PROCEDURAL ACT
OF THE PERMANENT HIGH LEVEL GROUP

2026/02/ECS-ENC: ON GUIDELINES DEFINING THE PROCEDURE IN CASE OF URGENCY UNDER ARTICLE 18(3) OF PROCEDURAL ACT 2015/04/MC-ENC

The Permanent High Level Group of the Energy Community,

Having regard to the Treaty establishing the Energy Community, and in particular Articles 2, 53, 82, 83 and 87 thereof,

Whereas on 16 October 2015 the Ministerial Council of the Energy Community adopted Procedural Act 2015/04/MC-EnC on amending Procedural Act 2008/01/MC-EnC of 27 June 2008 on Rules of Procedure for dispute settlement under the Treaty,

Whereas Article 21 of the Rules of Procedure for dispute settlement under the Treaty establishes that complaints against an EU Member State shall be passed on to the European Commission,

Whereas Article 18(3) of Procedural Act 2015/04/MC-EnC calls upon the Permanent High Level Group to adopt guidelines determining the criteria for urgency, the procedure for adoption as well as the scope and limits of interim measures,

Whereas under Article 82 of the Treaty measures are to be proposed by a Party or the Secretariat,

Having regard to the proposal submitted by the Secretariat,

ADOPTS THE FOLLOWING PROCEDURAL ACT:

Article 1
Procedure in case of Urgency

(1) In case of urgency, the Secretariat may, on the basis of a prima facie finding of non-compliance, submit a reasoned request directly to the next meeting of the Permanent High Level Group pursuant to Article 18 of Procedural Act 2015/04/MC-EnC at the request of a private body, a Party, the Regulatory Board, or *ex officio* without a preliminary procedure or at any stage of the preliminary procedure.

(2) In case of a complaint by a private body, the complainant may suggest the initiation of a procedure pursuant to Article 18 of Procedural Act 2015/04/MC-EnC already at the time of the submission of the complaint, or anytime during the preliminary procedure. The complainant shall set out, together with all relevant documentation, the circumstances giving rise to urgency. The complainant may also propose interim measures. Upon review of the request of the complainant, the Secretariat shall decide whether or not to initiate a

procedure pursuant to Article 18 of Procedural Act 2015/04/MC-EnC, and whether or not to request interim measures. The Secretariat is not bound by the request of the complainant.

(3) The Secretariat shall send the reasoned request, and any request for interim measures, to the Party concerned at the same time when submitted to the Permanent High Level Group. The Party concerned may submit written observations within one week from receipt of any such request.

(4) At the next possible meeting after the submission of the reasoned request and request for interim measures by the Secretariat, the Permanent High Level Group will review the existence of urgency in line with the present guidelines.

(5) The Permanent High Level Group may impose interim measures if and to the extent requested by the Secretariat. Interim measures may include:

a. The obligation of a Party concerned to suspend the application of a contested national measure,
b. The obligation of a Party concerned to adopt and apply a national measure restoring or preserving the *status quo*, or
c. The obligation of a Party concerned to take any other measures necessary for preventing serious and irreparable damage to one of the objectives of the Treaty.

The subject-matter of application for interim measures may not go beyond the subject-matter of the case under preliminary procedure and the interim measure(s) imposed may not be different or go beyond what could be obtained in the main proceedings. The interim measures must account for any discretion available to a Party in the main proceedings to choose among appropriate measures to rectify the breach.

Article 2
Urgency

(1) Urgency will be assessed by the Permanent High Level Group on a case-by-case basis.

(2) A situation will be deemed urgent if it falls under one of the following categories:

a. The imminent risk of a serious and irreparable damage to one of the objectives of the Treaty; such objectives include, but are not limited to: investment security in the energy field, security of supply, environmental protection, the functioning of the single energy market etc.; or
b. The imminent risk of damage to private bodies not reparable by monetary compensation.

(3) The damage referred to in paragraph 2 of this Article must not be hypothetical, and it must entail a sufficient degree of probability. Any risk of damage is only considered urgent if it cannot be prevented by the final decision of the Ministerial Council under Articles 91 and 92 of the Treaty at its next regular meeting.

(4) There must be a causal link between the alleged breach and the damage referred to in paragraph 2 of this Article.

Article 3
Interim Measures

(1) Together with the submission of a reasoned request under Article 1 of the present Procedural Act, the Secretariat may request the Permanent High Level Group to impose interim measures against the Party concerned, provided that such measures are suitable, necessary and proportionate to prevent the risks described in Article 2(2) of the present Procedural Act.

(2) The application for imposing interim measures shall also contain a justified proposal for specific measures together with evidence for their suitability, necessity and proportionality.

(3) The Permanent High Level Group shall decide on the interim measures proposed by the Secretariat by voting in accordance with the requirements established in Articles 91 to 93 of the Treaty. The decision shall depend on the existence of urgency as well as the suitability, necessity and proportionality of the interim measures proposed. The decision shall fix the date on which the interim measure is to lapse.

(4) A decision shall be taken at the meeting of the Permanent High Level Group following the reasoned request under Article 1 of the present Procedural Act, or, if so decided, by written correspondence pursuant the Consolidated Internal Rules of Procedure of the Permanent High Level Group.

(5) A decision of the Permanent High Level Group not to impose interim measures shall not prevent the Secretariat from making a new application in the same matter, on the basis of new or changed circumstances related to facts or law.

(6) Between the decision of the Permanent High Level Group and the next regular meeting of the Ministerial Council, the Secretariat or the Party concerned may request the Permanent High Level Group to modify or cancel the decision to impose interim measures due to a change in circumstances. The Party concerned or the Secretariat have one week to reply on the application to modify or cancel interim measures. The decision on the application to modify or cancel the interim measures shall be taken either at the next meeting of the

Permanent High Level Group, or, if so decided, by written correspondence pursuant the Consolidated Internal Rules of Procedure of the Permanent High Level Group.

Article 4
Procedure before the Ministerial Council

(1) The Secretariat, upon a request by a Party or on its own initiative shall request the Ministerial Council to decide on the continuation, modification or suspension of interim measures imposed by the Permanent High Level Group, provided these measures are still in force. The Ministerial Council shall decide by voting in accordance with the requirements established in Articles 91 to 93 of the Treaty.

(2) The interim measures shall expire no later than the Ministerial Council meeting at which the reasoned request is submitted for decision.

Done in Vienna, on 23 November 2026

Presidency