

DECISION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

2021/07/MC-EnC: on the failure by Ukraine to comply with the Energy Community Treaty in Case ECS-4/21

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-4/21 dated 26 March 2021;

Having regard to the absence of a Reply by Ukraine within the deadline set by the Procedural Act No 2015/04/MC-EnC of the Ministerial Council of the Energy Community ("the Dispute Settlement Rules");

Having regard to the Opinion by the Advisory Committee established under Article 32 of Dispute Settlement Rules, dated 20 July 2021;

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 the Regulation (EU) No 1227/2011 on wholesale energy market integrity and transparency, as adapted and adopted by the Energy Community by 29 November 2019 pursuant to Article 1(1) of Ministerial Decision 2018/10/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 with Article 1(1) and (3) of the Ministerial Council Decision 2018/10/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 2022.

2. If the breach has not been rectified by 1 July 2022, 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 Belgrade, on 30 November 2021

For the Ministerial Council


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Presidency