

## DECISION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

### **D/2016/16/MC-EnC: on extending the measures imposed on Bosnia and Herzegovina under Article 92(1) of the Treaty**

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY,

Having regard to the Treaty establishing the Energy Community ("the Treaty"), and in particular Article 92(1) thereof, as well as Articles 39 to 41 of Procedural Act No 2008/1/MC-EnC of the Ministerial Council of the Energy Community of 27 June 2008 on the Rules of Procedure for Dispute Settlement under the Treaty;

Having regard to Ministerial Council Decision 2013/04/MC-EnC of 24 October 2013 in Case ECS-8/11;

On the basis of Ministerial Council Decision 2014/04/MC-EnC of 23 September 2014 in Case ECS-8/11, considering the failure to adopt legislation in compliance with Directive 2009/73/EC and Regulation (EC) 715/2009 as a serious and persistent breach within the meaning of Article 92 of the Treaty;

Having regard to Ministerial Council Decision 2015/10/MC-EnC of 16 October 2015 imposing the measures on Bosnia and Herzegovina pursuant to Article 92(1) of the Treaty;

Having regard to the continuous failure by Bosnia and Herzegovina to rectify all breaches identified in Article 1 of Decision 2013/04/MC-EnC and Article 1 of Decision 2014/04/MC-EnC, and ensure compliance with Energy Community law as requested by Article 2 of Decision 2014/04/MC-EnC;

Having regard to the failure by Bosnia and Herzegovina to take all appropriate measures to rectify the breaches identified in Ministerial Council Decision 2013/04/MC-EnC and to report to the Ministerial Council on any tangible progress thereto in 2016 as requested by Article 2 of Decision 2015/10/MC-EnC;

Considering the overall assistance provided by the Secretariat to Bosnia and Herzegovina in drafting, assessing, reviewing and adjusting a draft gas legislation as well as organising and moderating common work with various stakeholders in the gas sector;

Considering that no progress has been achieved to date in adopting a compliant gas legislation rectifying the breaches identified by Decision 2013/04/MC-EnC and 2014/04/MC-EnC;

Considering that breaches of Energy Community law by its entities are attributable to Bosnia and Herzegovina as a Contracting Party to the Treaty;

Upon Request by the Secretariat;

HAS ADOPTED THIS DECISION:

**Article 1**  
**Failure to rectify serious and persistent breach**

Bosnia and Herzegovina failed to implement Ministerial Council Decisions 2013/04/MC-EnC, 2014/04/MC-EnC and 2015/10/MC-EnC and thus to rectify the serious and persistent breaches identified in these Decisions.

**Article 2**  
**Extension of measures under Article 92**

The duration of the measures under Article 92 of the Treaty imposed in Article 2 of Decision 2015/10/MC-EnC is suspended until 31 March 2017 starting from the date when the Minister of the Federation of Bosnia and Herzegovina notifies the Ministerial Council of changes to the conclusions adopted by his Government on 22 September 2016.

**Article 3**  
**Follow-up**

1. The European Union, in line with Article 6 of the Treaty, is invited to take the appropriate measures for the suspension of financial support granted to Bosnia and Herzegovina in the sectors covered by the Treaty.

2. The Secretariat is invited to monitor compliance of the measures taken by Bosnia and Herzegovina with the *acquis communautaire*.

3. In any event, if no State Law is adopted by 31 March 2017, the duration of the measures under Article 2 of Decision 2015/10/MC-EnC is extended until the next meeting of the Ministerial Council. Based on a report by the Secretariat, the Ministerial Council will review the effectiveness and the need for maintaining these measures further at its next meeting in 2017.

**Article 4**  
**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 Sarajevo on 14 October 2016

For the Presidency



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