

DECISION

OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

D/2015/10MC-EnC: on imposing measures on Bosnia and Herzegovina pursuant to Article 92(1) of the Treaty

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY,

Having regard to the Treaty establishing the Energy Community ("the Treaty"), and in particular Article 92(1) thereof, as well as Articles 39 to 41 of Procedural Act No 2008/1/MC-EnC of the Ministerial Council of the Energy Community of 27 June 2008 on the Rules of Procedure for Dispute Settlement under the Treaty,

Having regard to Ministerial Council Decision 2013/04/MC-EnC of 24 October 2013 in Case ECS-8/11,

On the basis of Ministerial Council Decision 2014/04/MC-EnC of 23 September 2014 in Case ECS-8/11, considering the failure to adopt legislation in compliance with Directive 2009/73/EC and Regulation (EC) 715/2009 as a serious and persistent breach within the meaning of Article 92 of the Treaty,

Having regard to the failure by Bosnia and Herzegovina to rectify all breaches identified in Article 1 of Decision 2013/04/MC-EnC and Article 1 of Decision 2014/04/MC-EnC, and ensure compliance with Energy Community law as requested by Article 2 of Decision 2014/04/MC-EnC,

Having regard to the Ministerial Council conclusion of 23 September 2014 recalling the possibility to impose measures under Article 92 at its next meeting in 2016,

Considering the assistance provided by the Secretariat by submitting a draft gas legislation to the authorities of Bosnia and Herzegovina,

Considering that no progress has been achieved to date in adopting a compliant gas legislation rectifying the breaches identified by Decisions 2013/04/MC-EnC and 2014/04/MC-EnC,

Considering that breaches of Energy Community law by its entities are attributable to Bosnia and Herzegovina as a Contracting Party to the Treaty,

Upon Request by the Secretariat,

HAS ADOPTED THIS DECISION:

Article 1
Failure to rectify serious and persistent breach

Bosnia and Herzegovina failed to implement Ministerial Council Decisions 2013/04/MC-EnC and 2014/04/MC-EnC and thus to rectify the serious and persistent breaches identified in these Decisions.

Article 2
Measures under Article 92

1. The right of Bosnia and Herzegovina to participate in votes for Measures and Procedural Acts adopted under Chapter VI of Title V of the Treaty is suspended.
2. The Secretariat is requested to suspend the application of its Reimbursement Rules to the representatives of Bosnia and Herzegovina for all meetings organized by the Energy Community.
3. The effect of the measures under Article 92 listed in this Article is limited to one year upon its adoption. Based on a report by the Secretariat, the Ministerial Council will review the effectiveness and the need for maintaining these measures at its next meeting in 2016.

Article 3
Follow-up

1. The European Union, in line with Article 6 of the Treaty, will, during the period of infringement, analyse appropriate measures with regard to the suspension of financial support to projects in the gas sector in Bosnia and Herzegovina which should have no influence on the possibility to rectify the identified breaches.
2. Bosnia and Herzegovina shall take all appropriate measures to rectify the breaches identified in Ministerial Council Decision 2013/04/MC-EnC in cooperation with the Secretariat and shall report to the Ministerial Council about the implementation measures taken in 2016.
3. The Secretariat is invited to monitor compliance of the measures taken by Bosnia and Herzegovina with the *acquis communautaire*.

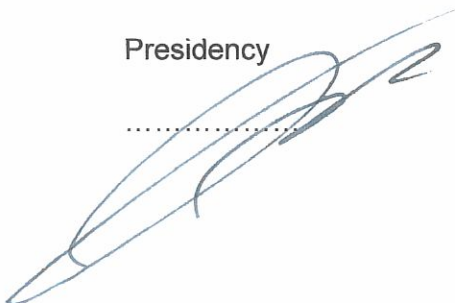
Article 4
Addressees and entry into force

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

Done in Tirana on 16 October 2015

For the Ministerial Council

Presidency

A large, stylized handwritten signature in blue ink, written over a dotted line.