

## Energy Community Task Force on Environment, 21<sup>st</sup> Meeting

25 November 2020  
(Webex online)

### Conclusions

1. Due to the Covid-19 pandemic, the meeting was held online via webex. The Task Force welcomed that representatives of all Contracting Parties, with the exception of Bosnia and Herzegovina, were able to attend.
2. The Task Force adopted the draft agenda of the meeting without amendments.

#### I. *Enlarging the environmental dimension of the Treaty*

3. Following the Chair's introductory remarks, the European Commission, represented by Andrzej Januszewski (DG Environment) informed the Task Force about initial discussions on opportunities to include new environmental *acquis* in the Energy Community Treaty. This initiative would be the next step after broadening the scope of environmental *acquis* in Energy Community Treaty in 2016. Moreover, the new European Green Deal puts environmental issues at the heart of European policies and the energy sector plays an important role by taking into account the increased targets as well as the goal for carbon neutrality by 2050.
4. Nature protection is an area that is already part of the Treaty through Article 4(2) of the Wild Birds Directive (79/409/EEC). The implementation of this one article of the Bird Directive separated from the Habitat Directive 92/43/EEC is not convenient enough for proper and complete the nature protection. Taking this into account, it is suggested that some elements of the Habitats Directive (e.g. Article 6 concerning the appropriate assessment) could be included in the legal framework of the Treaty. DG Environment noted that most of the Contracting Parties are already part of the Council of Europe's Bern Convention on the Conservation of European Wildlife and Natural Habitats and they already implement measures to preserve identified Emerald and Natura 2000 sites, thus the inclusion of this legislation will not necessarily present additional administrative burden to the Contracting Parties.
5. The second *acquis* presented for consideration was the Water Framework Directive (2000/60/EC). The Directive sets rules for preserving the good status of all EU rivers, stop the deterioration and pollution of rivers and secure sustainable usage. DG Environment suggested parts of the Directive to be included in Treaty, especially the ones in relation to the issues raised with the hydropower development in the Contracting Parties (e.g. Article 4 defining the environmental objectives or Article 13 concerning river basin management plans).
6. The third area presented was air quality, namely the Air Quality Directive (2008/50/EC) and its daughter directives. Furthermore, the new National Emissions Ceilings (NEC) Directive (2016/2284/EU) was pointed out as of particular importance. The new NEC Directive transposes the reduction commitments for 2020 agreed by the EU and its Member States under the 2012

revised Gothenburg Protocol under the Convention on Long-range Transboundary Air Pollution (CLRTAP). The more ambitious reduction commitments agreed for 2030 are designed to reduce the health impacts of air pollution by half compared with 2005. The Chair suggested the consideration of related monitoring issues and participation of the Contracting Parties in the E-PRTR (European Pollutant Release and Transfer Register).

7. The Energy Community Secretariat (hereinafter: Secretariat) welcomed the initiative as all proposals are highly relevant to the scope of work of the Energy Community and are in line with the Work Programme of the Environmental Task Force.
8. Georgia expressed its readiness to cooperate with regard to the initiative while noting that at the moment, no official position of the government can be given. In addition, Georgia stressed that the obligations undertaken under the EU-Georgia Association Agreement and ongoing negotiations with the EU on updating respective annexes of the Agreement should be taken into consideration, while discussing the further broadening of the scope of environmental *acquis* of the Energy Community Treaty.
9. North Macedonia welcomed the initiative and presented ongoing activities and projects in relation to air quality that will result in new air quality legislation as well as new emission ceilings.
10. Moldova also welcomed the initiative and pointed that almost all directives discussed are part of the Association Agreement with the EU and their transposition and implementation will follow. With regard to the new NEC Directive, Moldova stressed that that particular directive is not part of the agreement and its inclusion may be challenging for the Contracting Party. Moldova stressed that in order to avoid differences between deadlines in Association Agreements and proposals of new environmental *acquis* in the Energy Community Treaty, further discussion is needed.
11. The Secretariat explained that interlinkage with the Association Agreements is crucial and that (in line with previous practice) deadlines envisioned by those agreements are to be taken into account in the Energy Community decision-making process. The Secretariat further noted that there is no official proposal for new environmental *acquis* from the European Commission yet. Following up on such a proposal, Contracting Parties are to discuss those in detail in the framework of a closed meeting.
12. Montenegro also welcomed the initiative especially taking into account the new European Green Deal and presented ongoing and planned activities in relation to the discussed directives.
13. Kosovo\* pointed that there is a synergy with all on-going projects in the Contracting Parties related to the *acquis* discussed is needed.
14. DG Environment noted the number of streams of cooperation and highlighted the added value if part of the *acquis* presented becomes part of the Treaty. At the same time, a possible proposal would have to be accepted by all relevant stakeholders. The Secretariat further clarified that the proposal for new *acquis* will have to identify the particular provisions of the directives in question that have relevance for the Energy Community.

## **II. *LCPD implementation – focus on opt-out***

15. The Chair presented a country-by-country assessment and announced that the European Environmental Agency (hereinafter: EEA) will publish new improved emission reporting rules in December and will apply those to the next reporting round, scheduled for March 2021. These

new reporting rules will be stricter in terms of the quality of the data submitted to the EEA. Also, the EEA will be able to double-check suspicious data. The Chair explained that the presentation will be distributed together with the conclusion of the meeting reminded the Contracting Parties to inform on changes in person in charge for data.

16. The Secretariat provided a general overview on the state of play of the annual emissions reporting under the Large Combustion Plants Directive. The Chair called for reactions from the Contracting Parties.
17. A question in relation to the Kosovo\* emission data was raised by civil society representatives, namely that the data could not be accessed via the EEA portal. The Chair explained that Contracting Parties can choose not to disclose the information for the public until the information is in final version, checked and approved. EEA very soon will publish aggregated data including information on Kosovo\*.
18. North Macedonia raised a question in relation to the reported emissions: usually, when the ceiling for SO<sub>2</sub> emissions is exceeded, the PM emission parameters are breached in parallel. However, in some Contracting Parties where the SO<sub>2</sub> ceiling is exceeded there is no such reflection in the PM values. The Secretariat and the EEA explained that the numbers presented are based on the official information submitted by the Contracting Parties. The EEA will further assess the information provided to by the Contracting Parties.
19. Albania noted that they don't have plants covered by the LCPD and shared initiative for broadening the scope and inclusion of the waste-to-energy plants under the emission reporting system.
20. Georgia noted that based on the annual emissions reporting data, all 4 power plants (gas-fired) in the Contracting Party are operating below the emission limit values provided by LCPD for NO<sub>x</sub>. The absence of continuous monitoring system of emissions stays as one of the main challenges on the way of implementation of LCPD. The data presented is obtained by the calculation methods.
21. Moldova reported that draft legislation on industrial emission is prepared however, not yet adopted. With regard to the Reasoned Request in the ongoing dispute settlement case, Moldova responded in October with planned activities for transposition.
22. Montenegro explained that the only large combustion plant in the Contracting Party is being opted out and the 20.000 hours' limit is expected to be reached by the end of this year. With regard to the next steps for refurbishment of the plant, Montenegro informed that main design is prepared, including the desulfurization and waste water treatment, and contract for execution of works is signed. Start of construction works is expected in the beginning of next year.
23. North Macedonia informed that new Law on Industrial Emissions, transposing the Industrial Emission Directive is drafted however, due to the COVID situation the public consultation process for the draft law is pending. Out of the eight installations covered by the NERP, five are in operation, while three are currently inactive. With regard to the largest plant (TPP Bitola), North Macedonia informed that experts were engaged for the IPPC permit for TPP Bitola and negotiation for the permit conditions started in December 2019. However, the procedure was suspended due to the COVID pandemic and the operator suspended the tendering procedure for equipment for reducing the emission from SO<sub>2</sub> and dust.

24. Kosovo\* announced that draft secondary legislation is under preparation that will transpose the Annex III provisions to the Industrial Emission Directive. Concerning the large combustion plants, Kosovo A is subject to continuous monitoring of the emissions and Kosovo B is under refurbishment within an EU funded project. The Secretariat reminded the Kosovo\* authorities about the ongoing dispute settlement case (Ministerial Council decision of March 2020) and called for urgent adoption of the new transposing legislation in order to avoid further steps.
25. Ukraine reported that the Ministry of Energy and Environmental Protection has drafted the Law on the Prevention, Reduction and Control of Industrial Pollution. This Law determines the legal and organizational foundations for the prevention, reduction and elimination of pollution resulting from industrial activities, to ensure a high level of protection for the environment. The Law is considered of paramount importance in transposing the IED and must be approved by the Parliament by the end of the year.

### **III. Policy Guidelines on small hydropower**

26. The Secretariat presented the final version of the Policy Guidelines on Small Hydropower. As a follow-up activity to the Guidelines and in line with points 11 and 12 of Chapter II of the Task Force's Work Programme, the Secretariat initiated creation of the Environmental Impact Assessment working group (hereinafter: EIA WG). The goal of the EIA WG working group is to help the Contracting parties with transposition, implementation and enforcement of the EIA Directive with a specific focus on hydropower projects. The EIA WG would include representatives of the national EIA departments of each Contracting Party and if possible representatives from local/municipal authorities, responsible for implementation of the EIA Directive on local level. The Secretariat invites each Contracting Party to nominate at least 2 members to the EIA WG by 20 December 2020. Representatives of civil society are also encouraged to participate in the work of the EIA WG.

### **IV. Conclusions**

27. The Task Force endorsed the creation of the EIA WG.

### **V. AOB**

28. The next meeting of the Task Force is foreseen for either the week of 19 April or 26 April 2021.