

## **Adoption and adaptation of the Regulation No. 347/2013/EU on Guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC**

### **ECS Note for the PHLG discussion in December 2013**

#### **1. The Background**

The **Regulation No. 347/2013/EU** was adopted in April 2013 as part of the so called Energy Infrastructure package proposed by the European Commission in October 2011.

This Regulation is anchored in the Europe 2020 Strategy for smart, sustainable and inclusive growth, which put energy infrastructures at the forefront as part of the flagship initiative "Resource efficient Europe". This forms an integrated package with the "Connecting Europe Facility" (CEF) developed in view of replacing the current TEN financing Regulation.

Following the requirement of the Regulation, the European Commission has adopted on 14 October a list of some 250 key energy infrastructure projects. These "projects of common interest" (PCI) will benefit from accelerated licensing procedures and improved regulatory conditions and may have access to financial support from the Connecting Europe Facility, under which a €5.85 billion budget has been allocated to trans-European energy infrastructure for the period 2014-20. This will help them get implemented faster and make them more attractive to investors.

Energy Community has also undertaken a similar exercise in preparing a list of Projects of Energy Community Interest (PECI) that was adopted by the Ministerial Council in 11<sup>th</sup> Meeting on 24 October 2013.

Nevertheless, this process was not triggered by legally binding *Aquis* requirement, and has no regulatory or other legal framework to support its further implementation.

Therefore, adopting the Regulation 347/2013/EU with certain adaptations to be suitable for the Energy Community would only be a logical next step.

#### **2. Adoption of Regulation**

The Regulation should be adopted in the Energy Community not only because of the expected benefits for the Contracting Parties, but also for its influence on interconnectors between an EU MS and a Contracting Party.

Moreover some of the Projects of Common Interest (PCIs) represent electricity interconnections and gas pipelines that connect an EU MS to an Energy Community Contracting Party, and are also listed as Projects of Energy Community Interest. Therefore, it would be very difficult if not impossible, to treat the investment in an EU MS differently than the matching infrastructure in the Energy Community in their implementation (e.g. a gas interconnection between Bulgaria and Serbia).

When the Regulation is adopted in the Energy Community, the projects will benefit from a number of advantages:

- accelerated planning and permit granting procedures (binding three-and-a-half-years' time limit);

- a single national competent authority will act as a one-stop-shop for permit granting procedures;
- less administrative costs for the project promoters and authorities due to a more streamlined environmental assessment procedure, whilst respecting the requirements of Union/Energy Community law.
- increased transparency and improved public participation;
- increased visibility and attractiveness for investors thanks to an enhanced regulatory framework where costs are allocated to the countries that benefit most from a completed project;
- possibility to receive financial support under different existing financial instruments like Western Balkan Investment Framework, the Neighborhood Investment Facility, etc. This will play a key role in leveraging the necessary private and public funding.

Nevertheless, the Regulation was developed to facilitate mainly the EU infrastructure, and therefore it includes many provisions that relate to the EU *Acquis* that is not (yet) adopted in the EnC, and also to funds and financial facilities that are valid so far, only for EU MS (CEF).

Therefore, while adopting the Regulation, this needs to be also adapted to reflect the Energy Community; in this sense, the adaptation should go well beyond the “standard” institutional and deadline changes to more “substantial” ones. Some of the provisions of the Regulation were already taken onboard into the Energy Community Strategy, and therefore the adaptation also needs to take these into account (e.g. reducing the number of PEI categories to three).

### 3. Areas of adaptation

A brief analysis of the issues to be adapted highlights the following (not exhausting) list:

1. EU Scope of the Regulation: It grants priority to 12 strategic trans-European energy infrastructure corridors and areas. It sets rules to identify, within a set of defined energy infrastructure

*EnC adaptation: the corridors and areas should be reduced to maximum two North –South and West – East (in line with the Strategy)*

2. EU Regional Expert groups: It establishes a selection process based on regional expert groups and an advisory role for the Agency for the Cooperation of Energy Regulators (ACER) in electricity and gas.

*EnC adaptation: Based on the experience of the Task Force, there should be maximum 2 regional group (electricity, gas and oil), covering each its own respective corridor*

3. EU Regulation covers also carbon dioxide transport projects:

*EnC adaptation: this is not included as a category for PEI in the Energy Strategy*  
*EnC adaptation: the CPs have prepared an Energy Strategy with different goals; this needs to be reflected in the adaptation;*

*TEN E guidelines were not applicable to EnC and neither is the CEF; this needs to be replaced with specific financing instruments and mechanisms for the CPs, to be discussed.*

4. EU Regulation: provides certain roles to ENTSO E and ENTSO G with respect of market and network modeling

*EnC adaptation: what institution is going to take their role? Some of the CPs are not members of ENTSO E (Moldova, Ukraine, Albania) and most of them are not members of ENTSO G, therefore their projects are not always included in the TYNDPs.*

5. EU Regulation: provides certain roles to ACER and EC

*EnC adaptation: these roles should be given to other institutions of the EnC*

6. EU Regulation is also based also on additional *Aquis* than energy: e.g. the Water framework Directive, the Habitats Directive, and some Conventions (ESPOO, Aarhus, etc) to which EnC is not party or is not obliged to implement.

*EnC adaptation: to be discussed how to include these in the adapted MC Decision.*

*Other adaptations refer to deadlines and the countries to which the regulation applies.*

In Conclusion, the Secretariat proposes to discuss the possible adoption of the Regulation in the upcoming PHLG meeting in December 2013, with the objective of adopting it in the Ministerial Council meeting in 2014, with the necessary adaptations.