

## DECISION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

**D/2018/9/MC-EnC: on the failure by Ukraine to comply with the Energy Community Treaty in Case ECS-4/18**

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY,

Having regard to the Treaty establishing the Energy Community (“the Treaty”), and in particular Article 91(1)(a) thereof;

Upon the Reasoned Request by the Secretariat in Case ECS-4/18 dated 18 May 2018;

Having regard to the Opinion by the Advisory Committee established under Article 32 of Procedural Act No 2008/01/MC-EnC of the Ministerial Council of the Energy Community of 27 June 2008 on the Rules of Procedure for Dispute Settlement under the Treaty as amended by Procedural Act No 2015/04/MC-EnC,

HAS ADOPTED THIS DECISION:

### **Article 1** **Failure by Ukraine to comply with the Treaty**

1. By failing to adopt and apply the laws, regulations and administrative provisions necessary to comply with Regulation (EU) 347/2013, as adapted and adopted by Energy Community by 31 December 2016 pursuant to Article 3(1) of Ministerial Decision 2015/09/MC-EnC and by failing to forthwith notify those measures to the Secretariat, Ukraine fails to comply with Articles 6 and 89 of the Energy Community Treaty as well as Article 3(1) and (2) of Ministerial Council Decision 2015/09/MC-EnC.

2. For the reasons sustaining these findings, reference is made to the Reasoned Request.

### **Article 2** **Follow-up**

1. Ukraine shall take all appropriate measures to rectify the breach identified in Article 1 and ensure compliance with Energy Community law immediately. Ukraine shall report regularly to the Secretariat and the Permanent High Level Group about the measures taken in 2019.

2. If the breach has not been rectified by 1 July 2019, the Secretariat is invited to initiate a procedure under Article 92 of the Treaty.

**Article 3**  
**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 in Skopje, on 29 November 2018

For the Ministerial Council

A handwritten signature in blue ink, appearing to be "A. Zhelev", written over a dotted line.

Presidency