

DECISION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

D/2020/02/MC-EnC on extending the measures imposed on Bosnia and Herzegovina under Article 92(1) of the Treaty in Cases ECS-8/11 S, ECS-6/16 S and ECS-2/13 S

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY,

Having regard to the Treaty establishing the Energy Community (“the Treaty”), and in particular Article 92(1) thereof, as well as Articles 39 to 41 of Procedural Act 2015/04-MC-EnC of the Ministerial Council of the Energy Community of 16 October 2015 on the Rules of Procedure for Dispute Settlement under the Treaty;

Having regard to Ministerial Council Decision 2013/04/MC-EnC of 24 October 2013 in Case ECS-8/11;

Having regard to Ministerial Council Decision 2013/04/MC-EnC of Ministerial Council Decision 2014/04/MC-EnC of 23 September 2014 in Case ECS-8/11 S on a serious and persistent breach within the meaning of Article 92 of the Treaty;

Having regard to Ministerial Council Decision 2015/10/MC-EnC of 16 October 2015 in Case ECS-8/11 S imposing measures on Bosnia and Herzegovina pursuant to Article 92(1) of the Treaty;

Having regard to Ministerial Council Decision 2016/16/MC-EnC of 14 October 2016 and 2018/17/MC-EnC of 29 November 2018 in Case ECS-8/11 S extending the measures on Bosnia and Herzegovina pursuant to Article 92(1) of the Treaty;

Having regard to Ministerial Council Decision 2016/07/MC-EnC of 14 October 2016 in Case ECS-6/16;

Having regard to Ministerial Council Decision 2018/16/MC-EnC of 29 November 2018 in Case ECS-6/16 S on a serious and persistent breach within the meaning of Article 92 of the Treaty;

Having regard to Ministerial Council Decision 2016/03/MC-EnC of 14 October 2016 in Case ECS-2/13;

Having regard to Ministerial Council Decision 2018/13/MC-EnC of 29 November 2018 in Case ECS-2/13 S on a serious and persistent breach within the meaning of Article 92 of the Treaty;

Having regard to the continuous failure by Bosnia and Herzegovina to rectify all breaches identified in Article 1 of Decision 2013/04/MC-EnC and Article 1 of Decision 2014/04/MC-EnC, and ensure compliance with Energy Community law;

Having regard to the continuous failure by Bosnia and Herzegovina to rectify all breaches identified in Article 1 of Decision 2016/07/MC-EnC and Article 1 of Decision 2018/16/MC-EnC, and ensure compliance with Energy Community law;

Having regard to the continuous failure by Bosnia and Herzegovina to rectify all breaches identified in Article 1 of Decision 2016/03/MC-EnC and Article 1 of Decision 2018/13/MC-EnC, and ensure compliance with Energy Community law;

Having regard to the failure by Bosnia and Herzegovina to take all appropriate measures to rectify the serious and persistent breaches identified by the Ministerial Council and to report to the Ministerial Council on any tangible progress thereto as requested by Article 2 of Decisions 2015/10/MC-EnC, 2018/16/MC-EnC and 2018/13/MC-EnC,

Having regard to the Ministerial Council's invitation to the Secretariat to request Measures under Article 92 of the Treaty should the breaches identified in Cases ECS-6/16 S and ECS-2/13 S not be rectified,

Considering that no tangible progress has been achieved in the aftermath of Decisions 2018/17/MC-EnC in Case ECS-8/11 S, 2018/16/MC-EnC in Case ECS-6/16 S and 2018/13/MC-EnC in Case ECS-2/13 S,

Upon Request by the Secretariat

HAS ADOPTED THIS DECISION:

Article 1 **Failure to rectify serious and persistent breaches**

Bosnia and Herzegovina continues with a serious and persistent breach of its obligations within the meaning of Article 92(1) of the Treaty, as established by the Ministerial Council, by failing to implement Ministerial Council Decisions and rectifying the breaches established therein

- 2013/04/MC-EnC of 24 October 2013 in Case ECS-8/11 and 2014/04/MC-EnC of 23 September 2014, 2015/10/MC-EnC of 16 October 2015, 2016/16/MC-EnC of 14 October 2016 and 2018/17/MC-EnC of 29 November 2018 in Case ECS-8/11S;
- 2016/07/MC-EnC of 14 October 2016 in Case ECS-6/16 and 2018/16/MC-EnC of 29 November 2018 in Case ECS-6/16 S;
- 2016/03/MC-EnC of 14 October 2016 in Case ECS-2/13 and 2018/13/MC-EnC of 29 November 2018 in Case ECS-2/13 S.

Article 2 **Measures under Article 92**

1. The duration of the measures under Article 92 imposed by Article 2(2) of Decision 2015/10/MC-EnC is extended for two years after the adoption of the Decision extending measures at the meeting of the Ministerial Council in 2020.

2. The right of Bosnia and Herzegovina to participate in votes for Decisions under Article 91 and 92 of the Treaty is suspended until the meeting of the Ministerial Council in 2022.

**Article 3
Follow-up**

1. Based on a report by the Secretariat, the Ministerial Council will review the effectiveness and the need for maintaining these measures further at its meeting in the second half of 2021.
2. The Secretariat is invited to monitor compliance of the measures taken by Bosnia and Herzegovina with the *acquis communautaire*.

**Article 4
Addressees and entry into force**

This Decision is addressed to the Parties and the institutions under the Treaty. It enters into force upon its adoption.

Done by written procedure on 29 December 2020

For the Ministerial Council

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Presidency