

66th PERMANENT HIGH LEVEL GROUP

Vienna, 14 December 2022

1. The meeting was chaired by Mr. Roman Andarak on behalf of Ukraine and Ms. Yolanda Garcia Mezquita for the European Commission.
2. The Permanent High Level Group (PHLG) approved the agenda.

Russian war of aggression against Ukraine

3. The overwhelming majority of PHLG members welcomes the statement made by Ukraine as regards the European Union's invitation to Contracting Parties to align without further delay with the EU restrictive measures imposed on the Russian Federation and Belarus and adopt corresponding measures pertaining to energy in their domestic legislation. This includes, in particular, restrictive measures in the field of energy.

New acquis

4. Following the discussions held at previous meetings, the PHLG adopts the Decision incorporating Commission Regulation (EU) 2022/132 of 28 January 2022 amending Regulation (EC) No 1099/2008 of the European Parliament and of the Council on energy statistics. The Secretariat is invited to provide support to Contracting Parties in implementing the new rules, including through workshops.

New acquis for adoption by the Ministerial Council

5. Following the discussions held at previous meetings and taking into account the intense process of stakeholder consultations on the respective acts, the PHLG endorses the adoption by the Ministerial Council of
 - the Decision amending Decision 2021/14/MC-EnC amending Annex I to the Treaty establishing the Energy Community and incorporating Directive (EU) 2018/2001, Directive (EU) 2018/2002, Regulation (EU) 2018/1999, Delegated Regulation (EU) 2020/1044, and Implementing Regulation (EU) 2020/1208 in the Energy Community acquis communautaire. It was agreed that footnotes referring to Molodva will be deleted, and a clerical error identified by Kosovo* will be corrected. Serbia raised concerns with regards to its target for renewable energy, while Bosnia and Herzegovina is concerned about its target for primary energy consumption. Bilateral discussions will take place to agree on a formulation in line with the Governance Regulation, and the Decision will be put for voting.
 - the Decision on the incorporation of Regulation (EU) 2019/942, Regulation (EU) 2019/943, Regulation (EU) 2015/1222, Regulation (EU) 2016/1719, Regulation (EU) 2017/2195, Regulation (EU) 2017/2196, Regulation (EU) 2017/1485 in the Energy Community acquis communautaire, amending Annex I of the Energy Community Treaty, and on the amendments of the MC Decisions No 2021/13/MC-EnC and No 2011/02/MC-EnC, and the Procedural Act on Regional Energy Market integration. The PHLG endorses the Decision in principle, while Serbia will still hold internal consultations. Serbia's support is a precondition for the European

Commission to maintain the possibility for RCC being located in Contracting Parties. The PHLG resolves that the activity of the Joint Committee to be established under the Procedural Act has no legally binding effect.

- the Decision on adapting and incorporating certain Delegated Regulations on energy-related products, introducing rescaled labels in the Energy Community *acquis communautaire* and repealing Delegated Regulations (EU) 1059/2010, (EU) 1060/2010, (EU) 1061/2010, (EU) 1062/2010, (EU) 874/2012, and Directive 96/60/EC.
- the Decision amending the Treaty establishing the Energy Community and incorporating Regulation (EU) 2018/2066, Regulation (EU) 2018/2067 as adapted and selected provisions of Directive 2003/87/EC in the Energy Community *acquis communautaire*. Contracting Parties requested support in building up the necessary administrative capacity for the implementation of the Decision. The importance of full transposition and implementation in line with the deadlines in the Decarbonization Roadmap, and its relevance for CBAM was underlined. The adoption of the Decision does not prejudice the design of a future carbon pricing scheme in the Energy Community.

Implementation of the Treaty

6. Upon presentation by the Secretariat of the 2022 edition of the Implementation Report, the PHLG welcomes the progress made and calls upon all Contracting Parties to continue full implementation of the *acquis communautaire*, and to follow up on all identified instances of non-compliance.
7. Upon hearing of the parties to the respective cases and the President of the Advisory Committee, on the Secretariat's Reasoned Requests, the PHLG (with the exception of the Contracting Parties not entitled to vote) endorses the inclusion by the Ministerial Council as "A" points on the agenda
 - the Decision 2022/09/MC-EnC on the Reasoned Request submitted by the Secretariat under Article 91 of the Treaty against Bosnia and Herzegovina in Case ECS-5/17,
 - the Decision 2022/10/MC-EnC on the Reasoned Request submitted by the Secretariat under Article 91 of the Treaty against Kosovo* in Case ECS-5/22, unless it is verified that a law adopted by the Assembly of Kosovo* fully transposes the Environmental Impact Assessment Directive,
8. The Reasoned Request submitted by the Secretariat under Article 91 of the Treaty against North Macedonia in Case ECS-4/22 has been withdrawn prior to the meeting following the transposition of the REMIT Regulation.
9. Upon hearing of the parties to the respective cases, the PHLG (with the exception of the Contracting Parties not entitled to vote) endorses the Decisions 2022/06/MC-EnC and 2022/07/MC-EnC by the Ministerial Council under Article 92 of the Treaty
 - on extending the measures imposed on Bosnia and Herzegovina in Cases ECS-8/11 S, ECS-2/13 S and ECS-6/16 S,
 - on establishing serious and persistent breach against Serbia in Cases ECS-10/17 S and 13/17 S.

Other issues

10. Upon presentation by the Secretariat, the PHLG endorses the following acts to be included as “A” points on the agenda of the Ministerial Council
 - Annual Report on the Activities of the Energy Community,
 - Decision 2022/08/MC-EnC on Financial Discharge of the Director of the Secretariat of the Energy Community,
 - Procedural Act 2022/02/MC-EnC amending budget implementation, staff regulations and recruitment rules,
 - Procedural Act 2022/03/MC-EnC amending Procedural Act of the Ministerial Council 2008/01/MC-EnC of 27 June 2008 on Rules of Procedure for Dispute Settlement under the Treaty, as amended,
 - Procedural Act 2022/04/MC-EnC adopting the Secretariat’s Organigramme.
11. The PHLG takes note of the list of nominated Budget Committee Members and Ad-Hoc Members by Parties in accordance with the Budget Committee Rules of Procedure. Contracting Parties who have not yet nominated their members are requested to do so immediately.

Done in Vienna on 14 December 2022

For the Permanent High Level Group

THE PRESIDENCY