

DECISION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

2021/01/MC-EnC: on the failure by the Republic of Serbia to comply with the Energy Community Treaty in Case ECS-13/17

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-13/17 dated 23 July 2019;

Having regard to the Reply by Republic of Serbia dated 12 September 2019;

Having regard to the public hearing of 29 June 2020,

Having regard to the Opinion by the Advisory Committee established under Article 32 of Procedural Act No 2008/01/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 as amended by Procedural Act No 2015/04/MC-EnC, dated 25 January 2021;

HAS ADOPTED THIS DECISION:

Article 1 **Failure by the Republic of Serbia to comply with the Treaty**

1. Due to the unjustified exclusion by *Srbijagas* of the Horgoš entry point from unrestricted and non-discriminatory third party access and from open capacity allocation procedures, the Republic of Serbia violates Article 32 of Directive 2009/73/EC and Article 16 of Regulation (EC) 715/2009, as incorporated in the Energy Community, and therefore fails to fulfil its obligations under Articles 6, 10 and 11 of the Treaty.

2. For the reasons sustaining these findings, reference is made to the Reasoned Request, with the exception of paragraph 71 thereof.

**Article 2
Follow-up**

1. The Republic of Serbia shall take all appropriate measures to rectify the breach identified in Article 1 and ensure compliance with Energy Community law immediately. Republic of Serbia shall report regularly to the Secretariat and the Permanent High Level Group about the measures taken in 2021.

2. If the breach has not been rectified by 1 July 2021, 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 by written procedure on 30 April 2021

For the Presidency

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