

**ANNUAL REPORT ON THE ACTIVITIES OF THE ENERGY COMMUNITY 2018**



# Annual Report

## Annual Report on the activities of the Energy Community 2018

This Annual Report on the activities of the Energy Community outlines key actions and achievements in the period from 1 September 2017 to 1 September 2018 following the requirements

of Article 52 of the Energy Community Treaty. During this period, the Energy Community Contracting Parties and institutions worked intensively towards implementation of the Treaty *acquis*, as reflected in detail in the Annual Implementation Report 2018, in line with the Energy Community Work Programme for 2017 and 2018.



*Energy Community Ministerial Council, 14 December 2017, Pristina, Kosovo\**

### a. Key Actions

#### Ministerial Council sets vision for post-2020 climate and energy policy in the Energy Community

Convening under the Kosovo<sup>\*2</sup> Presidency in Pristina on 14 December 2017, the 15<sup>th</sup> Energy Community Ministerial Council recognized that the targets to increase the share of energy from renewable sources and improve energy efficiency by 2020 taken by the Contracting Parties would soon expire. A new climate and energy framework till 2030 is required to provide certainty to investors and contribute to emission reduction under the global Paris Agreement on climate change.

The Pristina Ministerial Council embarked on a process aimed at setting targets for renewable energy, energy efficiency and green-

house gas emission (GHG) reduction for 2030, beginning with the commissioning of a technical study on establishing a methodology for calculating overall 2030 targets on energy efficiency, renewables and GHG emissions reduction managed under the Energy Community's Energy and Climate Group. The Group has met to advance the discussions on 2030 targets several times at technical level, including in the lead up to the Ministerial Council in Bonn, on the sidelines of the twenty-third session of the Conference of the Parties (COP 23) to the United Nations Framework Convention on Climate Change (UNFCCC). The process was further advanced at the joint meeting of Ministers responsible for energy, environment and climate policy on 22-24 June 2018 in Dürnstein, Wachau.

In early 2018, the Ministerial Council adopted a Recommendation on preparing for the development of integrated national

<sup>2</sup> Throughout this Implementation Report, 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.

energy and climate plans. In this endeavour, the Contracting Parties are supported by guidelines for the preparation of integrated national energy and climate plans drafted by the Energy Community Secretariat. The new mechanism ensures a robust framework for streamlined reporting and transparent implementation of energy and climate policies.

For the first time, the Secretariat started to assist Contracting Parties in the drafting of climate change legislation, especially in the context of the preparation of integrated national energy and climate plans. The first such draft law was submitted to Kosovo\* in June 2018.

### Implementation of the Third Energy Package continues

For the third year in a row, the focus remained on the implementation of the Third Energy Package. The Secretariat continued to assist the Contracting Parties in major tasks such as unbundling and certification of transmission system operators, unbundling of distribution system operators and full market opening. This entailed guidance as well as concrete drafting assistance with respect to market rules, e.g. related to balancing, day-ahead markets, market coupling, etc. During this reporting period, the Secretariat published its Opinion on the certification of the Albanian natural gas transmission system operator Albgaz and the certification of the Montenegrin electricity transmission system operator CGES, under the Third Energy Package.

In January 2018, the Energy Community Permanent High Level Group formally adopted two network codes in gas and three in electricity. The technical rules complement the existing gas

and electricity *acquis* and constitute an essential element for the efficient functioning of the pan-European energy market. The Secretariat has conducted several workshops to assist the Contracting Parties in the transposition and implementation of the network codes as well as compliance reviews of national acts.

In May 2018, former Yugoslav Republic of Macedonia joined the other seven Contracting Parties which have already transposed the Third Energy Package. The new Energy Law was prepared in close cooperation with the Secretariat. With respect to the newest member of the Energy Community, Georgia, the Secretariat has intensified its efforts to support the country in order to meet the transposition deadlines set in its Accession Protocol.

Closer regulatory cooperation is essential for harmonizing regulatory rules across borders and achieving the aims of the Third Energy Package. The observer status in the Gas and Electricity Working Groups of the Agency for the Cooperation of Energy Regulators (ACER) attained by the Montenegrin National Energy Regulator in December 2017 represents a major milestone. This is the first time that an Energy Community regulator has reached such status.

In situations where assistance had reached its limits, the Secretariat followed up with enforcement action. This includes infringement procedures for those countries that failed to initiate action on the unbundling of electricity distribution system operators. The Secretariat also continued to scrutinize other concrete implementation issues such as the use of public service obligations or electricity distribution tariff setting and their compliance with internal market rules.



WB6 initiative kick-off meeting for regional technical assistance, 19 December 2017, Vienna, Austria

## WB6 regional electricity market integration picks up pace

The Contracting Parties of the Western Balkan region have continued activities to integrate their day-ahead electricity markets at the regional level under the so-called Western Balkan 6 (WB6) initiative. Together with 15 EU Member State signatories of the WB6 electricity memorandum, market coupling on all borders between the WB6 and neighbouring EU Member States has started to take shape.

During this reporting period, activities to remove the major legal obstacles to the implementation of day-ahead and balancing markets and their regional integration continued. They set the ground for launching concrete projects for establishing day-ahead markets in WB6 and market coupling. These activities were supported by the Secretariat, to a large extent via the technical assistance to regional energy market connectivity in the Western Balkans, funded by the European Union.

The adoption of a Third Energy Package compliant Law in former Yugoslav Republic of Macedonia was a major step forward, providing the legal ground for the establishment of the day-ahead market and its coupling. A project to couple the markets of former Yugoslav Republic of Macedonia and Bulgaria was initiated. The first important milestone was a Memorandum of Understanding on Electricity Day-ahead Market Coupling between the two countries signed by the Ministers on the margin of the EU-Western Balkans summit in Sofia on 18 May 2018. Furthermore, a project for coupling the Italian market with the markets of Albania, Montenegro and Serbia was launched, known as the AIMS project. This follows the ongoing activities to complete the Trans-Balkan corridor and the undersea cable between Italy and Montenegro.

## 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 through grant contracts with the European Commission. The initiative covers three Energy Community Contracting Parties - Georgia, Moldova and Ukraine and also three other Eastern Partner countries - Armenia, Azerbaijan and Belarus.

The Secretariat delivers technical assistance to improve the legislative and regulatory environment of the energy sector in the participating countries in line with their EU and Energy Community Treaty obligations. Concrete actions include supporting Ukraine, Georgia and Moldova in electricity and gas market reforms and promoting multi-stakeholder dialogue to support the adoption of energy efficiency legislation in the three countries. Moreover, support for identification of key regional energy infrastructure projects, with the aim of fostering trade and improving security of supply, also covers Armenia, Azerbaijan and Belarus.

With over 31 regulatory drafts prepared, the technical assistance has strengthened the legislative and regulatory framework of the countries. In order to facilitate the implementation of legislation, 68 workshops and six high-level policy talks were organized, attended by over 600 officials from all three beneficiary countries. The project runs for four years from June 2016 to June 2020.



EU4Energy Governance High-level Policy Talks, 12 April 2018, Tbilisi, Georgia

## Large Combustion Plants Directive enters into force

On 1 January 2018, the implementation phase of Directive 2001/80/EC regulating the emissions of large combustion plants started in the Energy Community. This means that fossil fuel firing power plants have to reduce their emissions of sulphur dioxide, nitrogen oxides and dust significantly. Moreover, plant operators as well as the Contracting Parties have to start monitoring the emissions of these pollutants and report those to the Secretariat. With the aim of facilitating the reporting process, the European Environment Agency has agreed for the Secretariat to make use of its tools for the reporting and assessment of data submitted by the Contracting Parties.

Following the expiry of the implementation deadline, the Secretariat initiated a string of infringement cases linked to the lack of transposition and/or implementation of legislation related to the emissions of large combustion plants in certain Contracting Parties.

## Energy efficiency – The first fuel in the Energy Community

Energy efficiency has become increasingly more important in the Energy Community. Energy markets are opening up and competition is introduced, prices are getting closer to cost recovery and consumers have better product and service choices. In order to make energy efficiency “the first fuel”, the Secretariat has assisted the Contracting Parties at three levels: adopting an enabling energy efficiency legal and regulatory framework as required by the *acquis*; developing strong implementing institutions; and ensuring public, private and donor financing of energy efficiency measures.

In the last year, the most important milestone was the coming into force of the Energy Efficiency Directive. All Contracting Parties have set their own 2020 targets, reporting it either in their 1st Annual Report or in the National Energy Efficiency Action Plan. With the support of the Secretariat, several Contracting Parties have progressed with respect to the uptake of more market-based financing instruments and setting up energy efficiency revolving funds. The Secretariat also continued to act as intermediary between Contracting Parties and donors/international financial institutions in order to ensure that targeted support is provided where needed most.

## The Regulatory Board: Supporting the development of a harmonised regulatory framework for the energy markets

In the reporting period, the Energy Community Regulatory Board (ECRB) – the independent regional body of energy regulators in the Energy Community – continued its efforts to provide a harmonised regional regulatory framework that promotes integration of the Contracting Parties’ electricity and gas sectors with the EU neighbouring markets.

2017 brought developments in terms of ECRB’s cooperation with other regulatory platforms. Beyond continuing its already well-established cooperation with the Council of European Energy Regulators (CEER) and ACER, ECRB strengthened its activities with the Association of the Mediterranean Energy Regulators. The two regulatory bodies agreed to develop a joint report on customer protection, a promising step towards further enhancing regulatory cooperation.



Energy Community Regulatory School training, 7 December 2017, Vienna, Austria

The launch of the Energy Community Regulatory School in late 2017 kicked-off a dedicated training programme for ECRB members. The Regulatory School provides tailor-made courses for Contracting Parties' regulators on current regulatory challenges stemming from new legislative requirements and market developments, including network codes, REMIT, electricity market coupling and trade.

As in previous years, market monitoring remained a core area of ECRB activities, targeting wholesale and retail market developments for electricity and gas, transparency and gas transmission tariffication. Data provided by ECRB members on electricity wholesale and gas and electricity retail markets contributed to ACER's annual market monitoring report.

Sector specific ECRB activities during the reporting period focused on reviewing electricity balancing models, customer protection in closed distribution systems, communication policies and regulatory enforcement powers. The ECRB and its members also contributed to the adoption of the first set of gas and electricity network codes.

### **Energy Community investment climate receives a boost**

Attracting investment in energy infrastructure is one of the key objectives of the Energy Community Treaty. During this reporting period, the Secretariat carried out the second bi-annual selection of Projects of Energy Community Interest (PECI) and Projects of Mutual Interest (PMI) in line with Regulation (EU) 347/2013 on guidelines for trans-European energy infrastructure. The selected projects may benefit from investment incentives and enhanced regulatory conditions.

The call for projects, launched in November 2017, resulted in the submission of twenty-one gas transmission, one liquefied natural gas terminal, one underground gas storage and ten electricity transmission projects. Each project underwent a cost-benefit analysis and was subject to a market simulation.

The analysis showed that a number of countries are in need of boosting their security of supply and diversifying their gas supplies. A large share of the submitted projects correspond to these needs. Several projects would also serve to bring gas to countries that so far had no access to this energy source. Notwithstanding these benefits, a solid business case and financing plan is needed for the projects to go ahead. The Secretariat continues to assist the project promoters and liaise with international financial institutions.

The final list of PECI and PMI projects is subject to approval by the Ministerial Council. Following the list's adoption, the Secretariat will publish detailed information about each project on its online transparency platform, PLIMA.

### **The Energy Community Secretariat's Dispute Resolution and Negotiation Centre involved in solving high-profile energy disputes**

One year after its establishment, the Centre keeps being entrusted with the mediation of complex energy disputes. The most recent dispute brought before the Centre is one between Ashta, a project company of Verbund and EVN, and various Albanian state authorities. The dispute relates to the balancing liabilities for the deviations from scheduled energy production.

Earlier in 2018, the Ukrainian gas transmission system operator, Ukrtransgaz, asked, and the Ukrainian regulator, NEURC, agreed, for the Centre to facilitate their negotiations over implementation of the amendments to the Ukrainian Gas Transmission Code.

After the successful mediation of a dispute arising out of tariff deviations in the Moldovan electricity sector, Gas Natural Fenosa and the Moldovan regulator, ANRE, called upon the Centre once again, this time with regard to the amount of penalties imposed on the distribution system operator for not complying with the mandatory level of investment. The dispute was settled in June 2018.

In spring 2018, Prof Dr Klaus Toepfer was engaged by the Centre, with the support of the German Government and KfW, to mediate the process between the transmission system operators of Kosovo\* and Serbia.

An increasing number of highly qualified energy specialists and mediators have applied to be part of the Energy Community Panel of Mediators. So far, the Panel of Mediators comprises 26 mediators.

### **Parliamentary Plenum report underlines importance of cross-border cooperation to enhance security of energy supply**

During this reporting period, the Energy Community Parliamentary Plenum, which brings together members of Parliament of Energy Community Contracting Parties and the European Parliament to discuss shared challenges in the field of energy, has intensified its activities.

On 19 December 2017, the Parliamentary Plenum adopted its first ever report, the focus of which was security of energy supply. The report was co-drafted by Mr Lev Pidlisetskyi, Member of the Ukrainian Parliament, and Mr Claude Turmes, Member of the European Parliament. Efficient cross-border cooperation among Contracting Parties as well as EU Member States and full compliance with the *acquis* was deemed essential for successfully ensuring security of energy supply.

## b. Events

During this reporting period, the Secretariat hosted a record 109 official events with almost 4.000 participants, not taking into account ad-hoc workshops and working group meetings.

This year's highlights included the first meeting of international financial institutions and donors to boost coordination for sustainable development in the Energy Community under the slogan "Working Together – Achieving More" organized by the Energy Community Secretariat in March 2018. Bringing together twenty-two international financial institutions and donors, the conference focused on identifying ways to maximize synergies and avoid overlaps when providing technical or financial support to the Energy Community Contracting Parties.

For the second year in a row, the Secretariat organized the Energy Community Civil Society Day in June 2018. The event contributed to increasing the visibility and transparency of the

activities of Energy Community and its institutions, providing at the same time a forum for dialogue on issues that matter to civil society stakeholders.

Building on the success of the first Energy Community Summer School, the second and third editions took place during this reporting period, the second in Ohrid, former Yugoslav Republic of Macedonia, and the third in Split, Croatia. Bringing together 40 postgraduates and young professionals, the Summer School continues to increase the understanding of energy challenges in order to shape a better future by inspiring the design of new, innovative and efficient solutions. Speakers included high level representatives of the European institutions, national authorities, companies and academia. The Energy Community Summer School is supported by 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.



*Energy Community Summer School 2018, 25 August 2018, Split, Croatia*

### c. Communication

During this reporting period, the Energy Community website received 145.502 visitors, out of which 56.005 were unique visitors. The Energy Community Secretariat published 129 news items, which were distributed to over 3.000 web news subscribers. The news subscription service continued to serve as an effective communication tool with stakeholders and has resulted in Energy Community developments being reported by major media outlets, including the Financial Times, Politico, Interfax and ICIS.

Following the relaunch of the Energy Community website in June 2017, the Secretariat continued to develop the website as a comprehensive tool for communicating Energy Community achievements in the area of Treaty implementation and beyond. This includes the launch of the Energy Community Donor Coordination Platform and the observatory of national secondary legislation adopted by the Energy Community Contracting Parties.

The legislative observatory, live since April 2018, displays the key obligations required by Energy Community directives and regulations and the corresponding references to the national legal act transposing that provision. The Secretariat also published eight new pages which display the reports and action plans submitted by the Contracting Parties to the Secretariat so far.

In May 2018, the Secretariat launched the Energy Community Donor Coordination Platform as the first online tool to feature key donor programmes across all Energy Community Contracting Parties and observer countries. The main purpose of the platform, which covers all sectors under the Energy Community Treaty, is to ensure better donor coordination and information sharing. The tool provides basic project data, technical and financial information as well as tracks the projects' overall realisation.

### d. Studies and Publications

The Secretariat published five Policy Guidelines in the course of this reporting period to further assist the Contracting Parties in the implementation of the Energy Community *acquis*, namely on the grid integration of prosumers, distribution network tariffs, development of national energy and climate plans and competitive selection and support for renewable energy. The latter, drafted jointly with the European Bank for Reconstruction and Development (EBRD) and in collaboration with the International Renewable Energy Agency (IRENA), aim to help the Contracting Parties design and implement competitive selection processes for supporting renewable energy.

In November 2017, the Secretariat published a study on distribution network tariffs providing recommendations on setting cost-reflective tariffs. The study served as the basis for the Secretariat's Policy Guidelines on distribution network tariffs aimed at providing guidance to regulatory authorities and the regulated industry as regards best practises in distribution tariff setting.

In April 2018, the Secretariat published policy recommendations aimed at assisting Belarus to design and implement effective reform measures in its energy sectors in line with best European and Energy Community practices. Belarus applied to become an Observer to the Energy Community Treaty in October 2016.

During this reporting period, the Secretariat continued to regularly publish monitoring reports on the Western Balkan 6 regional electricity market, Sustainability Charter and Central and South-Eastern European Gas Connectivity (CESEC) initiatives. The Secretariat also conducted in-depth reviews of national regulatory authorities' independence and performance. The Secretariat reviewed the *de iure* and *de facto* compliance of the Ukrainian (NEURC) and Moldovan (ANRE) energy regulators with the Energy Community *acquis*.

### e. Staff

During the reporting period, the Energy Community Secretariat employed 36 professionals (21 women and 15 men), bringing together diverse expertise from all areas covered by the Energy Community Treaty. In addition to its permanent staff members, the Secretariat also employed 35 temporary personnel (25 women and 10 men), including interns, secondees and research fellows. The staff employed represented 26 nationalities from all over Europe.

### f. Budget 2017

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

On top of the Parties' contributions, other sources of revenue, totalling EUR 1.689.672, were assigned to defined expenditures arising from the implementation of the following initiatives/regional projects: EU4ENERGY Governance Project (EUR 920.041); technical assistance to connectivity in the Western Balkans on creating a regional electricity market (EUR 497.515); donation for office rent expenditures from the Republic of Austria (EUR 170.000); other initiatives, including the Vienna Forum on European Energy Law and the Energy Community Advisory Committee (EUR 67.116); and the Energy Community Summer School (EUR 35.000).

The final budget for 2017 amounted to EUR 6.278.482.

The breakdown of final budget 2017 is as follows:

- Human resources: EUR 2.457.079.
- Travel expenses: EUR 319.512.
- Office expenses: EUR 331.163.
- Other costs and services: EUR 1.481.056.
- Extraordinary budget (other sources of revenue): EUR 1.689.672.