

ENERGY COMMUNITY GAS ACTION 2020

towards truly functioning gas markets in the Energy Community and pan-European gas market integration

1. Our intention – results to achieve

The present document defines the Energy Community Secretariat's ('Secretariat', ECS) concept for actions needed for establishing truly functioning gas markets in the Energy Community (EnC) and enabling a pan-European gas market integration. Having this objective in mind, the "Energy Community Gas Action 2020" is prepared in a way that provides a concerted effort towards infrastructure and market development as well as security of supply, recognizing the link between them: while gas market integration relies on interconnecting infrastructure, the latter requires functioning market structures as a precondition for efficient and cost recovering usage. Both are indispensable for securing seamless supplies to customers.

- Takes into account the Region's characteristics of predominantly small markets for which market liquidity, market functioning and security of supply can only be achieved through building cross-border and regional market integration, going beyond the Contracting Parties' (CPs) borders; therefore, this Action should be also covering the interfaces with EU Member States (MS) in the Energy Community Region as defined by Title III of the Treaty¹ (hereinafter "Energy Community Region")
- Builds on national and regional measures undertaken to remedy existing non-compliance and shortcomings of the Energy Community *acquis communautaire* ('acquis').
- Identifies new legislative and regulatory measures needed to enable gas market integration in the Energy Community Region.
- Defines concrete actions to be taken to meet the above goals.

By said targets, the "Energy Community Gas Action 2020" also aims at providing a close-up of reform measures to be undertaken by the CPs and on their interfaces with MSs in order to reach the obligations of the CESEC 2.0 Action Plan.

2. Fighting inertia – shortcomings to overcome

The Energy Community Treaty² ('Treaty') entered into force more than ten years ago, with its main objectives to integrate markets regionally, and on pan-European level, and to enhance security of supply

¹ Legislative acts included in the Energy Community *acquis communautaire* based on Title III of the Treaty are supposed to develop legally binding measures for all EnC CPs and neighbouring EU members

² https://www.energy-community.org/portal/page/portal/ENC_HOME/ENERGY_COMMUNITY/Legal/Treaty

and competition in the Region. Despite this, many gas markets of the Energy Community Region are still lacking liquidity, cross-border integration and interconnectivity. Gas import prices at the Energy Community Contracting Parties borders are higher compared to those of neighboring EU countries and this proves that the lack of market interconnectivity and market integration allows gas suppliers to exercise significant market power. At the same time, excessive entry/exit charges prevail at interconnection points from MSs to CPs, and vice versa,³ suggesting discriminatory application of tariff principles as well as additional market distortions.

The level of gas sector development of the CPs is diverse. Numerous infrastructure projects and project versions have been discussed in the past decade in the Energy Community Region and in the CPs in particular. The development and realization speed of these projects is not satisfactory, due to numerous institutional, economic, political and geopolitical reasons. With the process for Projects of Energy Community Interest (PECI) and Projects of Mutual Interest (PMI) defined for the Energy Community in the adapted Regulation (EC) 347/2013⁴, the Secretariat has been given the role and certain tools to facilitate project development. All CPs have submitted pipeline projects in the PEGI/PMI selection process. However, these projects advance very slowly due to numerous difficulties, namely:

- Project promoters, mostly national public companies, lack capacity to realize the project; a great part of these projects has received PEGI/PMI status under the adapted Regulation (EC) 347/2013.
- Infrastructure development priorities are determined in accordance with political priorities, without designing projects in a commercial/ market driven logic or making the relevant financial means available. Certain projects may serve a stronger security of supply purpose than a commercial one underlying the needs for public, including financial support others are not well enough prepared or defined (objective, too large capacity, difficult route etc). Linking to this in other cases the project business case and financing is not prepared.
- Institutional cooperation is suboptimal, especially in cross-border projects, and rather sporadic.

Lack of adequate infrastructure restricting the potential for diversification of supply and gas-to-gas competition is one reason for the poor liquidity of gas markets in the Energy Community Contracting Parties. However this is only one side of the coin. While CPs have taken measures to transpose and, partially, implement the gas *acquis*, areas of non-compliance still exist⁵, among which most prominently lack of unbundling, anti-competitive clauses and long-term commitments to supply, cross-border capacity and storage reservations. These problems are magnified, by a lack of legal level playing field between CPs and MSs. Third party access rules, including congestion management mechanisms and entry-exit tariff methodologies are still not fully implemented in the Energy Community Contracting Parties. In addition to this, rules on balancing of transmission networks are hardly implemented at all, even in the countries where

³ Cf. Annex II of the CESEC High Level Group Memorandum of Understanding, Action Plan 2.0, chapter 3, points 1-3; and: https://ec.europa.eu/energy/sites/ener/files/documents/Gas_transmission_tariff_CESEC_final_10_05_18.pdf suggesting that that lowering the tariffs (by up to 50%) would increase overall welfare at the interconnection point Hungary-Serbia (among others).

⁴ Regulation (EC) 347/2013 on guidelines for trans-European infrastructure (OJ L 115 of 25.4.2016, p 39 et seq) adopted by Decision of the EnC Ministerial Council 2015/09/MC-EnC.

⁵ On detail of ECS, Annual Implementation Report 2016: https://www.energy-community.org/portal/page/portal/ENC_HOME/DOCS/4332394/3D790302C9FD5024E053C92FA8C0D492.pdf.

they are covered by existing legislation. Further on-the-ground activities directed towards gas market integration are needed to further diversify gas supplies, increase liquidity and decrease wholesale prices.

On regional level, from the infrastructure view point, there are a number of asymmetries that put additional barriers to cross – border projects in implementation, such as:

- Priority infrastructure projects in the EU MS that connect an EU MS with an Energy Community CP, that have got the “label” of Project of Common Interest (PCI) and PEI, as for example, Bulgaria – Serbia are treated as two “national” projects that land at the same border crossing point and not as one single project; this brings large differences in the investment documentation and financing both in quality, timing and availability;
- Cooperation at the level of TSOs is far from being perfect, especially in the case when one TSO is a member of ENTSOG, and another one not (e.g. Macedonia – Greece; Bulgaria – Serbia, Croatia – BiH), etc.
- Access to funding, both from capital markets and from concessional sources (EU grants, - CEF or Cohesion Funds, IFIs loans e.g EIB and ESFI, etc) is quite imbalanced in the EU MS, and the CPs.

3. Our instruments – measures to be taken

3.1 Legal

Full and effective implementation of the acquis remains a prerequisite for improving gas market development, among which unbundling of gas transmission system operators (TSOs) is pivotal for market functioning. Also, new legislative acts and arrangements are needed to enable gas market integration in the Energy Community Title III Region.

1. Enforcement: TSO unbundling

Goal	Complete certification of: GA-MA (MK), Transportgas Srbija (RS), Yugarogaz Transport (RS), Magistralni Gazoprovodi Ukraine (UA), Moldovatrangaz (MD), Albgaz (AL), BH Gas (BA), Sarajevo-gas Istocno Sarajevo (BA) Gas Promet (BA)
ECS action	Issuing Opinions on submitted NRAs' preliminary decisions on TSOs certifications with prior held public hearings. Opening infringement case in case submissions are absent Opening infringement cases if NRAs' final certification decisions significantly divert from the ECS Opinions
Timeline	Q1 2017 onwards
2. Enforcement: transparency and balancing	
Goal	Enforce publication of all information and balancing requirements by Regulation (EC) No 715/2009

ECS action	Open infringement cases
Timeline	Q2 2017 onwards
Note	Enforcement of existing legal obligations on transparency and balancing is pre-condition for implementation of new acquis (cf next point) and market related action on balancing (cf chapter 3.2)

3. New acquis: adoption of gas network codes and guidelines

Goal	PHLG adoption of Third Package related gas network codes (NC) and guidelines (GL)
ECS action	Together with CP and MS NRAs and TSOs develop adapted versions of the NCs on capacity allocation, balancing and tariffs
Timeline	Q 1-2 2017: PHLG adoption of interoperability (IO) ⁶ and congestion management (CMP) ⁷ NCs Q4 2017: PHLG adoption of capacity allocation (CAM) ⁸ and balancing (BAL) ⁹ NCs Q1-2 2018: PHLG adoption of tariff (TAR) NC

4. Reciprocal application of market rules and governance

Goal	Adoption of Treaty reforms to establish a level playing field between CPs and MSs by introducing equal rights and obligations between CPs and MS, including their authorities and market participants, as well uniform regulatory decision making on interfaces between CP-MS
ECS action	ECS drafts and promotes proposal for Treaty reforms with CPs and EU
Timeline	October 2017: EnC Ministerial Council

5. Contract review

Goal	Abolishment of anti-competitive clauses from CPs' transmission (transit) and supply contracts – such as destination clauses, take-or-pay clauses, English clauses, oil price indexation, contract duration
ECS action	Screening contracts or applicable contractual conditions and supporting CPs in negotiating contractual adjustments Infringement actions
Timeline	Q2 2017 onwards

⁶ Commission Regulation 703/2015/EU.

⁷ Commission Decision (EU) 2015/715/EU.

⁸ Commission Regulation 984/2013/EU.

⁹ Commission Regulation 312/2014/EU.

6. Mutual recognition of trading and supply licenses

Goal	Adoption of a Decision by the Ministerial Council on mutual recognition of trading and supply licenses in the Energy Community Title III Region
ECS action	Development of a draft decision
Timeline	Q1 2017-October 2017: EnC Ministerial Council

7. Georgia – shaping the newcomer’s gas market legislation

Goal	Adopt primary and secondary legislation in line with the Third Energy Package
ECS action	Development of a draft law; assistance in drafting secondary legislation
Timeline	Q1 2017; Q1 2018

8. Security of Supply Statements

Goal	Submission of the Security of Supply Statement of each Party to the Secretariat on an annual basis
ECS action	Development of a Security of Supply guideline Posting SoS Statements on the website with ECS analysis Infringement actions in case SoS Statements not submitted
Timeline	Annually

3.2 Market

With a view to start facilitating market integration, ECS considers the following market reforms an integral part of the “Energy Community Gas Action 2020” along with the infrastructure priorities defined in chapter 3.3 and subject to the legal reforms described in chapter 3.1. The Secretariat underlines its understanding that less the inclusion of new *acquis* is in the focus of this chapter but rather reaching the imminent market targets. Related achievements will have to rely on close consultation with the stakeholders of the Energy Community Title III Region and specifically the NRAs and TSOs. The Secretariat in this context intends to build on a related ad-hoc working group established in 2016 for discussions on implementation of network codes (‘the WG’).

1. Interoperability

Goal	Conclude new interconnection agreements (IAs) / align existing with IO NC/ENTSOG where needed, between all neighboring TSOs, i.e.: RO and MD; UA and MD; UA and PL; UA and SK; UA and RO; RS and HU; RS and BA; BG and MK
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ECS action	<ul style="list-style-type: none"> • Support NRAs and TSOs in IO NC implementation on uni-/bi-/multilateral basis by means of missions and meetings • Moderate bilateral (or, where useful, multilateral) IA negotiations
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Timeline	<ul style="list-style-type: none"> • IA negotiations: Q2 2017 – Q2 2018 • IO NC implementation: Q3 2018¹⁰
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2. Capacity allocation

Goal	<ul style="list-style-type: none"> • Definition of standard products and units, allocation methodology and auctions per CP as provided in CAM NC¹¹ • Selection of a capacity booking platform by CPs and neighbouring EU MSs • Bundling of cross- border capacity and its offer on capacity booking platforms
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ECS action	<ul style="list-style-type: none"> • Via meetings of the WG or bilateral meetings support NRAs and TSOs in selection of a capacity booking platform and including support on development of tender / procurement documents based on an analysis of the national public procurement requirements • In meetings with the WG develop a road map for reaching bundled cross- border capacity allocation at a booking platform, including identification of legal or regulatory barriers in the CPs and/or on interfaces to EU MSs.
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Timeline	<ul style="list-style-type: none"> • Road map finalisation: Q4 2017 • Implementation of the roadmap: Q2 2018 – Q2 2019¹²
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3. Balancing and increase of liquidity

Goal	<ul style="list-style-type: none"> • Establishment of functioning virtual trading points (VTP) and trading platforms as precondition for harmonization of balancing rules and increase of liquidity • Harmonization of balancing systems starting with balancing system, nominations and re- nominations, information provision
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ECS action	<ul style="list-style-type: none"> • Develop with the WG a roadmap for identifying the measures needed to establish functional VTPs and trading platforms as well as the measures needed for harmonized regional balancing rules.
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Timeline	<ul style="list-style-type: none"> • Roadmap finalisation: Q4 2017 • functional VTPs and organization of or joining the existing trading platform(s): Q2 2018 • BAL NC implementation: Q3 2018 – Q2 2019
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¹⁰ Adoption of the network code in Q1-2 2017 provided, foreseeing its implementation until 10/2018.

¹¹ According to the implementation steps agreed by the related working group.

¹² Adoption of the network code in Q4 2017 provided

4. Market integration and tariffication	
Goal	<ul style="list-style-type: none"> Assisting the authorities of Moldova and FYR of Macedonia in entry exit tariffication methodology development Assisting authorities of Bosnia and Herzegovina in establishing transmission tariff methodologies avoiding excessive transmission tariffs stemming from tariff pan-caking Gas transmission tariff reforms, establishment of cross border entry-exit zone(s), abolishment of price differences and pan-caking of tariffs across countries via zonal merger
ECS action	<ul style="list-style-type: none"> Development of a project plan for the cooperation between the Secretariat and the Moldavian authorities on the development and implementation of the new entry-exit tariff methodology. Reviewing and providing proposals to the draft entry- exit tariff methodology of the NRA of Macedonia Monitor proper implementation of entry-exit tariff methodology in Ukraine Discussing potential for establishment of cross border entry-exit zone(s) between the CPs and beyond to MSs. In this context specifically facilitate negotiations <ul style="list-style-type: none"> - between BIH and SRB as well as - within BIH in order to achieve reasonable transmission tariffs paid by end customers in BIH
Timeline	<ul style="list-style-type: none"> Goal 1: Q1- Q42017 Goal 2: Q1-Q4 2017 Goal 3: options and barriers to tariff reform identified in Q4 2017, implementation of identified actions in Q2 2018 – Q4 2019

3.3 Infrastructure

The Secretariat considers the following infrastructure project plans and related activities as an integral part of the “Energy Community Gas Action”, along with the legislative and market priorities defined in chapters 3.1 and 3.2.

1. Joint project development schedule for all Serbian gas projects

Goal	<p>Agree with the Serbian partners on a timetable/project schedule for implementation with clear milestones and deliverable for all Serbian projects</p> <p>Identify the bottlenecks in cross – border projects and remove these</p>
ECS action	ECS to convene and facilitate regular meetings on the Serbian projects, especially with Srbijagas, i.e. Transportgas Srbija. Invite the IFIs that are interested in financing these to

	participate in meetings, when relevant.
	ECS to prepare regular updates and share these with the relevant authorities in Serbia
Timeline	Starting Q2 2017

2. Serbia (Nis) - Bulgaria Interconnector [Gas 0913] ECS priority

Goals	Improve TSO level cooperation (SER – BG) and implement the joint project time schedule as agreed in the MoU from Jan. 2017.
ECS action	ECS is ready to convene and facilitate regular BG – SER TSO meetings; identify actions to be taken by both sides, and follow up on the actions; Regular reports on the progress and ‘alert notes’ to both SER and BG authorities if deadlines are not met. Identify the barriers that may occur during the project implementation, and convene meetings to rectify the cause
Timeline	Q1 2017, and continue through the life of the project implementation

3. Serbia (Vranje) – FYR Macedonia (Klechovce - Sopot) [Gas 11]

Goal	TSO agreeing on the investment studies preparation: (pre)- Feasibility Study TSOs to apply for WBIF Technical Assistance (TA) in Q3 2017
ECS action	Organize TSOs and ECS meetings; assist TSOs to apply for WBIF TA for pre)- Feasibility Study
Timeline	Q1- Q3 2017

4. Serbia (Futog) - Croatia Interconnector [Gas 10]

Goal	Feasibility Study to be developed
ECS action	Organize a meeting with the two TSOs and agree on the approach
Timeline	Q2 2017

5. Albania - Kosovo* Interconnector (Fier - Lezha - Pristina) [Gas 13]

Goal	TSOs/Ministry of Energy in Albania and Kosovo* discussing the pre- feasibility study (when finalized, WBIF Technical Assistance) and agreeing on next steps
ECS action	Set up a meeting with the Albanian and the Kosovo* counterparty to discuss next steps, once the ongoing pre-feasibility is finalized Invite the IFIs to the meeting to explore their interest for financing
Timeline	Immediately after finalization of the pre-feasibility study

¹³ Project numbering refers to the PECI/PMI list: cf https://www.energy-community.org/portal/page/portal/ENC_HOME/AREAS_OF_WORK/Instruments/Investments/PECI/PECI/List.

6. Bosnia and Herzegovina - Croatia Interconnector (Zagvozd-Posusje-Novi Travnik with a main branch to Mostar) [Gas 03]

Goal	Have the two TSOs (HR and BiH) discuss the feasibility without IAP and agree on key actions
ECS action	Set up a meeting with both TSOs to discuss the feasibility of the project and agree on next steps Invite EBRD to attend that expressed interest to finance the pipeline in BiH
Timeline	Q2 2017

7. Greece – FYR Macedonia (Hamzali - Stojakovo) Interconnector [Gas 04B]

Goal	The two TSOs (GR, FYR of Macedonia) identify the key actions for implementation
ECS action	Organize a meeting and draw up an implementation plan with the TSOs
Timeline	Q2 2017

8. Development of Poland (Hermanowice) - Ukraine (Bilche Volytsya) reverse flow [Gas 14]

ECS priority

Goal	Identify the key actions to be taken by the two TSOs (PL, UA)
ECS action	Organize a meeting with the two TSOs and agree on the key actions and a timeline Explain/ discuss with Naftogaz about the PL TSO request to book capacity during the market test on the planned Interconnector.
Timeline	Q1-Q2 2017

9. Reverse flow, new firm capacity Hungary (Beregdaróc) - Ukraine (Beregovo) [Gas 15]

ECS priority

Goal	Identify the key actions to be taken by the two TSOs (HU, UA)
ECS action	Organize a meeting with the two TSOs Explain/ discuss with Naftogaz about the HU TSO request to book capacity during the market test on the Interconnector.
Timeline	Q1-Q2 2017

10. Ionian Adriatic Pipeline (Fier, AL - Split, HR) [Gas 16]

ECS priority

Goal	Decision on the project structure in the Project Management Unit and then implementing it: joint company of project promoters or individual project companies in each participating country; founding of project office(s)/HQ. Founding a/these project companies and hiring of directly employed staff responsible for project development. Development of project plan with project timeline, start of permitting.
ECS action	ECS to make a clarification presentation on ways forward for the project and emphasizing the importance to set up a project company, with full time staff members. Fact finding about the intentions of SOCAR to finance the pipeline/part of it. To participate as observer on the

	Project Management Unit meetings organized by the Promoters.
Timeline	From Q1 and Q2 2017
11. Romania - Moldova Interconnector [Gas 18]	ECS priority
Goal	Disbursement of the first installment of the EBRD-EIB loan for the purpose of constructing the Romania – Moldova Interconnector Ungheni-Chisinau section
ECS action	Define with ANRE the schedule of the next two years in terms of the joint work to realize the Energy Sector Reform Action Plan (ENER SAP) of Moldova. With ANRE define timeline, milestones, resources and deadlines to be met based on the ENER SAP document and assist the implementation. To coordinate the work of the Secretariat, ANRE, IFIs and the Ministry with regards to the Ungheni-Chisinau pipeline and the implementation of the ENER SAP.
Timeline	Q1 2017
12. Appointment of Project Promoters	
Goal	Appoint PECE Coordinators should the projects not show real advancement, as the title “Energy Community Interest” results in the obligation to realize the project
ECS action	Secretariat to exercise its rights from Article 6 Regulation (EC) 347/2013
Timeline	Q1-4 2017