

**PROCEDURAL ACT**

**OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY**

**PA/2015/01/MC-EnC: on the adoption of the Energy Community budget for the years 2016 - 2017 and on the contributions by the Parties to this budget**

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY,

Having regard to the Treaty establishing the Energy Community, and in particular Articles 73, 74, 86 and 88 thereof,

Having regard to the Commission Decision of 7 August 2015 [Ref.: C(2015) 5526 final] on establishing the Commission's proposal to the Ministerial Council of the Energy Community on the Budget of the Energy Community for the period 2016-2017 proposal from the European Commission,

Having regard to Articles 24 and 25 of the Energy Community *Procedures for the Establishment and Implementation of Budget, Auditing and Inspection* (Procedural Act No 2006/03/MA-EnC as amended by Procedural Act 2014/01/MC-EnC),

Whereas the Ministerial Council shall adopt a bi-annual budget covering the operational expenses of the Energy Community necessary for the functioning of its institutions,

Whereas each Party shall contribute to the budget of the Energy Community in accordance with Annex IV to the Treaty establishing the Energy Community,

HAS DECIDED AS FOLLOWS:

**Article 1**

The Energy Community Budget covering the calendar years 2016 and 2017 as set forth in Annex 1 to the present Procedural Act is hereby adopted.

**Article 2**

With effect of 1 January 2016, the contributions to the budget of the Energy Community by the Parties are set out in Annex 1 to the present Procedural Act.

**Article 3**

This Procedural Act is addressed to all Parties and institutions under the Treaty establishing the Energy Community.

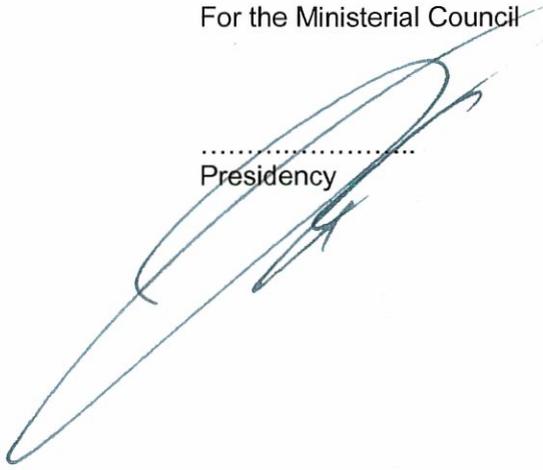
#### Article 4

The Director of the Energy Community Secretariat shall make this Procedural Act and its Annexes available to all Parties and institutions under the Treaty establishing the Energy Community within 7 days after its adoption.

Done in Tirana on 16 October 2015

For the Ministerial Council

.....  
Presidency

A large, stylized handwritten signature in blue ink, written over the signature line and extending upwards and to the right.

**ANNEX 1**  
**to the Commission Decision on establishing the Commission's proposal to the Ministerial**  
**Council of the Energy Community on the Budget of the Energy Community for the period**  
**2016-2017**

**Explanatory Memorandum**

**Contents**

1. Context of the proposal.....	4
1.1. Treaty basis .....	4
1.2. New provisions for 2016-2017 budget of the Energy Community .....	4
2. Outline of the Work Program 2016-2017.....	5
3. Budgetary Assumptions.....	8
4. Energy Community budget structure and description.....	9
4.1. Budget Line: Human Resources.....	9
4.2. Budget Line: Travel .....	10
4.3. Budget Line: Office.....	10
4.4. Budget Line: Other costs and services .....	11
5. Energy Community Budget 2016 in details .....	12
5.1. Expenditures on Human Resources 2014.....	12
5.2. Expenditures on Travels 2016.....	16
5.3. Expenditures on Office 2016.....	16
5.4. Other Costs and Services 2016 .....	17
6. Energy Community Budget 2017 in details .....	18
5.1. Expenditures on Human Resources 2017 .....	18
5.2. Expenditures on Travel 2017 .....	18
5.3. Expenditure on Office 2017.....	18
5.4. Expenditure Other Costs and Services .....	19
7. Estimate of the revenue 2016-2017 .....	20
8. Estimate of the expenditure 2016-2017 .....	21
9. Details of Estimate of the expenditure 2016-2017.....	22
10. Establishment Plan 2016-2017.....	23
11. Energy Community Salary Scale.....	24

## **1. CONTEXT OF THE PROPOSAL**

### **1.1. Treaty basis**

Articles 73 and 74 of the Treaty establishing the Energy Community (hereinafter referred to as the Treaty) stipulates that a Procedural Act adopted by unanimity by the Ministerial Council -on a proposal from the European Commission, shall lay down a biannual budget of the Energy Community. *It shall cover the operational expenditure of the Energy Community necessary for the functioning of its institutions.*

The Ministerial Council approved on 24 October 2013 the budget for the years 2014-2015 based on a proposal from the European Commission.

The present budget and explanatory memorandum - prepared by the Director as required under Article 30 of the applicable *Energy Community Procedures for the Establishment and Implementation of the Budget, Auditing and Inspection* (hereinafter referred to as the "*Budgetary Procedures*") - deals with few new elements as compared with the previous proposal of October 2013.

### **1.2. New provisions for 2016-2017 budget of the Energy Community**

In 2014, at its meeting in September, the Ministerial Council of the Energy Community approved proposed amendments of the Budgetary Procedures of the Energy Community upon proposal submitted by the Budget Committee.

The overall improvement of the Budgetary Procedures has been achieved through better definition of flexibility mechanisms in the amended Procedures regarding the budget transfers (Art 18 of the Budgetary Procedures) as well as assignment of accounting related duties (Art. 41 thereof) within the competences of the Director. Other provisions regarding the establishment of the budget remained the same.

## 2. OUTLINE OF THE WORK PROGRAM 2016-2017

### a. *Introduction*

Within the current budgetary period 2014-2015 the Energy Community has worked intensively towards implementation of the acquis under the Treaty in all specified areas (electricity, gas, oil, renewables, environment, energy efficiency, security of supply and competition). As reflected in detail in the Secretariat's annual implementation reports, the Contracting Parties have benefited from support by the Secretariat in transposing and implementing the acquis through drafting the legislation, compliance reviews, implementation partnerships, enforcement and negotiations for upgraded legislation, streamlining and coordination of technical assistance, capacity building, workshops, monitoring etc. Such a support will continue also in the next budgetary period. The work to be expected from the Contracting Parties, but also from the Energy Community institutions will become even more intensive as the focus shifts from mere transposition to true implementation, mostly through secondary legislation and regulatory acts. The Third Energy Package, which is expected to be transposed during 2015, will have to be implemented in 2016 and 2017. The steps to be taken in that respect with the assistance of the Secretariat include major tasks such as unbundling and certification of transmission system operators, unbundling of distribution system operators and full market opening. This will also require guidance on implementation of market based rules, e.g. related to balancing, day ahead markets, market coupling. This will increase the workload of both the Contracting Parties and the Secretariat immensely and pose new challenges for which the Energy Community is currently not sufficiently experienced and staffed. On a third layer, the Energy Community will have to get more involved in the application of the rules in individual cases. This includes, inter alia, , cross-border cost allocations for infrastructure, environmental impact assessment procedures for individual projects, the enforcement of competition and State aid law in individual cases etc. Public services and vulnerable customers protection, price regulation, , concentration of market power and conditions for entry on the energy markets, cross-border supply, transparency - all these areas have so far not been sufficiently covered by the Energy Community acquis and require more targeted efforts.

Over the past years, the Ministerial Council also broadened the scope of the acquis communautaire substantially. As has been mentioned, the Third Package brings big implementation challenges in the electricity and gas sectors. The network codes which are expected to be going to be adopted in next budgetary period deal with detailed procedures for which the Energy Community so far is not well-prepared. The Renewables Directive, Energy Efficiency Acquis (Energy Services Directive, Energy Performance in Buildings Directive, Energy Labeling and Delegated Regulations) and the Oil Stocks Directive in the petroleum sector are other cases in point. They will require intensive support by the institutions, and in particular by the Secretariat.

The same goes for new in statistics as well as the persisting task of implementing the Large Combustion Plants Directive and Industrial Emissions Directive with its huge impact on the energy sectors and a low degree of preparedness only three years before the expiry of the deadline.

The security of energy supply in the Energy Community is monitored and closely coordinated by the Energy Community Secretariat in both the context of network operation and safety, and energy

availability. The Security of Supply Groups for electricity and gas have ambitious work programs and will be equally crucial for attaining the Treaty's objectives.

As regards electricity, recent initiatives in the EU for cooperation and the establishment of RSCI associations (TSC, Coreso) reflects in the Energy Community and opens another front of activities for the Secretariat. As regards the gas sector, the risks of both short and long term supply interruption have increased significantly. The Contracting Parties are particularly vulnerable and would need a more efficient tool to live up to the EU standards in security of supply, such as adoption of Regulation 994/2010. The need for a concerted respond to prevent and mitigate the risks of regular supply is demonstrated in the 2014 security supply stress test, which included the Energy Community. It is expected that the next period will require more coordination amongst the Contracting Parties but also increased cooperation with the EU and Member States.

It is to be expected that the process of incorporating new EU legislation in the Energy Community *acquis communautaire* will continue. Besides the guidelines and network codes in electricity and gas (where the PHLG has already committed to swift and quick incorporation once they are adopted within the EU), the infrastructure package is of relevance for the Energy Community, as well as the Energy Efficiency Directive and Electricity Transparency Regulation. Finally, it may be expected that as sustainability aspects of energy policy are gaining more ground globally, the relatively limited *acquis* on environment under Title II of the Treaty may also have to be reinforced.

The work related to implementation of *acquis communautaire* has always been complemented by work of the institutions on issues of general nature, such as the elaboration of an Energy Community Strategy. Resulting in a list of projects of Energy Community interest, this will trigger an increased need for involvement of the Energy Community institutions in the implementation process, including procedural, legal and financial implications. Another area of the work where the objectives of the Treaty are to be reached is the establishment of a regional market. The Coordinated Auction Office is operational since 1 January 2015. But additional activities, related to regional electricity wholesale market opening and its organization, including the establishment of a regional power exchange platform and regional balancing support mechanism, will gain traction in the period 2016-2017. In the recent past, the Energy Community competition authorities established among themselves and with the Secretariat a Competition Network which is expected to produce tangible results, and hence requires input, in the upcoming years.

In 2015, we expect the finalization of the negotiations with Georgia about the membership what will extend the Energy Community's borders further to the East.

In view of these challenges and tasks, the proposed overall budget for 2016-2017 is higher than the budget of the previous period 2014 – 2015. Given the austerity efforts made at EU and national levels, the increase is kept at a modest level.

#### *b. New positions in the Secretariat*

Past experience with the Energy Community budget showed that the existing budget level was sufficient for assisting the Contracting Parties in the transposition of the *acquis*. With some exceptions, these rules still date back to the signature of the Treaty. During past years, however, the scope of Energy Community law was extended. At the same time, the Secretariat's involvement in the reform process has increased. Under the existing *acquis*, this concerns a work-

intensive cooperation with Contracting Parties in drafting and implementing appropriate secondary legislation as well as an ever-growing number of complaints and open infringement cases.

Details on the justification of the increase of the staff are presented under the relevant items for Human Resources' expenditures for each of the two years covered by the budgetary period. In general terms it needs to be underlined that expanding the Secretariat's in-house capacities and resources is not only more cost-efficient than paying consultants for a multitude of technical assistance projects required for the implementation of the (new and old) *acquis*; it also guarantees a stability and consistency in the follow-up which one-off consultancy cannot provide.

*c. Other elements reflecting the extension of scope of the Energy Community*

The extension of the scope of the *acquis communautaire* as well as the past and potentially new enlargements of the Energy Community will have an impact not only of the number of staff required by the Secretariat, but also on the budget for travelling. Intensive discussions, negotiations and assistance with and to Contracting Parties will be needed to turn the timely implementation of the , new and old, into a success. Implementation of the new and old will also require a slightly higher number of meetings (through workshops and task forces).

Given that the *acquis communautaire* in 2016 and 2017 will consist of a relatively high share of new elements, and that this period will be decisive for successful implementation, the budget available for potential studies and consultancy should also be slightly increased, as not all technical issues can be covered by the Secretariat's experts equally well, even with an increased number of staff members.

*d) Initiating and participating in regional initiatives in the Energy Community and EU*

In the past two years, the Secretariat, due to its increased valuable contribution to the stakeholders' and donors' activities is regularly engaged in preparation and joint implementation of regional initiatives, which require additional human and financial resources. For example, the Secretariat is having joint implementation role with leading IFIs of three regional initiatives in the Western Balkans, that were submitted by ECS to WBIF: Regional Energy Efficiency Programme (WBIF and EBRD); Gas to Power (WBIF and the World Bank); Efficient Biomass Based Heating and Cooling (WBIF and the World Bank).

Moreover, the Secretariat was nominated by the RCC Council (in which EC/DG NEAR is also represented), the Energy Dimension Coordinator for the implementation of SEE 2020 Strategy, that requires significant additional work, which is not directly linked to the core scope.

The Secretariat also assists WBIF/ DG NEAR in preparing the regional project pipeline in energy. In summary, compared with the previous budgetary period, the budget for 2016-2017:

- Implies an increase compared to the previous biannual budget;
- Takes into account the increased responsibilities and areas of activity;
- Will allow for greater efficiency of the Secretariat and the Regulatory Board for the benefit of the implementation record of the Contracting Parties;
- Will imply an increase in the Secretariat's staff five (5) experts and one administrative position in 2016, while lowering it for an accountant (see attached establishment plan 2016-2017) and increase of annual man months of seconded national experts;

- Is likely to provide higher cost-benefit ratio and more applicable results in the reforms compared with the sole outsourcing of missing administrative capacity through costly, targeted technical assistance projects.

### 3. BUDGETARY ASSUMPTIONS

This budget proposal takes into consideration the experience of budget implementation of the previous periods (starting with 2007) as well as the mid-term strategy in planning the future activities of the Energy Community and the Secretariat.

Most of all, the proposal builds upon the recognition of Energy Community as the most successful policy framework of the European external energy policy being a "point of reference" for the European Council, the European Parliament as well as for the European Commission.

The proposal does not assume implementation of tasks of the Energy Community Secretariat following the proposals of the High Level Reflection Group. Recommendations/proposals will be discussed by the Ministerial Council of the Energy Community at its meeting in October 2015.

This term of planning the activities of the Energy Community will be earmarked by steadily increasing scope of work of the institutions of the Energy Community, including its Secretariat. The dynamics developed in the previous periods shall continue and lead to the overall integration of the fragmented energy markets in the Southeast Europe and Black Sea region. The budget assumptions therefore include the following:

- More intensified efforts and increased technical assistance by the Secretariat to the Contracting Parties with the target to improve the implementation of Treaty obligation's (i.e. the Third Energy Package, Renewable Energy Sources, oil stocks and statistics) through organized training programs and assistance workshops for the implementation of legislation
- More intensive use of the dispute settlement procedure and mediation with the target to improve effectiveness of this procedure;
- Development of competences assigned to the Secretariat in various areas of work (i.e. state aid, competition, infrastructure, project financing etc.);
- Further engagement of the Secretariat in regional initiatives in the area of energy efficiency and infrastructure;
- Necessary increase in staff on expert level to cover existing tasks/areas of work of the Secretariat;
- 2% increase in the costs in 2016 and 2017, incl. adjustments in the salary levels;
- Application of same budget contributions calculation methodology as in the previous periods.

#### 4. ENERGY COMMUNITY BUDGET STRUCTURE AND DESCRIPTION

In the same manner as in the previous years, the expenses estimated for the two years of operations of the Energy Community are allocated in four budget lines (*Human Resources, Travel Expenses, Office and Other Costs, Services*) and these further divided in the budget positions (different number in different budget lines). Each of the budget position is further composed of pre-defined accounts that are creating a group of accounts representing certain category of expenditures related of the budget lines. Explanations given under this section are applicable for both years 2016 and 2017.

##### 4.1. Budget Line: Human Resources

Budget Line I constitutes human resources expenditures. This part of the budget is defined in accordance with the approved Establishment Plan and following the established salary scales explained in details in items 9 and 11 of this document.

The organizational structure of the Secretariat for the years 2016 and 2017 is the basis of the proposal. The budget proposed for the Human Resources Budget Line is a result of the following considerations:

- Salaries are based on the Energy Community salary scales applicable of 1 January 2014; the salary scale proposes the salaries by category of staff;
- The salaries of Secretariat's staff are all inclusive monthly remuneration, without any further allowances included;<sup>1</sup>
- In 2016 and 2017, it is proposed that the salaries are indexed with 2%, compared with previous year, to reflect the inflationary adjustment;
- The envisaged increase of the staff [6 new positions], as justified in the explanations for year 2016;
- Continued promotion of temporary employments under the schemes of secondment and internship. Secondment, used as a form of strengthening the administrative capacity of the Contracting Parties, will be used more in the years 2016-2107 to complement the Secretariat's team with specific technical expertise from national administrations and other organizations. Internship aims at supporting staff as well as disseminating the knowledge about the Energy Community and contributing to capacity-building. The financial assumptions of the proposed budget envisages funds for 60 man/months for both, secondment and internship<sup>2</sup>;

---

<sup>1</sup>A comparison of the employment conditions offered by the Energy Community with another international organizations (seated in Austria and not only) or institutions (EU) shows that the Energy Community has a low level of social responsibility towards its employee, offering only an all-inclusive remuneration package, without any obligations for contributions to any social security schemes (pension/severance fund), and/or offering additional fringe benefits for its employees (like different types of allowance schemes). Further, career path planning (incl. planning of salary increases) for the individual staff is hardly possible due to the size of the Energy Community as an organization (flat structure, limited number of posts, little flexibility of re-appointments within organization, long recruitment procedures).

<sup>2</sup> Separate Rules on *Secondees, Interns and locally recruited staff* apply

#### 4.2. Budget Line: Travel

Budget Line II comprises administrative expenditure of the Energy Community Secretariat related to the authorized travels of Secretariat's staff on behalf of the Energy Community pursuing the implementation process of the Treaty.

The expenditures refer mainly to the Contracting Parties missions or technical assistance for the review of the implementation of the obligations under the Treaty. This budget contains also funds for justified travels linked to the organization and participation of the staff at different meetings, including those of the EnC institutions, as speakers at conferences etc. The proposed budget for the period 2016-2017 reflects also the planned increase in the Secretariat's staff and therefore the increased number of the travels and the extended geographical scope of Energy Community by Ukraine and Moldova.

In its structure, the budget for travel expenses is planned and composed of:

- Costs for flights and accidentals and
- Daily Subsistence Allowance (DSA)<sup>3</sup>.

#### 4.3. Budget Line: Office

Budget Line III comprises expenditures that increases or alters the assets of the Energy Community and other expenditures (from rent to consumables), that are necessary for the functioning of the Secretariat as an institution under the Treaty.

This budget line includes the following budgetary positions:

- Rent: It is foreseen that in case of a usual subvention from Austria the estimated expenditures for the increased size of the office premises (estimated 1.000 m<sup>2</sup> instead of 750 m<sup>2</sup> rented in 2014-2015) of the Secretariat amounts to 25 000. However a possibility exists that the *Austrian Federal Ministry of Science, Research and Economy* will not continue its contributions to the overall rent expenditures. In case the Austrian authorities will not grant the contribution the estimated expenditures may rise to 250.000 (2016) and 255.000 (2017) and the budget will have to be adapted.
- Office equipment: This budgetary position reflects the gradual increase of the Secretariat's staff as well as the necessity to maintain the equipment (particularly the IT and related office furniture) up-to-date to provide maximum security of the working environment, processes and of the processed data. This budget line is composed of the following budget accounts: hardware, software, office equipment and low value assets. The budgeting of the overall expenditure for 2016 follows the IT plan, which estimates the exchange of hardware (staff IT equipment –laptops, printers, and servers in the IT administration area) and corresponding software. It also comprises licenses for the functioning of existing software solutions required for the operation of the Energy Community website, various applications, accounting and reporting software etc.

---

<sup>3</sup> The Energy Community Secretariat follows the DSA as published at the EuropeAid Cooperation Office applied also by other international organizations funded by EU

- Consumables: This budget line comprises the following accounts: office supplies, repairs and maintenance as well as office cleaning, running costs and electricity costs for the premises.
- Other Services: The envisaged budget under the budgetary position “**Other services**” reflects the necessary funds for carriers and transport by third parties, postal fees, other operating expenses and costs of telecommunication.

#### 4.4. Budget Line: Other costs and services

Budget Line IV concerns other expenditures that relate to the activities, which the Ministerial Council has found to be necessary for the functioning of the Secretariat as well as of all other Institutions established under the Treaty.

This budget line is composed of the following budget positions:

- Advertising, communications and representation: It covers the work performed within the area of public relations, like publications by Energy Community Secretariat (i.e. publishing of new editions of the Legal Framework Books, Implementation Reports etc.), advertising required either for the purposes of the procurement and/or within the personnel search as well as costs of representation.
- Studies, Research and Consulting: Experience has shown that the technical support from studies is a very useful tool for achieving the Energy Community objectives. The research and consulting shall follow the areas of work as outlined in the relevant Work Program of the Energy Community and ECRB.
- Costs of outsourced services (IT, payroll etc.): This budget line corresponds to the performance of activities and tasks related to the IT administration (outsourced activity to an external partner), technical maintenance of the website of the Energy Community (in both administrative and external users areas), as well as the lease contracts for goods (like printing machine) as well as for the maintenance of the existing IT solutions within the area of administration, accounting and human resources (data basis for accounting and human resources).
- Costs of Audit, Legal and Financial Advice: This budget line includes funds for the external audits as well as minor expenses for outsourced payroll services. Slightly increased fees of the audit of the annual accounts as well as related advice are also taken into consideration.
- Financial services: it covers bank and transaction fees within the area of payment.
- Costs of Events: This budget line covers the expenses related to the organization of all regular and *ad hoc* events, that might be for the following: renting of premises and equipment, catering, technical arrangements, etc.,
- Refunding: It covers the travel expenses related to the participation of representatives of the Contracting Parties and/or Observers in the institutional meetings, workshops and other

events organized by the Energy Community Secretariat<sup>4</sup>; implementation of this budget follows a separate set of rules on reimbursement. As a principle, the same since the beginning of the existence of the Energy Community, the costs of transportation and accommodation within predefined ceilings are reimbursed under defined rules. Due to its budget constraints, the principle of delegate rates (DSA) could not be allocated in the budgets of the Energy Community so far.

- Training: This budget position covers the expenses related to (a) trainings/education/retreat of Secretariat's staff as well as (b) grants to representatives of the Contracting Parties for participation in educational events.

## 5. ENERGY COMMUNITY BUDGET 2016 IN DETAILS

The proposed budget of the Energy Community for the year 2016 amounts to EUR 4,574,500<sup>5</sup>. This overall budget is composed as follows:

- 53% for Human Resources (EUR 2,408,900),
- 8% for Travel Expenses (EUR 360,600),
- 7% for Office expenses (EUR 338,200) and
- 32% for Other Costs and Services, incl. *Studies, Research and Consulting* (EUR 1,466,800).

### 1.1. 5.1. Expenditures on Human Resources 2016

The Secretariat's statement of estimates includes an increase of 21% compared with the number of staff in 2015, which is 29 instead of 24 permanently employed<sup>6</sup>. Such proposal goes in line with the increased competences in several areas of work not yet explored at the Secretariat in details (see *below*). Strengthen capacity of the Secretariat will result in - required by the Contracting Parties - increased technical assistance.

The implementation of the existing tasks under the work program shall require mobilisation of further human and financial resources. Most of all,

- strengthening enforcement and investor protection in the Energy Community
- enforcement and dispute settlement under the existing model
- expanding the scope of the *acquis* in the Environmental area
- enhancing the effectiveness of Competition and State Aid Law Enforcement

shall require strengthening the institutional capacity of the Secretariat. Analysis of resources shows that the Secretariat's staff shall be increased by 6 staff members<sup>7</sup> with the expertise in the following areas of work:

<sup>4</sup> See EnC Event Calendar 2013 at [http://www.energy-community.org/portal/page/portal/ENC\\_HOME/CALENDAR](http://www.energy-community.org/portal/page/portal/ENC_HOME/CALENDAR)

<sup>5</sup> This amount does not take into account two events which are uncertain on the moment of drafting the Commission decision i.e. lowering of the contribution of the Austrian Authorities to rent of offices as well as the move of offices.

<sup>6</sup> Including one person on the payroll for accounting

<sup>7</sup> The increase by 6 staff members takes into account that the tasks of accounting will remain outsourced and will not appear any longer on the payroll list.

## 1) Legal matters

Two [2] more lawyers, one focusing on infringement cases and one on competition and State aid law, are required.

The Secretariat's *Legal Unit* currently consists of only two lawyers (the Head of Unit and a more junior energy lawyer) working on all energy-related files. A third lawyer (the environmental expert) deals with environmental issues only. The files covered by the two lawyers essentially include the entirety of the Secretariat's tasks and activities: review of Contracting Parties' primary and secondary legislation, implementation monitoring, assisting domestic authorities (such as ministries, parliaments, regulators, competition and State aid authorities), conducting infringement actions, research on general legal questions, preparing decisions by the Ministerial Council, public procurement and contract law etc. The last recruitment for the Legal Unit took place in 2012.

As a point of departure, an international organization based on the principle of implementation of and compliance with legal rules needs a workable team of lawyers to properly discharge the Secretariat's role of reviewing the proper implementation by the Parties of their obligations under this Treaty. Firstly, legal manpower is crucial in helping Contracting Parties to improve their implementation record. Secondly, the Secretariat's tasks have grown over the last years. The Secretariat's involvement in the drafting and reviewing of primary and secondary legislation is now much more intense as compared to when the institution was designed. Neither the past enlargement of the Energy Community (Moldova and Ukraine) nor the imminent accession of Georgia has been reflected in the number of staff in the Legal Unit. Moreover, the Third Package, when incorporated in the Energy Community was also adapted in a manner, which will lead (and already led) to an immense increase in work-load. Besides the increased implementation challenge (around 15 new energy laws, plus some 100 pieces of secondary legislation are required), the Secretariat has been given a role in certification of transmission system operators as well as in exemption procedures which compares to the European Commission's. These tasks are mainly of a legal nature. All these tasks essentially bind the resources of the two existing lawyers in the Legal Unit already fully.

Furthermore, the number of infringement procedures is now at around 15 new cases per year in average (on the Secretariat's own motion, but mostly upon investors' complaints). The lack of human resources in the Legal Unit results in delays in the handling of these cases, which weakens the implementation of the *acquis* as well as investor protection, already further. The Secretariat is also deeply involved in dispute settlement and has mediated high profile arbitration cases such as CEZ vs Albania and political sensitive cases such as KOSTT (Kosovo\*) vs EMS (Serbia). More of these cases are to be expected in the future. Two lawyers are by far not enough to discharge these tasks and lead to bottlenecks in the enforcement and dispute resolution.

Finally, the areas of competition and State aid law have started and will continue to play a very important role for the liberalization of energy market. They need to be applied on a case-by-case basis, for which the Secretariat needs to either advice, and support national enforcement authorities or initiate infringement proceedings. Competition and State aid law require a very specific legal profile and expertise which is currently not available at the Secretariat. A lawyer specialized in competition and State aid law is urgently needed as a number of complaints by investors and NGOs, recently received by the Secretariat, raise very complex legal and factual questions the current legal staff of the Secretariat is unable to answer.

For all these reasons, the Secretariat urgently needs reinforcement of its legal capacities, one of which should be a general energy lawyer being capable to draft and review legislation, as well as handling infringement cases, and the second should (also) have expertise of applying and enforcing European competition and State aid law.

## **2) Investments in Energy Infrastructure (incl. donors' activities coordination)**

Two [2] new experts, one [1] with relevant expertise in working with international financing institutions ("IFIs") and donors on advising on removing barriers to infrastructure project financing and one [1] on the implementation of energy infrastructure, with a focus on permitting and implementation of Projects of Energy Community Interest ('PECI'), are required.

At the time being, the topics relevant to investment are dealt with, within the operational Energy Efficiency and Infrastructure Unit and are mainly covered by the Head of Unit. Currently the Energy Efficiency and Infrastructure Unit consist of two persons, which is by far not sufficient to promote investment successfully, with one [1] expert and the Head of Unit. This lack of human resources is reported in the context of the Ministerial Council decision and mandate to the Energy Community Secretariat to promote, monitor and report regularly on the Projects of Energy Community Interest (PECI).

In 2014, the Ministerial Council also concluded that the Energy Community will in 2015 adopt Regulation 2013/347/EU that foresees regular update of the above mentioned PECIs (every 2 -3 years). This is a very human resource intensive activity, that requires technical, regulatory and financial skills and knowledge from the project financing area

Given the current organisational structure of the area of work related to the infrastructure issues, with only one person being responsible for all investment related (in parallel Head of Energy Efficiency Unit), it is practically impossible to engage in professional manner in the delegated tasks. Moreover, additional skills are needed, specialised in infrastructure financing using both public and private funds, and blending grants with loans. In the context of PECI monitoring and facilitation, a close and on-site follow up with the project promoters, authorities responsible for permitting and financing institutions shall help removing the barriers and advancing investments.

Working closer with the governments and the IFIs, as well as with the EC services responsible for grant funds (DG NEAR) shall lead to more synergies in the approach and treatment of investments in energy infrastructure in the Energy Community.

This is especially valid at present, when within the new EU Connectivity Agenda<sup>8</sup>, the financing and implementation of the energy infrastructure projects has been given a new importance and focus of attention.

All above listed shall be performed in addition by the Unit that is currently working with the focus on the implementation of the Energy Efficiency *acquis* and is co-managing with the EBRD, the Regional Energy Efficiency Programme, and with the World Bank the Efficient Biomass Heating and Cooling Programme, both for the Western Balkans and funded with the EU grant contribution from the Western Balkans Investment Facilities.

<sup>8</sup> See: [http://europa.eu/rapid/press-release\\_SPEECH-15-4693\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-15-4693_en.htm);  
<https://ec.europa.eu/digital-agenda/en>

### **3) Sustainability**

One [1] expert is required for this new area of work.

In the Secretariat, the sustainability agenda is linked to the activities of different units (Infrastructure and Energy Efficiency, Electricity/Renewable, Gas/Biofuels, Legal and Environment), with one person covering all topics. The Energy Community acquis already consists of 5 environmental directives which are all covered by only one expert.

The proposal is to install a "policy integration" expert in order to be able to match the challenges of implementing the EU policies in the Energy Community and to strengthen the expertise in the environmental area already covered by the Energy Community Treaty. The tasks of the Sustainability Expert shall be to provide scientific and technical support to the review of implementation of the acquis in the area of the protection of the environment by the Contracting Parties.

Due to lack of human resources at the Secretariat the policies on energy efficiency, renewable energy and environment are currently not implemented in a coherent manner despite their ever-growing importance.

### **4) General services / administration**

One [1] new administrative assistant is needed.

Currently the *Administrative and Finance Unit* consists of the Head of Unit and 2 team members (finance and administration assistant and website administrator). Event management duties (60-80 events per year) are performed by a staff member working jointly for the Secretariat and the Energy Community Regulatory Board section.

New administrative assistant shall be in charge of overall administrative tasks, however, focusing on filing and records management of the entire official correspondence and archiving the documents for the organisation. In this area of work consideration of supportive system implementation (incl. concept, structure etc.) might be required as for the time being registration of documents is done manually. The assistant shall be involved also in the administration of personnel and recruitment process, where this is currently done by finance assistant, which results in delays of executions of tasks when several events occurring in parallel. Further development of the strategic aspects of human resources management is at the time not possible due to scarce resources in the area of administration. The request of increase in personnel in the administrative area of work of the Secretariat follows the increase of resources in the energy policy areas (5 new staff members and more short term employees under secondment and internship) that will require strengthen capacity in the overall administration.

## 5) Temporary employment (secondments and internships)

Increase of budget for temporary employments, i.e. secondments and internships, from 24 to 60<sup>9</sup> man months per year is needed.

Such an increase in the human resources budget was approved by the Budget Committee already for the year 2015. With this, the Budget Committee recognized the importance of this type of employment taking note of justification stemming from the proposals of the HLRG report. The High Level Reflection Group proposed to increase the number of secondments as one of the ways to assist Contracting Parties to strengthen their administrative capacity. Following this suggestion the Ministerial Council in September 2014 also noted the proposal to increase the number of secondments of staff of the Contracting Parties to the Secretariat (and also the possibility of secondments of the staff of the Secretariat to the Commission and vice versa)<sup>10</sup>.

The Secretariat proposes to continue with the increased involvement of secondees and interns as it proved to be the best instrument to engage relevant people from the Parties into the work of the Energy Community and later in the network of partners of the Energy Community Secretariat in the Contracting Parties. Secondees and interns are due to limitations in appropriate Energy Community rules engaged for only shorter period of time. Secondees for up to 12 months but in reality in average for 7 months and interns for up to 6 months but in reality in average for 4 months. Therefore they cannot be positioned as experts who would offer an expertise for a longer period in a stable way and potentially replace Secretariat's experts. In the period 2016-2017 secondees and interns shall be assigned to all units except administrative one.

In addition, temporary employments support to fulfil the '*geographical equilibrium*' - as required under the *Rules for Recruitment, Working Conditions and Geographical Equilibrium of the Secretariat's Staff of the Energy Community* ("the *Recruitment Rules*") - that cannot be fulfilled only through permanent employments, thus acquiring expertise from Parties not represented in the staff of the Secretariat yet. Engagement of secondees and interns from Ukraine and Georgia has been up till now the key in successful involvement of the Secretariat's activities into these two countries.

### 1.2. 5.2. Expenditures on Travels 2016

The travel expenditures for the year 2016 is proposed at a level of EUR 360.600 that represents an increase of 47% in comparison with the budget 2015 (EUR 244.800). This is due to an increase of staff and therefore assumed increased number of travels required for the different purposes from providing technical assistance on the implementation of the Treaty as well as participation of experts at different conference and regional initiatives relevant for the obligations under the Treaty.

### 1.3. 5.3. Expenditures on Office 2016

As regards office expenditures, the estimates at the level of EUR 338.200 represent an increase in 50.71% in comparison with budget 2015<sup>11</sup> (EUR 224,400).

<sup>9</sup> Increase in temporary employments from 24 to 60 man months per year is comparable to an increase from 2 to 5 persons employed for entire year i.e. increase by 3 persons. Since however the rules for temporary employment imply that temporary employment cannot be longer than 6 months a higher number of persons than 5 will be temporarily employed.

<sup>10</sup> See point 35. of the Conclusions under [http://www.energy-community.org/portal/page/portal/ENC\\_HOME/DOCS/3450148/12thMC\\_Conclusions\\_Declaration\\_Serbia.pdf](http://www.energy-community.org/portal/page/portal/ENC_HOME/DOCS/3450148/12thMC_Conclusions_Declaration_Serbia.pdf)

<sup>11</sup> Budget will be amended *pro memoria* with the portion of rent that is refunded by the Republic of Austria

This position includes (a) costs for office rent at the estimated level of EUR 25.000<sup>12</sup> (2015: EUR 15.300 (budget only for extraordinary -rent related- expenditures) as it was presented w/o donation of Austria), (b) costs for office equipment incl. IT and furniture of EUR 122.000 (2015: EUR 65.280), (c) consumables of EUR 144.200 (2015: 92.820) as well as (d) EUR 47.400 (2015: EUR 51.000) for Other Services.

In the estimate for the budget position Other Services, financial provisions for potential move of the office (costs of removal) and setting up the new premises is not considered. In case this event occurs its estimated costs is EUR 120.000. This would be a one-off expenditure, which will be requested to adapt the budget in case it occurs.

#### **1.4. 5.4. Other Costs and Services 2016**

The estimates 2016 for *Other costs and services* of EUR 1.466.800 are 27.85% above the budget 2015 (EUR 1.147.296). The increase is a result of increases in the estimates of the respective budget positions included therein (for the structure of the budget, please see item 4).

Based on the plans of activities in 2016-2017 the budget for studies and consultancy remains at the same level as in 2015 (EUR 459.000). The experience in the implementation of the budget appropriations in the positions related to the advice (legal, tax etc.) and *outsourced services* led to higher proposal of budget for 2016 than in 2015.

Costs of *outsourced services*, that includes service level agreement for maintenance of in-house IT infrastructure and different applications, are proposed in 2016 at a level of EUR 130.000 that is by 42% higher as compared to 2015 (EUR 91.800). This is due to assumptions that increased number of staff will result in the increase administrator activities for the outsourced IT services as well as driven by the continuous needed improvements of the Energy Community website (both on technical and graphical levels) and systems for the sake of efficient workflows.

As regards *costs of audit and financial advice*<sup>13</sup>, in 2016, the assumption is that the accounting duties remain outsourced as it proved to be efficient model of cooperation with professional service providers at cost effective terms and conditions. Therefore, this budget position proposed at a level of EUR 104.000 is higher than in 2015 (EUR 35.700), where no considerations for the outsourcing of accounting were included. This is outweighed by a decrease in Human Resources budget line as there is no budget proposed for the permanent employment of an accountant as of 1/1/2016<sup>14</sup>.

Budget positions relevant for the organisation of meetings by the Energy Community and its Secretariat are *Conference Costs* and *Refunding*. In both cases slight increase in the area of 13% is proposed reasoned by an assumption that the number of events might slightly increase. Further, provisions for refunding of travel expenses occurred through potential recruitment procedure (up to 6 experts) are taken into consideration.

<sup>12</sup> This budget contains both components of rent (1) portion paid directly by the Secretariat under the Energy Community budget (in 2014 budget of EUR 18.000) and (2) donation by Republic of Austria (in 2014: actual donation of EUR 165.682)

<sup>13</sup> external accounting, without payroll service

<sup>14</sup> At the time of this budget draft proposal, annual salary of accountant under the Energy Community salary scale amounts to EUR ca. 60.000

Position on *Training* includes budget appropriations for both internal and external educational measures and trainings. Budget 2016 is by 296% higher than in 2015 (EUR 42.840) and defined at the level of EUR 169.600. As one of the planned, the training of competences in cooperation with the Florence School of Regulation (FSR) and with the Energy Community Regulatory Board shall continue.

## **6. ENERGY COMMUNITY BUDGET 2017 IN DETAILS**

The budget 2017 builds upon the estimates made for 2016 and includes the inflationary adjustments projected at the level of 2%. The overall budget proposed amounts to EUR 4.586.931<sup>15</sup> which consists of the individual budget lines as follows:

- 54% for Human Resources (EUR 2,457,079),
- 8% for Travel Expenses (EUR 367,812),
- 6% for Office expenses (EUR 275,084) and
- 32% for Other Costs and Services, incl. Studies, Research and Consulting (EUR 1,486,956).

### **1.5. 6.1. Expenditures on Human Resources 2017**

For the year 2017, the forecasted human resources needs are based on the expenditures of the year 2016 taking into consideration the establishment plan of 2016 and including inflationary adjustments of the remuneration level of 2% (no new permanent posts proposed).

### **1.6. 6.2. Expenditures on Travel 2017**

Since the same size of Secretariat, in terms of human resources, is planned in 2017, it is an assumption that the estimated travel budget shall be at the same level as in the year 2016 (inflationary adjustment is included).

### **1.7. 6.3. Expenditure on Office 2017**

The overall *Office* expenditure forecasted for the year 2017 (EUR 275.084) is lower than in 2016 (EUR 338.200) as the costs of new office equipment related to the increase of staff of the Secretariat in 2016.

Other types of expenses under this budget position (i.e. *Office rent* and *Consumables*) reflect the continuation of activities set up in 2016 in the increased structure of the Secretariat (solely inflationary adjustment of *Office rent* and *Consumables* of 2016).

---

<sup>15</sup> This amount does not take into account an event which is uncertain on the moment of drafting the Commission decision i.e. lowering of the contribution of the Austrian Authorities to rent of offices

#### **1.8. 6.4. Expenditure Other Costs and Services**

This budget line contains estimates of expenditures required for all other services needed for the functioning of the Energy Community and its institutions (like refunding, costs of reimbursement, costs of events etc.) as well as for the consulting and technical assistance work. The increase of estimates for *Other Costs/services* between 2017 and 2016 is of 1.37%, solely due to inflationary adjustment.

## 7. ESTIMATE OF THE REVENUE 2016-2017

Description	%	Budget 2016	Budget 2017
<b>TOTAL</b>		<b>4,574,500</b>	<b>4,586,931</b>
EU	94.94%	4,343,030	4,354,832
Albania	0.09%	4,117	4,128
Bosnia & Herzegovina	0.20%	9,149	9,174
FYROM	0.10%	4,575	4,587
Moldova	0.10%	4,575	4,587
Montenegro	0.04%	1,830	1,835
Serbia	0.54%	24,702	24,769
Ukraine	3.92%	179,320	179,808
Kosovo*	0.07%	3,202	3,211

*Remark:*

The estimate of revenue for the period 2016-2017 constitutes an estimation based on the existing budget contribution system methodology and does not take into account any further enlargements (i.e. Georgia), for which any estimates will be included once a formal decision on accession is taken. In such case the total budget will remain on the above levels, however the contributions of the EU and each of the Contracting Parties will diminish by a total amount of the contribution of Georgia. No donations or other revenues are estimated.

## 8. ESTIMATE OF THE EXPENDITURE 2016-2017

<i>(In EUR)</i>	<b>Budget 2016</b>	<b>Budget 2017</b>	<b>Budget 2015</b>	<b>Increase 2016 vs 2015 %</b>
<b>1. HUMAN RESOURCES</b>				
<b>Subtotal Human Resources</b>	2,408,900	2,457,079	1,901,290	26.70%
<b>2. TRAVEL EXPENSES</b>				
<b>Subtotal Travel Expenses</b>	360,600	367,812	244,800	47.30%
<b>3. OFFICE EXPENSES</b>				
<b>Subtotal Office Expenses</b>	338,200	275,084	224,400	50.71%
<b>4. OTHER COSTS AND SERVICES</b>				
<b>Subtotal Other Costs and Services</b>	1,466,800	1,486,956	1,147,296	27.85%
<b>TOTAL</b>	<b>4,574,500</b>	<b>4,586,931</b>	<b>3,517,786</b>	<b>30.04%</b>

## 9. DETAILS OF ESTIMATE OF THE EXPENDITURE 2016-2017

(In EUR)

	Budget 2016	2016 % on Total	Budget 2017	2017 % on Total	Budget 2015	Increase 2016 vs 2015 %	In-/Decrease 2017 vs 2016 %	Actual 2014
<b>1. HUMAN RESOURCES</b>								
<b>Subtotal Human Resources</b>	<b>2,408,900</b>	<b>53%</b>	<b>2,457,079</b>	<b>54%</b>	<b>1,901,290</b>	<b>26.70%</b>	<b>2.00%</b>	<b>1,811,544</b>
<b>2. TRAVEL EXPENSES</b>								
Daily Subsistence Allowance(DSA)	120,000		122,400		112,200	6.95%	2.00%	79,899
Travel Expenses (Flights and incidentals)	240,600		245,412		132,600	81.45%	2.00%	152,200
<b>Subtotal Travel Expenses</b>	<b>360,600</b>	<b>8%</b>	<b>367,812</b>	<b>8%</b>	<b>244,800</b>	<b>47.30%</b>	<b>2.00%</b>	<b>232,099</b>
<b>3. OFFICE EXPENSES</b>								
Office rent	25,000		25,000		15,300	63.40%	0.00%	181,265
Office equipment	122,000		50,000		65,280	86.89%	-59.02%	56,916
Consumables	144,200		147,084		92,820	55.35%	2.00%	88,296
Other Services	47,000		53,000		51,000	-7.84%	12.77%	38,299
<b>Subtotal Office Expenses</b>	<b>338,200</b>	<b>7%</b>	<b>275,084</b>	<b>6%</b>	<b>224,400</b>	<b>50.71%</b>	<b>-18.66%</b>	<b>364,776</b>
<b>4. OTHER COSTS AND SERVICES</b>								
Advertising, Communication, representation	55,200		56,304		30,804	79.20%	2.00%	24,406
Studies, research, consulting incl technical assis	459,000		459,000		459,000	0.00%	0.00%	574,177
Costs of outsourced services (IT, payroll,...)	130,000		132,600		91,800	41.61%	2.00%	171,131
Costs of Audit, Legal and financial advice	104,000		106,080		35,700	191.32%	2.00%	52,458
Financial services	15,000		15,300		14,892	0.73%	2.00%	10,674
Conference costs	210,000		214,200		186,660	12.50%	2.00%	105,477
Refunding	324,000		330,480		285,600	13.45%	2.00%	226,169
Training (internal and external)	169,600		172,992		42,840	295.89%	2.00%	26,966
<b>Subtotal Other Costs and Services</b>	<b>1,466,800</b>	<b>32%</b>	<b>1,486,956</b>	<b>32%</b>	<b>1,147,296</b>	<b>27.85%</b>	<b>1.37%</b>	<b>1,191,458</b>
<b>TOTAL</b>	<b>4,574,500</b>	<b>100%</b>	<b>4,586,931</b>	<b>100%</b>	<b>3,517,786</b>	<b>30.04%</b>	<b>0.27%</b>	<b>3,599,877</b>

\* Office rent: if the Austrian authorities will not participate, the cost will be 250.000 (2016) and 255.000 (2017)

\* Other services: if a move occurs the cost is estimate at EUR 120.000

### Remark

Office rent: if the Austrian authorities will limit its contribution for office rent, the cost is estimated to be 250.000 (2016) and 255.000 (2017).

Other services: if a move of office occurs the cost is estimate at EUR 120.000

## 10. ESTABLISHMENT PLAN 2016-2017

	2016		2017		2015	
	Permanent Post	Temporary Post	Permanent Post	Temporary Post	Permanent Post	Temporary Post
Management (Director and Deputy)	2		2		2	
Head of Unit / Section	5		5		5	
Experts	17		17		12	
Accountant	-		-		1	
Assistants / Officers	5		5		4	
Secondments and Internships		5		5		5
<b>TOTAL</b>	<b>29</b>	<b>5</b>	<b>29</b>	<b>5</b>	<b>24</b>	<b>5</b>

*Remark:*

This establishment plan indicates the number of permanent and temporary posts proposed for carrying out the tasks indicated under the outline of the work program 2016-2017.

## 11. ENERGY COMMUNITY SALARY SCALE

Grade	Level/description	Notes
D1	Director	management
D2	Deputy Director	management occupied by one of the heads of unit
A6-A5	Head of Unit [with coordination functions]	horizontal responsibility
A4	Head of Section/Unit [with line responsibility]	vertical responsibility
A3	Expert	technical / expertise level
A2	Accountant	not applicable in 2016-2017
A1	Assistant /Officer	administrator level