

DECISION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

2023/05/MC-EnC on the failure by Kosovo*¹ to comply with the Energy Community Treaty in Case ECS-8/21

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY,

Having regard to the Treaty establishing the Energy Community ("the Treaty"), and in particular Article 91(1)(a) thereof;

Upon Reasoned Request by the Secretariat in Case ECS-8/21 dated 13 July 2023;

Having regard to the Reply by Kosovo* received within the deadline set by the Procedural Act No 2015/04/MC-EnC of the Ministerial Council of the Energy Community ("the Dispute Settlement Rules"), namely on 21 August 2023;

Having regard to the Opinion by the Advisory Committee established under Article 32 of Dispute Settlement Rules, dated 4 December 2023;

HAS ADOPTED THIS DECISION:

Article 1 **Failure by Kosovo* to comply with the Treaty**

1. By failing to achieve significant emission reductions with regard to the four large combustion plants falling under the scope of its National Emission Reduction Plan, Kosovo* fails to comply with Articles 4(3), 4(6) and 16 of Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants read in conjunction with Articles 12 and 16 of the Energy Community Treaty.
2. For the reasons sustaining these findings, reference is made to the Reasoned Request.

¹ This designation is without prejudice to positions on status and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence.

Article 2 Follow-up

1. Kosovo* shall take all appropriate measures to rectify the breach identified in Article 1 and ensure compliance with Energy Community law immediately. Kosovo* shall report regularly to the Secretariat and the Permanent High Level Group about the measures taken in 2024.

2. If the breach has not been rectified by 1 July 2024, the Secretariat is invited to initiate a procedure under Article 92 of the Treaty.

Article 3 Addressees and entry into force

This Decision is addressed to the Parties and the institutions under the Treaty. It enters into force upon its adoption.

Done in Vienna on 14 December 2023

For the Ministerial Council

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

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Presidency