

A large photograph of a high-voltage power line tower under construction. Several workers in safety gear are visible on the structure against a clear blue sky.

Report to the Ministerial Council on Opinions Issued, in line with Article 24 of Regulation 347/2013

Infrastructure



Energy Community Secretariat
10 Oct 2019

I. Legal Background

Based on the Article 24/Reporting of the adopted Regulation 347/2013:

- 1) *“The Secretariat shall monitor and review the application of this Decision [2015/09/MC-EnC adopting the Regulation 347/2013] in the Contracting Parties.*
- 2) *The Secretariat shall present a report to the Ministerial Council for the first time by 30 November 2016, and thereafter on an annual basis, summarising the opinions issued by the Secretariat in application of the acts referred to in Article 1, as adapted by this Decision.”*

The Secretariat shall carry out its work based on the following provisions of the Regulation Article 24/Implementation of the energy acquis:

- 1) *“Each Contracting Party shall bring into force the laws, regulations and administrative provisions necessary to comply with Regulation (EU) No 347/2013, as adapted by this Decision, **by 31 December 2016**. They shall forthwith inform the Energy Community Secretariat thereof. The Contracting Parties shall apply those measures from 1 January 2017.*
- 2) *The Contracting Parties shall communicate to the Energy Community Secretariat the text of the main provisions of national law which they adopt in the field covered by this Decision.”*

II. Implementation Status of Regulation 347/2013 in the Contracting Parties

Based on the above provisions, the Secretariat is assisting the Contracting Parties with the implementation of Regulation 347/2013 and monitors its status in each country.

The Secretariat issues a detailed Annual Implementation Report on the Energy Community Acquis, including a chapter on Regulation 347/2013, as implemented in the Contracting Parties. This Report is presented to the Ministerial Council each year.

The Secretariat has identified a number of milestones in the Regulation provisions and use these as milestones in monitoring.

These include:

1. Nomination of a National Competent Authority
2. Publication of the Manual of Procedures by the National Competent Authority
3. Publication by National Regulatory Authority of a Set of indicators and corresponding reference values for comparison of investment unit costs
4. Publication by National Regulatory Authority of a Methodology and the criteria used to evaluate investments in electricity and gas infrastructure projects and the higher risks incurred by these.

Each of these milestones were assigned a weighting factor from 0% to 100% and the final level of implementation of Regulation 347/2013 was scored accordingly.

A summary of the 2019 Implementation Report – chapter on Regulation 347/EU is presented below in the two tables bellow.

Implementation status – summary tables:

	National Competent Authority	Manual of procedures	Set of indicators and corresponding reference values for the comparison of unit investment costs	Methodology and the criteria used to evaluate investment with the higher risks	Implementation progress
Weighting factor	0,4	0,3	0,15	0,15	
AL	70%	30%	100%	0%	52%
BA	30%	30%	30%	0%	26%
GE	0%	30%	30%	70%	24%
KS*	100%	70%	30%	100%	81%
MD	30%	30%	30%	0%	26%
ME	30%	30%	30%	100%	41%
MK	30%	70%	30%	0%	38%
RS	70%	30%	30%	30%	46%
UA	0%	30%	100%	0%	24%

30% draft decision, law, by-law
70% adapted and designated
100% operational

30% first general draft
70% final draft/national specifics
100% published

30% first general draft
70% final draft/national specifics
100% published

30% first general draft
70% final draft/national specifics
100% published

	Assistance	Draft: decision, instruction, by-law or law amendments	Adopted: decision, instruction, by-law or law amendments	National Competent Authority established/ operational	Manual of procedures published	Methodology and the criteria used to evaluate investment with the higher risks
AL	ECS implementation mission; request to use draft Administrative Instruction from KS*	Draft Administrative Instruction delivered by ECS and adapted by the line Ministry	The Council of Ministers in November 2018 has approved a Decision on the adoption of practices for promoting joint regional investments in the energy sector infrastructure, which transposed the Regulation (EU) No 347/2013. Further implementation activities are necessary in order to fully implement provisions defined by the Regulation.	N/A	N/A	N/A
BA	ECS implementation mission; consultant hired through USAID	Draft Decision on Implementation prepared by USAID and reviewed by ECS. The Ministry of Foreign Trade and Economic Relations prepared detailed information and draft a road map for the implementation of the Initiative Western Balkans 6, which has not been sent or presented to ECS yet.	N/A	N/A	N/A	N/A
GE	ECS implementation mission; request for additional assistance by ECS	N/A	N/A	N/A	N/A	NRA adopted the Methodology.
KS*	ECS implementation mission; no other assistance required	Draft Administrative Instruction prepared by KS* and reviewed by ECS	Administrative Instruction on the promotion of Joint regional investments in the energy sector which has transposed the Reg/347/2013, was signed by the Minister of the Ministry of Economic Development on 20.02.2017	NCA was established through the instruction on the promotion of joint regional investments in the energy sector which was signed by the Minister of the Ministry of Economic Development on 20.02.2017	The Ministry of Economic Development published the Manual of procedures, as defined by Regulation (EU) 347/2013, with technical assistance funded by the Energy Community; http://mzhe.ks.net/en/med-decision-on-the-establishment-of-a-competent-authority-one-stop-shop#XXor8n95-MB .	NRA complies with Article 13.6 of Regulation (EU) 347/2013, as it published its methodology and the criteria required by the Regulation on 10 May 2017.
MD	TA related to the transposition and implementation of the R347 was requested and provided during 2018	A draft amendment to the Energy Law transposing Regulation (EU) 347/2013 submitted to the Parliament for adoption foresees that the Ministry of Economy and Infrastructure will act as the national competent authority. The decision of the Parliament is pending.	N/A	N/A	N/A	N/A
ME	ECS implementation mission; consultant hired through IPA	The draft of the new Infrastructure Law, which will transpose Regulation 347/2013, has been prepared and submitted to the Secretariat for the comments.	The draft Law is expected to be adopted in the second half of 2019.	The solution envisaged by the Draft Law is that there is no need for establishment of a new institution which will be national competent authority. According to this new Law, national competent authority will be the Ministry of Economy.	N/A	NRA adopted the Methodology.
MK	TA related to the transposition and implementation of the R347 was requested and provided during 2018	Draft Law on Regulation 347/2013 as well as draft Law on Construction (partially covering R347 as well) are both prepared. Alignment ongoing...	N/A	N/A	Draft MoP was prepared through TA provided by ECS in 2018.	N/A
RS	ECS implementation mission; consultant hired through PLAC project	Draft Regulation establishing the Program of implementation of Energy Development Strategy for the period 2017-2023 30 June 2017	Regulation confirming the Program of implementation of Energy Development Strategy for the period 2017-2023 31 December 2017	After entering into force of the Regulation confirming the Program of implementation of Energy Strategy Development for the period 2017-2023	It will be defined subsequently by the ministry in charge for civil works	It will be defined subsequently by the ministry in charge for civil works
UA	ECS implementation mission; request for additional assistance by ECS	ECS provided TA related to the identification of the optimal model for transposition and implementation of the R347/2013 into the national legislation of Ukraine. Additional TA for drafting the Law on R347 was requested by the Ministry and will be provided to UA during 2019.	N/A	N/A	N/A	N/A

- No activity registered
- Draft Law, by-Law... prepared, ongoing activities
- Adopted/Transposed

III. Opinions issued by the Secretariat

Since the transposition of the Regulation 347/2013, by 31 December 2016, the Secretariat was not requested, and did not issued any opinion.

IV. Conclusions

The implementation of Regulation 347/2013 in the Energy Community is progressing slowly. The most advanced is implementation in Kosovo*, although no single real application of the provisions appears to be enacted.

Most of the Projects of Energy Community Interest and Projects of Mutual Interest are still in the phase of project preparation and not in construction phase.

The provisions will become more relevant when permitting, public consultations, and construction works will be implemented.