

**DECISION OF THE MINISTERIAL
COUNCIL OF THE ENERGY
COMMUNITY**

D/2017/02/MC-EnC: On the approval of Annual Report on the Activities of the Energy Community 2016-2017

The Ministerial Council of the Energy Community,

HAS ADOPTED THIS DECISION:

Article 1

The Annual Report on the Activities of the Energy Community 2016-2017 has been approved.

Article 2

This Decision enters into force on the day of its adoption.

Done by written procedure on 28 December 2017

For the Ministerial Council

A blue ink signature, likely of the Presidency, written over a dotted line.

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Presidency

ANNUAL REPORT ON THE ACTIVITIES OF THE ENERGY COMMUNITY 2016 - 2017

This Annual Report on the Activities of the Energy Community outlines key actions and achievements in the period from 1 September 2016 to 1 September 2017 following the requirements of Article 52¹ of the Energy Community Treaty. Over this period, the Energy Community Contracting Parties and institutions have worked intensively towards implementation of the Treaty *acquis*, as reflected in detail in the Annual Implementation Report 2017, in line with the 2016 - 2017 Work Programme.

a. This Year's Highlights

1. Paving the Way for a Sustainable Energy Future

Sustainability of the energy sectors remains a key concern for the Energy Community Contracting Parties and institutions. The latest reporting period brought this dimension of the Energy Community's work to the forefront.

The 2016 Ministerial Council adopted four decisions expanding the scope of the environmental *acquis*. The decisions serve to align the outdated provisions of the Environmental Impact Assessment and Sulphur in Fuels Directives with the latest EU versions and introduce the Strategic Environmental Assessment and the Environment Liability Directives to the extent they relate to energy. The Ministerial Council also adopted a non-binding recommendation on the implementation of Regulation (EU) No 525/2013 on a mechanism for monitoring and reporting greenhouse gas emissions. The Energy Community Environmental Task Force has stepped up supporting the Contracting Parties in preparing for the implementation of the new *acquis*.

The inaugural Sustainability Forum took place under the auspices of the Energy Community and the Balkan Green Foundation on 9 June 2017 in Vienna. Gathering over 120 stakeholders, the forum provided a unique platform to discuss how the region can transition towards a sustainable energy pathway. The event brought together ministers responsible for energy, environment and climate change of the Energy Community Contracting Parties and Observers, high-level officials of the European Commission, central and local government officials, representatives of the private sector and international financial institutions, civil society, non-governmental organisations and academia.

Back-to-back with the forum, the first joint meeting of ministers responsible for energy and environment and climate policy took place on 9-10 June 2017 in the Austrian Wachau valley. The ministers discussed the best ways to contribute towards a low-carbon transition of the Energy Community region and endorsed the establishment of an Energy Community Climate Action Group at ministerial level to focus on integrated energy and climate planning in the Contracting Parties.

During this reporting period, the Energy Community Contracting Parties, supported by the Secretariat, also made progress in implementing the three main areas covered by the Sustainability Charter endorsed at the 2016 Western Balkan 6 Summit: improving the governance

¹ Article 52: The Ministerial Council shall submit an annual report on the activities of the Energy Community to the European Parliament and to the Parliaments of the Adhering Parties and of the Participants.

for energy efficiency; implementing smart support measures that improve the sustainability of energy systems; and fostering climate action and transparency of sustainable energy markets.

2. On the Homestretch towards Implementing the Third Energy Package

In addition to assisting those Contracting Parties that have not transposed the Third Energy Package yet, the focus of this year's activities was the certification of transmission system operators, for which the deadlines expired in the first half of 2017.

In four of the Energy Community Contracting Parties, the transmission system operators applied for certification. In three cases, the Secretariat issued its opinion on the national regulatory authority's certification of the respective transmission system operator's compliance with the unbundling provisions of the Third Energy Package. In each case, the Secretariat held a stakeholder hearing. The process was already finalized successfully in Albania, where the transmission system operator was certified by the national regulatory authority and subsequently became a member of the European Network of Transmission System Operators (ENTSO-E).

Coordination meetings of Energy Community distribution system operators for electricity (ECDSO-E) and gas (ECDSO-G) continued to act as platforms for sharing best practices in relation to unbundling and other pertinent issues.

The preparation of Third Energy Package Network Codes for adoption in the Energy Community continued to be under way.

3. Creating an Integrated Pan-European Electricity Market

Energy "soft measures", agreed under the Western Balkan 6 (WB6) initiative, continue to be one of the key drivers of electricity market reforms in the Western Balkans. At the 2017 Western Balkan 6 Summit in Trieste, Italy, leaders highlighted the WB6 Memorandum of Understanding on Regional Electricity Market Development and the Treaty establishing the Energy Community (Title III) as the basis for continued cooperation between the WB6 and neighbouring EU Member States.

During this reporting period, the Secretariat continued to support the WB6 Contracting Parties in reforming their national energy markets and working towards improving the functioning of the regional electricity market. The regional measures specifically target the development of the electricity market in different timeframes, tackling capacity allocation and calculation, spot markets and balancing markets. In this regard, the Secretariat continued to implement the work programme for the provision of technical assistance to the WB6 Contracting Parties under the project "Technical Assistance to Connectivity in the Western Balkans - Component 2: Regional Energy Market" funded by the European Union.

The 2016 Memorandum of Understanding on regional electricity market development signed by WB6 ministries, transmission system operators, national regulatory authorities, and power exchanges has evolved into a common platform of cooperation between the WB6 and EU Member States, focussing on coupling of day-ahead and balancing markets. In 2016 and 2017, the memorandum was signed by twelve stakeholders from neighbouring EU Member States, namely the Italian Ministry of Economic Development, energy regulator and transmission system operator Terna, the Croatian Power Exchange CROPEX, the Romanian transmission system operator

Transelectrica, the Greek transmission system operator IPTO and market operator Lagie, three Hungarian stakeholders, namely the Energy and Public Utility Regulatory Authority, the Independent Transmission Operator MAVIR and the Power Exchange HUPX, and three Bulgarian stakeholders, namely the national regulatory authority EWRC, the transmission system operator ESO and the power exchange IBEX.

4. The Regulatory Board: Supporting the Development of a Competitive, Efficient and Sustainable Regional Energy Market

In the reporting period, the Energy Community Regulatory Board (ECRB) - the independent regional body of energy regulators in the Energy Community – boosted its already well-established market monitoring activities. For the first time, the ECRB published a comprehensive report on the development of gas and electricity wholesale and retail markets in the Contracting Parties following the approach of the Agency for the Cooperation of Energy Regulators (ACER). Based on a cooperation agreement between ACER and the Secretariat, the report paved the ground for data on Contracting Parties' gas and retail markets to be reflected for the first time in ACER's annual market monitoring report for 2017.

In relation to its responsibilities stemming from the Third Energy Package, ECRB reviewed the preliminary decisions of the Contracting Parties' national regulatory authorities on transmission system operator certification. Regulatory expertise was also shared via a peer review of enforcement practises of national regulators and analysis of the auction rules applicable to the Coordinated Auction Office in South East Europe.

Sector specific ECRB activities during this reporting period focused on reviewing electricity balancing models, gas transmission tariff systems and rules for gas interoperability, regulatory treatment of network losses and customer protection. In context of the latter, the development of brochures providing an overview of retail market entry requirements and alternative dispute settlement resolution supported national regulators' activities in raising customer awareness.

Further to this, ECRB continued cooperation with other regional regulatory bodies such as the Council of European Energy Regulators and the Mediterranean Energy Regulators by holding joint events on customer protection, regulatory independence and regional electricity market development. Knowledge sharing with ACER and European regulators on electricity day-ahead market integration granted regulatory support to the related targets of the Western Balkans 6 process.

5. Georgia Joins Energy Community

Georgia officially became the ninth Energy Community Contracting Party on 1 July 2017, putting the country on a firm path towards closer ties with the EU internal energy market and those of the Energy Community Contracting Parties. Georgia's accession also marks another milestone in the development of the Energy Community.

The Protocol on the Accession of Georgia to the Energy Community Treaty was signed on 14 October 2016, during the fourteenth Energy Community Ministerial Council. Georgia is yet to implement the necessary reforms to align its legal framework with the Energy Community *acquis* by the deadlines stipulated in the protocol. The Secretariat has dedicated its efforts to support

Georgia in the transposition and implementation of the acquis, including the preparation of a draft energy law aimed at transposing the Third Energy Package in the electricity and gas sectors.

6. First Summer School Kicks-off in Tirana

The first Energy Community Summer School took place on 3 - 10 September 2016 in Tirana, gathering together 40 postgraduate students and young professionals representing 27 nationalities. The eight-day programme consisted of 32 expert lectures and interactive group works. Following the success of the first summer school, the 2017 edition took place on 26 August – 2 September in Ohrid.

An annual event, the Energy Community Summer School aims to promote the development of participants' competences in all topics related to energy through a dedicated multi-disciplinary programme. With the help of the school, participants are to understand the energy sectors in their full complexity. The summer school is a platform for exchange and shaping the sectors' future.

The summer school is organized by the Energy Community Secretariat with the support of the Open Regional Fund for South-East Europe – Energy Efficiency (ORF-EE), as implemented by the German organization Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), and the Visegrad Fund in cooperation with academic institutions.

7. EU4Energy Governance: Improving the Legislative and Regulatory Environment in the Eastern Neighbourhood

The Energy Community Secretariat is one of the implementing partners of the EU4Energy Programme, covering the "EU4Energy Governance" project together with the Energy Charter Secretariat. Supported by direct grant agreements with the European Commission, the initiative covers three Energy Community members - Georgia, Moldova and Ukraine and three Eastern Partnership countries - Armenia, Azerbaijan and Belarus.

The Secretariat's Eastern Partnership Assistance Unit has kicked off technical assistance to improve the legislative and regulatory environment for the energy sector in the participating countries in line with their EU and Energy Community Treaty obligations. Concrete actions include supporting Ukraine and Moldova in electricity market reform, promoting multi-stakeholder dialogue to support the adoption of energy efficiency legislation in Ukraine; and identifying key regional energy infrastructure projects with the aim of fostering trade and improving security of supply.

8. Dispute Resolution Centre Takes Shape

In October 2016, the Secretariat established a Dispute Resolution and Negotiation Centre. The Centre focuses on negotiations and mediation of investor-state disputes and offers negotiation support to national authorities in their negotiations with private parties. The Centre also aims to facilitate the swift closure of dispute settlement cases under the Energy Community Treaty via tailor-made negotiation and mediation facilities. Since its launch, the Centre has already successfully facilitated several negotiations and disputes.

9. EBRD and Secretariat Strengthen Partnership for Sustainable Energy Development

The European Bank for Reconstruction and Development (EBRD) and the Energy Community Secretariat signed a Memorandum of Understanding strengthening the organisations' cooperation in the field of sustainable development with a focus on sustainable energy policy in the Western Balkans, Moldova, Ukraine and Georgia. The two organisations agreed to work together to contribute to an enabling environment for sustainable investment and a smooth transition towards sustainable, low-carbon economies in Southeast Europe and the Black Sea region. The agreement, signed on 9 June 2017 in Vienna, brought new opportunities for cooperation on sustainability issues, including climate change.

b. Events

This reporting period the Secretariat hosted a record 70 official events with almost 3.000 participants, not taking into account ad-hoc workshops and working group meetings.

With its public events, the Energy Community Secretariat sought to highlight the most imperative issues facing the Energy Community region. This included the conference "Nord Stream 2 and its Impact on Europe Conference" and the first Sustainability Forum. The most widely attended event was the Vienna Forum on European Energy Law with over 150 experts from energy companies, regulators, governments, academia and legal firms taking part.

c. Communication Tools

The Energy Community website, together with the news and latest documents subscription service, continued to act as the main communication tool with stakeholders. In addition, the Secretariat has continued to increase its social media presence, particularly with respect to Facebook and Twitter. Moreover, the Secretariat continued to be the focal point for journalists seeking pertinent information on energy developments in the Contracting Parties.

On 29 June 2017, the Secretariat re-launched the Energy Community website. The new website provides improved functionalities and a simplified structure designed to highlight the most useful information. The new website features responsive design and modern looks. The search function was also improved. It brings all legal documents into one section, which also includes a user-friendly dispute settlement case registry. When applicable, the *acquis* is displayed as a consolidated version together with the relevant cross reference documents and descriptions. Another new feature is the Energy Community Infrastructure Transparency Platform (PLIMA), featuring an interactive map, key project data and diverse statistical charts for monitoring the Projects of Energy Community Interest and Projects of Mutual Interest.

d. Studies and Publications

In May 2017, the Secretariat published the fourth edition of the Energy Community Legal Framework. The new edition spans the 24 directives and regulations currently in force in the

Energy Community and the key measures and procedural acts adopted by the Energy Community institutions.

While continuing to publish regular monitoring reports on the Western Balkan 6 regional electricity market and Central and South-Eastern European Gas Connectivity (CESEC) initiatives, the Secretariat commenced reporting on implementation of the WB6 Sustainability Charter which aims to support the transition towards low-carbon and climate-resilient energy sectors.

This year saw the publication of the first comprehensive report assessing Georgia's compliance with the aquis communautaire. The Energy Community Secretariat also published policy recommendations aimed at assisting Armenia, an Observer to the Energy Community Treaty, to design and implement effective reform measures in its energy sectors.

In March 2017, the Secretariat launched a new publication - Energy Community Connected - News across the Energy Community Region aimed at highlighting energy issues of high relevance for both the Energy Community Contracting Parties and EU Member States.

In terms of studies, the Secretariat published two studies on extending the Energy Community Treaty to include rules on public procurement and value added tax in the Energy Community legal order.

e. Staff

During the reporting period, the Energy Community Secretariat brought together 34 professionals (20 women and 14 men), representing diverse expertise from all areas covered by the Energy Community Treaty. In addition to its permanent staff members, the Secretariat also employed 23 temporary personnel (15 women and 8 men), including interns and research fellows. The staff employed represented 25 nationalities from all over Europe.

f. Energy Community Budget 2016

The Energy Community is funded by contributions from the Parties to the Energy Community Treaty. The EU remains the largest contributor, accounting for roughly 95% of the contributions.

On top of the Parties' contributions, other sources of revenue, totalling to EUR 1.796.174, were assigned to defined expenditures arising from the implementation of the following initiatives/regional projects: EU4ENERGY Programme (EUR 1.052.929); technical assistance to connectivity in the Western Balkans on creating a regional electricity market (EUR 516.650); donation for office rent expenditures from the Republic of Austria (EUR 171.953); other initiatives, including the Vienna Forum on European Energy Law and the Energy Community Advisory Committee (EUR 40.000); and the Energy Community Summer School (EUR 14.642).

The final budget for 2016 amounted to EUR 6.372.353.

**Breakdown of Final Budget 2016
(6,372,352.63 EUR)**

