

**PROCEDURAL ACT OF
THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY**

2014/01/MC-EnC amending Procedural Act N° 2006/03/MC-EnC laying down the *Energy Community Procedures for the Establishment and Implementation of Budget, Auditing and Inspection*

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY,

Having regard to the Treaty establishing the Energy Community, and in particular Articles 74, 86 and 88 thereof,

Having regard to the Energy Community *Procedures for the Establishment and Implementation of Budget, Auditing and Inspection* (Procedural Act No 2006/03/MA-EnC) and in particular Article 89 thereof,

Having regard to the proposal from the European Commission established by a decision of 12 June 2014 (C(2014) 3923 final),

Whereas:

- 1) Article 74 of the Energy Community Treaty provides that the Ministerial Council of the Energy Community shall adopt a Procedural Act specifying the procedure for the implementation of the budget, and for presenting and auditing accounts and inspection;
- 2) Article 88 of the Energy Community Treaty provides that the Procedural Acts on budgetary matters provided for in Articles 73 and 74 shall be adopted by unanimity on a proposal from the European Commission;
- 3) On 17 November 2006, the Ministerial Council adopted the Energy Community *Procedures for the Establishment and Implementation of Budget, Auditing and Inspection* (Procedural Act N° 2006/03/MC-EnC);
- 4) The Treaty establishing the Energy Community ("the Treaty"), which was concluded for a period of 10 years, was extended for another 10 years by decision of the Ministerial Council of the Energy Community on 24 October 2013 (D/2013/03/MC-EnC *on extending the duration of the Energy Community Treaty*);
- 5) It is appropriate to amend the existing budgetary rules in the light of the experience and evolution of the Energy Community in order to remove redundancy, update the terminology and further clarify some provisions to ease their implementation. Some of the articles have also been updated to align them with those of Regulation 966/2012 on the financial rules applicable to the general budget of the European Union;
- 6) The proposed changes are contained in the annexed text elaborated by the Energy Community Secretariat;

ADOPTS THE FOLLOWING PROCEDURAL ACT:

Article 1

The European Commission's proposal established by its Decision C(2014) 3923 final of 12 June 2014 on amending the Procedural Act N° 2006/03/MC-EnC on Energy Community *Procedures for the Establishment and Implementation of Budget, Auditing and Inspection* is hereby adopted.

Article 2

This Procedural Act shall enter into force upon adoption.

Article 3

The Director of the Energy Community Secretariat shall publish the amended Procedures for the Establishment and Implementation of Budget, Auditing and Inspection on the Energy Community website within seven days of adoption of this Procedural Act.

Done in Kiev on 23 September 2014

For the Energy Community

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Presidency



**ENERGY COMMUNITY
PROCEDURES FOR THE ESTABLISHMENT
AND IMPLEMENTATION OF BUDGET,
AUDITING AND INSPECTION**

AMENDED VERSION

AS OF 23/09/2014

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TITLE I: SCOPE AND APPLICATION

Article 1

This Procedural Act on Budgetary Issues (hereinafter "Procedures" or "Rules") spells out the essential financial rules for the administration of the Energy Community budget.

TITLE II: OBLIGATIONS OF THE PARTIES

Article 2

1. Parties assume full responsibility for the operational expenditure of the Energy Community, by way of annual contributions as set out in Annex IV of the Treaty, as stipulated in the relevant article 74 of the Treaty.
2. The annual contributions of the Parties are to be transferred to the Energy Community budget during the first quarter of each budget year.
3. Annual contributions of the Parties to the Energy Community budget are paid in Euros.
4. If a Party fails to meet its obligation assumed under Article 2(1) to the Energy Community, the Budget Committee shall report to the Ministerial Council that in turn determines the existence of a breach by a Party pursuant to Article 91 of the Treaty.

TITLE III: BUDGETARY PRINCIPLES

Article 3

The establishment and implementation of the budget of the Energy Community (hereinafter "the budget") shall comply with the principles of unity and budget accuracy, annuality, equilibrium, unit of account, universality, specification, sound financial management and transparency as provided for in these rules.

CHAPTER 1 PRINCIPLE OF UNITY AND BUDGET ACCURACY

Article 4

The budget is the instrument which, for each financial year, forecasts and authorises the revenue and expenditure considered necessary for the functioning of the Energy Community and its relevant institutions.

Article 5

The budget shall comprise:

- a. Revenue made up of the financial contributions by the Parties to the Treaty, in accordance with Article 2(1) of these Rules,
- b. Revenue assigned to specific items of expenditure in accordance with Article 15(1) of these Rules,

- c. Carry-over of the previous year in accordance with Article 10 of these Rules,
- d. The expenditure of the Energy Community, in accordance with Article 74 of the Treaty, including administrative expenditure.

Article 6

- 1. No revenue shall be collected and no expenditure effected unless booked to a line in the budget.
- 2. An appropriation must not be entered in the budget, if it is not for an item of expenditure considered necessary.
- 3. No expenditure may be committed or authorised in excess of the appropriations authorised by the budget.

CHAPTER 2 PRINCIPLE OF ANNUALITY

Article 7

- 1. According to Article 74 of the Treaty, the Ministerial Council adopts every two years the budget of two consecutive years. Each year is covered by a separate budget endorsed by the Ministerial Council on an annual basis.
- 2. The appropriations entered in the budget shall be authorised for one financial year which shall run from 1 January to 31 December.

Article 8

- 1. The budget shall contain expenditure necessary for the functioning of the Energy Community institutions.
- 2. Expenditure arising from contracts covering periods that extend beyond the financial year, either in accordance with local practice or relating to the supply of equipment, shall be charged to the budget of the financial year in which it is effected.

Article 9

- 1. The revenue of the Energy Community referred to in Article 5 shall be entered in the accounts for the financial year on the basis of the amounts collected during the financial year in accordance with Article 2(2) of these Rules.
- 2. The appropriations authorised in the budget for a relevant year may be used solely to cover expenditure committed and paid in that financial year, and to cover amounts due against commitments from the previous financial year.
- 3. Commitments shall be entered in the accounts on the basis of the legal commitments entered into up to 31 December.
- 4. Payments shall be entered in the accounts for a financial year on the basis of the payments effected by the accountant by 31 December of that year at the latest.

Article 10

1. Appropriations which have not been used at the end of the financial year for which they were entered shall be cancelled and paid back to the Parties in accordance with the percentages established in the Table of Contributions as annexed to the Treaty.
2. Budget appropriations corresponding to obligations duly contracted at the end of the financial year shall be carried forward automatically to the following financial year only.
3. Appropriations for staff expenditures shall not be carried over. For the purpose of this Article, staff expenditures comprise the remuneration of staff to which Staff Regulations apply.
4. Appropriations carried over shall be identified respectively in the accounts.

CHAPTER 3 PRINCIPLE OF EQUILIBRIUM

Article 11

1. The budget revenue and expenditure must be in balance.
2. The Energy Community may not raise loans.

CHAPTER 4 PRINCIPLE OF UNIT OF ACCOUNT

Article 12

The budget shall be drawn up and implemented in Euro and the accounts shall be presented in Euro.

CHAPTER 5 PRINCIPLE OF UNIVERSALITY

Article 13

Total revenue shall cover total expenditure. All revenue and expenditure shall be entered in full without any adjustment against each other.

Article 14

1. Revenue earmarked for specific purposes in the form of donations (Other income) shall be used only to finance them in accordance with these Rules.
2. All items of revenue within the meaning of paragraph 1 shall cover all direct or indirect expenditure incurred by the activity or purpose in question.
3. The budget shall carry lines to accommodate the categories of assigned revenue referred to in paragraph 1 and shall indicate the amount.

Article 15

1. The Director may accept donations to the Energy Community only upon in advance agreement of the Budget Committee, based on written information about the amount and the purpose of the donation and the financial charges involved.

2. The yearly Director's report on the execution of the budget to the Ministerial Council shall include explicit information on proposed and received donations and their usage.

Article 16

1. The following deductions may be made from payment requests, invoices or statements, which shall then be passed for payment of the net amount:
 - (a) penalties imposed on parties to contracts, including procurement contracts;
 - (b) adjustments for amounts paid unduly, which can be made by means of direct deduction against a new payment of the same type to the same payee under the chapter, article and financial year in respect of which the excess payment was made, and which give rise to interim payments or payments of balances.
2. Discounts and rebates on invoices and payment requests shall not be recorded as revenue of the Energy Community.
3. Any negative balance shall be entered in the budget as expenditure.

CHAPTER 6 PRINCIPLE OF SPECIFICATION

Article 17

The appropriations in their entirety shall be earmarked for specific purposes by title and chapter; the chapters shall be further subdivided into articles and items.

Article 18

1. The Director may decide on transfers of appropriations within the overall budget, other than human resources within the total limit of 10% of the appropriations for the financial year.
2. For transfers exceeding the limit of 10% the Director shall seek prior agreement of the Budget Committee.
3. Transfers concerning human resources budget line have to receive the preliminary agreement of the Budget Committee.
4. The Budget Committee shall have two weeks to oppose transfers referred to in item 2. and 3. above. After that time-limit they shall be deemed to be agreed.
5. Proposals for transfers carried out under shall be accompanied by appropriate and detailed supporting documents showing the implementation of appropriations and estimates of requirements up to the end of the financial year, both for the headings to be credited and for those from which the appropriations are drawn.
6. The Director shall inform the Chairman of the Budget Committee within 7 days upon deciding on all transfers.

Article 19

Appropriations corresponding to assigned revenue may be transferred only, if they are used for the purpose to which the revenue is assigned. Appropriations may be transferred only to budget lines for which the budget has authorised appropriations or carries a token entry.

CHAPTER 7 PRINCIPLE OF SOUND FINANCIAL MANAGEMENT

Article 20

1. Budget appropriations shall be used in accordance with the principle of sound financial management, i.e. in accordance with the principles of economy, efficiency and effectiveness.
2. The principle of economy requires that the resources used by the Energy Community for the pursuit of its activities shall be made available in due time, in appropriate quantity and quality and at the best price.
3. The principle of efficiency is concerned with the best relationship between resources employed and results achieved.
4. The principle of effectiveness is concerned with attaining the specific objectives set and achieving the intended results. These results shall be evaluated.
5. The annual work programme of the Energy Community adopted by the Ministerial Council shall contain objectives and performance indicators.

CHAPTER 8 PRINCIPLE OF TRANSPARENCY

Article 21

1. The budget shall be drawn up and implemented and the accounts presented in compliance with the principle of transparency.
2. The budget and amending budgets, as finally adopted, shall be published on the website of the Energy Community Secretariat.

TITLE IV: BUDGET COMMITTEE

Article 22

1. A Budget Committee is hereby established.
2. The Budget Committee supervises and advises the Director in the financial management of the operations of the Energy Community and, in case of disagreement with the Director, reports to the Ministerial Council in accordance with these Rules.
3. The Director shall inform regularly the Budget Committee on all matters relating to budgetary and financial management. The Budget Committee shall be empowered to obtain any necessary information or explanations regarding budgetary matters.

Article 23

1. The Budget Committee of the Energy Community shall consist of one member from each of the Contracting Parties and two members of the European Union, represented by the European Commission.
2. The European Union and each Contracting Party nominate their representatives. The term of office of the Budget Committee is 2 years.
3. Meetings of the Budget Committee will be chaired by the representative of the European Union. The Chairperson may appoint a Co-chair.
4. The Budget Committee shall hold at least three ordinary meetings a year. Optionally the Budget Committee can meet using the options available through web based media. In addition it shall meet at the instance of the Chairperson or at the request of at least one third of its members.
5. The Budget Committee shall adopt its internal rules of procedure. Its decisions may be taken by written procedure. Budget Committee shall act by simple majority of the votes including the positive vote of the European Union. In case of equal votes, the European Union shall have the deciding vote.
6. The Secretariat shall provide support to the preparation of the Budget Committee meetings.
7. The Energy Community Secretariat shall be represented at the meetings of the Budget Committee without voting rights.

TITLE V: ESTABLISHMENT AND STRUCTURE OF THE BUDGET

CHAPTER 1 ESTABLISHMENT OF THE BUDGET

Article 24

The budget shall be established in accordance with the Article 74 and 75 of the Treaty. It shall cover the operational expenses of the Energy Community necessary for functioning of its institutions in accordance with the tasks of those defined in Title V ("Institutions of the Energy Community") of the Treaty. The expenditure of each Institution shall be set out in a different part of the budget.

Article 25

1. The Director of the Energy Community Secretariat shall propose to the European Commission an estimate of the revenue and expenditure of the Energy Community for two consecutive years not later than 31 March of the year proceeding the upcoming budgetary period. This proposal shall be accompanied by explanatory general budgetary assumptions.
2. The European Commission shall submit this estimate to the Ministerial Council and propose the amount of the appropriations for the Energy Community in accordance with Annex IV of the Treaty. It shall also propose the number of staff of the Secretariat it considers that the Energy Community needs to carry out the tasks given under the Treaty in the budget period in question.
3. The budget proposal of the Energy Community, in addition to the stipulations of point (2) above, shall contain the following:

- a. Outline of the work programme of the Energy Community for the budget period in question.
- b. An establishment plan setting the number of permanent and temporary posts authorised within the limits of the budget appropriations;
- c. A statement justifying the request for new posts- where there is a change in the number of persons in post.

Article 26

Any required amendment to the budget related to the estimated expenditures, including the number staff of the Secretariat, shall be subject of an amended budget adopted by the Ministerial Council by the same procedure as the initial budget.

CHAPTER 2 STRUCTURE AND PRESENTATION OF THE BUDGET

Article 27

The budget shall comprise a statement of revenue and a statement of expenditure.

Article 28

The budget shall show:

1. In the statement of revenue:
 - a. The estimated revenue of the Energy Community for the financial year in question;
 - b. The estimated revenue of the Energy Community for the preceding financial year;
 - c. Appropriate remarks on each revenue line;
2. In the statement of expenditure:
 - a. Appropriations for the financial year in question;
 - b. Appropriations for the preceding financial year;
 - c. Appropriate remarks on each subdivision.

Article 29

The establishment plan referred to in Article 25(3) shall show next to the number of posts authorised for the financial year, the number authorised for the preceding year and the number of posts actually filled.

It shall constitute an absolute limit for the Energy Community; no appointment may be made in excess of the limit set.

Article 30

The draft Budget presented for adoption to the Ministerial Council shall contain an explanatory memorandum prepared by the Director and agreed by the European Commission setting out the considerations which have guided the preparation of the budget, together with a summary table showing the proposed appropriations apportioned by the major items of the Energy Community expenditure.

TITLE VI: IMPLEMENTATION OF THE BUDGET

CHAPTER 1 GENERAL PROVISIONS

Article 31

The Director shall perform the duties of authorising officer. He shall implement the budget in compliance with these rules on the ground of Article 74 of the Treaty, on his own responsibility and within the limits of the appropriations authorised.

Article 32

1. The Director may delegate his powers of budget implementation to staff of the Secretariat. Those so empowered may act only within the limits of the powers expressly conferred upon them.

Article 33

1. All financial actors within the meaning of Chapter 2 of this Title shall be prohibited from taking any measures of budget implementation which may bring their own interests into conflict with those of the Energy Community. Should such a case arise, the actor in question must refrain from such measures and refer the matter to the competent authority.
2. There is a conflict of interests where the impartial and objective exercise of the functions of an actor in the implementation of the budget or an internal auditor is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with the beneficiary or contractor.
3. The competent authority referred to in paragraph 1 shall be the immediate superior of the member of staff concerned. If the member of staff is the Director, the competent authority shall be the Chairperson of the Budget Committee.
4. The Director of the Energy Community Secretariat shall adopt rules on the prevention and management of conflict of interests.

Article 34

Technical expertise tasks and administrative, preparatory or ancillary tasks involving neither the exercise of public authority nor the use of discretionary powers of judgment may be entrusted by contract to external private-sector entities or bodies, where this proves to be indispensable.

CHAPTER 2 FINANCIAL ACTORS

SECTION 1 PRINCIPLE OF SEGREGATION OF DUTIES

Article 35

The duties of authorising officer and accountant shall be segregated and mutually incompatible.

SECTION 2 AUTHORISING OFFICER

Article 36

1. The authorising officer shall be responsible for implementing revenue and expenditure in accordance with the budgetary principles as described in Title III of this Procedural Act, and for ensuring that the requirements of legality and regularity are complied with.
2. To implement expenditure, the authorising officer shall make budget commitments and legal commitments, shall validate expenditure and authorise payments in accordance with the relevant provisions of this Procedural Act, and shall undertake the preliminaries for the implementation of appropriations.
3. Implementation of revenue shall comprise drawing up estimates of amounts receivable, establishing entitlements to be recovered and issuing recovery orders. It shall involve waiving established entitlements where appropriate.
4. The authorising officer shall assure that all the supporting documents related to operations carried out for a period of five years from the date of the decision granting discharge in respect of implementation of the budget are properly preserved.

Article 37

1. Having due regard to the risks associated with the management environment and the nature of the actions financed, the authorising officer shall put in place the organisational structure, internal management, control systems and procedures (hereinafter "Internal Management Rules of the Energy Community") suited to the performance of his duties, including where appropriate *ex post* verifications
2. Before an operation is authorised, the operational and financial aspects shall be verified by members of staff other than the one who initiated the operation. Initiation and the *ex ante* and *ex post* verification of an operation shall be separate functions.
3. The staff responsible for the verifications shall be different from those initiating the operation and shall not be their subordinates.

Article 38

The Director, as authorising officer, shall report yearly to Ministerial Council and inform the Budget Committee on the performance of his duties in the form of Director's Report on the Execution of the Budget as required under Article 75 of the Treaty.

Article 39

Any member of staff involved in the financial management and control of transactions who considers that a decision he is required by his superior to apply or to agree to is irregular or contrary to the budgetary principles, as defined in Title III of this Procedural Act, or the professional rules he/she is required to observe shall inform the Director in writing and, if the latter fails to take action within a reasonable period, the Budget Committee. In the event of evidence of any illegal activity, fraud or corruption which may harm the interests of the Community, he shall inform the authorities and bodies designated by the applicable legislation of the domicile country.

Article 40

Where powers of budget implementation are delegated, Article 36 of these Rules shall apply *mutatis mutandis* to the authorised officers.

SECTION 3 ACCOUNTANT

Article 41

1. The Director shall appoint an accountant, in accordance with the Procedural Act applicable to Rules for the recruitment, working conditions and geographic equilibrium of the Secretariat, who shall be responsible in the Secretariat for:
 - a. Proper implementation of payments, collection of revenue and recovery of amounts established as being receivable;
 - b. Preparing and presenting the accounts in accordance with Title VIII;
 - c. Keeping the accounts in accordance with Title VIII;
 - d. Implementing, in accordance with Title VI, the accounting rules and methods and the chart of accounts;
 - e. Laying down and validating the accounting systems and where appropriate validating systems laid down by the authorising officer to supply or justify accounting information;
2. The Director may decide on the outsourcing of the accounting function upon justified request based in cost/benefit analysis.

CHAPTER 3 LIABILITY OF THE FINANCIAL ACTORS

SECTION 1 GENERAL RULES

Article 42

1. The responsibility under these Rules is personal.
2. Any member of staff may be required to make good, in whole or in part, any damage suffered by the Energy Community as a result of misconduct on his part in the course of or in connection with the performance of his duties assigned to him in accordance with the relevant duty description.

Article 43

1. Without prejudice to any disciplinary action, the authorising officer may withdraw any delegation at any time temporarily or definitively. The Chairman of the Budget Committee shall be immediately informed for such an action with a proper justification.
2. Without prejudice to any disciplinary action, the accountant may at any time be suspended temporarily or definitively from his/her duties by the Director.

3. The Director shall appoint a new accountant in accordance with the Recruitment Rules of the Energy Community or decide on an outsourcing of the accounting function to the professional service provider as referred to in Article 41 above.
4. A trial balance shall be drawn up without delay in the event of termination of the duties of the accountant.
5. The trial balance accompanied by a handing over report shall be transmitted by the accountant who is terminating his/her duties to the authorising officer.
6. The handing over report shall also contain the result of the trial balance and any reservations made.

Article 44

1. The provisions of this chapter are without prejudice to the criminal law liability which the authorising officer and the persons referred to in this Chapter may incur as provided in the applicable national law of the domicile country and in the provisions in force on the protection of the Energy Communities' financial interests and on the fight against corruption involving officials of the Energy Community or officials of the Parties.
2. Any person, who has authority under these Rules, shall be respectively liable to disciplinary action in accordance with them and/or the applicable legislation of the domicile country. In the event of evidence of illegal activity, fraud or corruption which may harm the interests of the Energy Community, the matter will be referred to the competent authorities and bodies.

SECTION 2 RULES APPLICABLE TO THE AUTHORISING OFFICER

Article 45

1. The authorising officer may be required to make good, in whole or in part, any damage suffered by the Energy Community as a result of serious misconduct on his part in the course of or in connection with the performance of his duties, in particular if he determines entitlements to be recovered or issues recovery orders, commits expenditure or signs a payment order without complying with this Procedural Act. The same shall apply where, through serious misconduct, he fails to draw up a document establishing an amount receivable or if he/she fails to issue a recovery order or is, without justification, late in issuing it, or if he/she fails to issue a payment order or is late in issuing it, thereby rendering the Energy Community liable to civil action by third parties.
2. An authorising officer by delegation who considers that a decision falling under his responsibility is irregular or contrary to the principles of sound financial management shall inform the delegating authority in writing. If the delegating authority then gives a reasoned instruction in writing to the authorising officer by delegation to implement the decision in question, the latter must implement it and may not be held liable.
3. In the event of delegation, the authorising officer shall continue to be responsible for the effectiveness of the internal management rules put in place and for the choice of the authorising officer by delegation.
4. The Authorising officer shall not be held responsible for any rulings, provided by the Budget Committee and/or the Ministerial Council, in case they are strictly followed. Should the

Authorising officer disagree with any of these rulings, he has the right to notify the relevant authority in writing. However, he/she is obliged to follow the relevant rulings.

SECTION 3

RULES APPLICABLE TO THE ACCOUNTING OFFICER

Article 46

In case of misconduct, the accountant may be liable to disciplinary action, in particular but not exclusively, where:

- a) He/she loses or damages money, assets and documents in his keeping or causes them to be lost or damaged by his negligence;
- b) He/she alters bank accounts or postal giro accounts without notifying the authorising officer in advance;
- c) He/she recovers or pays amounts which are not in conformity with the corresponding recovery or payment orders;
- d) He/she fails to take all necessary measures to collect revenue due.

CHAPTER 4

REVENUE OPERATIONS

SECTION 1

GENERAL PROVISIONS

Article 47

The Energy Community shall receive contributions from the Parties as laid down in Article 2 of this document.

Article 48

The funds paid to the Energy Community by the Parties shall bear interest for the benefit of the Energy Community budget and paid back to the Parties.

SECTION 2

ESTIMATE OF AMOUNTS RECEIVABLE

Article 49

An estimate of the amount receivable shall first be made by the authorising officer responsible in respect of any measure or situation which may give rise to or modify an amount owing to the Energy Community Party.

SECTION 3

ESTABLISHMENT OF AMOUNTS RECEIVABLE

Article 50

1. Establishment of an amount receivable is the act by which the authorising officer or authorising officer by delegation:
 - (a) verifies that the debt exists;

- (b) determines or verifies the reality and the amount of the debt;
 - (c) verifies the conditions in which the debt is due.
2. Any amount receivable that is identified as being certain, of a fixed amount and due must be established by a recovery order given to the accountant, accompanied by a debit note sent to the debtor. Both of these documents shall be drawn up and sent by the authorising officer responsible.
 3. Without prejudice to the provisions laid down in the rules, contract or agreement applicable, any debt not repaid on the due date laid down in the debit note shall bear interest.
 4. In duly substantiated cases, certain routine revenue items may be established provisionally. Provisional establishment shall cover the recovery of several individual amounts which need not therefore be established individually.

Before the end of the financial year, the authorising officer shall amend the amounts established provisionally to ensure that they correspond to the amounts receivable actually established.

Article 51

The authorisation of recovery is the act whereby the authorising officer responsible instructs the accountant, by issuing a recovery order, to recover an amount receivable which he/she has established.

Article 52

1. Amounts wrongly paid shall be recovered.
2. The accountant shall act on recovery orders for amounts receivable duly established by the authorising officer or authorising officer responsible. He/she shall exercise due diligence to ensure that the Energy Community receives its revenue and shall see that its rights are safeguarded.
3. Where the authorising officer responsible is planning to waive recovery of an established amount receivable, he/she shall ensure that the waiver is in order and complies with the principle of sound financial management.

Such a waiver shall be by decision of the authorising officer, which must be substantiated. The authorising officer may not delegate such a decision.

The waiver decision shall state what action has been taken to secure recovery and the points of law and fact on which it is based.

4. The authorising officer responsible shall cancel an established amount receivable when the discovery of a mistake as to a point of law or fact reveals that the amount had not been correctly established. Such cancellation shall be by decision of the authorising officer responsible and shall be suitably substantiated.
5. The authorising officer responsible shall adjust the amount of an established debt upwards or downwards when the discovery of a factual error entails the alteration of the amount of the debt, provided that this correction does not involve the loss of the established entitlement of the Energy Community. Such an adjustment shall be by decision of the authorising officer responsible and shall be suitably substantiated.

Article 53

1. Upon actual recovery of the sum due, the accountant shall make an entry in the accounts and shall inform the authorising officer responsible.
2. A receipt shall be issued in respect of all cash payments made to the accountant.

Article 54

1. If actual recovery has not taken place by the due date stipulated in the debit note, the accountant shall inform the authorising officer responsible and immediately launch the procedure for effecting recovery by any means offered by the law, including, where appropriate, by offsetting and, if this is not possible, by enforced recovery.
2. The accountant shall recover amounts by offsetting them against equivalent claims that the Energy Community has on any debtor who himself has a claim on the Energy Community that is certain, of a fixed amount and due, provided that offsetting is legally possible.

Article 55

The accountant, in collaboration with the authorising officer responsible, may allow additional time for payment only at the written request of the debtor, with due indication of the reasons, provided that the following two conditions are met:

- a) the debtor undertakes to pay interest at the rate specified for the entire additional period allowed, starting from the date on which the payment was originally due;
- b) in order to safeguard the rights of the Energy Community, the debtor provides a financial guarantee covering both the principal sum and the interest.

CHAPTER 5 EXPENDITURE OPERATIONS

Article 56

1. Every item of expenditure shall be committed, validated, authorised and paid.
2. Every commitment of expenditure shall be preceded by an approved and justified budget request.
3. The work programme of the Energy Community shall be equivalent to the financing decisions for the activities it covers, provided that they are clearly identified and the underlying criteria are spelled out precisely.
4. Administrative appropriations related to the every-day operations of the Energy Community and its institutions may be implemented following established internal rules of the Secretariat.

SECTION 1 COMMITMENT OF EXPENDITURE

Article 57

1. The budget commitment is the operation reserving the appropriation necessary to cover subsequent payments to honour a legal commitment.
2. The legal commitment is the act whereby the authorising officer responsible enters into or establishes an obligation which results in a charge for the budget.
3. The budget commitment is individual when the beneficiary and the amount of the expenditure are known.
4. The budget commitment is global when at least one of the elements necessary to identify the individual commitment is still not known.

Article 58

1. In respect of any measure which may give rise to expenditure chargeable to the budget, the authorising officer responsible must first make a budget commitment before entering into a legal obligation with third parties.
2. Individual legal commitments relating to individual budget commitments shall be concluded by 31 December of the current financial year.
3. The legal commitments entered into for actions extending over more than one financial year and the corresponding budget commitments shall, save in the case of officials expenditure, have a final date for implementation set in compliance with the principle of sound financial management.

Article 59

1. Individual legal commitments relating to individual budget commitments shall be concluded by 31 December of year N.
2. At the end of the periods referred to in the paragraphs 1 and 2, the unused balance of these budget commitments shall be decommitted by the authorising officer responsible.
3. The legal commitments entered into for actions extending over the financial year and the corresponding budget commitments shall have a final date for implementation set in compliance with the principle of sound financial management.
4. Any parts of such commitments which have not been executed six months after that final date shall be decommitted.

Article 60

When adopting a budget commitment, the authorising officer responsible shall ensure that:

- a) the expenditure has been charged to the correct item in the budget;
- b) the appropriations are available;
- c) the expenditure conforms to the applicable provisions, in particular those of the Treaty, the internal management rules of the Secretariat;
- d) the principle of sound financial management is complied with.

SECTION 2 VALIDATION OF EXPENDITURE

Article 61

Validation of expenditure is the act whereby the authorising officer responsible:

- a) Verifies the existence of the creditor's entitlement;
- b) Verifies the conditions in which payment is due;
- c) Determines or verifies the reality and the amount of the claim.

Article 62

1. Validation of any expenditure shall be based on supporting documents attesting the creditor's entitlement, on the basis of a statement of services actually rendered, supplies actually delivered

or work actually carried out, or on the basis of other documents justifying payment.

2. In a non-computerised system, 'passed for payment' shall take the form of a stamp incorporating the signature of the authorising officers.
3. In a computerised system, 'passed for payment' shall take the form of validation using the personal password of the authorising officers.

SECTION 3 **AUTHORISATION OF EXPENDITURE**

Article 63

1. Authorisation of expenditure is the act whereby the authorising officer responsible, by issuing a payment order, instructs the accountant to pay an item of expenditure which he has validated.
2. The payment order shall be dated and signed by the authorising officer responsible, then sent to the accountant. The supporting documents shall be kept by the authorising officer responsible in accordance with Article 36(4).
3. Where appropriate, the payment order sent to the accountant shall be accompanied by a document certifying that the goods have been entered in the inventories referred to in Article 78.

SECTION 4 **PAYMENT OF EXPENDITURE**

Article 64

1. Payment shall be made on production of proof that the relevant action has been carried out in accordance with the provisions of the basic act and shall cover one of the following operations:
 - a) Payment of the entire amount due;
 - b) Payment of the amount due in any of the following ways:
 - i. pre-financing, which may be divided into a number of payments;
 - ii. one or more interim payments;
 - iii. payment of the balance of the amounts due.

Pre-financing shall count in full or in part against the interim payments.

The entire pre-financing and interim payments shall count against the payment of balances.

2. A distinction shall be made in the accounts between the different types of payment referred to in paragraph 1 at the time they are made.

Article 65

Payment of expenditure shall be made by the accountant within the limits of the funds available.

TITLE VII: PROCUREMENT AND GRANTS

Article 66

As regards procurement, the relevant provisions for public procurement of the domicile country shall apply.

Article 67

The Energy Community Secretariat may not award grants.

TITLE VIII: PRESENTATION OF THE ACCOUNTS AND ACCOUNTING

CHAPTER 1 PRESENTATION OF THE ACCOUNTS

Article 68

The annual accounts of the Energy Community shall follow the requirements of the applied accounting standards and comprise:

- a) The financial statements of the Energy Community
- b) The report on implementation of the budget of the Energy Community .

Article 69

The accounts must comply with the fundamental accounting rules and be accurate and comprehensive and present a true and fair view:

- a) as regards the financial statements, of the assets and liabilities, charges and income, entitlements and obligations not shown as assets or liabilities and cash flow;
- b) as regards report on budget implementation, of revenue and expenditure operations.

Article 70

The financial statements shall be drawn up in accordance with the generally accepted accounting principles, namely:

- a) Going concern;
- b) Prudence;
- c) Consistent accounting methods;
- d) Comparability of information;
- e) Materiality;
- f) No netting;
- g) Fair presentation;
- h) Accrual-based accounting.

Article 71

1. In accordance with the principle of accrual-based accounting revenue and expenses are recorded in the period in which they are earned or incurred regardless of the date of payment or collection.
2. The value of assets and liabilities shall be determined in accordance with the valuation rules laid down by the accounting methods provided for in International Accounting Standard and, if necessary, in National standards of the domicile country.

Article 72

1. The financial statements shall be presented in Euro.
2. A complete set of financial statements in accordance with the accrual based International Public Sector Accounting Standards [IPSAS], comprises the following components:
 - A statement of financial position,
 - A statement of financial performance,
 - A statement of changes in net assets/equity,
 - A cash flow statement,
 - When the entity makes publicly available its approved budget a comparison of budget and actual amounts,
 - Notes, comprising a summary of significant accounting policies and other explanatory notes.

CHAPTER 2 ACCOUNTING

SECTION 1 COMMON PROVISIONS

Article 73

1. The accounting system of the Energy Community is the set of manual and computerized procedures and controls that provide for identifying relevant transactions or events; preparing accurate source documents, entering data into the accounting records accurately, processing transactions accurately, updating master files properly, and generating accurate documents and reports.
2. The accounts shall consist of general accounts and budget accounts. These accounts shall be kept in Euro on the basis of the calendar year.
3. The figures in the general accounts and the budget accounts shall be adopted at the close of the budget year so that the accounts referred to in Chapter 1 can be drawn up.
4. The Energy Community shall apply the International Public Sector Accounting Standards [IPSASs] developed by the International Public Sector Accounting Standards Board [IPSASB].

SECTION 2 GENERAL ACCOUNTS

Article 74

The general accounts shall record, in chronological order using the double entry method, all events and operations which affect the economic and financial situation and the assets and liabilities of the Energy Community.

Article 75

1. Movements on the accounts and the balances shall be entered in the accounting ledgers.
2. All accounting entries, including adjustments to the accounts, shall be based on supporting documents, to which they shall refer.
3. The accounting system must be such as to leave a trail for all accounting entries.

Article 76

1. The accountant of the Energy Community shall, after the close of the budget year and up to the date of presentation of the final accounts, make any adjustments which, without involving disbursement or collection in respect of that year, are necessary for a true and fair presentation of the accounts in compliance with these Rules.
2. Other sources of revenue (incl. donations) shall be recorded 'pro memoria' at the beginning of each budget year, till the exact amount is known. This 'pro memoria' adjustment on the revenue side shall be reflected in the financial statement for the relevant year.

SECTION 3 BUDGET ACCOUNTS

Article 77

1. The budget accounts shall provide a detailed record of budget implementation.
2. For the purposes of paragraph 1 above, the budget accounts shall record all budget revenue and expenditure operations provided for in Title V of these Rules.

CHAPTER 3 PROPERTY INVENTORIES

Article 78

The Energy Community shall keep inventories showing the quantity and value of all the tangible, intangible and financial assets constituting Energy Community property.

TITLE IX: EXTERNAL AUDIT AND DISCHARGE

CHAPTER 1 EXTERNAL AUDIT

Article 79

Each year, the accountant establishes the accounts of the previous year no later than the 31 March. These accounts are validated by the Director.

Article 80

The Director shall, subject to approval by the Budget Committee, designate an independent External Auditor to carry out the annual audit of the Energy Community as defined under the Treaty, the Terms of Reference for which shall also be approved by the Budget Committee. The term of service of the External Auditors shall be for two years and may be renewed once.

Article 81

1. The Director shall submit to the Ministerial Council the External Auditors Report, together with the statement of assets and liabilities and certified accounts, not later than eight months after the end of the financial year to which they relate.
2. The Director shall make such observations as he/she considers appropriate on the External Auditors' report.
3. The External Auditors shall conduct such audits as deemed necessary, in accordance with their approved Terms of Reference. The External Auditors shall, in particular, inspect the accounting records and procedures of the Energy Community for the purpose of verifying the accuracy and completeness of the records. The external audit determines the overall validity of financial statements.
4. The External Auditors shall as a part of the annual audit, review the Internal Management Rules of the Energy Community and its operational implementation.
5. The External Auditors shall submit an audit report and certified accounts, together with a statement of assurance relating to the reliability of the accounts and the legality and regularity of the underlying transactions, to the Budget Committee so that they may be available to the Ministerial Council not later than eight months after the end of the financial year to which the accounts relate. The Budget Committee shall make to the Ministerial Council such observations on the documents submitted by the Auditors as it may consider appropriate.

CHAPTER 2 DISCHARGE

Article 82

Taking account of the potential observations of the Budget Committee, and with a view to granting the discharge to the Director, the Ministerial Council shall examine the certified accounts and financial statements of the Energy Community. It shall also examine the report of the external auditors and the auditors' statement of assurance.

Article 83

On the basis of this report, the Ministerial Council shall discharge the Director from his/her management and administrative responsibility in respect of the budget before 31 December N+ 1.

Article 84

1. The Director shall take all appropriate steps to act on the observations accompanying the Ministerial Council's discharge decision.
2. At the request of the Ministerial Council or of the Budget Committee, the Director shall report on the measures taken in the light of these observations and comments.

TITLE X: TRANSITIONAL AND FINAL PROVISIONS

Article 85

These Rules are in compliance with the fundamental principles of the International Accounting Standards.

Article 86

The Ministerial Council, Budget Committee and the Parties to the Treaty shall be empowered to obtain any necessary information or explanations regarding budgetary matters within their fields of competence.

Article 87

The Director shall, as far as is necessary, adopt detailed rules for implementing of these Rules applicable to the Energy Community.

Article 88

For cases where Budget Committee is not operational, functions of it will be performed by the European Union.

Article 89

This Procedural Act shall be binding in its entirety on all Parties to the Treaty and the Institutions set up under the Treaty.

The Ministerial Council may amend these Rules upon a proposal of the European Community.

This Procedural Act has been adopted by the Ministerial Council of the Energy Community on the ground of Article 74 of the Treaty Establishing the Energy Community on 17 November 2006 in Skopje and become effective upon the day of their adoption.

Article 90

The *Procedures for the Establishment and Implementation of Budget of the Energy Community, Auditing and Inspection* adopted by the Ministerial Council under Procedural Act No. 2006/03 are repealed and replaced by these amended Procedures.

These amended Procedures have been adopted by the Ministerial Council at its meeting of 23 September 2014 and become effective on the day of their adoption.