

DECISION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

D/2016/17/MC-EnC on imposing measures on the Republic of Serbia 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;

On the basis of Ministerial Council Decision 2014/03/MC-EnC of 23 September 2014 in Case ECS-9/13 declaring the existence of a breach by the Republic of Serbia of its obligations relating to unbundling of its gas transmission system operators, and in particular the failure to comply with Articles 9(1) and 9 (2) of Directive 2003/55/EC;

Having regard to the failure by the Republic of Serbia to rectify all breaches identified in Article 1 of Decision 2014/03/MC-EnC and ensure compliance with Energy Community law as requested by Article 2 of Decision 2014/03/MC-EnC;

Having regard to the Ministerial Council invitation to the Secretariat to initiate a procedure under Article 92 of the Treaty should the breaches identified in Article 1 of Decision 2014/03/MC-EnC be not rectified;

Considering the assistance provided by the Secretariat to the Republic of Serbia in structuring and drafting the measures, action plan and relevant legal and corporate acts for unbundling of gas transmission system operators in compliance with Energy Community law;

Considering that no tangible progress has been achieved in the aftermath of Decision 2014/03/MC-EnC with regard to the unbundling of gas transmission system operators in the Republic of Serbia;

Upon Request by the Secretariat;

HAS ADOPTED THIS DECISION:

Article 1 Serious and persistent breach

The failure by Serbia to implement Ministerial Council Decision 2014/03/MC-EnC and thus to rectify the breaches identified in this Decision constitutes a serious and persistent breach within the meaning of Article 92(1) of the Treaty.

**Article 2
Follow-up**

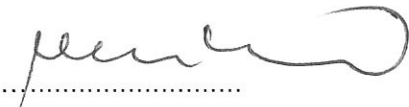
1. The Republic of Serbia shall take all appropriate measures to rectify the breaches identified in Ministerial Council Decision 2014/03/MC-EnC in cooperation with the Secretariat and shall report to the Ministerial Council about the implementation measures taken in 2017.
2. The Secretariat is invited to monitor compliance of the measures taken by the Republic of Serbia with the *acquis communautaire*.
3. If Serbia fails to implement the Action Plan adopted by the Government's conclusion on 11 October 2016, the Secretariat is invited to request Measures under Article 92 of the Treaty in 2017.

**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 Sarajevo on 14 October 2016

For the Presidency



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