



ANNUAL REPORT ON THE ACTIVITIES OF THE ENERGY COMMUNITY

ENERGY COMMUNITY SECRETARIAT

1 SEPTEMBER 2016

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2015/2016

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# Annual Report on the Activities of the Energy Community 2015 - 2016

This Annual Report on the Activities of the Energy Community outlines key Energy Community activities and achievements in the period from 1 September 2015 to 1 September 2016 following the requirements of Article 52<sup>1</sup> of the Energy Community Treaty. Over this period, the Energy Community Contracting Parties and institutions have worked intensively towards implementation of the Treaty *acquis*, as reflected in detail in the Annual Implementation Report 2015 - 2016.

## a. This Year's Highlights

### 1. A Competitive and Integrated Energy Market – Implementing the Third Package for Electricity and Gas

Following the transposition of the Third Energy Package in Serbia and Albania and in the gas sector in Ukraine, three additional Contracting Parties - Moldova, Montenegro and Kosovo\* - followed suit during this reporting period. The focus of these countries has now shifted to implementation via the adoption of secondary legislation. The Secretariat has continued to assist the Contracting Parties in the implementation stage. In several instances, this has meant stepping on untested ground as the Secretariat made use of its new competences under the Third Energy Package for the first time.



Hearing on draft unbundling plan of Naftogaz, Vienna, 14 March 2016

Prime examples include the Secretariat's first Opinion on the certification of the *Trans Adriatic Pipeline (TAP) AG* as transmission system operator under the Third Energy Package. The Secretariat also actively assisted in the preparation of the unbundling plan of Ukraine's gas incumbent *Naftogaz* by participating in working groups, parliamentary and government

meetings and organizing a stakeholder hearing in Vienna. The Secretariat conducted a compliance assessment and issued its conditional approval of the selected unbundling model, on the basis of which the Ukrainian authorities brought the plan in line with the provisions of the Third Energy Package.



## Rule of Law - A Precondition for TAP Investors

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*"Not only does the Trans Adriatic Pipeline (TAP) increase Europe's security and diversification of gas supply, it brings real investments to the countries involved. The adoption of European rule of law in Albania was a key precondition for our engagement there. The Energy Community provides TAP and its shareholders the legal framework investors need. But rules which exist only on paper are no rules at all. We are very grateful to the Secretariat's team for taking these rules seriously, going out of their way to ensure compliance in day-to-day operations and being open and responsive to our input."*

Lutz Landwehr  
Commercial Director  
*Trans Adriatic Pipeline*

Under a 150,000 GBP grant contract with the United Kingdom Secretary for State for Foreign and Commonwealth Affairs, the Energy Community Secretariat managed a seven-month project consisting of drafting secondary electricity legislation in compliance with the Third Energy Package and the relevant guidelines for Ukraine. For this purpose, the Energy Community Secretariat hired a team of three international experts based in Kyiv. The project team delivered 21 complete drafts of secondary legal acts and three conceptual drafts (out of 33 envisaged by the draft electricity law). The draft secondary legal acts were verified for compliance with the Energy Community *acquis* by the Secretariat.

Given the failure of Bosnia and Herzegovina and former Yugoslav Republic of Macedonia to adopt the Third Energy Package, the Secretariat has initiated a dispute settlement procedure against the two countries and submitted a Reasoned Request to the Ministerial Council following a new expedited procedure for non-transposition of the *acquis*.

<sup>1</sup> Article 52: The Ministerial Council shall submit an annual report on the activities of the Energy Community to the European Parliament and to the Parliaments of the Adhering Parties and of the Participants.



## Dispute Resolution in the Energy Community

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*"In the Republic of Moldova, electricity tariffs had not been adjusted to reflect real energy costs since 2012. This led to a huge tariff deficit (equivalent to circa 1.7% of the GDP of the country), increasing indebtedness in the sector and imminent risk of massive power interruptions. The state-owned power companies had also sued Gas Natural Fenosa (GNF) and, in turn, GNF was forced to launch an international arbitration to protect its interests in Moldova."*

*"To solve the situation in an amicable way, GNF and the Government of Moldova agreed to have the mediation of the Secretariat of the Energy Community, and with the facilitation of Deputy Director Dirk Buschle, the parties have been able to agree on a compromise. The deal will be implemented as of 1.1.2017 and should bring back financial stability to the energy sector, terminate the threat of power interruptions and help restore proper investment conditions in Moldova. Without the Secretariat's support, resolving that dispute would have hardly been possible."*

Jose Luis Gomez Pascual  
President & Country Manager  
Gas Natural Fenosa Moldova

implementation projects, and details of important technical solutions.



*Serbian representatives sign Western Balkan 6 Memorandum of Understandings, Vienna, 27 April 2016*

At the Western Balkan 6 Summit in Paris on 4 July 2016, the WB6 countries reiterated their commitments made under the Energy Community Treaty and at the WB6 Summit in Vienna in 2015.

In order to further assist the Western Balkan governments in achieving their goal of a regional energy market, the Secretariat and the European Commission signed a grant contract for technical assistance to facilitate the implementation of the energy soft measures that will remove the existing legislative and regulatory barriers and enhance the institutional structures necessary for the functioning of this market in line with the Treaty and relevant EU *acquis*. The budget of the "CONNECTA" project amounts to 1 mil. EUR.

### 2. Creating a Regional Electricity Market in the Western Balkans

Following the Western Balkan 6 Summit in Vienna, where leaders committed to implement a list of energy legal and regulatory "soft measures" to establish a regional electricity market, the Secretariat has played a key role in leading the development of that market and assisting the Contracting Parties in the implementation of these measures. The regional measures under the WB6 initiative consist of establishing power exchanges, a regional balancing market and making the best use of the already existing *Coordinated Auction Office in Southeast Europe (SEE CAO)* for regional capacity allocation. Via regular reporting, the Secretariat has tracked the progress made by the Contracting Parties in their implementation of the soft measures.

A Memorandum of Understanding of Western Balkan 6 on Regional Electricity Market Development and Establishing a Framework for Future Cooperation was signed by representatives of transmission system operators, national regulatory authorities, ministries of energy and power exchanges of the Western Balkan 6 countries on 27 April 2016 at the seat of the Secretariat in Vienna. The memorandum marks a milestone towards regional electricity market integration by setting out general principles of cooperation as well as concrete actions to develop the regional electricity market, governance of its

### 3. Western Balkan 6 Sign Up to Sustainability Charter

The six Contracting Parties from South East Europe agreed on a Sustainability Charter at the Western Balkan 6 Summit in Paris in July 2016. Underlining the need to improve the health situation and prosperity in the region, the WB6 countries agreed to upgrade their efforts to tap into their energy saving and renewable energy generation potential.

Each WB6 country committed to implementing specific measures by a set deadline to improve energy efficiency governance and implement smart support measures to improve sustainability of their energy systems.

They also agreed to work towards the implementation of robust domestic greenhouse gas emission monitoring and reporting systems in line with EU legislation.

### 4. Georgia to Join the Energy Community Family

Following two and a half years of negotiations, Georgia has now concluded its accession negotiations to join the Energy Community as a full-fledged member. Georgia is expected to join the Energy Community in early 2017, following a positive

decision by the Ministerial Council in October 2016 and ratification of the accession agreement. Georgia's membership will move the Energy Community's borders to the Caucasus.

### 5. Energy Community Secretariat Takes Over Technical Assistance for Eastern Partnership Countries

In June 2016, the Energy Community Secretariat signed a grant contract with the European Commission for providing technical assistance to Eastern Partnership countries in the framework of the EU4Energy Project, which is a continuation of the previous INOGATE programme. The initiative covers six countries - Mol-

dova, Ukraine, Armenia, Georgia, Azerbaijan and Belarus and will focus on improvement of energy legislative and regulatory frameworks; implementation of policy recommendations and investment promotion for energy infrastructure strategic projects.

The four-year work programme with a budget of 6.8 mil. EUR will be built on the countries' obligations under the Energy Community Treaty, EU Association Agreements (when applicable) and national priorities. EU4Energy will cover gas, electricity, energy efficiency and renewables issues.



First Civil Society Day, Vienna, 21 June 2016

### 6. Energy Community Holds First Civil Society Day

The inaugural Energy Community Civil Society Day brought together 24 non-governmental and civil society organisations from 11 countries at the premises of the Secretariat on 21 June 2016. Representatives of international financial institutions, academic institutions, government ministries as well as European Parliament and Commission also took part. The aim of the event, which will be organised on an annual basis, is to increase transparency of the Energy Community process and provide a forum for dialogue on issues which matter to civil society.

Participants received an insight into the latest policy developments in the energy efficiency and environmental areas. Opportunities, challenges and expectations for a reformed Energy Community were the focus of a roundtable discussion with Energy Community Permanent High Level Group (PHLG) Members.

### 7. Building Modern Infrastructure to Connect Energy Markets

The selection procedure for Projects of Energy Community Interest (PECI) and Projects of Mutual Interest (PMI) in electricity, gas and oil infrastructure, as prescribed by the Regulation on

Guidelines for Trans-European Energy Infrastructure adopted in the Energy Community, took place in 2016. The preliminary list of projects was drawn up by stakeholder electricity and gas groups and the final list is expected to be approved by the Ministerial Council in October 2016. The projects having received the PECEI label will be entitled to a fast-track permit granting procedure within the host countries and be eligible to apply for grants for studies and works from the Instrument for Pre-Accession Assistance (IPA) framework and the Neighbourhood Investment Facility (NIF).

#### 8. All Energy Community Contracting Parties Now in EUROSTAT

Following the Secretariat's active engagement, the European Commission and *EUROSTAT*, the EU's statistical office, agreed to include in its statistical database data submitted not only by EU Candidate and Potential Candidate Countries, but also by any other current Contracting Party. Thus, all Contracting Parties of the Energy Community, including Moldova and Ukraine, are now able to submit their energy statistics to *EUROSTAT* for publication as obliged by the reporting rules of the statistical *acquis*.

In addition, for the first time all Contracting Parties compiled a set of information on gas and electricity prices charged to end-users in order to achieve compliance with the *acquis*.

These achievements follow two-years of technical assistance provided to the Contracting Parties to improve the completeness and quality of their energy statistics in order to comply with the Energy Community *acquis*.

#### 9. Energy Community Regulatory Board – Dismantling Regulatory Barriers to Regional Energy Market Development

As in previous years, customer issues, electricity and gas formed the backbone of the Energy Community Regulatory Board's (ECRB) activities. During this reporting period, ECRB published a recommendation paper on risk-related regulatory investment incentives for Projects of Energy Community Interest; a review of independence of national energy regulators in the Energy Community; a review of gas quality standards in the Energy Community and their convergence with European standards; a brochure on raising consumer awareness of their rights in a liberalised energy market as well as regular reports on the development of the electricity wholesale market in cooperation with the *Agency for the Cooperation of European Regulators (ACER)*.

ECRB also acted on its mandate to provide coordinated regulatory positions on relevant cross-border issues by issuing an opinion on the Albanian regulator's draft decision for certification of the *Trans Adriatic Pipeline*; performed a common review of the Auction Rules for the Coordinated Auction Office in South East Europe (SEE CAO) and presented a position paper on the treatment of interconnections between EU Member States and Contracting Parties.

#### b. Events

In the reporting period, the Energy Community organised more than 60 official events, which attracted around 2.600 participants. Apart from the regular institutional meetings, the Secretariat organised a number of thematic workshops to reflect the current policy priorities, including meetings on extending the *acquis* to include rules on public procurement and implementation of Network Codes. The cooperation among Energy Community Distribution System Operators for Gas was kicked off with the establishment of an ECDSO-g Coordination Platform.



#### Bringing Together Gas DSOs

**I** The Energy Community Treaty set up a wide framework which enables the involvement of different stakeholders. However, gas distribution system operators have featured less prominently during the reform process of the national energy sectors up till now. To close this gap, the Secretariat initiated the establishment of an ECDSO-g Coordination Platform where distribution system operators can exchange best practices and discuss challenges for technical operation faced during the implementation of the Third Energy Package. The first meeting took place on 23 June 2016 in Prague where the group's work programme priorities such as unbundling requirements, cooperation/interface TSO-DSO, consumption profiles, tariff structure, gas quality, technical regulation and equipment standards were agreed.

As for the Energy Community's high level events, the fourth "Vienna Forum on European Energy Law" brought together over 150 experts from energy companies, regulators, governments, academia and legal firms on 14 - 15 April 2016. The Forum covered the most relevant issues on the agendas of both the European Union and the Energy Community, including emerging governance of the Energy Union, security of gas supply, renewables, energy efficiency and energy dispute resolution. For the first time the Vienna Forum featured a high level ministerial panel opened by Mr Dominique Ristori, Director-General for Energy at the European Commission.



Mr Dominique Ristori, Director-General for Energy, European Commission, Vienna Energy Law Forum, 15 April 2016

### c. Communication Tools

The Secretariat has continued to use its website and news/publication subscription services as a key communication tool with stakeholders. To better showcase latest *acquis* implementation progress by the Contracting Parties, the Secretariat has introduced a new "Implementation Monitoring" section on the homepage of the Energy Community website.

	<b>146.098</b> Website visitors	<b>in 2015</b>
	<b>3100</b> News subscribers	
	<b>94</b> News items	
	<b>14</b> Feature articles	

In 2015, 146.098 individuals visited the Energy Community website, representing a 15% increase from the previous year. The Secretariat published 94 news items/press releases. It has continued to regularly publish its "Country Brief – Spotlight on Ukraine", which outlines the country's latest developments and the Secretariat's work to support the implementation of the *acquis*.

Moreover, the Secretariat continued to maintain its excellent relationships with journalists and its experts frequently provided commentary to the media. Fourteen feature articles by the Energy Community Directors or its staff were published during this reporting period.

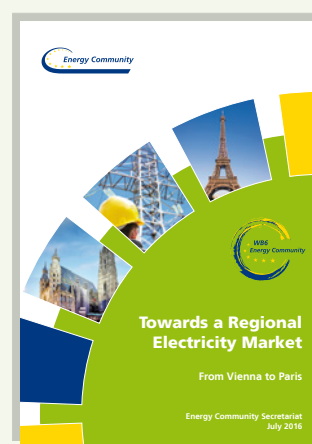
This year, the Secretariat has also widened its social media

presence, which now includes Facebook and LinkedIn, in addition to Twitter.

In the reporting period, the Secretariat carried out two public consultations – the first invited project promoters to submit candidate priority infrastructure projects and the second sought stakeholder views on the submitted projects.

### d. Studies and Publications

As the monitoring authority for the Western Balkan 6 electricity market integration initiative, the Secretariat has issued three bi-monthly monitoring reports and a final report documenting the progress made by the six Western Balkan countries in implementation of the energy soft measures endorsed at the Vienna Summit. In parallel, the Secretariat has published, as part of its monitoring tasks, three bi-monthly monitoring reports that take stock of the progress achieved under the Central and South-Eastern European Gas Connectivity (CESEC) initiative.



The Secretariat has also issued Policy Guidelines "On the Promotion of Organised Electricity Markets in the Contracting Parties". The Guidelines aim at facilitating the establishment of organised market structures in the Contracting Parties by providing guidance on the harmonised development of the institutions, processes and compatible rules needed to reach the targets foreseen. In addition, the Secretariat published two Policy Guidelines on the granting of State aid - "On Reform of the Support Schemes for Promotion of Energy from Renewable Sources" and "On the Applicability of the Guidelines on State Aid for Environmental Protection and Energy 2014 - 2020".

For the first time, the Energy Community Secretariat conducted a comprehensive assessment of compliance with the Energy Community *acquis* of an Observer to the Energy Community Treaty – the Republic of Turkey. The report titled "Energy Governance in Turkey" was published in October 2015.



During the reporting period, the Secretariat published two studies titled *"Energy Community Cross-Border Gas Market Integration Study"* and *"Assessment of Renewable Energy Action Plan Implementation and Progress of Renewable Energy in Energy Community"*.

In addition, the Secretariat published a special edition of the Energy Community legal framework focused on energy efficiency. The publication brings together in one place the legal acts in force, relevant Ministerial Council decisions and procedural acts amending the original EU *acquis* as well as all implementing directives and delegated regulations on energy labelling currently in force in the Energy Community.

#### e. Staff

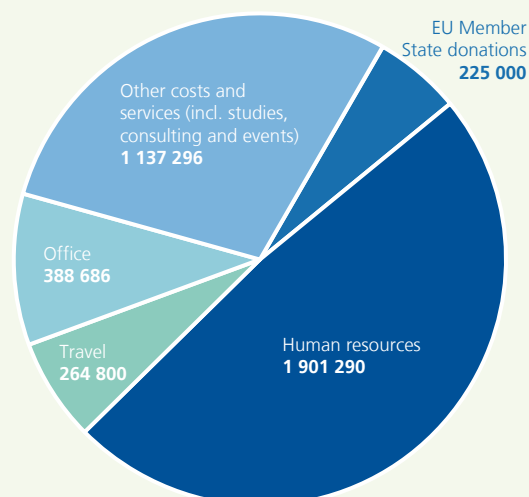
In the reporting period, the Energy Community employed 32 permanent staff members and two locally recruited staff members at its Secretariat in Vienna. Moreover, five secondees, six interns and three research fellows from the Energy Community member and observer countries gained valuable insight into the energy policies of the Contracting Parties and contributed to the Secretariat's work. Overall, 24 different nationalities were represented.

#### f. Energy Community Budget 2015

The Energy Community's revenue consists of members' contributions; donation from the Republic of Austria for payment of premises (in 2015 in the amount of 169.482 EUR), bank interest and other income (amounting to less than 1% of the total budget). The EU is by far the largest contributor, accounting for almost 95% of the contributions (total amount 3.517.786 EUR). On top of the regular contributions, the Energy Community received in 2015 donations from the Republic of Poland in the amount of 15.000 EUR and from the United Kingdom in the amount of 210.000 EUR.

The final budget for 2015 amounted to 3.917.072 EUR.

Final Budget 2015 (in EUR)



#### A View from Inside the Secretariat

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*"As research fellow at the Energy Community Secretariat for a two year period, I have an extraordinary opportunity to work on and observe activities across a huge field of expertise. Since it's an international organization where eight contracting parties, three observer countries and twenty-eight EU members meet, I interact with representatives of these countries and develop my interpersonal skills in a multinational and multicultural environment. I recommend to everyone who is interested in the energy sector to apply for a working experience at the Energy Community Secretariat because it offers great options to pursue one's research ambitions, gain practical work experience, increase knowledge and develop interpersonal skills in a dynamic and stimulating environment."*

Erkut Kirmizioglu  
Industry and Technology Expert  
Ministry of Science, Industry and Technology,  
Republic of Turkey



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