

DECISION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

2023/08/MC-EnC on the failure by Kosovo*¹ to comply with the Energy Community Treaty in Case ECS-11/23

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-11/23 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 24 August 2023;

Having regard to the Opinion by the Advisory Committee established under Article 32 of Dispute Settlement Rules, dated 29 November 2023;

HAS ADOPTED THIS DECISION:

Article 1 Failure by Kosovo* to comply with the Treaty

1. By failing to adopt and apply the laws, regulations and administrative provisions necessary to comply with Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage, as adapted and adopted by Ministerial Decision 2016/14/MC-EnC by 1 January 2021, and by failing to forthwith notify those measures to the Secretariat, Kosovo* fails to comply with Articles 6, 12 and 89 of the Energy Community Treaty and Article 3 of Ministerial Council Decision 2016/14/MC-EnC.
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



Presidency