

**DECISION OF THE MINISTERIAL COUNCIL
OF THE ENERGY COMMUNITY**

No. 2022/03/MC-EnC amending Article 2(2) of the Energy Community Treaty

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY,

Having regard to the Energy Community Treaty¹, and in particular Articles 2, 100(i) and 100(iii) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The task of the Energy Community is to organise the relations between the Contracting Parties and create a legal and economic framework in relation to 'Network Energy' as set out in Article 2(2) of the Energy Community Treaty, covering the electricity and gas sectors, and the oil sector.
- (2) Regulation (EU) 347/2013 of 17 April 2013 of the European Parliament and of the Council on guidelines for trans-European energy infrastructure² ('Regulation (EU) 347/2013') was adapted to and adopted in the Energy Community by Ministerial Council Decision 2015/09/MC-EnC of 16 October 2015. On 30 May 2022, the European Union adopted Regulation (EU) 2022/869 of the European Parliament and of the Council on guidelines for trans-European energy infrastructure repealing Regulation (EU) 347/2013 ('Regulation (EU) 2022/869').³
- (3) Regulation (EU) 2022/869 recognises the changing energy landscape in the area of natural gas and the expected increasing role of renewable and low-carbon hydrogen, including with regard to infrastructure. It also recognises that achieving climate neutrality will require development of carbon dioxide infrastructure to reduce the remaining yet unavoidable emissions of that gas, in the absence of reasonable alternatives.
- (4) In order to adopt measures adapting to the Energy Community Regulation (EU) 2022/869, the scope of 'Network Energy' set out in Article 2(2) of the Energy Community Treaty should be extended to include hydrogen and carbon dioxide.
- (5) In accordance with Article 100(i) of the Energy Community Treaty, the Ministerial Council may, by unanimity of its Members, amend the provisions of Title I to VII of the Energy Community Treaty. In accordance with Article 100(iii) of the Energy Community Treaty, the Ministerial Council may decide, by unanimity of its Members, to extend that Treaty to other energy products and carriers or other essential network infrastructures.
- (6) Based on the proposal by the European Commission and the endorsement by the Permanent High Level Group at its meeting on 13 December 2023,

HAS ADOPTED THIS DECISION:

¹ OJ L 198, 20.7.2006, p. 18.

² Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009 (OJ L 115, 25.4.2013, p. 39).

³ Regulation (EU) 2022/869 of the European Parliament and of the Council of 30 May 2022 on guidelines for trans-European energy infrastructure, amending Regulations (EC) No 715/2009, (EU) 2019/942 and (EU) 2019/943 and Directives 2009/73/EC and (EU) 2019/944, and repealing Regulation (EU) No 347/2013 (OJ L 152, 3.6.2022, p. 45).

Article 1

Extension of the scope of Article 2 of the Energy Community Treaty

Article 2(2) of the Energy Community Treaty is replaced by the following:

'2. 'Network Energy' shall include the electricity and gas sectors falling within the scope of the European Union Directives 2003/54/EC and 2003/55/EC⁽¹⁾, as well as hydrogen and carbon dioxide sectors.⁽²⁾

(1) Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity, *Official Journal of the European Union* L 176, 15 July 2003, p. 37-56; and Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas, *Official Journal of the European Union* L 176, 15 July 2003, p. 57-78.'

(2) According to Article 1 of Decision 2008/03/MC-EnC of 1 December 2008 concerning the implementation to the oil sector of certain provisions of the Treaty and the creation of an Energy Community Oil Forum,

"1. The Treaty is extended to oil under the conditions set by this Article.

2. 'Network Energy' as mentioned in Article 2 paragraph 2 of the Treaty shall be understood as to include the oil sector, i.e supply, trade, processing and transmission of crude oil and petroleum products falling within the scope of the Directive 2006/67/EC and the related pipelines, storage, refineries and import/export facilities <...>

4. Paragraphs 1 and 2 of this Article do not apply to Articles 21 to 23 and to Articles 43 to 46 of the Treaty."

Article 2

Entry into force

This Decision enters into force upon its adoption and is addressed to the Parties to and institutions of the Energy Community.'

Done in Vienna on 14 December 2023

For the Ministerial Council

A handwritten signature in blue ink, appearing to be "Elmer", written over a dotted line. Below the signature is the word "Presidency".

Presidency