministerial Council initiating a process leading to the implementation of the revised Regulation 994/2010 in the Energy Community as a self-standing legal act referred to as the **"Future Joint Act on Security of Gas Supply"**.

In view of the on-going revision process of the security of gas supply regulation at the EU level, the Ministerial Council invites the European Commission to ensure that the Contracting Parties are duly informed on the progress between the EU institutions. The Ministerial Council invites the Commission to make a legislative proposal for the Joint Act once the revised security of gas supply Regulation is adopted within the EU, and invites the Commission to involve the Contracting Parties in a timely manner to discuss provisions that need to be agreed.

The future Joint Act on Security of Gas Supply will contribute to a functioning regulatory framework between the EU Member States and the Contracting Parties in the area of security of gas supply to prevent supply disruptions.

The future Joint Act will be based on the structure and the content of the revised security of gas supply Regulation, however not all provisions of the Regulation might be proposed to be applied also towards the Contracting Parties. Should the Contracting Parties agree to implement these rules on their territory, the future Joint Act will make it possible to extend the EU Regulation to the Energy Community on the basis of Title II. However it may go beyond the mere implementation of the solutions envisaged in the EU Regulation as by applying Title IV it may address the regulatory regime applicable to the cross-border issues between the Energy Community and the EU Member States.

The current security of gas supply Regulation involves drawing up Preventive Action Plans and Emergency Plans, ensuring permanent bi-directional capacity on interconnection points, and prohibiting of distortive national measures.

The future Joint Act on Security of Gas Supply should seek to implement such obligations between the Contracting Parties and the EU Member States in line with the revised security of gas supply Regulation.

In order to ensure consistency of the application of the provisions of the future Joint Act between the EU and the Energy Community, the Commission could be granted the same competences towards the Contracting Parties as it would perform towards the EU Member States themselves, respecting the provisions of the Energy Community Treaty.

The Energy Community Secretariat could assist the Commission in performing its role at technical level in respect to the Contracting Parties if they wish so. The Energy Community Secretariat could support the Contracting Parties in fulfilling their obligations under the Joint Act in particular it could coordinate the actions of the Contracting Parties.