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Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the Ministerial Council of the Energy Community and in the Permanent High Level Group of the Energy Community (Chisinau, 12 and 13 December 2019)

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the Union's behalf in the Ministerial Council of the Energy Community and in the Permanent High Level Group ('PHLG') of the Energy Community in connection with a number of acts, which these two bodies envisage adopting on 12 and 13 December 2019. It also includes items on the agendas of these two bodies, which do not fall within the scope of Article 218 (9) TFEU, but require a political approval by the Council.

2. CONTEXT OF THE PROPOSAL

2.1. The Energy Community Treaty

The Energy Community Treaty ('ECT') aims to create a stable regulatory and market framework and a single regulatory space for trade in network energy by implementing agreed parts of the EU acquis on energy in the non-EU Parties. The agreement entered into force on 1 July 2006. The European Union is a party to the ECT.¹ The ECT refers to the non-EU Parties as 'Contracting Parties'.

2.2. The Ministerial Council and the PHLG of the Energy Community

The Ministerial Council ensures that the objectives set out in the ECT are attained. It provides general policy guidelines, takes Measures and adopts Procedural Acts. Each Party has one vote and the Ministerial Council acts by different voting rules depending on the subject matter. The EU is one of the nine Parties and has one vote, also depending on the subject matter concerned.

Unanimity vote applies with respect to the envisaged acts listed below under Section 2.3., points 1 and 3 (Art. 73 and 74 ECT in connection with Art. 88 ECT, Art. 92 (1) ECT).

Two third majority applies with respect to the envisaged other items listed below in Section 2.4, points 2 and 3) (Art. 83, Art. 87 ECT).

Simple majority vote applies with respect to the envisaged acts listed below under Section 2.3, point 2 (Art. 91 (1) (a) ECT).

Finally, as regards the envisaged act listed below under Section 2.3., point 4, as well as the other item listed under Section 2.4., point 1, the Ministerial Council or the PHLG vote with the majority of the votes cast, but in this case the EU does not have a voting right (Art. 80 and 81 ECT).

The PHLG is an important subsidiary body of the Ministerial Council. It may, amongst other tasks, take Measures, if so empowered by the Ministerial Council. The EU is represented in the PHLG and has one vote.

Article 47 ECT provides: 'The Ministerial Council shall ensure that the objectives set out in this Treaty are attained. It shall: [...] (b) take Measures [...]'

The Decision of the Energy Community Ministerial Council D/2011/02/MC-EnC, which adopts the so-called "third energy package"², states in Art. 27 and 28 that (i) the Energy Community shall endeavour to apply Network Codes and Guidelines adopted by the

¹ OJ L198 of 20.7.2006, p. 15.

² Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 714/2009 and Regulation (EC) No 715/2009.

European Commission under the third energy package, and (ii) Network Codes and Guidelines shall be adopted by the Permanent High Level Group.

2.3. The envisaged acts of the Ministerial Council and the PHLG

The Ministerial Council, on 13 December 2019, and the PHLG, on 12 December 2019, will each adopt a number of acts.

The present proposal for a decision under Article 218(9) TFEU concerns the position to be adopted on the Union's behalf with respect to the following envisaged acts of the **Ministerial Council**:

- (1) Decision adopting the Energy Community Budget and financial contributions for the period 2020-2021;
- (2) Decisions under Article 91(1) ECT establishing the existence of a breach of the ECT in the following cases:
 - (a) Decision 2019/.../Mc-EnC on the failure of Serbia to comply with the Energy Community Treaty in Case ECS-10/17
 - (b) Decision 2019/.../Mc-EnC on the failure of Serbia to comply with the Energy Community Treaty in Case ECS-13/17
 - (c) Decision 2019/.../Mc-EnC on the failure of Kosovo*³ to comply with the Energy Community Treaty in Case ECS-6/18
- (3) Decisions under Article 92(1) ECT:
 - (a) Decision on imposing and extending measures on Bosnia and Herzegovina under Article 92(1) of the Energy Community Treaty in Cases ECS-8/11 S, ECS-2/13 and ECS-6/16
 - (b) Decision on imposing and extending measures on the Republic of Serbia under Article 92(1) of the Energy Community Treaty in Cases ECS-3/08 and ECS-9/13.

The present proposal for a decision under Article 218(9) TFEU concerns the position to be adopted on the Union's behalf with respect to the following envisaged acts of the **PHLG**:

- (4) Decision of the Permanent High Level Group of the Energy Community on the implementation of Regulation (EU) 312/2014 establishing a Network Code on Gas Balancing of Transmission Networks.

The purpose of the envisaged acts of the Ministerial Council and the PHLG (hereafter collectively referred to as 'the envisaged acts') is to facilitate the achievement of the objectives of the ECT and the functioning of the Energy Community Secretariat (ECS) in Vienna which, among other things, provides administrative support to the Ministerial Council.

2.4. Other items on the agenda

For the sake of completeness, it is noted that, in addition to the envisaged acts, there will be a number of other items on the agenda of the meetings of the Ministerial Council and the

³ *This designation is without prejudice to positions on status, and is in line with UNSCR 1244 (1999) and the ICJ Opinion on the Kosovo declaration of independence

PHLG. With respect to those items, the Commission intends to express the following positions on behalf of the Union, as also reflected in Annex 3 to this proposal:

1. 2019 General Policy Guidelines on the 2030 Targets and Climate Neutrality for the Energy Community and its Contracting Parties

Among the main objectives of the ECT are the creation of an integrated and sustainable pan-European energy market based on a stable regulatory and market framework, attracting investment that is needed for economic development and social stability, improving the environmental situation, as well as fostering the use of renewable energy. Since the energy sector is one of the main contributors to the emissions of greenhouse gases, and given the strong links between energy policy and climate, it is important to strengthen the policy framework on energy efficiency, renewable energy and greenhouse gas emissions in the Energy Community.

The Ministerial Council of the Energy Community has adopted Recommendation 2016/02/MC-EnC on preparing for the implementation of Regulation (EU) 525/2013 on a mechanism for monitoring and reporting greenhouse gas emissions and Recommendation 2018/01/MC-EnC on preparing for the development of integrated national energy and climate plans by the Contracting Parties of the Energy Community.

The 2009 Renewable and 2012 Energy Efficiency Directives were adopted and became part of the Energy Community legal order through decisions of the Ministerial Council, including a 2020 target for the Energy Community as a whole for energy efficiency (expressed in both primary energy consumption and final energy consumption) and specific 2020 targets for each Contracting Party for renewable energy.

In November 2018, the Ministerial Council adopted General Policy Guidelines on 2030 Targets for the Contracting Parties of the Energy Community. The Guidelines represented the political consensus on the establishment of three distinct 2030 energy and climate targets: a target for energy efficiency, a target for the contribution of renewable energy sources, and a greenhouse gas emission reduction target. These targets should be in line with the EU targets for 2030, represent an equal ambition for the Contracting Parties and take into account relevant socio-economic differences, technological developments and the Paris Agreement on Climate Change.

The political agreements by the Council of the European Union and the European Parliament in 2018 and early 2019, enabled all of the rules introduced by the Clean Energy for all Europeans package to be in force from June 2019. The three 2030 energy and climate targets of reducing by at least 40% greenhouse gas emissions compared to 1990, energy efficiency target of at least 32.5% and a renewable energy target of at least 32% are now fully enshrined in EU legislation.

Following the adoption of Recommendation 2018/01/MC-EnC, and in view of Contracting Parties' obligations in the EU accession process and their commitments in the framework of the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement, along with their respective National Determined Contributions (NDCs), the Ministerial Council of the Energy Community on 13 December 2019 will further its discussion on energy efficiency, renewables and greenhouse gas emission reduction targets for 2030 that are equally ambitious compared to the 2030 targets in the European Union.

The draft 2019 General Policy Guidelines on the 2030 Targets and Climate Neutrality for the Energy Community and its Contracting Parties will represent the political consensus reached in the Ministerial Council and offer political guidelines on establishing these.

On behalf of the European Union, the Commission intends to support the adoption of the draft 2019 General Policy Guidelines. Minor changes to the draft 2019 General Policy Guidelines may be agreed to, in the light of comments from the Energy Community Contracting Parties before or at the Ministerial Council, by the Commission, without a further decision of the Council.

2. The Annual Report on the activities of the Energy Community 2018-2019

On behalf of the European Union, the Commission intends to support the adoption of the Annual Report for 2018-2019.

3. The Director's financial discharge for 2018 on the basis of the Audit Report for the year ended 31 December 2018, the auditors' statement of assurance and the Budget Committee Report

On behalf of the European Union, the Commission intends to support the adoption of the Director's financial discharge for 2018.

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

3.1. Envisaged acts of the Ministerial Council

3.1.1. Decision adopting the Energy Community Budget for the years 2020-2021 and contributions by the Parties to the budget

The proposed Procedural Act of the Ministerial Council foresees an overall budget of EUR 4,812,073,- for each of the years 2020 and 2021. This level was also fixed for the year 2019. There will thus be no increase compared to 2019.

Within the overall budget, increases are foreseen in some fields, such as inflation-related salary adjustments for the staff (extra 2% for 2020 and 2021 respectively), the creation of two new permanent posts (one for a new expert for the Clean Energy Package and another one for a new expert on environmental matters) and the increase of expenses for office rent. These increases will be financed by redeployment of other budget allocations and savings. In addition, the Energy Community will focus more on its core tasks, as defined in the Energy Community legal framework.

94,78% of the overall budget will be paid by the European Union, the rest by the non-EU Parties to the Energy Community Treaty.

The position to be taken on behalf of the Union in the Ministerial Council should be to approve the decision adopting the Energy Community Budget for the years 2020-2021 and contributions by the Parties to the budget.

3.1.2. *Decisions under Article 91(1) ECT establishing the existence of a breach of the ECT in the following cases:*

The dispute settlement proceedings are set out in Title III, Chapter 1, and Title IV, Chapter 1 of the Rules of Procedure on dispute settlement under the Treaty⁴.

- (a) Decision 2019/.../Mc-EnC on the failure of Serbia to comply with the Energy Community Treaty in Case ECS-10/17

Unbundling of TSOs constitutes one of the key concepts enshrined in the Third Energy Package. It requires the effective separation of activities of energy transmission from production and supply interests. In case of certification of a TSO which is controlled by a person or persons from a third country or third countries, Article 11 of the Gas Directive⁵ applies. Article 10 of the Gas Directive provides that before an undertaking is approved and designated as TSO, it needs to be certified. In order to be certified, the undertaking needs to comply with the unbundling requirements of the Third Energy Package, i.e. with Article 9 of the Gas Directive.

The Gas Directive as well as the Gas Regulation⁶ were incorporated in the Energy Community acquis by Decision 2011/02/MC-EnC of the Ministerial Council of 6 October 2011.

The ECS preliminarily found that by certifying Yugorosgaz-Transport under the ISO-model, the Republic of Serbia has failed to comply with its obligations under Articles 10, 14(2)(a), 14(2)(b), 14(2)(d), 15 and 11 of Directive 2009/73/EC as well as Article 24 of Regulation 715/2009, as incorporated in the Energy Community. The ECS therefore submitted a Reasoned Request to the Ministerial Council.

In the light of the facts and arguments set out in the Reasoned Request, the position to be taken on behalf of the Union in the Ministerial Council should be to approve the decision establishing the existence of a breach in Case ECS-10/17.

- (b) Decision 2019/.../Mc-EnC on the failure of Serbia to comply with the Energy Community Treaty in Case ECS-13/17

As ruled by the Court of Justice of the European Union, third party access to transmission systems constitutes “one of the essential measures”⁷ which Contracting Parties must implement in order to discharge with their commitments under the ECT. Pursuant to Article 32(1) of the Gas Directive, Contracting Parties shall ensure the implementation of a system of third party access to the natural gas transmission system for all system users and applied objectively and without discrimination, based on published tariffs. Articles 16(1) and (2) of the Gas Regulation impose the obligation on the TSO to make available to market participants the maximum capacity at all relevant points, taking into account system integrity and efficient network operation, and to implement and publish non-discriminatory and transparent

⁴ Procedural Act 2008/01/MC-EnC on Rules of Procedure for dispute settlement under Treaty as amended by Procedural Act 2015/04/MC-EnC of 16 October 2015 on amending Procedural Act 2008/01/MC-EnC of 27 June 2008 on Rules of Procedure for dispute settlement under the Treaty.

⁵ Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.

⁶ Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005.

⁷ Judgement of 22 May 2008, citiworks AG, C-439/06, ECLI:EU:C:2008:298, para. 44; judgment of 9 October 2008, Sabatauskas and Others, C-239/07, ECLI:EU:C:2008:551, para. 33; judgment of 29 September 2016, Essent Belgium NV, C-492/14, ECLI:EU:C:2016:732, para. 76

capacity allocation mechanisms. Under Article 18(3) of the Gas Regulation read in conjunction with paragraph 3.2(1)(a) of Annex I thereto, relevant points shall include all entry and exit points to and from the natural gas transmission network operated by the TSO. The obligations related to third party access to the natural gas transmission system stemming from the Energy Community acquis were transposed into Serbian national law by the Energy Law and must be implemented by the TSO in accordance with the Rules.

The ECS considers that Srbijagas, i.e. the company currently acting as the natural gas TSO in the Republic of Serbia and in charge of all entry and exit points to/from the Serbian natural gas transmission system, failed to implement these obligations by continuing to unilaterally exclude cross-border natural gas transmission capacities at the Horgoš entry point from open capacity allocation procedures and thus failing to ensure third party access at the respective entry point. It further challenges the failure of the Serbian authorities competent to enforce the respective obligations to actually do so.

The ECS preliminarily found that due to the unjustified exclusion by Srbijagas of the Horgoš entry point from unrestricted and non-discriminatory third party access and from open capacity allocation procedures, the Republic of Serbia violates Article 32 of Directive 2009/73/EC and Article 16 of Regulation (EC) 715/2009 and, therefore, fails to fulfil its obligations under Articles 6, 10 and 11 of the Energy Community Treaty. The ECS therefore submitted a Reasoned Request to the Ministerial Council.

In the light of the facts and arguments set out in the Reasoned Request, the position to be taken on behalf of the Union in the Ministerial Council should be to approve the decision establishing the existence of a breach in Case ECS-13/17.

This approval should, however, be made on condition that the justification in the Reasoned Request is modified by removing the obiter dictum in point (71) thereof which refers to a possible abuse of dominant position. This obiter dictum is not relevant for the establishment of the existence of a breach in the case at hand and risks to create legal uncertainty.

- (c) Decision 2019/.../Mc-EnC on the failure of Kosovo* to comply with the Energy Community Treaty in Case ECS-6/18

Pursuant to Article 16(iii) of the ECT, Directive 2001/80/EC⁸, as amended by Decision 2013/05/MC-EnC of the Ministerial Council of the Energy Community of 24 October 2013 and by Decision 2015/07/MC-EnC of the Ministerial Council of the Energy Community of 16 October 2015 on amending Decision 2013/05/MC-EnC, is part of the Energy Community's *acquis communautaire* on environment.

Pursuant to Article 16(v) of the ECT, Chapter III, Annex V, and Article 72(3)-(4) of Directive 2010/75/EU⁹, as amended by Decision 2013/06/MC-EnC of the Ministerial Council of the Energy Community of 24 October 2013, is also part of the *acquis communautaire* on environment.

Article 12 of the ECT requires Contracting Parties to “implement the *acquis communautaire* on Environment in compliance with the timetable for the implementation of those measures set out in Annex II.”

⁸ Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants.

⁹ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control).

The ECS considers that Kosovo* failed to comply with its obligations related to the transposition and implementation of the provisions of Directive 2001/80/EC (for existing plants) and Directive 2010/75/EU (for new plants) into national law and the implementation thereof. On account of this non-compliance, the emission limit values in the respective permits for Kosovo*'s five existing large combustion plants (three in the "Kosovo A" and two in the "Kosovo B" plant complex) are also exceeding those set by Directive 2001/80/EC. Furthermore, Kosovo* plans to construct a new thermal power plant ("Kosova e Re"), with a net electric power of 450 MW. In accordance with the applicable Energy Community legislation, this plant would fall under the category of "new plant" under Directive 2010/75/EU and its emission limit values have to be set in accordance with the emission limit values of Part 2 of Annex V of the same Directive. In the absence of national legislation transposing the requirements of Directive 2010/75/EU for new plants into national law, however, the emission limit values of the planned new thermal power plant cannot be set in a manner compliant with Energy Community law.

The currently applicable legal framework in Kosovo*, namely the IPPC Law and the Administrative Instruction, according to the ECS, fails to ensure compliance with several provisions of Directive 2001/80/EC by establishing incorrect emission limit values or other parameters for certain pollutants in one or more plant categories falling under the Directive's scope.

With regard to new plants, according to the ECS, Kosovo* fails to fulfil its obligations under Article 2 of Decision 2013/06/MC-EnC read in conjunction with Article 30(3) and Part 2 of Annex V of Directive 2010/75/EU by not adopting the laws, regulations and administrative provisions necessary to comply with Chapter III and Annex V of Directive 2010/75/EU, namely by not setting provisions for the limitation of emissions into the air from new large combustion plants, or, in any event, by failing to communicate the texts thereof to the ECS.

The ECS preliminarily found that by not transposing into national law and by not implementing the provisions of Articles 4(1) and 4(3) as well as Parts A of Annexes III, IV, V, VI and VII of Directive 2001/80/EC and Article 30(3) as well as Part 2 of Annex V of Directive 2010/75/EU, Kosovo* has failed to fulfil its obligations under the Energy Community Treaty and in particular Articles 12 and 16 thereof. The ECS therefore submitted a Reasoned Request to the Ministerial Council.

In the light of the facts and arguments set out in the Reasoned Request, the position to be taken on behalf of the Union in the Ministerial Council should be to approve the decision establishing the existence of a breach in Case ECS-6/18.

3.1.3. *Decisions under Article 92(1) ECT:*

- (a) Decision on imposing and extending measures on Bosnia and Herzegovina under Article 92(1) of the Energy Community Treaty in Cases ECS-8/11, ECS-6/16 and ECS-2/13
 - (i) Extending the measures imposed on Bosnia and Herzegovina under Article 92(1) of the Energy Community Treaty in Case ECS-8/11

On 16 October 2015, the Ministerial Council adopted Decision 2015/10/MC-EnC declaring that Bosnia and Herzegovina had failed to implement Ministerial Council Decisions 2013/04/MC-EnC and 2014/04/MC-EnC in Case ECS-8/11 (related to non-compliance by Bosnia and Herzegovina with the Third Energy Package) and

thus to rectify the serious and persistent breaches identified in these Decisions. The Ministerial Council adopted the following measures under Article 92 ECT:

- The right of Bosnia and Herzegovina to participate in votes for Measures and Procedural Acts adopted under Chapter VI of Title V of the Treaty was suspended.
- The ECS was requested to suspend the application of its Reimbursement Rules to the representatives of Bosnia and Herzegovina for all meetings organized by the Energy Community.
- The effect of the measures under Article 92 was limited to one year. Based on a report by the ECS, the Ministerial Council reviewed the effectiveness and the need for maintaining these measures at its next meeting in 2016.

Since Bosnia and Herzegovina did not take any measures to rectify the breach identified in Decision 2016/02/MC-EnC, on 12 September 2018, the ECS submitted a Reasoned Request to the Ministerial Council under Article 92 of the Treaty. On 29 November 2018, the Ministerial Council adopted Decision 2018/17/MC-EnC on extending the measures imposed on Bosnia and Herzegovina, declaring that Bosnia and Herzegovina had failed to implement Ministerial Council Decisions 2013/04/MC-EnC, 2014/04/MC-EnC, 2015/10/MC-EnC, and 2016/16/MC-EnC, and thus to rectify the serious and persistent breaches identified in these Decisions. The Ministerial Council adopted the following measures under Article 92 ECT:

- The duration of the measures under Article 92 imposed by Article 2(2) of Decision 2015/10/MC-EnC and Article 3(1) of Decision 2016/16/MC-EnC was extended for one year if, within six months of the present Decision, the breaches referred to in Article 1 of the present Decision were not rectified.
- In addition, the right of Bosnia and Herzegovina to participate in votes for Measures adopted under Title II of the Treaty related to adoption of new acquis in the gas sector by all Energy Community institutions, as well as the right to participate in votes for Measures under Article 91 of the Treaty will be suspended.
- 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 2019.
- The Secretariat is invited to monitor compliance of the measures taken by Bosnia and Herzegovina with the *acquis communautaire*.

Since Bosnia and Herzegovina did not take any measures to rectify the breach identified in Decision 2018/17/MC-EnC, the ECS submitted a Reasoned Request dated 8 October 2019 to the Ministerial Council under Article 92 of the Treaty. In its Reasoned Request, the ECS requested the Ministerial Council to declare that:

- Bosnia and Herzegovina failed to implement Ministerial Council Decisions 2013/04/MC-EnC, 2014/04/MC-EnC, 2015/10/MC-EnC, 2016/16/MC-EnC and 2018/17/MC-EnC and thus to rectify the serious and persistent breaches identified in these Decisions.
- The duration of the measures under Article 92 imposed by Article 2(2) of Decision 2015/10/MC-EnC, Article 3(1) of Decision 2016/16/MC-EnC and Article 2 of Decision 2018/17/MC-EnC is extended for one year after the

adoption of the measures at the meeting of the Ministerial Council in the second half of 2020.

- In addition, the right of Bosnia and Herzegovina to participate in votes for Decisions under Article 91 and 92 of the Treaty is suspended.
- Based on a report by the ECS, the Ministerial Council will review the effectiveness and the need for maintaining these measures further at its meeting in the second half of 2020.

Given the persistence and importance of the breaches identified, the proposed measures are appropriate and proportionate. Therefore, the position to be taken on behalf of the Union in the Ministerial Council should be to approve the draft Decision.

- (ii) Imposing measures on Bosnia and Herzegovina under Article 92(1) of the Energy Community Treaty in Case ECS-2/13

On 14 October 2016, the Ministerial Council adopted Decision 2016/03/MC-EnC in Case ECS-02/13 establishing a breach of Energy Community law by declaring that Bosnia and Herzegovina, by failing to ensure that heavy fuel oils are not used if their sulphur content exceeds 1.00 % by mass on its entire territory and failing to ensure that gas oils are not used if their sulphur content exceeds 0.1 % by mass on its entire territory, failed to comply with Article 3(1) and Article 4(1) of Directive 1999/32/EC in conjunction with Article 16 of the Treaty.

Since Bosnia and Herzegovina did not take any measures to rectify the breach identified in Decision 2016/03/MC-EnC, on 12 September 2018, the ECS submitted a Reasoned Request to the Ministerial Council initiating Case ECS-2/13 S under Article 92 of the Treaty.

By its Decision 2018/13/MC-EnC of 29 November 2018, the Ministerial Council established a serious and persistent breach of the Energy Community law by declaring that the failure by Bosnia and Herzegovina to implement Ministerial Council Decision 2016/03/MC-EnC and thus to rectify the breaches identified in this Decision constitutes a serious and persistent breach within the meaning of Article 92(1) of the Treaty, but postponed the adoption of measures under Article 92 of the Treaty to 2019. At the same time, the Ministerial Council decided that Bosnia and Herzegovina shall take all appropriate measures to rectify the breaches identified in Ministerial Council Decision 2016/03/MC-EnC in cooperation with the Secretariat and shall report to the Ministerial Council in 2019 about the implementation measures taken. Furthermore, the ECS was invited to request Measures under Article 92 of the Treaty in 2019, if Bosnia and Herzegovina failed to implement the Ministerial Council Decision 2016/03/MC-EnC by 1 July 2019.

Since Bosnia and Herzegovina did not take any measures to rectify the breach identified in Decision 2018/13/MC-EnC and the situation as regards the compliance of the national legislation of Bosnia and Herzegovina with Directive 1999/32/EC remained in breach of the Energy Community acquis, the ECS submitted a Request for Measures under Article 92 of the Treaty to the Ministerial Council dated 8 October 2019. In its Reasoned Request, the ECS requested the Ministerial Council to declare that:

- Bosnia and Herzegovina failed to implement Ministerial Council Decisions 2013/04/MC-EnC, 2014/04/MC-EnC, 2015/10/MC-EnC, 2016/16/MC-EnC

and 2018/17/MC-EnC and thus to rectify the serious and persistent breaches identified in these Decisions.

- The duration of the measures under Article 92 imposed by Article 2(2) of Decision 2015/10/MC-EnC, Article 3(1) of Decision 2016/16/MC-EnC and Article 2 of Decision 2018/17/MC-EnC is extended for one year after the adoption of the measures at the meeting of the Ministerial Council in the second half of 2020.
- In addition, the right of Bosnia and Herzegovina to participate in votes for Decisions under Article 91 and 92 of the Treaty is suspended.
- Based on a report by the ECS, the Ministerial Council will review the effectiveness and the need for maintaining these measures further at its meeting in the second half of 2020.

Therefore, the position to be taken on behalf of the Union in the Ministerial Council should be to approve the draft Decision.

- (iii) Imposing measures on Bosnia and Herzegovina under Article 92(1) of the Energy Community Treaty in Case ECS-6/16

On 14 October 2016, the Ministerial Council adopted Decision 2016/07/MC-EnC in Case ECS-06/16 establishing a breach of Energy Community law by declaring that Bosnia and Herzegovina, by failing to adopt and apply the laws, regulations and administrative provisions necessary to comply with Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 714/2009 and Regulation (EC) No 715/2009 by 1 January 2015, pursuant to Article 3(1) of Ministerial Decision 2011/02/MC-EnC and by failing to forthwith notify those measures to the ECS, failed to comply with Articles 6 and 89 of the Treaty as well as Article 3(1) and (2) of Ministerial Council Decision 2011/02/MC-EnC.

Since Bosnia and Herzegovina did not take any measures to rectify the breach identified in Decision 2016/07/MC-EnC, on 12 September 2018, the ECS submitted a Reasoned Request to the Ministerial Council initiating Case ECS-6/16 S under Article 92 of the Treaty.

By its Decision 2018/16/MC-EnC of 29 November 2018, the Ministerial Council established a serious and persistent breach of the Energy Community law by declaring that the failure by Bosnia and Herzegovina to implement Ministerial Council Decision 2016/07/MC-EnC and thus to rectify the breaches identified in this Decision constitutes a serious and persistent breach within the meaning of Article 92(1) of the Treaty, but postponed the adoption of measures under Article 92 of the Treaty to 2019. At the same time, the Ministerial Council decided that Bosnia and Herzegovina shall take all appropriate measures to rectify the breaches identified in Ministerial Council Decision 2016/07/MC-EnC in cooperation with the Secretariat and shall report to the Ministerial Council in 2019 about the implementation measures taken. Furthermore, the ECS was invited to request Measures under Article 92 of the Treaty in 2019, if Bosnia and Herzegovina failed to implement the Ministerial Council Decision 2016/07/MC-EnC by 1 July 2019.

Since Bosnia and Herzegovina did not take any measures to rectify the breach identified in Decision 2018/16/MC-EnC and the situation as regards the compliance of Bosnia Herzegovina with their above mentioned obligations remained in breach of the Energy Community acquis, the ECS submitted a Request for Measures under

Article 92 of the Treaty to the Ministerial Council dated 8 October 2019. In its Reasoned Request, the ECS requested the Ministerial Council to declare that:

- Bosnia and Herzegovina failed to implement Ministerial Council Decisions 2013/04/MC-EnC, 2014/04/MC-EnC, 2015/10/MC-EnC, 2016/16/MC-EnC and 2018/17/MC-EnC and thus to rectify the serious and persistent breaches identified in these Decisions.
- The duration of the measures under Article 92 imposed by Article 2(2) of Decision 2015/10/MC-EnC, Article 3(1) of Decision 2016/16/MC-EnC and Article 2 of Decision 2018/17/MC-EnC is extended for one year after the adoption of the measures at the meeting of the Ministerial Council in the second half of 2020.
- In addition, the right of Bosnia and Herzegovina to participate in votes for Decisions under Article 91 and 92 of the Treaty is suspended.
- Based on a report by the ECS, the Ministerial Council will review the effectiveness and the need for maintaining these measures further at its meeting in the second half of 2020.

Therefore, the position to be taken on behalf of the Union in the Ministerial Council should be to approve the draft Decision.

- (b) Decision on imposing and extending measures on the Republic of Serbia under Article 92(1) of the Energy Community Treaty in Cases ECS-3/08 and ECS-9/13
- (a) Imposing measures on the Republic of Serbia under Article 92(1) of the Energy Community Treaty in Case ECS-3/08

On 14 October 2016 the Ministerial Council adopted Decision 2016/02/MC-EnC in Case ECS-03/08 establishing a breach of Energy Community law by declaring that the Republic of Serbia failed to comply with Article 6 of Regulation 1228/2003 by not using the revenues resulting from the allocation of interconnection capacity on the interconnectors with Albania, the Republic of North Macedonia and Montenegro for one or more of the purposes specified in Article 6(6) of the Regulation.

The Republic of Serbia was required to take all appropriate measures to rectify the identified breaches and to ensure compliance with the Energy Community law by December 2016 and to report regularly to the ECS and the Permanent High Level Group.

Since the Republic of Serbia did not take any measures to rectify the breach identified in Decision 2016/02/MC-EnC, on 12 September 2018, the ECS submitted a Reasoned Request to the Ministerial Council initiating Case ECS-3/08 S under Article 92 of the Treaty.

By its Decision 2018/12/MC-EnC of 29 November 2018, the Ministerial Council established a serious and persistent breach of the Energy Community law by declaring that unless the Republic of Serbia rectifies the breaches identified in Ministerial Council Decision 2016/02/MC-EnC within six months of the present Decision, the failure by Serbia to implement Decision 2016/02/MC-EnC will be considered a serious and persistent breach within the meaning of Article 92(1) of the Treaty, but postponed the adoption of measures under Article 92 of the Treaty to 2019. At the same time, the Ministerial Council decided that the Republic of Serbia shall take all appropriate measures to rectify the breaches identified in Ministerial

Council Decision 2016/02/MC-EnC in cooperation with the Secretariat and shall report to the Ministerial Council in 2019 about the implementation measures taken. Furthermore, the ECS was invited to request Measures under Article 92 of the Treaty in 2019, if the Republic of Serbia failed to implement the Ministerial Council Decision 2016/02/MC-EnC by 1 July 2019.

The Republic of Serbia did not rectify the breaches identified in Ministerial Council Decision 2016/02/MC-EnC within six months of Decision 2018/12/MC-EnC.

Since the Republic of Serbia did not take any measures to rectify the breach identified in Decision 2018/12/MC-EnC and the situation as regards the compliance of the Republic of Serbia with their obligation to use the revenues resulting from the allocation of interconnection capacity on the interconnectors with Albania, the former Yugoslav Republic of Macedonia and Montenegro for one or more of the purposes specified in Article 6(6) of Regulation 1228/2003 remained in breach of the Energy Community acquis, the ECS submitted a Request for Measures under Article 92 of the Treaty to the Ministerial Council dated 8 October 2019. In its Reasoned Request, the ECS requested the Ministerial Council to declare that:

- Republic of Serbia 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
 - 2016/02/MC-EnC in Case ECS-3/08 of 14 October 2016 and 2018/12/MC-EnC of 29 November 2018 in Case ECS-3/08 S,
 - 2014/03/MC-EnC of 23 September 2014 in Case ECS-9/13 and 2016/17/MC-EnC of 14 October 2016 in Case ECS-9/13 S

and rectifying the breaches established therein.

- The right of Republic of Serbia to participate in votes for Measures and Procedural Acts adopted under Chapter VI of Title V of the Treaty, as well as the right to participate in votes for Decisions under Article 91 of the Treaty are suspended.
- The ECS is requested to suspend the application of its Reimbursement Rules to the representatives of Republic of Serbia for all meetings organized by the Energy Community.
- The European Union, in line with Article 6 of the Treaty, is invited to take the appropriate measures for the suspension of financial support granted to Serbia in the sectors covered by the Treaty.
- The effect of the measures adopted by this Decision is limited for one year upon their adoption at the meeting of the Ministerial Council in the second half of 2019. Based on a report by the Secretariat, the Ministerial Council will review the effectiveness and the need for maintaining these measures at its next meeting 2020.
- Republic of Serbia shall take all appropriate measures to rectify the breaches identified in Ministerial Council Decisions 2016/02/MC-EnC and 2018/12/MC-EnC in Cases ECS-3/08 and ECS-3/08 S, and 2014/03/MC-EnC and 2016/17/MC-EnC in Cases ECS-9/13 and ECS-9/13 S in cooperation with the Secretariat and shall report to the Ministerial Council in 2020 about the implementation measures taken.

- The ECS is invited to monitor compliance of the measures taken by Republic of Serbia with the *acquis communautaire*.

Therefore, the position to be taken on behalf of the Union in the Ministerial Council should be to approve the draft Decision.

- (ii) Extending the measures imposed on the Republic of Serbia under Article 92(1) of the Energy Community Treaty in Case ECS-9/13

On 29 November 2018, the Ministerial Council agreed to extend by six more months the deadline by which the Republic of Serbia was expected to rectify the breaches identified in Ministerial Council Decisions 2014/03/MC-EnC and 2016/17/MC-EnC in Case ECS-9/13 (related to non-compliance by the Republic of Serbia with the unbundling of natural gas transmission systems operators) and thus to rectify the serious and persistent breaches identified in these Decisions.

Since the Republic of Serbia did not take measures to rectify the breaches identified in Decisions 2014/03/MC-EnC and 2016/17/MC-EnC, the ECS submitted a Reasoned Request to the Ministerial Council under Article 92 of the Treaty dated 8 October 2019. In its Reasoned Request, the ECS requested the Ministerial Council to declare that:

- The right of Republic of Serbia to participate in votes for Measures and Procedural Acts adopted under Chapter VI of Title V of the Treaty, as well as the right to participate in votes for Decisions under Article 91 of the Treaty are suspended.
- The ECS is requested to suspend the application of its Reimbursement Rules to the representatives of Republic of Serbia for all meetings organized by the Energy Community.
- The European Union, in line with Article 6 of the Treaty, is invited to take the appropriate measures for the suspension of financial support granted to Serbia in the sectors covered by the Treaty.
- The effect of the measures adopted by this Decision is limited to one year upon its adoption.

Given the persistence and importance of the breaches identified, the proposed measures are appropriate and proportionate. Therefore, the position to be taken on behalf of the Union in the Ministerial Council should be to approve the draft Decision.

3.2. Envisaged acts of the PHLG

An item mentioned above (Section 2.3) requires a Decision by the PHLG, in which the position of the European Union will be expressed by the representative of the European Commission.

In 2011, the EU Third Energy Package was adopted by the Energy Community and a simplified procedure for the adoption of EU Network Codes (NCs) and Guidelines (GLs) was established¹⁰.

NCs and GLs are a set of technical rules aiming to harmonise and improve the management of cross border energy flows. A number of EU NCs and GLs have been already adopted in the

¹⁰ Procedural Act 01/2012/PHLG-EnC

Energy Community, including the gas GLs on congestion management procedures¹¹, the gas NC on interoperability and data exchange rules¹², the electricity NC on grid connection of generators¹³, the electricity NC on demand connection¹⁴, and the electricity NC on grid connection of HVDC systems and DC-connected power park modules¹⁵.

In 2018 the PHLG adopted the Network Codes on capacity allocation mechanisms in gas transmission systems¹⁶ and on harmonised transmission tariff structures for gas.¹⁷

The present Decision of the PHLG covers the Network Codes contained in Regulation (EU) 312/2014.¹⁸

Commission Regulation (EU) 312/2014 establishing a Network Code on Gas Balancing of Transmission Networks aims to set out gas balancing rules, including network-related rules on nomination procedures, imbalance charges, settlement processes associated with the daily imbalance charge and operational balancing between transmission system operators' networks.

In April 2019, the ad-hoc Energy Community working group assessing the possible uptake of the gas balancing NC agreed on an adapted version of the NC on "gas balancing of transmission networks".

On this basis, the position to be taken on behalf of the European Union in the PHLG should be to approve the draft PHLG Decision to implement Regulation (EU) 312/2014 in the Energy Community.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing 'the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.'

The concept of 'acts having legal effects' includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are 'capable of decisively influencing the content of the legislation adopted by the EU legislature'¹⁹.

4.1.2. Application to the present case

The Ministerial Council and the PHLG are bodies set up by an agreement, namely the Energy Community Treaty.

¹¹ Decision 2018/01/PHLG-EnC

¹² Decision 2018/02/PHLG-EnC

¹³ Decision 2018/03/PHLG-EnC

¹⁴ Decision 2018/05/PHLG-EnC

¹⁵ Decision 2018/04/PHLG-EnC

¹⁶ Decision 2018/06/PHLG-EnC

¹⁷ Decision 2018/07/PHLG-EnC

¹⁸ Commission Regulation (EU) No 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks, OJ L 91, 27.3.2014, p. 15–35.

¹⁹ Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

The acts which the Ministerial Council and the PHLG are called upon to adopt constitute acts having legal effects. The envisaged act will be binding under international law in accordance with Article 76 of the Energy Community Treaty, according to which a decision is legally binding upon those to whom it is addressed.

The envisaged acts do not supplement or amend the institutional framework of the Agreement.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

4.2.2. Application to the present case

The main objective and content of the envisaged act relate to energy.

Therefore, the substantive legal basis of the proposed decision is Article 194 TFEU.

4.3. Conclusion

The legal basis of the proposed decision should be Article 194, in conjunction with Article 218(9) TFEU.

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the Ministerial Council of the Energy Community and in the Permanent High Level Group of the Energy Community (Chisinau, 12 and 13 December 2019)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Energy Community Treaty ('the Treaty') was concluded by the Union by Council Decision [2006/500/EC](#) of 29 May 2006²⁰ and entered into force on 1 July 2006.
- (2) Pursuant to Articles 47 and 76 of the Treaty, the Ministerial Council may adopt Measures taking the form of a Decision or a Recommendation.
- (3) The Ministerial Council, during its 17th session on 13 December 2019, is to adopt a number of acts listed in Annex 1 to this Decision.
- (4) The Permanent High Level Group, during its 55th meeting on 12 December 2019, is to adopt an act listed in Annex 2 to this Decision.
- (5) It is appropriate to establish the position to be taken on the Union's behalf in the Ministerial Council and the Permanent High Level Group, as the envisaged acts will have legal effects for the Union.
- (6) The purpose of the envisaged acts is to facilitate the achievement of the objectives of the Treaty and the functioning of the Energy Community Secretariat in Vienna which, among other things, provides administrative support to the Ministerial Council.

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the 17th session of the Ministerial Council to be held in Chisinau on 13 December 2019 regarding the issues falling under the scope of Article 218(9) TFEU is set out in Annex 1 to this Decision.

²⁰ OJ L198 of 20.7.2006, p. 15.

Article 2

The position to be taken on the Union's behalf in the 55th meeting of the Permanent High Level Group to be held in Chisinau on 12 December 2019 regarding the issues falling under the scope of Article 218(9) TFEU is set out in Annex 2 to this Decision.

Article 3

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*



Brussels, 19.11.2019
COM(2019) 607 final

ANNEXES 1 to 3

ANNEXES

to the Proposal for a Council Decision

**on the position to be taken on behalf of the European Union in the Ministerial Council of
the Energy Community and in the Permanent High Level Group of the Energy
Community (Chisinau, 12 and 13 December 2019)**

ANNEX 1

Ministerial Council

1. DECISION ADOPTING THE ENERGY COMMUNITY BUDGET AND FINANCIAL CONTRIBUTIONS FOR THE PERIOD 2020-2021;

The position to be taken on behalf of the European Union is to approve the Decision adopting the Energy Community Budget and financial contributions for the period 2020-2021 in accordance with Commission Decision of 6 November 2019 on establishing the Commission's proposal to the Ministerial Council of the Energy Community on the Budget of the Energy Community for the period 2020-2021, C(2019) 7828 final, and the draft Procedural Act of the Ministerial Council attached as Addendum to this Annex.

2. DECISIONS UNDER ARTICLE 91(1) ECT ESTABLISHING THE EXISTENCE OF A BREACH OF THE AGREEMENT IN THE FOLLOWING CASES: CASE ECS-10/17 (SERBIA), CASE ECS-13/17 (SERBIA), CASE ECS 6/18 (KOSOVO*);

- (a) The position to be taken on behalf of the European Union is to approve the draft Decisions under Article 91(1) ECT establishing the existence of a breach in Case ECS-10/17 (Serbia) on condition that the obiter dictum in point (71) of the Reasoned Request is removed, Case ECS-13/17 (Serbia), and Case ECS-6/18 (Kosovo*).

3. DECISIONS UNDER ARTICLE 92(1) ECT ON: IMPOSING OR EXTENDING MEASURES ON BOSNIA AND HERZEGOVINA IN CASES ECS-8/11, ECS-2/13 AND ECS-6/16; ON SERBIA IN CASES ECS-3/08 AND ECS-9/13;

The position to be taken on behalf of the European Union is to approve the draft Decisions under Article 92(1) ECT on Bosnia and Herzegovina in Cases ECS-8/11, ECS-2/13 and ECS-6/16 and on Serbia in Cases ECS-3/08 and ECS-9/13.

ADDENDUM TO ANNEX 1

**PROCEDURAL ACT OF
THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY**

2019/PA/01/MC-EnC: On the adoption of the Budget of the Energy Community for the years 2020-2021 and on the contributions by the Parties to the budget

The Ministerial Council of the Energy Community,

Having regard to the Treaty Establishing the Energy Community, and in particular Articles 73,74,86 and 88 thereof,

Having regard to the Commission Decision of on establishing the Commission's proposal to the Ministerial Council of the Energy Community on the Budget of the Energy Community for the period 2020-2021,

Having regard to Articles 24 and 25 of the Energy Community procedures for the establishment and implementation of Budget, Auditing and Inspection,

Whereas the Ministerial Council shall adopt a bi-annual budget covering the operational expenses of the Energy Community necessary for the functioning of its institutions,

Whereas each Party shall contribute to the budget of the Energy Community as set out in Annex IV of the Treaty establishing the Energy Community,

HAS DECIDED AS FOLLOWS:

Article 1

The Energy Community Budget covering the financial years 2020 and 2021 as set forth in the Annex to the present Procedural Act is hereby adopted.

Article 2

With effect as of 1 January 2020, the contributions to the budget of the Energy Community by the Parties are set out in Annex to the present Procedural Act.

Article 3

This decision is addressed to all Parties and institutions under the Treaty establishing the Energy Community.

Article 4

The Director of the Energy Community Secretariat shall make this Procedural Act and its Annex available to all Parties and institutions under the Treaty establishing the Energy Community within 7 days after its adoption.

Adopted in Chisinau on 13 December 2019

For the Ministerial Council

.....

Presidency

Annex

to the Commission Decision on establishing the Commission's proposal to the Ministerial Council of the Energy Community on the Budget of the Energy Community for the period 2018-2019

Explanatory Memorandum of the Energy Community budget 2020-2021

1. Context of the proposal

1.1. Treaty basis

Articles 73 and 74 of the Treaty establishing the Energy Community (hereinafter referred to as the “*Treaty*”) stipulates that a Procedural Act adopted by unanimity by the Ministerial Council, on a proposal of the European Commission, shall lay down a biannual budget of the Energy Community. It cover(s) also *the operational expenditure of the Energy Community necessary for the functioning of its institutions.*

The present budget proposal and explanatory memorandum was prepared by the Director as required under Article 30 of the *Energy Community Procedures for the Establishment and Implementation of the Budget, Auditing and Inspection* (hereinafter referred to as the “*Budgetary Procedures*”).

1.2. Provisions for 2020-2021 budget of the Energy Community

Guiding principles and provisions for the preparation of the budget (on content and structure) are laid down in the Energy Community *Budgetary Procedures* (amended in 2014).

An additional principle applied for the first time in the process is related to the introduction of Activity Based Budgeting (ABB) principles in the future reporting scheme of the Energy Community.

2. Outline of the Work Programme 2020-2021

While also reflecting the need to address new challenges ahead, the priorities of the Energy Community and its institutions, including the Secretariat, will be firmly centred on the key objectives established by the Treaty:

3. Extend the EU internal energy market rules and principles to countries in South East Europe, the Black Sea region and beyond on the basis of a legally binding framework
4. Establish a stable regulatory and market framework capable of attracting investment in power generation and networks;
5. Create an integrated energy market allowing for cross-border energy trade and integration with the EU market;
6. Enhance the security of supply to ensure stable and continuous energy supply that is essential for economic development and social stability;

7. Improve the environmental situation in relation with energy supply in the region and foster the use of renewable energy and energy efficiency; and

The Secretariat will continue to support the Contracting Parties in transposing and implementing the *acquis*. In situations where progress is lacking, experts of the Secretariat will get more and more involved in individual cases providing tailor-made support, either through country specific implementation missions or through the management of external consultancy services. The enforcement mechanism under the Treaty, supported by mediation and dispute resolution, will continue to serve as important tool to support the process of Treaty implementation in cases where other types of support have failed (e.g. drafting, knowledge sharing, capacity building).

At the same time, the Regulation for Energy Market Integrity and Transparency (REMIT) and Gas Network Codes and Guidelines, recently adopted by decision-making bodies of the Energy Community, will have to be transposed and implemented. Further tasks in infrastructure related issues (PECI/PMI related) will remain on the agenda of the Secretariat and will require regular reporting in line with the applicable regulation.

The General Policy Guidelines on 2030 Targets for the Contracting Parties of the Energy Community, adopted in December 2018, set the future focus of the work of the Energy Community in the area of decarbonisation. At the said December meeting, the Ministerial Council announced to work towards the incorporation of the Clean Energy Package. The first pieces of the Package that might be incorporated into the *acquis* already in 2019 are the recast Renewable Energy Directive, the amended Energy Efficiency Directive and the amended Energy Performance in Buildings Directive, and the Governance Regulation. This will result in further tasks and obligations of the Contracting Parties and require new efforts to be provided by the Secretariat. A particularly challenging obligation will be the preparation and adoption of National Energy and Climate Plans.

In addition, the *acquis* on Security of Gas Supply and the existing and future Network Codes foresee a number of new tasks for the Secretariat and the ECRB.

Further, the adoption of Procedural Acts by the Ministerial Council on the establishment and work of the Coordination Group of the Energy Community Distribution System Operators for Electricity and of the Energy Community Coordination Group for Cybersecurity and Critical Infrastructure will result in a number of new tasks, e.g. the organisation and preparation of meetings, overall content support to the working groups, etc. .

With the existing and new tasks following from the mandate of the Secretariat, the list of reporting obligations towards various Energy Community institutions (e.g. Ministerial council, ECRB, PHLG) and the European Commission, has been increasing steadily. Details of the reporting obligations are presented in Annex II of the Work Programme.

Overall, the Secretariat's work reflects three main priority areas in line with Article 67 of the Treaty:

- Activity 1 (A1) – Implementation of the *acquis* pursuant to Article 67(b) of the Treaty focusing on the assistance offered to the Contracting Parties to support the proper implementation of the obligations under the Treaty and annual progress reporting to the Ministerial Council;
- Activity 2 (A2) – assistance to donors and to the coordination by the European Commission of the donors' activity pursuant to Article 67(c), including assistance to the work of the donors' community in the areas of the scope of the Energy Community in Contracting Parties; and

- Activity 3 (A3) – Administrative support to institutions and bodies in line with Article 67(a) regarding the facilitation and organisation of the work of the Energy Community institutions and working bodies established by decisions of the Ministerial Council.

The main activities, as defined in the Work Programme for reporting purposes, are further divided into actions (see Annex I to Work Programme 2020-2021). Further on reporting on the budget utilisation will be done according to defined activities (see above A1-A3) and corresponding indicators.

This document however, refers the planning of resources in accordance with the principles of the *Budgetary Procedures* (see below).

8. Budget assumptions

The major assumption underpinning the budget proposal is that the stable legal and financial framework will be further on applicable to the operations of the Energy Community. The planned amendments to the Treaty to improve its functioning that the Ministerial Council is scheduled to adopt in 2019, supported by the Presidency in Office and the Secretariat, is a first step of assurance that the Community will continue to work towards the achievement of the Energy Community objectives, responding to the requirements of creating a single internal energy market. On the level of financial planning for 2020-2021, the experience of budget implementation of the previous three years was taken into consideration as well as the strategic planning of future tasks and activities as presented in the Work Programme.

9. Energy Community budget structure

The financial planning follows the predefined structure of the budget through the provision of the applicable Rules. This stable frame given for planning of the expenditures and revenue since the very beginning of the Energy Community allows a multiannual comparison of utilization of the results.

The presented budget is allocated according to four budget lines (“BL”) which are *Human Resources, Travel Expenses, Office and Other Costs, Services* that are further detailed in the budget positions (different number in different budget lines). Each of the budget positions is further composed of pre-defined accounts that are creating a group of accounts representing a certain category of expenditures related to the budget lines. Explanations given under this section are applicable for both years 2020-2021.

9.1. Budget Line: Human Resources

Budget Line I constitutes human resources expenditures. This part of the budget is defined in accordance with the approved Establishment Plan and follows the established salary scales.

The existing organisational structure of the Secretariat is the basis for the proposal. The budget for the Human Resources Budget Line is a result of the following considerations:

- In 2020 and 2021 respectively, the salaries are indexed with a 2% inflation factor; and
- Continued promotion of temporary employment under secondment and internship schemes is envisaged. Secondment, used as a form of strengthening the administrative capacity of the Contracting Parties, will be further on use in the years 2020-2021 to complement the Secretariat's team with specific technical expertise from national administrations and other organisations. Internships aim at supporting staff as well as disseminating knowledge about the Energy Community and contributing to capacity building. The financial assumptions of the proposed budget

envisages funds for approximately 60 man/months for and internships¹ and 24 man/months for secondment. The number of temporary personnel is counted on a basis of 1 year engagement, i.e. in total five one-year internships and 2 one-year secondments planned for 2020(in total 7 temporary).

9.2. Budget Line: Travel

Budget Line II comprises expenditures related to authorised travels of the Secretariat's staff on behalf of the Energy Community pursuing activities related to the implementation of the Treaty.

The expenditures refer mainly to the Contracting Party missions or technical assistance for the review of the implementation of the obligations under the Treaty. This budget contains also funds for justified travels linked to the organisation and participation of the staff in different meetings and conferences, including those of the Energy Community institutions, as speakers, etc.

In its structure, the budget for travel expenses is planned and composed of:

- Costs for flights and accidentals; and
- Daily Subsistence Allowance (DSA)².

9.3. Budget Line: Office

Budget Line III comprises expenditures that increase or alter the assets of the Energy Community and other office infrastructure expenditures (rent, office supplies, consumables and other services) that are necessary for the functioning of the Secretariat as an institution under the Treaty.

This budget line includes the following budgetary positions:

- Rent: The estimation of expenditures for the rental of office premises. This budget position considers the donation to be received from the host country (Austria) to the overall budget of the Energy Community³.
- Office equipment: This budgetary position reflects the necessity to maintain the equipment (particularly IT and related office furniture) up-to-date to provide maximum security of the working environment, processes and of the processed data. This budget line is composed of the following budget accounts: hardware, software, office equipment and low value assets. The budgeting of the overall expenditure for 2020 follows the IT plan, which estimates the exchange of hardware (staff IT equipment – laptops, printers and servers in the IT administration area) and corresponding software. It also comprises licenses for the functioning of existing software required for the Energy Community website and for the internal accounting programme for the management of the Energy Community accounts.

¹ Regulated by separate *Rules on Secondees, Interns and locally recruited staff*.

² The Energy Community Secretariat follows the DSA as published by the *EuropeAid Cooperation Office*, also applied by other international funded by the EU.

³ The Republic of Austria committed to donate EUR 170,000 on an annual basis to the office rent of the Secretariat in Vienna; no other forms of contribution to the rent expenses is considered (neither internal allocation of resources nor other donations)

- Consumables: This budget line comprises the following accounts: office supplies, repairs and maintenance as well as office cleaning, running costs and electricity costs for the premises.
- Other services: The envisaged budget under the budgetary position “Other services” reflects the necessary funds for carriers and transport by third parties, postal fees, other operating expenses and costs of communication (telecommunications).

9.4. Budget Line: Other costs and services

Budget Line IV concerns other expenditures that relate to the activities, which are necessary for the functioning of the Secretariat and other Institutions under the Treaty (Ministerial Council, PHLG, ECRB and Fora).

This budget line is composed of the following budget positions:

- Advertising, communications and representation: It covers the work performed within the area of public relations, related to issuance of publications by the Secretariat (i.e. publishing of new editions of the Legal Framework books, Implementation Reports, etc.), advertising required for the purposes of procurement and personnel search as well as costs of representation;
- Studies, research and consulting: Experience has shown that technical support through studies is a very useful tool for achieving the Energy Community’s objectives. The research and consulting relates to the areas of work outlined in the Work Programme of the Energy Community (incl. ECRB);
- Costs of outsourced services (IT, payroll, etc.): This budget line corresponds to the performance of activities and tasks related to IT administration (outsourced activity to an external partner), technical maintenance of the website of the Energy Community (in both administrative and external user areas), as well as the lease contracts for office equipment (e.g. copy machines and printers) as well as for the maintenance of existing IT solutions within the area of administration, accounting and human resources (databases for accounting and human resources);
- Costs of audit, legal and financial advice: This budget line includes funds for external audits as well as for outsourced legal services and financial contracts for payroll and accounting⁴;
- Financial services: It covers banking and transaction fees;
- Costs of events: This budget line covers the expenses related to the organisation of all regular and *ad hoc* events, including: renting of premises and equipment, catering, technical arrangements; .;
- Refunding: It covers the travel expenses related to the participation of representatives of the Contracting Parties and/or Observers in the institutional meetings, workshops and other events organized by the Energy Community Secretariat; implementation of this budget follows a separate set of rules on reimbursement. As a principle, the same rules on reimbursement of the costs of transportation and accommodation apply since the beginning of the Energy Community; and

⁴ The function of accounting has been outsourced since 2014 based on the provisions of the Budgetary Procedures (Art 41(2))

- Training: This budget position covers the expenses related to training, education, internal annual meetings of the Secretariat's staff and, primarily, educational measures offered to the representatives of the Contracting Parties.

10. Energy Community Budget 2020

The proposed budget for 2020 is in line with the figure put forward by the Commission and is on the level of the 2019 budget (EUR 4,812,073). As is the case each year, the EU contribution (94,78 % of the Energy Community budget) is conditional to the final adoption of the EU budget for 2020.

5.1. Budget line 1: Human Resources 2020

Compared to 2019, there is a 3,7% increase in financial resources requested for Budget Line 1. This is caused by the request for two new expert positions (for details and justification see Work Program attached) who will be employed in the course of next year and by 2% inflationary adjustment.

This budget line is composed of salaries for permanent staff members (on limited contracts subject to extensions) and temporary personnel (interns, secondees). The salaries are exempt from national income tax, without any further benefits (pension rights, health, unemployment) but accident insurance. There are no additional allowances and benefits offered.

The salaries of Energy Community Secretariat personnel applicable as of 1 January 2020 are based on existing levels of remuneration (2019) and subject to inflationary adjustment of 2%.

In this budget line, resources of temporary assignments (24 man-months for secondments and 60 man months for internships) are also included (in 2019: 46.6 man-months). The scale of remuneration for secondees has been adjusted, which allowed to decrease the overall budget for temporary personnel from EUR 190,485 to EUR 175,432.. This type of employment proved to deliver an added value to the work of the Secretariat. It has been also the best instrument to engage young professionals or experts from the Parties into the work of the Energy Community. In addition, temporary employments help to fulfil the requirements of the '*geographical equilibrium*' - as required under the *Rules for Recruitment, Working Conditions and Geographical Equilibrium of the Secretariat's Staff of the Energy Community* ("the *Recruitment Rules*").

The request for an increase of personnel as justified in the work programme 2020-2021 was compensated through reallocations of budget appropriations between several budget lines.

5.2. Budget line 2: Travel 2020

The travel budget for 2020 (EUR 340,000) is 8% lower in comparison with 2019 (EUR 367,812). The estimate for 2020 was established based on experience of budget utilisation acquired in the past years. The efficient planning of future trips and missions shall allow sufficient performance of the activities within the requested budget.

5.3. Budget Line 3: Office 2020

The 6% increase between 2019 (EUR 400,084) and 2020 (EUR 424,205) for the office expenses budget relates to realistic provisions made for rent and other services. Both budget positions lacked resources in the past years of implementation.

5.4. Budget Line 4: Other Costs and Services 2020

The overall budget request for other costs and services is 6% lower for 2020 (EUR 1,395,000) than for 2019 (EUR 1,486,956). This comes as an adjustment to the planning in different budget lines. Based on actual past values of utilisation in all budget positions, it is assumed that this budget will be sufficient for the continuation of the activities under this budget line.

11. Energy Community Budget 2021

The proposed budget for 2021 of EUR 4,812,073 is based on the same assumption of a full team according to establishment plan, salary level and all other costs as for 2020. Increase of funds for salaries is outweighed with a decrease in funds for studies, education, consumables.

Figures for 2021 are not yet available as concerns the future EU contribution, pending the outcome of the multiannual financial framework for 2021-2027. Thus, this constitutes an advanced indication of the resources needed for the operations of the Energy Community post-2020.

12. Statement of revenue 2020-2021

Description	Budget 2019	Budget 2020	Budget 2021	Change Budget 2019 vs. Budget 2020	Change Budget 2021 vs. Budget 2020
1. Budget Contributions Parties					
<i>European Union</i>	4.560.883	4.560.883	4.560.883		
<i>Republic of Albania</i>	4.331	4.331	4.331		
<i>Bosnia & Herzegovina</i>	9.624	9.624	9.624		
<i>Georgia</i>	5.293	5.293	5.293		
<i>Kosovo*</i>	3.368	3.368	3.368		
<i>North Macedonia</i>	4.812	4.812	4.812		
<i>Moldova</i>	4.812	4.812	4.812		
<i>Montenegro</i>	2.406	2.406	2.406		
<i>Serbia</i>	26.948	26.948	26.948		
<i>Ukraine</i>	189.596	189.596	189.596		
2. Donations	p.m.	p.m.	p.m.		
3. Other revenue	p.m.	p.m.	p.m.		
Total Revenue	4.812.073	4.812.073	4.812.073	0%	0%

13. Statement of expenditure 2020-2021

Description	Budget 2019	Budget 2020	Budget 2021	Change Budget 2020 vs. Budget 2019	Change Budget 2021 vs. Budget 2020
1. Human Resources	2.557.221	2.652.868	2.804.091	3,74%	5,70%
2. Travel	367.812	340.000	340.000	-7,56%	0,00%
3. Office	400.084	424.205	414.205	6,03%	-2,36%
4. Other services	1.486.956	1.395.000	1.253.777	-6,18%	-10,12%
Total expenditure	4.812.073	4.812.073	4.812.073	0%	0%

14. Details of Statement of expenditure 2020-2021

Energy Community
Budget Planning 2020-2021

(in Eur)

	Budget 2019	Budget 2020	Budget 2021	Change Budget 2020 vs. Budget 2019 [in EUR]	Change Budget 2020 vs. Budget 2019 [in %]	Change Budget 2021 vs. Budget 2020 [in %]
1. HUMAN RESOURCES			1.02			
Subtotal Human Resources	2.557.221	2.652.868	2.804.091	95.647	4%	6%
2. TRAVEL EXPENSES						
Daily Subsistence Allowance (DSA)	122.400	112.000	112.000	- 10.400	-8%	0%
Travel Expenses (flights and incidentals)	245.412	228.000	228.000	- 17.412	-7%	0%
Subtotal Travel Expenses	367.812	340.000	340.000	- 27.812	-8%	0%
3. OFFICE EXPENSES						
Office rent	150.000	170.000	170.000	20.000	13%	0%
Office equipment	50.000	50.000	50.000	-	0%	0%
Consumables	147.084	141.000	131.000	- 6.084	-4%	-7%
Other Services	53.000	63.205	63.205	10.205	19%	0%
Subtotal Office Expenses	400.084	424.205	414.205	24.121	6%	-2%
4. OTHER COSTS AND SERVICES						
Advertising, communication and representation	56.304	56.500	51.500	196	0%	-9%
Studies, research and consulting incl. TA	459.000	459.000	332.777	0	0%	-27%
Costs of outsourced services (IT, payroll, etc.)	132.600	145.000	145.000	12.400	9%	0%
Costs of Audit, Legal and Financial Advice	106.080	96.000	86.000	- 10.080	-10%	-10%
Financial services	15.300	22.500	22.500	7.200	47%	0%
Conference costs	214.200	133.200	133.200	- 81.000	-38%	0%
Refunding	330.480	372.800	372.800	42.320	13%	0%
Training	172.992	110.000	110.000	- 62.992	-36%	0%
Subtotal Other Costs and Services	1.486.956	1.395.000	1.253.777	- 91.956	-6%	-10%
TOTAL	4.812.073	4.812.073	4.812.073	-	0%	0%

15. Institutional Budget (refunding and organisation of events)

(in EUR)

	Budget 2020	Budget 2021
Ministerial Council (incl. bodies established by decisions of MC)	147,700	147,700
Permanent High Level Group	25,600	25,600
Energy Community Regulatory Board	68,700	68,700
Secretariat (incl. different workshops/events)	201,100	201,100
Electricity Forum	21,300	21,300
Gas Forum	20,800	20,800
Oil Forum	20,800	20,800
TOTAL	506,000	506,000

16. Annex IV of the Treaty: Parties Contribution Table 2020-2021

**ANNEX IV of the Treaty establishing the Energy Community
Budgetary Period 2020-2021**

Parties	Contribution in %	Budget 2020 Contribution (in EUR)	Budget 2021 Contribution (in EUR)
<i>European Union</i>	94,78%	4.560.883	4.560.883
<i>Republic of Albania</i>	0,09%	4.331	4.331
<i>Bosnia & Herzegovina</i>	0,20%	9.624	9.624
<i>Georgia</i>	0,11%	5.293	5.293
<i>Kosovo*</i>	0,07%	3.368	3.368
<i>North Macedonia</i>	0,10%	4.812	4.812
<i>Moldova</i>	0,10%	4.812	4.812
<i>Montenegro</i>	0,05%	2.406	2.406
<i>Serbia</i>	0,56%	26.948	26.948
<i>Ukraine</i>	3,94%	189.596	189.596
		4.812.073	4.812.073

17. Establishment Plan 2020-2021

Remark:

This establishment plan indicates the number of permanent and temporary posts proposed for carrying out the tasks under the corresponding work programme.

The number of temporary posts is estimated on the basis of 12-month assignments and may vary depending on the individual duration of the assignments.

	2020		2021		2019	
	Permanent Post	Temporary Post	Permanent Post	Temporary Post	Permanent Post	Temporary Post
Director	1		1		1	
Deputy Director *	1		1		1	
Head of Unit or Section	5		5		5	
Experts	19		19		17	
Assistants/ Officers	5		5		5	
Temporary Personnel		7		7		10
	31	7	31	7	29	10

*For the future, the position of the Deputy Director would need to be clearly stipulated and defined in the Staff Regulations and the Recruitment Rules

ENERGY COMMUNITY SALARY SCALES 2020-2021*

Level/description	per month (in EUR)	Full-time salary per month (in EUR)	Full-time salary per month (in EUR)
	2019	2020	2021
Director	14.284	14.569	14.861
Deputy Director**	9.721	9.916	10.114
Head of Section/Unit	7.777	7.933	8.091
Expert	6.514	6.644	6.777
Assistant /Officer	4.767	4.862	4.960
Secondee	3.200	3.200	3.264
Intern	1.611	1.644	1.677

* Figures are indicative for a full time employment

** For the future, the position of the Deputy Director would need to be clearly stipulated and defined in the Staff Regulations and the Recruitment Rules

Note: The Energy Community Work Programme 2020-2021, which is an Annex to this Procedural Act, is attached as a supporting document.

ANNEX 2

PHLG

DECISION OF THE PERMANENT HIGH LEVEL GROUP OF THE ENERGY COMMUNITY ON THE IMPLEMENTATION OF REGULATION (EU) 312/2014 ESTABLISHING A NETWORK CODE ON GAS BALANCING OF TRANSMISSION NETWORKS

The position to be taken on behalf of the European Union is to approve the draft Decision to implement Commission Regulation (EU) 312/2014 in accordance with Commission Decision of 6 November 2019 establishing the Commission Proposal for a decision of the Permanent High Level Group of the Energy Community on the implementation of Regulation (EU) 312/2014 establishing a Network Code on Gas Balancing of Transmission Networks, C(2019), 7831 final,

ANNEX 3

Issues not falling within the scope of Article 218 (9) TFEU, but requiring a political approval by the Council

1. 2019 GENERAL POLICY GUIDELINES ON THE 2030 TARGETS AND CLIMATE NEUTRALITY FOR THE ENERGY COMMUNITY AND ITS CONTRACTING PARTIES OF THE ENERGY COMMUNITY

The position to be taken on behalf of the European Union is to support the adoption of the draft 2019 General Policy Guidelines attached as Addendum to this Annex. Minor changes to these draft 2019 General Policy Guidelines may be agreed to, in the light of comments from the Energy Community Contracting Parties before or at the Ministerial Council, by the Commission, without a further decision of the Council.

2. THE ANNUAL REPORT OF THE ACTIVITIES OF THE ENERGY COMMUNITY 2018-2019

The position to be taken on behalf of the European Union is to support the adoption of the draft Annual Report 2018-2019.

3. DECISION D/2019/01/MC-ENC ON THE DISCHARGE OF THE DIRECTOR OF THE SECRETARIAT

The position to be taken on behalf of the European Union is to support the adoption of the draft Director's financial discharge for 2018.

ADDENDUM TO ANNEX 3

2019 General Policy Guidelines on the 2030 Targets and Climate Neutrality for the Energy Community and its Contracting Parties

INTRODUCTION

At its meeting in November 2018, the Ministerial Council adopted General Policy Guidelines on 2030 Targets for the Contracting Parties of the Energy Community. The Guidelines represented the political consensus on the establishment of three distinct 2030 energy and climate targets: a target for energy efficiency, a target for the contribution of renewable energy sources, and a greenhouse gas emission reduction target. These targets should be in line with the EU targets for 2030, represent an equal ambition for the Contracting Parties and take into account relevant socio-economic differences, technological developments and the Paris Agreement on Climate Change.

The political agreements by the Council of the European Union and the European Parliament in 2018 and early 2019, enabled all of the rules introduced by the Clean Energy for all Europeans package to be in force from June 2019. The three 2030 energy and climate targets of reducing by at least 40% greenhouse gas emissions compared to 1990, energy efficiency target of at least 32.5% and a renewable energy target of at least 32% are now fully enshrined in EU legislation.

The 2009 Renewable Energy Directive and the 2012 Energy Efficiency Directive were adopted and became part of the Energy Community's legal order through decision of the Ministerial Council, including a 2020 target for the Energy Community as a whole for energy efficiency and specific 2020 targets for each Contracting Party for renewable energy.

The 2017 Ministerial Council of the Energy Community emphasized the need of setting targets for 2030 on energy efficiency, renewable energy and greenhouse gas emission reduction. This is in line with Contracting Parties' respective obligations in the EU accession process as well as considering the commitments taken by countries in the framework of the UNFCCC and the Paris Agreement.

As a preliminary step within the target setting process, the Secretariat of the Energy Community launched an external study to identify, if possible, a methodology for setting three energy and climate targets based on the criteria outlined in the 2018 General Policy Guidelines. The findings of the study were thoroughly discussed and examined by the Technical Working Group of the Energy and Climate Committee, with the support of analytical guidance by the Commission. The study, which was completed in June 2019, provided a useful basis for discussions. However, it also proved that there were some methodological limitations related to the quality and availability of data as well as analytical scope of study as compared to the capacity traditionally used in the EU. As a result, drawing straightforward conclusions and proposing unequivocal 2030 targets for the Energy Community and its Contracting Parties based solely on the study would not be possible.

The discussions indicated that further and more advanced analysis would be needed to propose robust and credible energy and climate targets for the Energy Community and its Contracting Parties with an equal ambition level and in line with the EU targets for 2030.

Such analysis will be carried out in the context of a new modelling exercise, based on EU methodology that will be launched by the European Commission.

Furthermore, it is essential that the 2030 targets setting process in the Energy Community takes into account new developments at EU level, in particular the possible upward revision of the EU 2030 targets in the context of the new European Green Deal announced by President-elect Ursula von der Leyen in her political guidelines.

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

Having regard to Article 47(a) of the Treaty establishing the Energy Community (“the Treaty”) and item VI of the Procedural Act 2006/01/MC-EnC on the Adoption of the Internal Rules of Procedure of the Ministerial Council of the Energy Community,

Recognising the need to provide an effective response to the challenges posed by climate change,

Taking into account that the Contracting Parties of the Energy Community support the call for enhanced action on climate change provided by the Paris Agreement,

Acknowledging that the energy sector is one of the main contributors to the emissions of greenhouse gases, and given the strong links between energy policy and climate,

Taking note that during the first meeting of the Energy and Climate Committee, held in Vienna on 5 September 2017, it was acknowledged that stable national energy and climate plans up to 2030 should be accompanied by three overall targets, namely for the increase of renewable energy in overall energy consumption, increased energy efficiency and reduction of greenhouse gas emissions,

Recalling the December 2017 Ministerial Council Conclusions which underlined the need of 2030 targets in the Energy Community for renewable energy, energy efficiency and greenhouse gas emission reduction, and which welcomed the declaration of the European Commission to work on appropriate proposals to the Energy Community to incorporate suitable provisions of future EU legislation related to these, once such legislation is adopted in the European Union,

Recalling the Ministerial Council Recommendation 2016/02/MC-EnC on preparing for the implementation of Regulation (EU) 525/2013 on a mechanism for monitoring and reporting greenhouse gas emissions and Recommendation 2018/01/MC-EnC on preparing for the development of integrated national energy and climate plans by the Contracting Parties of the Energy Community,

Acknowledging the importance for the Energy Community of the political consensus at the EU level on the EU’s 2030 targets through the amendment of the Energy Efficiency Directive, the Renewable Energy Directive, and the agreement on the Effort Sharing Regulation,

Recalling the 2018 General Policy Guidelines and the political consensus on the establishment of three distinct 2030 energy and climate targets for the Contracting Parties of the Energy Community,

Recognising the contribution of a preliminary analytical work undertaken by the Secretariat and the external experts with analytical guidance of the Commission services but noting at the same time that further data and methodological analysis is needed to determine robust and credible 2030 targets,

Acknowledging the need for a high ambition to reach climate neutrality in line with the enhanced ambitions of the European Union to become the world's first climate-neutral continent,

THE MINISTERIAL COUNCIL ADOPTS

The 2019 General Policy Guidelines on 2030 Targets and Climate Neutrality for the Energy Community and its Contracting Parties

The present 2019 General Policy Guidelines reconfirm the political consensus reached in the 2018 Ministerial Council on the 2030 targets for the Contracting Parties of the Energy Community.

Given the growing urgency to address effectively the adverse impact of climate change, the 2019 General Policy Guidelines represent the political commitment of the Contracting Parties to the clean energy transition aiming at a climate-neutral Energy Community in line with the Paris Agreement as well as taking into account the EU decarbonisation ambition.

Three distinct 2030 energy and climate targets (a target for energy efficiency, a target for the contribution of renewable energy sources, and a target for greenhouse gas emission reduction) should be established in line with the EU targets for 2030. They should represent an equal ambition for the Contracting Parties and take into account relevant socio-economic differences, technological developments and the Paris Agreement on Climate Change. They should be based on the most robust and credible data possible, resulting from the extended modelling capacities offered by the European Commission through a new dedicated analytical and modelling study.

In order for the targets to guide the energy and climate actions effectively, the targets should be set as national targets for each Contracting Party and collectively form the overall target at Energy Community level.

Contracting Parties should use the political consensus reached in the 2018 General Policy Guidelines in the preparation of their national energy and climate plans

The Ministerial Council of the Energy Community is looking forward to the inclusion of the 2030 targets for the Contracting Parties in the Energy Community legal framework through the adoption of the amended Energy Efficiency Directive, Renewable Energy Directive and the Governance Regulation, as indicated in the indicative timetable set out in the Annex. The Ministerial Council Recommendation 2018/1/MC-EnC on preparing for the development of integrated national energy and climate plans by the Contracting parties of the Energy Community and the indicative schedule therein should be read in the light of this timetable.

ANNEX

The following indicative timetable outlines the next steps:

Dates

|

Step

<i>13 December 2019</i>	Adoption of the 2019 General Policy Guidelines at the Ministerial Council
<i>November 2019 – March 2020</i>	[Preparatory phase for the new study]
<i>April 2020</i>	Launch by the European Commission of a new external study extending the EU energy and climate modelling to Energy Community
<i>April 2020 - December 2020</i>	Energy and Climate Committee and its Technical Working Group are regularly informed about the implementation of the study and consulted on relevant aspects
<i>Beginning 2021</i>	Presentation and discussion of the results of the study at the Energy and Climate Committee and its Technical Working Group
<i>Spring 2021</i>	Endorsement by the PHLG of the 2030 targets for the Energy Community Contracting Parties
<i>Mid 2021</i>	Adoption by the Ministerial Council of adapted Energy Efficiency Directive, Renewable Energy Directive and Governance Regulation with 2030 targets for the Contracting Parties