

DECISION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

2021/03/MC-EnC: on the failure by Bosnia and Herzegovina to comply with the Energy Community Treaty in Case ECS-10/18

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 the Reasoned Request by the Secretariat in Case ECS-10/18 dated 26 June 2020;

Having regard to the public hearing of 9 October 2020,

Having regard to the Opinion by the Advisory Committee established under Article 32 of Dispute Settlement Rules, dated 15 November 2021;

HAS ADOPTED THIS DECISION:

Article 1

Failure by Bosnia and Herzegovina to comply with the Treaty

1. By adopting and maintaining in force Decision No UP/I 03-26-1-42-4/18 of the State Aid Council of Bosnia and Herzegovina of 23 July 2018, deciding that a guarantee issued by the Federation of Bosnia and Herzegovina in favour of the Export-Import Bank of China to secure a loan of the public utility Elektroprivreda Bosne i Hercegovine does not constitute State aid within the meaning of Article 18(1)(c) of the Treaty, Bosnia and Herzegovina fails to fulfil its obligations under Article 18 of the Treaty.
2. For the reasons sustaining these findings, reference is made to the Reasoned Request.

Article 2

Follow-up

1. Bosnia and Herzegovina shall take all appropriate measures to rectify the breach identified in Article 1 and ensure compliance with Energy Community law immediately. Bosnia and Herzegovina shall report regularly to the Secretariat and the Permanent High Level Group about the measures taken in 2022.

2. If the breach has not been rectified by 1 July 2022, 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 Belgrade, on 30 November 2021

For the Ministerial Council

A handwritten signature in blue ink, appearing to be "Zorana Zhelezjaskova".

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Presidency