

RECOMMENDATION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

Recommendation No. 2014/01/MC-EnC of 23 September 2014 on guidelines for trans-European energy infrastructure

The Ministerial Council of the Energy Community,

Having regard to the Treaty establishing the Energy Community ("the Treaty") and in particular Articles 2, 24, 25, and 79 thereof,

Whereas Article 11 of the Treaty refers to the following "acquis communautaire as being: (i) Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity, (ii) Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas, and (iii) Regulation 1228/2003/EC of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity,

Whereas the above mentioned pieces of European Union Law have been amended and recast into four new acts and will therefore be repealed and replaced, by two new Directives and two new Regulations and the two new Regulations subsequently where amended by a new Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009,

Whereas the Energy Community accordingly agreed to implement amendments to the acquis as defined in Article 11 of the Treaty in order to reflect the evolution of the European Union Law,

Whereas Article 24 of the Treaty provides that the Energy Community may take Measures adapting the acquis communautaire described in it, taking into account both the institutional framework of this Treaty and the specific situation of each of the Contracting Parties,

Whereas under Article 79 such Measures as well as the relevant adaptations shall be proposed by the European Commission,

Whereas proposed adaptations to Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure was discussed in the 32th meeting of the PHLG on the 19th of March 2014 in particular in connection to realization of Projects of Energy Community Interest,

Whereas the PHLG reconfirmed in 33th meeting on the 18th of June 2014 its request for a full incorporation of Regulation 347/2013 as adapted for the Energy Community at the Ministerial Council meeting in 2015. The PHLG welcomed the proposal to focus, on a project-by-project approach where a list of elements of an improved administrative and regulatory governance, including those from Regulation 347/2013 would be identified and made binding for each individual PEI project,

HEREBY RECOMMENDS:

1. Each Contracting Party should implement the acquis on energy defined in Article 11 of the Treaty as amended and replaced by the following pieces of European Union Law:

Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009, taking into account the adaptations made in the Annex.

2. In order to facilitate the implementation and make it effective in realisation of the Projects of Energy Community Interest and Projects of Common Interest it is recommended that:

- i. By 31 March 2015, Each Contracting Party identifies in a report financial, administrative and regulatory barriers for implementation of the Projects of Energy Community Interest (in energy infrastructure categories) or Projects of Common Interest on the territory of their jurisdiction.
- ii. By the same date, Each Contracting Party provides the Secretariat with a list of most relevant measures, including Articles of Regulation (EU) No 347/2013 which would address the identified barriers. The list should be accompanied by an impact assessment for each element.
- iii. On the basis of the contributions of the Contracting Parties the Secretariat and the Commission prepare an analytical report establishing measures including Articles of the Regulation (EU) No 347/2013 which would require fastest implementation into the national legislations to allow progress with the realization of Projects of Energy Community Interest and Projects of Common Interest respectively, by 31 May 2015.
- iv. The PHLG adopts on its June meeting in 2015 a list of priority measures, including Articles of the Regulation (EU) No 347/2013 to be implemented by each Contracting Party in national legislation.
- v. ECRB engages in a discussion with ACER on how to approach regulatory cooperation for projects across borders between Contracting Parties and Member States.

3. The Ministerial Council will take into account the above list of measures including Articles of the Regulation (EU) No 347/2013 when adapting Regulation (EU) No 347/2013 for incorporation in the Energy Community in its entirety at its meeting in 2015.

4. This Recommendation enters into force upon its adoption and is addressed to the Contracting Parties and the institutions.

Done in Kiev, on 23 September 2014

For the Ministerial Council:

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Presidency)

