

## RECOMMENDATION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

### **R/2020/01/MC-EnC on Projects of mutual interest between Contracting Parties and Member States of the European Union**

The Ministerial Council of the Energy Community,

Having regard to the Treaty establishing the Energy Community ("the Treaty") and in particular Articles 2, 26, 27, and 82 thereof,

Having regards to the proposal of the Energy Community Secretariat

Whereas:

- (1) One of the main objectives of the Treaty is to create a stable regulatory and market framework capable of attracting investments.
- (2) One of the key challenges for the Energy Community is to address the regulatory gap that exists on borders between Energy Community Contracting Parties and EU Member States.
- (3) By the Decision<sup>1</sup> of the 16<sup>th</sup> of October 2015 the Ministerial Council of the Energy Community decided to implement in the Energy Community Regulation (EU) No 347/2013 of the European Parliament and of the Council on guidelines for trans-European energy infrastructure.<sup>2</sup>
- (4) Article 8 paragraph 4 of the Decision requires from projects crossing the border of one or more Contracting Parties and one or more Member States, in order to be considered to be a project of Energy Community interest ("PECI"), to be first granted a status of project of the common interest ("PCI") within the European Union, and whereas the reason for it is to guarantee a strong regulatory support on both sides of the border necessary for a successful implementation of projects crossing the borders between the Contracting Parties and European Union Member States.
- (5) Article 8 paragraph 4 of the Decision introduces the concept of project of mutual interest ("PMI") giving the possibility for those projects which are not granted a PECI status to be still developed on a voluntary basis by Contracting Parties and Members States supporting the project.
- (6) Based on the Regulation, two Groups were established in order to assess and agree on the list of PECIs, and it was further agreed that potential PMIs should be also subject to the assessment with a purpose to agree on a list of projects which despite the lack of PECI status, should receive a political support at the Ministerial Council level.

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<sup>1</sup> D/2015/09/MC-EnC

<sup>2</sup> OJ L 115, 25.5.2013, p.39.

- (7) Proposed list of PMIs and a draft Recommendation were discussed and established in the 56th meeting of the PHLG on the 16<sup>th</sup> of July 2020 and it is confirmed that all the Contracting Parties and EU Member States concerned have endorsed the list.
- (8) The Ministerial Council adopted a decision on the establishment of the list of PECIs on 27<sup>th</sup> of November 2020.

**HEREBY RECOMMENDS:**

- (1) Projects listed in the Annex should receive a status of projects of mutual interest (PMI).
- (2) Member States of the European Union and Contracting Parties whose projects are listed below, cross their borders, and gave their support for these projects, are encouraged to undertake the necessary measures, as foreseen in the Regulation (EU) No 347/2013 in order to facilitate their timely and efficient implementation. It is recommended that such actions and measures include:
  - (a) extending the measures as regards the organization of the permit granting at the national level and regulatory treatment foreseen under the Regulation to listed projects;
  - (b) ensuring and improving administrative and regulatory governance of the listed projects by all Contracting Parties and Members States concerned, as well as monitoring by the Groups established under the Regulation of the progress achieved in implementing the projects, and if necessary, making recommendations to facilitate their implementation;
  - (c) preparing a joint report on the progress of the realization of listed projects on a regular basis;
  - (d) undertaking best endeavors, where possible, to obtain a PCI status for the projects, without prejudice to the Regulation (EU) 347/2013 of 17 April 2013 on guidelines for trans-European energy infrastructure;
  - (e) engagement of national regulatory authorities with the Energy Community Regulatory Board and with Agency for the Cooperation of Energy Regulators, in line with their responsibilities, on the approach and achieve the best regulatory cooperation and coordination as regards listed projects.

This Recommendation enters into effect upon its adoption and is addressed to the Contracting Parties to the Energy Community.

Done by written procedure on 29 December 2020

For the Ministerial Council:

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(Presidency)

**EXPLANATORY MEMORANDUM**

## 1. Introduction

On the 16<sup>th</sup> of October 2015 the Ministerial Council of the Energy Community adopted a Decision on the implementation of the Regulation (EU) No 347/2013 of the European Parliament and of the Council of on guidelines for trans-European energy infrastructure<sup>3</sup>. The purpose of this measure was to create a legal framework for prioritising key energy infrastructure projects among Contracting Parties and between Contracting Parties and EU Member States.

Regulation (EU) No 347/2013 as adopted in the Energy Community sets a comprehensive framework for streamlining the permitting, regulatory and cost-allocation procedures in Contracting Parties. It also requires, subject to a number of criteria, a Ministerial Council decision to establish under Title III of the Energy Community Treaty a list of priority infrastructure projects called projects of Energy Community interest (PECI). The Regulation gives also a possibility to apply its provisions to projects of mutual interest (PMI) i.e. projects that are recognised by two neighbouring states (a Contracting Party on one side, and a Member State on the other side) as important but do not have the legal status of a PECI. The final transposition deadline for main provisions of the Regulation and deadline for establishment of the list of PECI was the 31<sup>st</sup> of December 2016.

As required by the provisions Regulation (EU) No 347/2013, as adopted in the Energy Community, two working Groups were created in order to prepare PECI list, and respectively the PMI list. Projects that have been submitted by project promoters have been consulted in a public consultation launched by Energy Community Secretariat on 30<sup>th</sup> March 2020. In the course of 2020, projects were assessed as regards their eligibility for the PECI and PMI status.

Hereby the Secretariat proposes to the Ministerial Council of the Energy Community to issue a Recommendation to give a political impetus and undertake all necessary regulatory measures in order to progress with the realisation of PMIs. This category of infrastructure projects includes those that benefit one or more Contracting Parties and one or more Member States but do not have a Project of common interest (PCI) status in the European Union, in line with the Regulation (EU) 347/2013. These projects are not granted a status of project of Energy Community Interest but are at the same time supported by Contracting Parties and the Member States concerned.

## 2. Legal basis of the proposal

Under Article 82 of the Treaty of the Energy Community the Ministerial Council shall take measures under Title III on a proposal from a Party or the Secretariat.

The Secretariat submits the proposed List of PMI in the Annex upon the initiative of Electricity Group, respectively, Gas and Oil Group and in agreement with the services of the European Commission. If and to the extent the Secretariat is being made aware of any concerns regarding a Project of mutual interest's compliance with Energy Community law, it may propose to the Ministerial Council to remove the Project from the List in accordance with Article 5(8) of Regulation (EU) No 347/2013

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<sup>3</sup> D/2015/09/MC-EnC

of the European Parliament and of the Council on Guidelines for trans-European Energy Infrastructure, as incorporated in the Energy Community.

**ANNEX**

**List of PMI in Electricity**

EL_07	400 kV Mukacheve (Ukraine) – V.Kapusany (Slovakia) OHL rehabilitation
EL_09	750 kV Pivdennoukrainska (Ukraine) – Isaccea (Romania) OHL rehabilitation and modernization
a	Upgrade and extension of the internal line within Ukraine; Yuzo Ukrainska- Prymorska
b	Upgrade and extension of the cross-border line between Ukraine and Romania; Prymorska – Issacea

**List of PMI in Gas**

#	Project Name	Cluster
Gas_29	SCP Georgian Offtake Expansion for EU LNG Swap	N/A
Gas_10	Gas Interconnector Serbia-Croatia (Phase I)	N/A
Gas_28	Trans-Anatolian Pipeline Expansion - TANAPX	Southern Gas Corridor Expansion-TANAPX-SCPFIX-IAP
Gas_22	South Caucasus Pipeline Further Expansion - SCPFIX	Southern Gas Corridor Expansion-TANAPX-SCPFIX-IAP
Gas_16	Ionian Adriatic Pipeline - IAP	Southern Gas Corridor Expansion-TANAPX-SCPFIX-IAP
Gas_4b	Interconnector Greece-North Macedonia	Supplying North Macedonia competing projects' cluster
Gas_01	Interconnector Bosnia and Herzegovina - Croatia North	Supplying Bosnia and Herzegovina competing projects' cluster
Gas_03	Interconnector Bosnia and Herzegovina - Croatia South	Supplying Bosnia and Herzegovina competing projects' cluster

**List of PMI in Oil**

Oil_02	Transportation of different crudes of oil via Southern Druzhba pipeline
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