

RECOMMENDATION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

R/2016/01/MC-EnC: on projects of mutual interest between Contracting Parties and Member States of the European Union

The Ministerial Council of the Energy Community,

Having regard to the Treaty establishing the Energy Community ("the Treaty") and in particular Articles 2, 26, 27, and 82 thereof,

Having regards to the proposal of the European Union

Whereas:

- (1) One of the main objectives of the Treaty is to create a stable regulatory and market framework capable of attracting investments.
- (2) One of the key challenges for the Energy Community is to address the regulatory gap that exists on borders between Energy Community Contracting Parties and EU Member States.
- (3) By the Decision¹ of 16 October 2015 the Ministerial Council of the Energy Community decided to implement in the Energy Community Regulation (EU) No 347/2013 of the European Parliament and of the Council on guidelines for trans-European energy infrastructure.²
- (4) Article 8 paragraph 4 of the Decision requires from projects crossing the border of one or more Contracting Parties and one or more Member States, in order to be considered to be a project of Energy Community interest ("PECI"), to be first granted a status of project of the common interest ("PCI") within the European Union, and whereas the reason for it is to guarantee a strong regulatory support on both sides of the border necessary for a successful implementation of projects crossing the borders between the Contracting Parties and European Union Member States.
- (5) Article 8 paragraph 4 of the Decision introduces a concept of project of mutual interest ("PMI") giving the possibility for those projects which are not granted a PEGI status to be still developed on a voluntary basis by Contracting Parties and Members States supporting the project.
- (6) Based on the Regulation two Groups were established in order to access and agree on the list of PECIs, and it was further agreed that potential PMIs should be also subject to the

¹ D/2015/09/MC-EnC

² OJ L 115, 25.5.2013, p.39.

assessment with a purpose to agree on a list of projects which despite the lack of PECl status should receive a political support at the Ministerial Council level.

- (7) Proposed list of PMIs and draft Recommendation was discussed and established in the 43rd meeting of the PHLG on the 13th of October 2016 and it is confirmed that all the Contracting Parties and EU Member States concerned have endorsed the list.
- (8) The Ministerial Council adopted a decision on the establishment of the list of PECl's on 14 October 2016.

HEREBY RECOMMENDS:

- (1) Projects listed in the Annex should receive a status of projects of mutual interest.
- (2) Member States of the European Union and Contracting Parties which projects listed below cross border of, and which support the projects, are encouraged to undertake the necessary measures, as foreseen in the Regulation (EU) No 347/2013 in order to facilitate their timely and efficient implementation. It is recommended that such actions and measures include:
 - (a) extending the measures as regards the organization of the permit granting at the national level and regulatory treatment foreseen under the Regulation to listed projects;
 - (b) ensuring an improving administrative and regulatory governance of listed projects by all Contracting Parties and Members States engaged and monitoring by the Groups established under the Regulation of the progress achieved in implementing the projects and if necessary making recommendations to facilitate their implementation;
 - (c) preparing a joint report on the progress of the realization of listed projects on a regular basis;
 - (d) undertaking best endeavors, when possible, in order to obtain a PCI status for the projects on the EU side of the border, without prejudice to the Regulation (EU) 347/2013 of 17 April 2013 on guidelines for trans-European energy infrastructure
 - (e) engagement of national regulatory authorities with the Energy Community Regulatory Board and with Agency for the Cooperation of Energy Regulators, in line with their responsibilities, on how to approach and achieve the best regulatory cooperation and coordination as regards listed projects

This Recommendation enters into effect upon its adoption and is addressed to the to the Adhering Parties, to the United Nations Interim Administration Mission in Kosovo³ and to the Member States referred to in Article 27 of the Energy Community Treaty.

Done in Sarajevo, on 14 October 2016
For the Ministerial Council:



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(Presidency)

³ This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence.