

PROCEDURAL ACT 2018/01/MC-EnC OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY of [xx] November 2018

amending PROCEDURAL ACT 2008/02/MC-EnC OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY of 11 December 2008 on the Establishment of a Security of Supply Coordination Group

The Ministerial Council of the Energy Community,

Having regard to the Treaty Establishing the Energy Community, and in particular Articles 46 and 87 thereof,

Having regard to Articles 2 and 3 of the Treaty Establishing the Energy Community calling for the enhancement of the security of supply of the single regulatory space in the Energy Community, and access for all Contracting Parties to a stable and continuous energy supply that is essential for economic development and social stability,

Having regard to Article 5 of Procedural Act 2008/02/MC-EnC which calls for a revision in line with the evolution of the energy sectors and security of supply in the Energy Community,

Whereas due to the proliferation of information and communication technologies in the energy sector, cyber-security matters have become an intrinsic part of a number of existing Energy Community acquis, that deal with the security of supply or safe operation of energy systems,

Whereas the stabilization and association agreements of the European Union and its Member States with Albania, Bosnia and Herzegovina, Kosovo*¹, former Yugoslav Republic of Macedonia, Montenegro, Serbia and association agreements with Georgia, Moldova and Ukraine require these Contracting Parties adopt a series of European Union legislation on cybersecurity matters and protection of critical infrastructure, including in the energy sectors,

Whereas there are certain critical infrastructures in the Energy Community, the disruption or destruction of which would have significant cross-border impacts or cross-sectoral effects resulting from interdependencies between interconnected infrastructures and systems, which require the setting-up of a coordination mechanism at Energy Community level,

Whereas timely and effective response to incidents relies on the existence of previously established and, to the extent possible, well-rehearsed cooperation procedures and mechanisms having clearly defined the roles and responsibilities of the key actors at national and Energy Community level,

Whereas an effective organizational framework for a high level of security of information systems and critical infrastructures requires taking an all-hazard approach where man-made, technological threats and natural disasters need all to be taken into account in the protection process,

¹ This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo.

Whereas a Community approach will encourage private sector involvement in overseeing and managing risks, business continuity planning and post-disaster recovery,

Whereas existing sectoral measures at national level require coordinated regional action through Community mechanisms, with a view to enhancing effectiveness, avoid duplication of, or contradiction between, different acts or measures,

Whereas cyber-security calls for a group of experts to advise the Energy Community, the national institutions as well as to coordinate incident and crisis management measures,

Whereas such a group should be composed of all relevant stakeholders and should cover electricity, gas and oil sectors, encompassing generation, distribution, transmission, market operation and supply,

Whereas Directive 2009/72/EC of 13 July 2009 concerning common rules for the internal market in electricity, as incorporated in the Energy Community by Ministerial Council Decision 2011/02/MC-EnC of 6 October 2011, and in particular Articles 3, 24-31, and 41 thereof, set out the rules applicable to distribution system operators and retail markets;

Whereas the Treaty Establishing the Energy Community pursues the aims of developing and attracting investments in energy networks, reforms of energy sectors and integration of energy markets as instruments for stable and continuous energy supply and provision of energy to citizens,

Whereas distribution system operation and the development of retail markets plays a key role for achieving these aims,

Whereas distribution system operators develop, maintain and operate the networks, provide network access and services under regulated conditions and tariffs and secure energy supplies and support to consumers,

Whereas the evolution of markets in the Energy Community and progressing retail market opening in compliance with the *acquis* requires coherent rules and methodologies as well sharing best practices among distribution system operators,

Whereas the increasing use of renewable energy, digitalisation and smart technologies, deployment of production units within the distribution networks, entry of prosumers but also the continuous challenges of legal and functional unbundling, energy poverty, high level of losses etc. call for intensified and structured efforts to enhance the exchange information and experience between the Energy Community distribution system operators and building of their capacity,

Whereas the Energy Community Distribution System Operators in Electricity (ECDSO-E) coordination group, established informally and supported by the Secretariat, enables such communication and coordination already for several years,

Whereas the work of ECDSO has reached a level of maturity which calls for formalisation within the existing structures of the Energy Community,

Whereas the proposed approach was welcomed by the high-level representatives of the companies represented in ECDSO-E and supported by the Permanent High Level Group at its 49th meeting,

Upon proposal of the Secretariat,

HAS ADOPTED THIS PROCEDURAL ACT:

Article 1

After current Article 3 of Procedural Act 2008/02/MC-EnC, a new Article 4 is introduced. The article reads as follows:

“Article 4
Cybersecurity

1. To promote a high level of security of network and information systems and of critical infrastructures within the Energy Community, the Security of Supply Coordination Group shall encompass a coordination group for cybersecurity and critical infrastructure (“CyberCG”).
2. Each Party shall designate and notify to the Energy Community Secretariat one or more national competent authorities as well as a single point of contact for the security of network and information systems and of critical infrastructures (‘competent authority’ and ‘single point of contact’), covering at least the sectors referred to in referred to in point 2. e) of Annex 1.
3. Each Party shall designate and notify to the Energy Community Secretariat one or more national computer security incident response teams (‘CSIRTs’).
4. The CyberCG shall
 - (a) perform its tasks as described in Annex 1 to the present Procedural Act;
 - (b) liaise with a network of CSIRTs as described in Annex 1 to the present Procedural Act;
 - (c) liaise with security liaison officer for each critical infrastructure in Contracting Parties.
5. The activities of the CyberCG shall be governed by Terms of Reference stipulated in Annex 1.
6. This article is without prejudice to the actions taken by the Parties to safeguard their essential State functions, in particular to safeguard national security, including actions protecting information the disclosure of which Parties consider contrary to the essential interests of their security, and to maintain law and order, in particular to allow for the investigation, detection and prosecution of criminal offences.”

Article 2

After current Article 3, a new Article 5 is introduced. The Article reads as follows:

“Article 5
DSO coordination electricity

1. The Security of Supply Coordination Group shall encompass a coordination group of the Energy Community Distribution System Operators for Electricity (“ECDSO-E”).

2. The activities of ECDSO-E shall be governed by Terms of Reference stipulated in Annex 2.

3. The Secretariat shall provide support to ECDSO-E and coordinate its activities and ensure its coordination within the Security of Supply Coordination Group. The Secretariat shall in particular facilitate the establishment and functioning of a communication platform and a network of distribution system operators' compliance officers."

Article 3

Subsequent Articles of Procedural Act 2008/02/MC-EnC shall be renumbered accordingly.

Article 4

Annexes 1 and 2 to the present Procedural Act shall be attached as Annexes 1 and 2 to Procedural Act 2008/02/MC-EnC.

Article 5

This Procedural Act shall enter into force on the day of its adoption and is addressed to the Parties referred in Article 6 of the Procedural Act 2008/02/MC-EnC.

Done in Skopje on

For the Presidency