

DECISION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

2018/17/MC-EnC on extending the measures imposed on Bosnia and Herzegovina under 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;

Having regard to Ministerial Council Decision 2013/04/MC-EnC of Ministerial Council Decision 2014/04/MC-EnC of 23 September 2014 on a serious and persistent breach within the meaning of Article 92 of the Treaty;

Having regard to Ministerial Council Decision 2015/10/MC-EnC of 16 October 2015 imposing measures on Bosnia and Herzegovina pursuant to Article 92(1) of the Treaty;

Having regard to Ministerial Council Decision 2016/16/MC-EnC of 14 October 2016 extending the measures on Bosnia and Herzegovina pursuant to Article 92(1) of the Treaty;

Having regard to the continuous 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 failure by Bosnia and Herzegovina to take all appropriate measures to rectify the breaches identified in Ministerial Council Decision 2013/04/MC-EnC and to report to the Ministerial Council on any tangible progress thereto in 2016 as requested by Article 2 of Decision 2015/10/MC-EnC;

Having regard to the failure by Bosnia and Herzegovina to adopt a State Law by 31 March 2017 as requested under Article 3(3) of Decision 2016/16/MC-EnC;

Considering the overall assistance provided by the Secretariat to Bosnia and Herzegovina in drafting, assessing, reviewing and adjusting a draft gas legislation as well as organising and moderating common work with various stakeholders in the gas sector;

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

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, 2014/04/MC-EnC, 2015/10/MC-EnC and 2016/16/MC-EnC and thus to rectify the serious and persistent breaches identified in these Decisions.

Article 2
Measures under Article 92

The duration of the measures under Article 92 imposed by Article 2(2) of Decision 2015/10/MC-EnC and Article 3(1) of Decision 2016/16/MC-EnC is extended for one year if, within six months of the present Decision, the breaches referred to in Article 1 of the present Decision are not rectified.

In addition, the right of Bosnia and Herzegovina to participate in votes for Measures adopted under Title II of the Treaty related to adoption of new *acquis* in the gas sector by all Energy Community institutions, as well as the right to participate in votes for Measures under Article 91 of the Treaty will be suspended.

Article 3
Follow-up

1. Based on a report by the Secretariat, the Ministerial Council will review the effectiveness and the need for maintaining these measures further at its meeting in the second half of 2019.
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 Skopje, on 29 November 2018

For the Ministerial Council

A handwritten signature in blue ink, appearing to be 'A. Blazevic', written over a dotted line.

Presidency