

**PROCEDURAL ACT OF
THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY**

2017/PA/01/MC-EnC: On the adoption of the Budget of the Energy Community for the years 2018-2019 and on the contributions by the Parties to the budget

The Ministerial Council of the Energy Community,

Having regard to the Treaty Establishing the Energy Community, and in particular Articles 73,74,86 and 88 thereof,

Having regard to the Commission Decision of 1 September 2017 (C(2017) 5926 final) on establishing the Commission's proposal to the Ministerial Council of the Energy Community on the Budget of the Energy Community for the period 2018-2019,

Having regard to Articles 24 and 25 of the Energy Community procedures for the establishment and implementation of Budget, Auditing and Inspection,

Whereas the Ministerial Council shall adopt a bi-annual budget covering the operational expenses of the Energy Community necessary for the functioning of its institutions,

Whereas each Party shall contribute to the budget of the Energy Community as set out in Annex IV of the Treaty establishing the Energy Community,

HAS DECIDED AS FOLLOWS:

Article 1

The Energy Community Budget covering the financial years 2018 and 2019 as set forth in the Annex 1 to the present Procedural Act is hereby adopted.

Article 2

With effect as of 1 January 2018, the contributions to the budget of the Energy Community by the Parties are set out in Annex 1 to the present Procedural Act.

Article 3

This decision is addressed to all Parties and institutions under the Treaty establishing the Energy Community.

Article 4

The Director of the Energy Community Secretariat shall make this Procedural Act and its Annexes available to all Parties and institutions under the Treaty establishing the Energy Community within 7 days after its adoption.

Done by written procedure on 28 December 2017

For the Ministerial Council

A blue ink signature, appearing to be "C. Juncker", written over a dotted line.

Presidency

Annex 1

to the Commission Decision on establishing the Commission's proposal to the Ministerial Council of the Energy Community on the Budget of the Energy Community for the period 2018-2019

Explanatory Memorandum

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1. Context of the proposal

1.1. Treaty basis

Articles 73 and 74 of the Treaty establishing the Energy Community (hereinafter referred to as the “Treaty”) stipulates that a Procedural Act adopted by unanimity by the Ministerial Council -on a proposal from the European Commission, shall lay down a biannual budget of the Energy Community. It *shall cover the operational expenditure of the Energy Community necessary for the functioning of its institutions.*

The Ministerial Council approved in October 2015 the budget for the years 2016-2017 based on a proposal from the European Commission.

The present budget proposal and explanatory memorandum was prepared by the Director as required under Article 30 of the *Energy Community Procedures for the Establishment and Implementation of the Budget, Auditing and Inspection* (hereinafter referred to as the “*Budgetary Procedures*”). It deals with few new elements as compared with the previous budget proposal of 2015.

1.2. Provisions for 2018-2019 budget of the Energy Community

Guiding principles and provisions for the preparation of the budget are laid down in the Energy Community Budgetary Procedures in the amended version of 2014.

2. Outline of the Work Program 2018-2019

The budgetary period 2018-2019 will be another period of intense activities towards the successful implementation of the Treaty obligation. In similar manner as in the previous years, it is an estimate that number of challenges for the Energy Community institutions and Contracting Parties, in the context of implementation of the current *acquis communautaire* will occur. Potential extension of the scope of the *acquis* as well as ongoing enlargements of the Energy Community will have an impact on the work of the Secretariat, in terms financial and human resources needed.

The work to be expected from the Contracting Parties and from the Energy Community institutions in the 2018-2019 budgetary period will be focusing on the implementation, mostly through secondary legislation and regulatory acts. In this period, the implementation of the Third Energy Package will continue. The upcoming challenges requiring the assistance of the Secretariat will include tasks, such as: unbundling and certification of transmission system operators, unbundling of distribution system operators and full market opening. This will further require concrete drafting assistance for market rules (related to balancing, day-ahead markets, market coupling etc.), rules of technical nature (network codes, action plans in the areas of renewables, energy efficiency, emissions, etc.) and of legal nature (procedural and organizational rules, e.g. for certification).

Similar challenges are to be mentioned for the area of implementation of *acquis* on environment (Large Combustions Plants Directive), infrastructure and energy efficiency.

New Contracting Party, Georgia, who joined the process in October 2016, will have to be integrated into the process of Treaty implementation at the same path of speed as the other Parties.

To further pursue alignment of the overall objectives of the Energy Community with the overall European energy strategy, the process of continued integration of new EU legislation in the Energy Community *acquis communautaire* will continue. This will require resources and time to elaborate and eventually to propose respective decisions to be taken by the Ministerial Council.

In a similar manner as in the past, the Secretariat will provide guidance, concrete drafting assistance, legal support and coordinate the work of working groups and task force, when needed. Reflection on the specific (mainly political) situation in some of the Contracting Parties will be necessary. Challenges, such as fragmented legislation, geopolitical situation or language barriers will continue to affect the workload of the Secretariat.

The Secretariat will continue to provide assistance to the Observers under the Treaty and countries that have expressed an interest in being associated to the Treaty, in order to bring their national legislation in line with the *acquis* to the extent possible before accession. In this context not only technical skills and expertise will be required from the Secretariat's staff but also competence in understanding the particularities of the countries while going beyond the current geographical scope of the Energy Community will be necessary.

New challenges will occur through engagements of the Secretariat (via EU4Energy project) in coordination and support of the reforms in some Eastern Partnership countries (i.e. Armenia, Azerbaijan and Belarus) other than the Energy Community Parties. Despite the separate structure

established for the successful implementation of this concrete initiative by mid 2020, organisational and managerial challenges are absorbing more attention and resources.

As a matter of fact, the Energy Community Secretariat is getting more involved also in the application of the rules in individual cases. This includes, *inter alia*, permitting of infrastructure and generation projects, cross-border cost allocations, environmental impact assessment procedures for individual projects, the enforcement of competition and State aid law in individual cases etc. The same refers to the activities of unbundling of transmission, including the certification processes, and distribution system operators. This particularly work-intensive tasks need to be performed in excess of the Secretariat's very work-intensive activities in enforcement.

Public services and vulnerable customer protection, price regulation, taxation, public procurement, financial settlement and viability of service providers, concentration of market power and conditions for entry on the energy markets, cross-border supply, transparency - all these areas have so far not been sufficiently covered by the Energy Community and require more targeted efforts.

To ensure the implementation of Treaty obligations, in the years to come the Secretariat will continue developing the dispute settlement mechanism (DSM) under Article 90 of the Treaty. Set up in the previous years, dispute settlement has proved to become an increasingly important tool of Treaty enforcement by following up on all issues of non-compliance with the Treaty. It has been strengthened through the Advisory Committee as an institution established under the Dispute Settlement Rules. This body will require further support due to its increased scope of work, responsibilities, and number of members.

Further development of the legal dimension will be through the established Dispute Resolution and Negotiation Centre. It was set up late October 2016, as a response to signals that the settlement alternatives currently available for energy disputes no longer respond to the needs of national authorities and stakeholders, in particular small and medium enterprises and consumers. The Centre will focus on negotiations and mediation of investor-state disputes and will offer negotiation support to national authorities in their negotiations with private parties. The Centre shall aim to facilitate the swift closure of dispute settlement cases under the Energy Community Treaty via tailor-made negotiation and mediation facilities. Adopted Procedural Rules will serve the purpose.

The Secretariat will be further engaged in several regional initiatives as the Western Balkans 6, the Sustainability Charter or Central and South–Eastern Europe Gas Connectivity CESEC. Engagement of the Secretariat in facilitation of such regional projects comes as an add-on to its regular tasks. The Energy Community Summer School initiative conceptualised in 2015 and implemented for the first time in 2016 is another example of new tasks developed based on identified interests and needs. Following its first success in 2016, the School will continue to take place every year in order to promote in-depth understanding of the energy sectors in their full complexity, covering energy's political, economic, environmental, legal and technical aspects among the identified audience.

Due to its success since establishment in 2013, the Vienna Law Forum will be part of further initiatives organised on an annual basis involving professionals from energy companies, regulators, governments, academia and legal firms. Each year the successful cooperation established with the Florence School of Regulation brings more than 100 experts to discuss the topics of utmost relevance in the area of energy law and implications for the further development of the Energy Community.

The above outline of activities covers the major tasks planned ahead in the context of the Treaty implementation. The Secretariat as a responsible institution will further continue its efforts to facilitate and coordinate all necessary activities within the process, thus supporting the Parties and providing support to the institutions under the Treaty. The activities will involve assistance towards the individual Contracting Parties, while offering tailor-made solutions as well as activities with regional impact, including educational measures, like the one of the Energy Community Summer School.

More details can be found in the Work Program of the Energy Community for 2018-2019 (see Annex).

3. Budgetary Assumptions

This budget proposal takes into consideration the experience of budget implementation of the previous periods as well as the mid-term strategy of the future activities of the Energy Community and the institutions, including of the Secretariat.

Most of all, the proposal builds upon the recognition of the Energy Community as the most successful policy framework of the European external energy policy being a “point of reference” to the European Council, the European Parliament as well as the European Commission.

The budgetary period 2018-2019 will be earmarked by steadily increasing scope of work of the institutions of the Energy Community, including its Secretariat. The dynamics developed in the previous periods shall continue and lead to the overall integration of the fragmented energy markets in the Southeast Europe and Black Sea region. The budget assumptions therefore include, *inter alia*, the following:

- 1) Widening the geographical scope and enlargement (and potential enlargement) of the Energy Community (Georgia as new Contracting Party, new countries joining as an Observer, like Belarus possibly in 2017);
- 2) Development of tasks assigned to the Secretariat in various areas of work (i.e. state aid, competition, dispute settlement, infrastructure, project financing, environment, etc.);
- 3) Further engagement of the Secretariat in regional initiatives in the area of energy efficiency and infrastructure;
- 4) Adoption of new *acquis* in future;
- 5) Intensive use of the dispute settlement procedure and mediation; Continued technical assistance by the Secretariat to the Contracting Parties with the target to ensure the implementation of Treaty obligation's;
- 6) Inflationary increase in human resources expenditures between 2017, and 2018 and 2019 respectively at the assumed level of an annual inflation of 2%;

4. Energy Community budget structure and description

Following the structure of the previous years, the expenses planned for the two budget years of operations of the Energy Community are allocated to four main budget lines (*Human Resources, Travel Expenses, Office and Other Costs, Services*) and further detailed in the budget positions (different number in different budget lines). Each of the budget positions is further composed of pre-defined accounts that are creating a group of accounts representing a certain category of expenditures related to the budget lines. Explanations given under this section are applicable for both years 2018 and 2019.

4.1. Budget Line: Human Resources

Budget Line I constitutes human resources expenditures. This part of the budget is defined in accordance with the approved Establishment Plan and following the established salary scales.

The organizational structure of the Secretariat for the years 2018 and 2019 is the basis of the proposal. The budget proposed for the Human Resources Budget Line is a result of the following considerations:

- Salaries are based on the Energy Community salary scales applicable of 1 January 2016;
- The salaries of Secretariat's staff are all inclusive monthly remuneration, without any further allowances included;¹
- In 2018 and 2019 respectively, the salaries are indexed with 2%, compared with the previous year, to reflect the estimated level of inflation;
- Continued promotion of temporary employments under the schemes of secondment and internship. Secondment, used as a form of strengthening the administrative capacity of the Contracting Parties, will be used in the years 2018-2019 to complement the Secretariat's team with specific technical expertise from national administrations and other organisations. Internship aims at supporting staff as well as disseminating the knowledge about the Energy Community and contributing to capacity-building. The financial assumptions of the proposed budget envisages funds for approximately 60 man/months for both, secondment and internship²;

4.2. Budget Line: Travel

Budget Line II comprises administrative expenditure of the Energy Community Secretariat related to the authorized travels of Secretariat's staff on behalf of the Energy Community pursuing the implementation process of the Treaty.

The expenditures refer mainly to the Contracting Parties missions or technical assistance for the review of the implementation of the obligations under the Treaty. This budget contains also funds for

¹ A comparison of the employment conditions offered by the Energy Community with another international organizations (seated in Austria and not only) or institutions (EU) shows that the Energy Community has a lower level of social obligation towards its employees, offering an all-inclusive remuneration package, without any contributions to social security systems (pension/severance fund), and without any additional fringe benefits (allowance).;

² Regulated by separate *Rules on Secondees, Interns and locally recruited staff*,

justified travels linked to the organization and participation of the staff at different meetings, including those of the EnC institutions, as speakers at conferences etc.

In its structure, the budget for travel expenses is planned and composed of:

- Costs for flights and accidentals and
- Daily Subsistence Allowance (DSA)³.

4.3. Budget Line: Office

Budget Line III comprises expenditures that increases or alters the assets of the Energy Community and other office infrastructure expenditures (rent, office supplies, consumables), that are necessary for the functioning of the Secretariat as an institution under the Treaty.

This budget line includes the following budgetary positions:

- Rent: The estimation of expenditures for the increased size of the office premises as of mid 2017 onwards. This budget position considers the donation to be received from the host country (Austria) to the overall budget of the Energy Community⁴.
- Office equipment: This budgetary position reflects the necessity to maintain the equipment (particularly the IT and related office furniture) up-to-date to provide maximum security of the working environment, processes and of the processed data. This budget line is composed of the following budget accounts: hardware, software, office equipment and low value assets. The budgeting of the overall expenditure for 2018 follows the IT plan, which estimates the exchange of hardware (staff IT equipment – laptops, printers, and servers in the IT administration area) and corresponding software. It also comprises licenses for the functioning of existing software required for the Energy Community website and for the internal accounting program for the management of the Energy Community accounts.
- Consumables: This budget line comprises the following accounts: office supplies, repairs and maintenance as well as office cleaning, running costs and electricity costs for the premises.
- Other Services: The envisaged budget under the budgetary position “Other services” reflects the necessary funds for carriers and transport by third parties, postal fees, other operating expenses and costs of communication.

4.4. Budget Line: Other costs and services

Budget Line IV concerns other expenditures that relate to the activities, which are necessary for the functioning of the Secretariat and as assigned other Institutions under the Treaty (Ministerial Council, PHLF, ECRB, Fora).

This budget line is composed of the following budget positions:

- Advertising, communications and representation: It covers the work performed within the area of public relations, like publications by Energy Community Secretariat (i.e. publishing of new editions of the Legal Framework Books, Implementation Reports etc.), advertising required

³ The Energy Community Secretariat follows the DSA as published at the *EuropeAid Cooperation Office* applied also by other international organizations funded by EU

⁴ Republic of Austria committed for donated EUR 170.000 on annual basis to the office rent of the Secretariat in Vienna.

either for the purposes of the procurement and/or within the personnel search as well as costs of representation;

- Studies, Research and Consulting: Experience has shown that the technical support through studies is a very useful tool for achieving the Energy Community objectives. The research and consulting relates to the areas of work outlined in the relevant Work Program of the Energy Community (incl. ECRB);
- Costs of outsourced services (IT, payroll etc.): This budget line corresponds to the performance of activities and tasks related to the IT administration (outsourced activity to an external partner), technical maintenance of the website of the Energy Community (in both administrative and external users areas), as well as the lease contracts for office equipment (like copy machines, printers) as well as for the maintenance of the existing IT solutions within the area of administration, accounting and human resources (data basis for accounting and human resources);
- Costs of Audit, Legal and Financial Advice: This budget line includes funds for the external audits as well as for outsourced accounting and payroll services;
- Financial services: it covers banking- and transaction fees;
- Costs of Events: This budget line covers the expenses related to the organization of all regular and *ad hoc* events, that might be for the following: renting of premises and equipment, catering, technical arrangements, etc,
- Refunding: It covers the travel expenses related to the participation of representatives of the Contracting Parties and/or Observers in the institutional meetings, workshops and other events organized by the Energy Community Secretariat; implementation of this budget follows a separate set of rules on reimbursement. As a principle, the same rules on reimbursement of the costs of transportation and accommodation within predefined ceilings apply since the beginning of the existence of the Energy Community;
- Training: This budget position covers the expenses related to (a) trainings/ education/ internal annual meetings of Secretariat's staff and primarily (b) grants to representatives of the Contracting Parties for participation in educational events.

5. Energy Community Budget 2018

The proposed budget of the Energy Community for the year 2018 amounts to EUR 4,761,931. Details of individual budget lines/positions are explained below.

Legislative developments which entered into force in years 2014-2016 are assigning new important tasks to the Secretariat, in particular in three areas: (1) environmental protection/climate change, (2) infrastructure and (3) legal.

These three areas are key components of the Energy Community Work Program and identified as priorities of the Secretariat for the years to come.

5.1. Budget line 1: Human Resources

Compared to 2017, there is a 2% increase in financial resources requested for Budget Line 1, relating to inflationary adjustments of HR expenditures (remuneration) for the staff employed. No new positions are proposed under the Establishment Plan for the upcoming biennium 2018-2019 with

assumption that existing organisational structure and expertise acquired in the previous years (mainly 2016) shall be sufficient to carry out all required tasks as defined in the Work Program of the Energy Community.

TEMPORARY EMPLOYMENTS

Based on positive experience and added value for the institution through secondments and internships planning of resources for this engagement is proposed at the same level as in 2017 (60 man months per year). This model of employment proved to be the best instrument to engage young professionals or experts from the Parties into the work of the Energy Community.

In addition, temporary employments support to fulfil the '*geographical equilibrium*' - as required under the *Rules for Recruitment, Working Conditions and Geographical Equilibrium of the Secretariat's Staff of the Energy Community* ("the *Recruitment Rules*") - that cannot be fulfilled only through permanent employments, thus acquiring expertise from Parties not represented in the staff of the Secretariat yet (Georgia) and from Observers (Armenia, Turkey and Belarus).

5.2. Budget line 2: Travel

The proposed budget for 2018, being at the level of 2017, confirms that it will be sufficient to ensure the travel activity of all employed staff at the Secretariat. The estimate is based on the level of utilisation in the previous biennium.

5.3. Budget Line 3: Office

The 45% increase in 2018 of the requested financial resources under budget Line 3 as compared to 2017 relates to an increase in the Secretariat's office space (contracted in 2015). Other positions under this budget line remain at the level of the year 2017.

5.4. Budget Line 4: Other Costs and Services

There is no increase proposed in the budget position of Other Costs and Services between 2017 and 2018 as the budget of EUR 1,486,956 of 2017 is deemed to be sufficient for the activities planned.

As a consequence, there is no increase in budget of the individual budget positions under this budget line; they are kept at the level of previous budgetary year 2017.

6. Energy Community Budget 2019

The proposed budget of the Energy Community for the year 2019 amounts to EUR 4,812,073. It is based on the same assumptions of the previous year (number of personnel, office size etc). There is an increase in the budget for human resources proposed between 2018 and 2019 by 2% (budget line 1), all other budget positions remain at the level of the year 2018.

7. Statement of revenue 2018-2019

Description	%-age contribution 2018-2019	Budget 2017	Budget 2018	Budget 2019	Change Budget 2018 vs. Budget 2017
1. Budget Contributions Parties					
<i>European Union</i>	94.78%	4,354,833	4,513,368	4,560,883	
<i>Republic of Albania</i>	0.09%	4,128	4,286	4,331	
<i>Bosnia & Herzegovina</i>	0.20%	9,174	9,524	9,624	
<i>Georgia</i>	0.11%	-	5,238	5,293	
<i>Kosovo*</i>	0.07%	3,211	3,333	3,368	
<i>former Yugoslav Republic of Macedonia</i>	0.10%	4,587	4,762	4,812	
<i>Moldova</i>	0.10%	4,587	4,762	4,812	
<i>Montenegro</i>	0.05%	1,835	2,381	2,406	
<i>Serbia</i>	0.56%	24,769	26,667	26,948	
<i>Ukraine</i>	3.94%	179,808	187,620	189,596	
2. Donations		p.m.	p.m.	p.m.	
3. Other revenue		p.m.	p.m.	p.m.	
Total Revenue		4,586,931	4,761,931	4,812,073	4%

8. Statement of expenditure 2018-2019

Description	Budget 2017	Budget 2018	Budget 2019	Change Budget 2018 vs. Budget 2017	Change Budget 2019 vs. Budget 2018
1. Human Resources	2,457,079	2,507,079	2,557,221	2%	2%
2. Travel	367,812	367,812	367,812	0%	0%
3. Office	275,084	400,084	400,084	45%	0%
4. Other services	1,486,956	1,486,956	1,486,956	0%	0%
Special instruments	p.m.	p.m.	p.m.	p.m.	p.m.
Total expenditure	4,586,931	4,761,931	4,812,073	4%	1%

9. Details of Statement of Expenditure 2018-2019

(in Eur)	Budget 2017	Budget 2018	Budget 2019	Change Budget 2018 vs. Budget 2017 [in EUR]	Change Budget 2018 vs. Budget 2017 [in %]	Change Budget 2019 vs. Budget 2018 [in %]
1. HUMAN RESOURCES						
Subtotal Human Resources	2,467,079	2,507,079	2,557,221	50,000	2%	2%
2. TRAVEL EXPENSES						
Daily Subsistence Allowance (DSA)	122,400	122,400	122,400	-	0%	0%
Travel Expenses (flights and incidentals)	245,412	245,412	245,412	-	0%	0%
Subtotal Travel Expenses	367,812	367,812	367,812	-	0%	0%
3. OFFICE EXPENSES						
Office rent	25,000	150,000	150,000	125,000	500%	0%
Office equipment	50,000	50,000	50,000	-	0%	0%
Consumables	147,084	147,084	147,084	-	0%	0%
Other Services	53,000	53,000	53,000	-	0%	0%
Subtotal Office Expenses	275,084	400,084	400,084	125,000	45%	0%
4. OTHER COSTS AND SERVICES						
Advertising, communication and representation	56,304	56,304	56,304	-	0%	0%
Studies, research and consulting incl. TA	459,000	459,000	459,000	-	0%	0%
Costs of outsourced services (IT, payroll, etc.)	132,600	132,600	132,600	-	0%	0%
Costs of Audit, Legal and Financial Advice	106,080	106,080	106,080	-	0%	0%
Financial services	15,300	15,300	15,300	-	0%	0%
Conference costs	214,200	214,200	214,200	-	0%	0%
Refunding	330,480	330,480	330,480	-	0%	0%
Training	172,992	172,992	172,992	-	0%	0%
Subtotal Other Costs and Services	1,486,956	1,486,956	1,486,956	-	0%	0%
TOTAL	4,586,931	4,761,931	4,812,073	175,000	4%	1%

10. Establishment Plan 2018-2019

	2018		2019		2017	
	Permanent Post	Temporary Post	Permanent Post	Temporary Post	Permanent Post	Temporary Post
Director	1		1		1	
Head of Unit or Section	6		6		6	
Experts	17		17		17	
Assistants/ Officers	5		5		5	
Secondments and Internships		10		10		5
	29	10	29	10	29	5

Remark:

This establishment plan indicates the number of permanent and temporary posts proposed for carrying out the tasks under the corresponding work program;

Number of temporary posts is estimated in accordance with the proposed budget and may vary depending on the duration of the assignments.

11. Energy Community Salary Scale

Level/description	Notes
Director	management
Deputy Director	management occupied by one of the heads of unit
Head of Unit [with coordination functions]	horizontal responsibility
Head of Section/Unit [with line responsibility]	vertical responsibility
Expert	technical / expertise level
Assistant /Officer	administrator level

Annex to the Explanatory Memorandum on the Energy Community Budget 2018-2019

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I. Introduction

Background

This outline of the Work Programme of the Energy Community 2018-2019 is the synthesis of activities linked to the budgeting process of expenditures for the next biennial and is prepared following the requirements relevant for the establishment of the budget laid down in the Energy Community Procedures for the Establishment and Implementation of Budget Audit and Inspection ("*Budgetary Procedures*").

It takes into consideration the following:

- The Energy Community developments since the entry into force of the Treaty in 2006;
- The necessity to provide a clear framework for further steps towards achieving the Energy Community objectives;
- The ongoing developments of political, legal and economic nature in the Contracting Parties and Observers; and
- The energy developments in the European Union (EU).

Within the current budgetary period 2016-2017, the Energy Community has worked intensively towards implementation of the *acquis* under the Treaty in a broad range of areas including electricity, gas, oil, renewables, environment, energy efficiency, security of supply and competition. As reflected in detail in the Secretariat's annual Implementation Report, the Contracting Parties have benefited from support by the Secretariat in transposing and implementing the *acquis* through drafting legislation, compliance reviews, enforcement and negotiations, streamlining and coordination of technical assistance, etc. Such support will continue also in the next budgetary period 2018-2019.

Challenges ahead: In the years to come, the work to be expected from the Contracting Parties and from the Energy Community institutions will be focusing on the implementation, mostly through secondary legislation and regulatory acts. The real implementation of the Third Energy Package will continue in 2018 and 2019 after having started during 2016. The same will be of utmost relevance for other *acquis* such as environment (Large Combustions Plants Directive), infrastructure and energy efficiency. Moreover, Georgia, as a new Contracting Party, will have to be speedily integrated the process.

The upcoming challenges requiring the assistance of the Secretariat in the implementation of the Third Package include major tasks such as unbundling and certification of transmission system operators, unbundling of distribution system operators and full market opening. This will also require guidance and concrete drafting assistance for market rules, e.g. related to balancing, day-ahead markets, market coupling etc., rules of technical nature (network codes, action plans in the areas of renewables, energy efficiency, emissions, etc.) and of legal nature (procedural and organizational rules, e.g. for certification). The reforms in some Contracting Parties (in particular Georgia, Ukraine, Moldova, and Bosnia and Herzegovina) are challenging due to their fragmented legislation, complex territorial structure or geopolitical disposition, administrative practices, political considerations and/or language barriers, and that is likely to extrapolate and multiply as the reforms progress. This will increase the workload of both the Contracting Parties and the Secretariat and pose new challenges.

Besides developing rules and procedures for all Contracting Parties individually, the tasks of the Energy Community also include developing regional approaches and solutions by the Energy Community institutions in significantly depth and scope.

Moreover, the Energy Community is getting more involved in the application of the rules in individual cases. This includes, *inter alia*, permitting of infrastructure and generation projects, cross-border cost allocations, environmental impact assessment procedures for individual projects, the enforcement of competition and State aid law in individual cases etc. The unbundling of transmission, including the certification processes, and distribution system operators is particularly work-intensive and absorbs already a lot of resources at the Secretariat. These tasks need to be performed on top of the Secretariat's work-intensive activities in enforcement.

The Energy Community is also involved in the creation of organized markets. For instance, the Secretariat was appointed to participate in the steering committee for developing a power exchange in Albania. Power exchanges in Serbia and other Contracting Parties and/or on a regional level may require similar support.

Public services and vulnerable customer protection, price regulation, taxation, public procurement, financial settlement and viability of service providers, concentration of market power and conditions for entry on the energy markets, cross-border supply, transparency - all these areas have so far not been sufficiently covered by the Energy Community and require more targeted efforts. This trend is visible already today, most prominently in Ukraine.

Expanding the Energy Community *acquis*: Over the past years, the Ministerial Council also substantially broadened the scope of the *acquis communautaire*. As it has been mentioned, the Third Energy Package brings big implementation challenges in the electricity and gas sectors. The network codes which are going to be implemented and continuously adopted, following their further development and/or adoption in the EU, will impose an additional legal framework of unprecedented depth in detail for which the Energy Community Contracting Parties so far are not well prepared. Their implementation will require a more intensive assistance to Contracting Parties' institutions and stakeholders by the Secretariat. The Renewables Directive, energy efficiency *acquis* (Energy Efficiency Directive, Energy Performance in Buildings Directive, Energy Labelling and Delegated Regulations), *acquis* on statistics and the Oil Stocks Directive in the petroleum sector will continue to require intensive support by the institutions, and in particular by the Secretariat.

In the environmental area, two new Directives, i.e. the Strategic Environmental Assessment and Environmental Liability Directives with implementation deadlines of 31 March 2018 and 1 January 2021, respectively, have been adopted by the Ministerial Council in 2016. Environmental Impact Assessment and Sulphur in Fuels Directives have been upgraded according to their latest amendments (with implementation deadlines of 1 January 2019 and 30 June 2018, respectively). A Recommendation on implementing the provisions of the Monitoring Mechanism Regulation for greenhouse gas emissions has also been adopted by the Ministerial Council in 2016.

The implementation phase of the Large Combustion Plants Directive, arguably the piece of Energy Community *acquis* with the highest impact on many Contracting Parties' budgets, will start on 1 January 2018, with the reporting obligations by the Contracting Parties starting on 1 January 2019. The monitoring mechanisms of the flexibility instruments (national emission reduction plan, limited lifetime derogation) will start at the beginning of 2018. Given the major challenges in implementing

this piece of the environmental *acquis*, this will require a continued intensive assistance to Contracting Parties by the institutions.

The High Level Reflection Group in 2014 proposed further extension of the environmental *acquis* with some additional directives:

- Directive 2008/50/EC on ambient air quality;
- Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC as adapted by Directive 2009/30/EC;
- Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading.

Proposals of the High Level Reflection Group are piece by piece becoming part of the Energy Community *acquis*. With additional *acquis*, the workload is more and more intensive and it is expected that in the next period at least two - out of the listed above - additional environmental directives will be adopted by the Ministerial Council.

Security of supply: The security of energy supply in the Energy Community is monitored and closely coordinated by the Energy Community Secretariat in both the context of network operation and safety and energy availability. The Security of Supply Sub-Groups for electricity and gas are dealing with ambitious work programmes, projects for regional cooperation and system adequacy aspects and will be crucial for attaining one of the Treaty's key objectives, security of energy supply.

As regards electricity supply in particular, recent initiatives for cooperation and the establishment of the Regional Security Coordinators ("RSC") affect the Energy Community and require more involvement by the Secretariat. Some of the Contracting Parties (Ukraine, Moldova, Kosovo*, and Albania) are particularly problematic as they have chronic difficulties with regular curtailments, high dependency on volatile hydrology or insecure upstream conditions which often need preparedness and prompt concerted action.

Regional initiatives: In 2015, the Vienna Summit of the Western Balkan 6 Initiative ("Berlin process") provided a renewed impetus to the development of the regional electricity market of the Contracting Parties of the Energy Community. The heads of government, foreign and economic ministers of both EU Member States and the six focus countries in cooperation with the European Commission decided to take steps to improve energy connectivity in the region, by facilitating investments and prioritising market development. The Energy Community Secretariat was called upon to support the implementation of this process.

On 27 April 2016, representatives of transmission system operators, national regulatory authorities, and ministries of energy and power exchanges of the Western Balkan 6 countries committed to implementing a memorandum of understanding (MoU) setting out general principles of cooperation as well as concrete actions to develop the regional electricity market.

Furthermore, the Western Balkan 6 countries in 2016 agreed among themselves on a Sustainability Charter which breaks new ground in many areas (energy efficiency, climate action, renewable energy and investor confidence and protection) and requires support by the Secretariat.

As regards the gas sector, the risks of both short and long term supply interruption have increased significantly in the recent past.

Ukraine, the Energy Community's largest Contracting Party, takes central stage in that respect and requires an increased level of attention by the Energy Community institutions. This will benefit pan-European security of supply.

Although the Contracting Parties are particularly vulnerable, security of gas supply for entire Europe is linked to the fact that EU Member States and Contracting Parties share the same infrastructure which brings gas from the same source of supply. The need for a concerted response to prevent and mitigate the risks to continuous supply, demonstrated in the 2014 security supply stress tests, will need pan-European follow-up. Effective regional cooperation has been recognized as key to achieving the region's energy policy objectives and addressing challenges that EU Member States and Contracting Parties face in the gas sector (see chapter VIII on CESEC).

Furthermore, it is to be expected that the process of incorporating new EU legislation in the Energy Community *acquis communautaire* will continue. Besides the guidelines and network codes in electricity and gas (where the PHLG has already committed to swift and quick incorporation once they are adopted within the EU), the Regulation on wholesale energy market integrity and transparency ('REMIT') is of relevance for the Energy Community in particular, in the context of the guideline on Capacity Allocation and Congestion Management in electricity ('CACM Regulation').

In that regard, of especial importance will be cooperation with 8 bordering EU Member States that at the same time belong to the region designed in the Title III of the Energy Community Treaty.

Regional market: Another area of work where the objectives of the Treaty are to be reached is the establishment of a regional market. The Coordinated Auction Office is operational since 1 January 2015, however, the regional coordination of cross-border capacity allocation has not been fully accomplished. Additional activities related to regional electricity wholesale market opening and its organization, including the potential establishment of a regional power exchange platform and a regional balancing support mechanism, will gain traction in the period 2018-2019.

National regulatory authorities of the Contracting Parties have new competences stemming from the Third Energy Package, Infrastructure Regulation and from establishment of bodies both on national and regional level. Also, the Energy Community Regulatory Board (ECRB), having new competences in the fields of certification, cross-border cost allocation, infrastructure exemption, gas and electricity network codes (and guidelines), will require more assistance, knowledge transfer and development of suitable institutional rules by the Secretariat.

Competition: The Energy Community's competition authorities established among themselves with the support of the Secretariat a Competition Network. This Network shall ultimately serve as a forum for discussion and the exchange of best practices. Since some national State aid authorities are either not operational or not active in the effective enforcement of the Energy Community State aid *acquis*, also the work of and coordination between national State aid authorities needs to be enhanced.

Representatives from the State aid authorities will therefore join the cooperation process. In order to foster cooperation to reach tangible results, the Secretariat will set up working groups that shall produce concrete deliverables like best practices, notices, tool boxes or training material. The working groups shall be formed by a limited number of representatives from either the State aid or the competition authorities and will be headed and advised by the Secretariat.

The Secretariat will organise at least once per year workshops to train and discuss common issues and the deliverables elaborated. Furthermore, the Secretariat will use an online forum in order to share current developments in the Energy Community and European Union and discuss issues faced by several authorities.

Membership in regional associations: Most of the Transmission System Operators (TSOs) for electricity, in contrast with the gas TSOs, have become full-fledged members of ENTSO-E by now. However, it should be the target that all gas TSOs are involved in the work of ENTSO-G in the future.

Further, participation of Contracting Parties' regulators in the so-called 'Energy Regulators Forum' and Power Exchanges in the European 'NEMO platform' will have to be promoted with respect to the implementation of the Guideline on Capacity Allocation and Congestion Management in electricity ('CACM Regulation').

Strengthening the network between the Distribution System Operators (DSOs) from the region, in both electricity and gas sectors, shall also be pursued.

Geographical scope of the Energy Community: In October 2016, the Ministerial Council unanimously approved the accession of the Republic of Georgia to the Energy Community Treaty. In October 2016, Belarus applied for Observer status and the procedure for granting the status could be finalised in 2017. This geographical expansion of the Energy Community will bring additional workload and challenges for the Secretariat.

Cooperation with IFIs and other institutions: Due to its increased contribution to stakeholders' and donors' activities, the Secretariat has been engaged in preparation and joint implementation of a number of IFI and institutional regional initiatives, including: (1) Regional Energy Efficiency Programme (WBIF and EBRD), (2) Gas to Power (WBIF and the World Bank), (3) Efficient Biomass Based Heating and Cooling (WBIF and the World Bank), (4) Gas Sector Reform Implementation Plan for Ukraine (World Bank), (5) Market Monitoring Report (ACER), (6) assistance to Belarus (Central European Initiative), etc. . Particularly strong is the cooperation with USAID on compliance check of the technical assistance provided by this organisation to the authorities of the Contracting Parties.

The Secretariat also assists WBIF/DG NEAR in preparing the regional project pipeline in electricity area, for which technical and financial assistance from multi-beneficiary IPA funds is provided.

Moreover, the Secretariat was nominated by the Regional Cooperation Council (RCC) as the Energy Dimension Coordinator for the implementation of the SEE 2020 Strategy. This requires and will require additional work for the benefit of the development of the energy sectors in the region.

Mediation: In the past two years, the Secretariat, in the absence of an enforcement system apt to secure investor protection, was engaged intensively in investor-state dispute resolution and reconciliation. This tendency is likely to increase in the future.

The successful settlement of the disputes between CEZ and Albania and Gas Natural Fenosa and Moldova, as well as the negotiations between KOSTT and EMS, are the most prominent examples. Building up on the experience of these negotiations, the Secretariat established a Dispute Resolution and Negotiation Centre in October 2016.

In the beginning, the activities of the Centre will focus on negotiations and mediation of investor-state disputes and offering support to national authorities of the Contracting Parties in their negotiations with private parties. Another purpose of the Centre is to facilitate the swift closure of dispute settlement cases under the Energy Community Treaty via tailor-made negotiation and mediation facilities.

II. Overall and cross-cutting tasks

1. PROMOTING AND SUPPORTING THE ENERGY COMMUNITY GOALS AND ACTIVITIES

The Energy Community institutions will continue performing within the scope of their mandates. In relation to the overall and cross-cutting activities, the Energy Community Secretariat in particular will within its mandate:

- Provide assistance to all institutions within the scope of their competences;
- Promote the objectives of the Energy Community via e.g. publications, presentations, public relations, maintaining and developing the website, liaising with other international institutions and bodies, donors, investors etc.;
- Facilitate and assist the institutions and Parties in the implementation of the decisions and recommendations;
- Carry out other tasks, conferred on it by the Ministerial Council;
- Provide assistance of organizational, conceptual and legal nature to all Contracting Parties;
- Organize and further develop the events of the Energy Community and its institutions;
- Coordinate the work of working groups and task forces when needed;
- Provide timely, reliable and fair information to all institutions as a basis for their decision-making;
- Manage and implement the budget of the Energy Community in line with availability, objective necessity and applicable rules;

2. IMPLEMENTATION OF THE ACQUIS

The implementation of the current *acquis communautaire* will remain the biggest challenge for the Energy Community also in the period 2018-2019. The slow opening of the wholesale markets in real terms and lack of liberalization in the retail, the lack of cost-reflectivity of energy prices, the persistence of illegal subsidies and implicit forms of State aid, the insufficiency of the regulatory framework, the lack of regional cooperation and compliance with the environmental and climate *acquis* have not yet been overcome. The Secretariat's work in this respect will be intensified and expanded in line with the following key features.

2.1. Providing assistance to Contracting Parties

- The Secretariat will review all draft legislation, providing comments on their compliance with the *acquis*, making sure that legislation adopted is in line with the obligations under the Treaty. In many, if not most instances, the Secretariat will be (further on) involved in the drafting of primary and secondary legislation, including for the Regulator, competition authority, transmission system/market operators etc.;
- The Secretariat will provide assistance to the Contracting Parties also by advising them on implementation of the *acquis*. For that purpose, the Secretariat has established special

- purpose internal task forces to tailor make solutions according to the particularities, needs and shortcomings of the Contracting Parties (with focus on Moldova, Ukraine and Georgia);
- The Secretariat will continue its support via capacity building to national institutions such as the national statistics institute, competition and State aid authorities, regulatory authorities etc.;
 - The Secretariat will further provide assistance in organizing workshops and commissioning studies, when needed;

All these areas constitute great challenges for the Contracting Parties and the institutions of the Energy Community.

The Secretariat will continue to provide assistance also to the Observers and countries who have expressed an interest in being associated to the Treaty, in order to bring their internal legislation in line with the *acquis* to the widest extent possible already before accession.

2.2. Reporting

As in the past, the Secretariat will report on the progress related to Treaty implementation by issuing annual Reports, as the most comprehensive reference document and basis for further policy development and enforcement measures. Furthermore, the Secretariat will continue to publish reports as part of the Secretariat's involvement in different regional initiatives (CESEC, Western Balkan 6) as well as *ad hoc* reports on different subjects, when required or assigned to the Secretariat by the respective institutions.

2.3. Enforcement of the *acquis*

The Secretariat will continue developing the dispute settlement mechanism under Article 90 of the Treaty towards a tool of Treaty enforcement by following up on all issues of non-compliance with the Treaty. This will be done by applying the Dispute Settlement Rules as amended by the Ministerial Council in 2015 to cases addressing issues of non-compliance individually for each Contracting Party concerned as well by simultaneous cases pertaining across the board to all Contracting Parties in one way or other.

The Secretariat will continue to prioritize cases initiated upon complaint by private bodies, which increasingly use this opportunity. It will also prioritize non-implementation of the Third Energy Package, including its individual elements such as non-compliant market models, impediments to cross-border trade, unduly regulated energy prices and the lack of coordinated capacity allocation. Furthermore, the Secretariat will continue to use the expedited procedure introduced in the amended Dispute Settlement Rules for non-transposition cases.

The Advisory Committee as an institution established under the Dispute Settlement Rules will require further support due to its increased number of members, responsibilities, and its increased scope of work. The Advisory Committee is composed of five, instead of the previous three members. Besides the increased number of members, the Advisory Committee also has an increased number of tasks and responsibilities, one of them being the requirement to conduct a public hearing before giving an opinion to the Ministerial Council. Moreover, due to the increased number of complaints addressed to the Secretariat and the increased number of cases initiated by the Secretariat on its own motion, all of which have to be considered by the Advisory Committee before giving an opinion, the workload

of the Advisory Committee has substantially increased. This will require a larger number of meetings, which will amount to an increase of members' travel expenses.

The Dispute Resolution and Negotiation Centre is expected to develop during the next years. Procedural Rules, as adopted by the Secretariat, will serve the purpose of the first facilitated negotiations between investors and Contracting Parties under the auspices of these rules. The Centre shall establish a panel of mediators of high moral character and recognized competence in the fields of energy law and energy-related negotiations. These mediators may be called upon to assist in negotiations and mediations in Dispute Settlement Procedures, either when bilateral negotiations after the opening of a dispute settlement procedure fail, or after a Reasoned Opinion has been issued.

The Secretariat will develop a framework upon which assistance will be offered to Contracting Parties in their negotiations with the investors. To this end, workshops and trainings will be organised.

Past experience shows that the recourse to enforcement action was most efficient where the Secretariat combined it with its assisting role, i.e. where the finding of non-compliance issues was linked with proposing redrafting of laws and by-laws. The Secretariat will continue to bundle its individual activities in that respect.

Since 2013, the Secretariat, in cooperation with the Florence School of Regulation, organizes an annual Forum on European Energy Law in Vienna to promote the network and exchange of knowledge between energy lawyers and regulators from Contracting Parties and the European Union. The Forum is preceded by a workshop on Energy Community law to address specific legal issues and challenges for the Contracting Parties. These events have met an unusual high demand and will be continued in the future.

The Secretariat started establishing a network formed by legal experts (national judges, representatives of academia and experts practising energy law) from the Contracting Parties, Observers and the EU Member States.

The main purpose of the network will be to increase awareness of the increasing body of energy law in the European Union and the Energy Community, as well as sharing and discussing the latest developments in the field (such as climate and environment issues, new projects etc). It will also aim at facilitating the cooperation between experts from different countries and will constitute a tool for continuous learning and development of all the parties involved.

Initially, the legal network shall function as an online platform enabling constructive exchanges on energy law developments. Topics open for debate by a moderator on a weekly basis may refer to recent developments in the Energy Community or other energy law related news. These debates will then be followed by in-person events (such as workshops and seminars).

III. Individual elements of the *acquis*

1. ACTIVITIES IN THE ELECTRICITY SECTOR

1.1. Transposition and implementation of the Third Energy Package

The transposition of the *acquis* on electricity shall be completed as soon as possible in those Contracting Parties who have not yet finished the task. The Secretariat provides direct assistance in drafting of new laws, amendments to laws and verification of the compliance of draft laws in all new and old Contracting Parties. Subsequent support will be provided in the process of adoption in the governmental bodies and parliaments of these countries.

Following the expected expansion of the *acquis*, the Secretariat shall include in its scope of assistance the transposition and implementation of the infrastructure package, the electricity transparency regulation, electricity elements of the energy efficiency directive, security of supply act, relevant acts of the environmental *acquis* related to electricity generation, relevant acts on energy statistics referring to electricity, the applicable acts related to taxation, public procurements, competition and State aid. Secretariat will also closely monitor the progress in adoption of Clean Energy Package and strive for its early implementation in the Energy Community Contracting Parties.

Work related to the implementation of the transposed provisions in the adopted laws will be required in the years to come in all Contracting Parties. The Secretariat shall sustain and expand its assistance to the ministries, regulators and network operators in assessing the compliance or drafting of new or revised secondary legislation (e.g. market rules, grid codes and rules for supplier switching, balancing, metering, cross-border transmission capacity allocation).

Unbundling of the transmission system operators and their certification in each of the Contracting Parties that has implemented the Third Energy Package will be on the agenda of the Secretariat. By now, the Secretariat has been intensively involved in certification of the electricity TSO in Albania. The procedures for certification of the TSOs in all other Contracting Parties will follow.

Other structural aspects of compliance will need to be supported in the course of implementation of the Third Energy Package, such as regulatory powers and independence, unbundling and compliance of DSOs, customer support and vulnerable customer protection, etc.

In future, the implementation of the Network Codes will require significant engagement of the Secretariat. The model of their enforcement in the Contracting Parties, as approved by the PHLG, will be followed by the needed implementation of the corresponding Regulations. It will be for the Secretariat to monitor and assist via drafting proposals for amendments in the rules and grid codes, organisation of coordination events, proposing policies and other types of technical support. Cooperation of the Contracting Parties with ACER and ENTSO-E in this area will be supported as well. Involvement of Contracting Parties' regulators in the so-called 'Energy Regulators Forum' and Power Exchanges in the European 'NEMO platform' will have to be promoted in context with the implementation of the guideline on capacity allocation and congestion management in electricity ('CACM Regulation').

The progress in the implementation of the *acquis* on electricity shall be monitored and reported also through the Energy Community Annual Implementation Report.

1.2. Liberalization and integration of the electricity markets

As a matter of fact, the development of competitive electricity market environment in the Energy Community has been in delay. In the years to come, the Secretariat will have to ensure the adoption of sufficient and adequate legislative and structural support, including Market Rules, switching platforms and TPA enforcement in the Contracting Parties (like Bosnia and Herzegovina, Kosovo, FYR of Macedonia, Moldova, Ukraine, Georgia), where it is deficient. The Secretariat shall continue to monitor and address abuse of dominance and overregulation, lack of eligibility and supplier switching support, and initiate infringement actions in the cases where assistance has failed.

The wholesale market will continue to be supported through facilitating the establishment of organized trading platforms. Market coupling and establishment of power exchanges will be supported in the context of Western Balkan 6 obligations and the implementation of the CACM Regulation in entire South East Europe, thus replacing the 8th Region. The establishment of day-ahead and intra-day markets will be supported. The initiatives for regional balancing and ancillary services will also be further promoted and supported.

The SEE Coordinated Auction Office (SEE CAO) started its operation in 2015 and expands across the borders of the constitutive TSOs (in Croatia, Bosnia and Herzegovina, FYR of Macedonia, Montenegro, Albania, Greece and Turkey). The Secretariat shall continue its efforts to enable the access and to motivate the remaining neighbouring TSOs (from Serbia, Bulgaria and Romania) to include their relevant borders in the CAO and further support settlement of disputes that block the participation of Kosovo* in SEE CAO.

1.3. Security of electricity supply

The security of electricity supply *acquis* covers generation adequacy network security and planning of new infrastructure. The Treaty refers to obligations in disruption of the supply and mutual assistance in cases of crisis. The Secretariat shall continue its assessment of the compliance and provide assistance in the development of the legislation. Following the adoption of new *acquis* for this area at the EU level, a proposal to the Ministerial Council for adaptation and subsequent adoption in the Energy Community shall be also discussed. This relates in particular to the updated *acquis* on the internal electricity market, cross-border trading and EU energy policy governance as well as the new security of supply regulation introduced by the Clean Energy Package from November 2016. Another long-term security measure supported by the Secretariat shall be the monitoring and assistance in implementation of the System Operation Guideline network code.

The Security of Supply Statements, update of which is a biannual obligation for the Contracting Parties, shall be monitored and published. Another form of cooperation assisted by the Secretariat is the Security of Supply Coordination Group – it shall assemble periodically and on *ad hoc* basis, when required to discuss the actual seasonal (winter) preparedness and possible supply crises. The Secretariat is also the focal point for the exchange of information in case of immediate supply shortages or natural disasters. In this context the Secretariat will facilitate communication between stakeholders participating in the online interactive Security of Supply Forum as needed, prepare analysis, recommendations and summaries and coordinate initiatives for emergency assistance.

2. ACTIVITIES IN THE GAS SECTOR

2.1. Transposition and implementation of the Third Energy Package

The Secretariat's role in implementation and transposition of the gas *acquis* required by the Treaty and the Ministerial Council's decisions in the Contracting Parties legal and regulatory frameworks has increased. Not only that the Secretariat will continue monitoring the Contracting Parties compliance with the Treaty's obligations, but it will also actively participate in the development of compliant yet tailor-made solutions in each case. The Secretariat's findings will be reflected in the annual Implementation Reports, as well as in ad hoc reports made for special occasions or region-wide initiatives

Experience has proved that the adoption of the Third Energy Package increased significantly the Secretariat's workload related to assisting the Contracting Parties to properly transpose and implement the *acquis*. During the Secretariat's reviews of draft or adopted legislation, identifying and addressing non-compliance via, inter alia, dispute settlement cases will expand in both number and substance. It is expected that additional support will be needed to assist the Contracting Parties in closing the cases.

The Secretariat will exercise its duties and tasks in implementation of the Third Package such as issuing opinions and advise Contracting Parties when needed. The Secretariat will launch studies focused on specific topics, when necessary. The Secretariat will provide assistance in organizing gas related events within the scope of the Energy Community as well as assisting the Contracting Parties in their participation in the relevant European bodies (ENTSOG and ACER).

2.2. Market integration related activities

In addition to the monitoring and benchmarking of the implementation of the *acquis*, the Secretariat will focus its activities on reviewing the process and providing technical assistance to the Contracting Parties in the development and integration of the gas markets. The market integration will enable departure from limited gas source diversity, due to historical lock-in to long-term supply contracts from a single supplier and missing interconnections or alternative sources, thus fulfilling the objectives of the Treaty. The Secretariat shall support effective regional cooperation in order to address challenges that EU Member States and Contracting Parties face in the gas sector. Besides introducing competition in the wholesale national gas markets, regional integration is seen as an added value with spill over positive effects in the national markets. The work will especially focus on transposing and implementing the gas Network Codes in the Contracting Parties and at the interconnection points with neighbouring EU Member States.

The Secretariat will continue with its activities aimed at the development of gas infrastructure as a precondition for the regional gas market. Particular attention will be paid to identifying and addressing project-specific challenges, especially from regulatory and legal perspectives, whilst taking into account financial sustainability. This process will coincide, *inter alia*, with the promotion of Projects of Energy Community Interest (PECI) as well as with interconnecting gas networks of the Contracting Parties with the gas networks of EU Member States.

2.3. Activities related to security of supply

The Secretariat shall continue assisting the Contracting Parties in solving the challenges related to security of gas supply. It shall review and assist in transposition and implementation of the security of supply gas *acquis*. It shall review and publish the statements on security of supply concerning gas, in accordance with Article 29 of the Treaty and the relevant *acquis*.

The Secretariat shall further promote the work of the Security of Supply Coordination Group, which has been established and will plan and organise its activities in the next periods. The Secretariat will also continue to actively participate in the Gas Coordination Group at EU level.

The Secretariat will continue to be actively engaged in development of EU legislation and policies on security of supply, particularly in relation to Regulation 994/2010 concerning measures to safeguard security of gas supply. It will prepare the foundations for its adoption in the Energy Community. This shall be a particularly challenging task as the solutions to effectively ensure security of supply in both EU Member States and Contracting Parties will be tailor made. Concrete steps related to security of supply risk management will also be considered.

3. ACTIVITIES IN THE OIL SECTOR

The key objective of the activities in this area is to support the developments in the Contracting Parties concerning the oil dimension of the *acquis*. The Energy Community's activities in this area are linked to the implementation of Council Directive 2009/119/EC ("Directive"), which imposes an obligation on the Contracting Parties to maintain minimum stocks of crude oil and/or petroleum products.

The Contracting Parties will have to, with the support of the Secretariat, bring into force the laws, regulations and administrative provisions necessary to comply with this Directive. The majority of the Contracting Parties will draft a model for their respective stockholding system, which includes the composition of emergency stocks and the method of financing. Furthermore, an Action Plan will be drafted concerning the build-up of emergency oil stocks to the 61/90 day obligation as well as the available storage capacities. Based on this draft proposal, a decision should be taken by the government for the oil stocks model.

A critical next step to be undertaken in all of the Contracting Parties refers to the establishment of a monthly data reporting framework, which needs to include quality verifications. Such data collection is fundamental for meeting the obligations under the Directive. The Secretariat has provided each Contracting Party with technical support, to clarify and improve the understanding of the reporting details and methodologies related to the stockholding calculations.

In October 2016, the Ministerial Council adopted the General Policy Guideline which represents the political consensus concerning the Roadmap on Implementation of Certain Deadlines of the Council Directive 2009/119/EC in the Energy Community. All Contracting Parties shall inform the Secretariat by 31 March 2017 about the main provisions of the draft national law to be adopted to transpose Directive 2009/119/EC as well as the Action Plan on the Establishment of Oil Stocks. The adoption shall bring into force the laws, regulations and administrative provisions that are prerequisites to comply with the said Directive by 31 December 2017.

For the purpose of fulfilling the data reporting requirements under Annex I to IV of the Directive, all Contracting Parties shall start regular (monthly) submissions of the JODI Oil Questionnaire before 1 January 2018. Those questionnaires will have to be communicated to the Secretariat by 31 March

2018. A legal basis prescribing the methodology for data gathering and processing and the implementation of an action plan for oil data collection will be necessary to complete the Monthly Oil Statistics (MOS) Questionnaire.

The Secretariat will assist the Contracting Parties and Observers via training activities for government officials and, if required, for the operating companies that are obligated to maintain oil stocks in case of emergency. One workshop is envisaged within the next budgetary period. It shall focus on the Data Collection and Reporting Mechanism (co-organized possibly with the IEA and EUROSTAT).

The annual Oil Forum in Belgrade will continue to serve as an efficient platform for promoting regional cooperation in the oil sector along the frame outlined by the relevant Ministerial Council decisions.

The development of a common emergency oil stocks policy and crisis management in the Contracting Parties will strengthen the security of supply.

4. ACTIVITIES IN COMPETITION

The area of competition falls into two parts (1) Competition law and (2) State aid law, as reflected by Article 18 of the Treaty.

In the area of competition law, the focus of the work in the upcoming years needs to be on the strengthening of the enforcement of competition law in the energy sectors. The national competition authorities are still not using competition law to support liberalization of the energy sectors. As a continuation of its activities in the previous years, the Secretariat will further support the work of both authorities in substance and structure.

In this regard, the Secretariat supports the cooperation of and exchange between the national competition authorities in the framework of the Energy Community Competition Network. The activities of the Energy Community Competition Network will also be extended to cover the application of State aid to the energy sectors.

In the context of State aid, compliance by the Contracting Parties with Article 18 of the Treaty is less advanced. Although all Contracting Parties have adopted the necessary State aid legislation, Ukraine's legislation only enters into force in August 2017; therefore, particular assistance is still required in order to bring Ukraine's secondary legislation in compliance with the Energy Community *acquis*.

Generally, the implementation of the State aid *acquis* is still largely insufficient. Several pending dispute settlement cases in the area of State aid cannot be closed due to the lack of enforcement of State aid rules in the energy sectors. Therefore, the Secretariat shall increasingly assist the national State aid authorities and train their personnel to enhance compliance.

In order to foster the exchange between national authorities, the Secretariat will create *ad hoc* working groups with the aim of issuing concrete deliverables (e.g. recommendations, manuals, workshops, handbooks or toolboxes). The Secretariat will determine and propose specific topics related to the practical enforcement of competition and State aid rules (priority will be given to topics relating to specific practical cases vis-à-vis more abstract topics). For each topic, an *ad hoc* working group will be established which encompasses four representatives (from different CPs) as well as