



Annual Report 2019

Energy Community Secretariat

1 November 2019

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Annual Report on the Activities of the Energy Community 2018 - 2019

This Annual Report on the activities of the Energy Community outlines key actions and achievements in the period from 1 September 2018 to 1 October 2019 following the requirements of Article 52 of the Energy Community Treaty. It summarizes the results of key activities set out in the Energy Community Work Programme for 2018 and 2019. A detailed overview of Energy Community *acquis* implementation is provided in the Annual Implementation Report 2019.

a. Key activities

Steering towards a successful energy and climate transition in the Energy Community

The Energy Community continued to focus on assisting the Contracting Parties in the clean energy transition. Under the direction of the Ministerial Council, which convened under the Presidency of North Macedonia in Skopje on 29 November

2018, the organization continued to work on establishing a methodology for setting 2030 targets on energy efficiency, renewables and greenhouse gas emission reduction for the Energy Community. In coordination with the European Commission and with inputs from all Contracting Parties, the Secretariat finalized the study on 2030 targets for the Energy Community. The Informal Ministerial Council, gathering ministers of Contracting Parties responsible for energy, climate and environment and senior officials of the European Commission in Hainburg an der Donau, provided a stage for high-level exchanges on the targets. The informal meeting also focused on amendments to the Energy Community Treaty.

The Secretariat helped to boost the Contracting Parties' capacities for effective multi-level climate governance, including support for the preparation of integrated Energy and Climate Plans. Some Contracting Parties made progress in preparing climate change legislation and/or adopting relevant strategies and action plans. Scaling up energy from renewable sources in a sustainable way also took centre stage. Albania, Montenegro and North Macedonia became leaders in implementing



Energy Community Ministerial Council, 29 November 2018, Skopje, North Macedonia

market-based support schemes for the promotion of renewable energy. Moldova and Ukraine made progress by adopting a law on auctions for the support of electricity produced from renewable energy sources.

Renewable energy was also in the focus of the work of the Energy Community Parliamentary Plenum in 2019. The body adopted a Joint Report on Strengthening the Promotion of Energy from Renewable Sources.

Cooperating closely with donors to ensure that Contracting Parties' needs are matched with adequate financing, the Secretariat worked with the Contracting Parties to transform legal obligations into practical energy efficiency policies and measures.

To kick-start a viable economic and technological energy transformation, the Secretariat organized several high profile regional events. This was crowned by the High-Level Policy Talk on "Coal Regions in Transition and the Energy Community", which brought together some 80 key stakeholders on 13 September in Natolin, Warsaw, including Ministers and Deputy Ministers, mayors, governors and other representatives of local governments from coal regions, industry, NGOs, social partners and academia from the Energy Community and the European Union. The event was co-organized with the European Commission, World Bank and the College of Europe under the auspices of the COP24 Polish Presidency.



High-Level Policy Talk on "Coal Regions in Transition and the Energy Community", 13 September 2019, Natolin, Warsaw, Poland

Recognizing their pivotal role in the energy transition, the Secretariat also launched a platform for coal-based electricity generation companies - the "GENEnC Platform". The platform seeks to address the challenges of the energy transition in a cost-effective, socially acceptable and *acquis*-compliant way, while enabling the best use of new market opportunities.

The 2019 Sustainability Forum not only discussed pathways for a decarbonized future in the Energy Community, but also featured a technical workshop on small hydropower development in the Western Balkans - an issue which has become increasingly important for the public at large. The Secretariat received and has been assessing a number of complaints in this field. The workshop outlined the proper safeguards when such

investments are being considered in the Contracting Parties in a manner compliant with Energy Community law, with particular regard to the proper and compliant conduct of environmental impact assessments of small hydropower projects.

Following the Energy Community's admittance as an observer to the 24th Session of the Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC), the Secretariat hosted a side-event "Shifting to a low-carbon economy: Just transition pathways in the Energy Community and beyond" on 10 December 2018 in Katowice, Poland, chaired by former EU Commissioner for Climate Action Connie Hedegaard and opened by COP24 President Michal Kurtyka.

To support informed policy-making based on reliable data, the Secretariat published in June 2019 the final study on coal subsidies. The study underlined the serious situation in the coal sector of the Energy Community Contracting Parties and concluded that the resulting market distortions and unsustainable consumption patterns are putting the region's energy transition at risk and in many instances breach European State aid rules without enforcement. The publication triggered a wide-reaching stakeholder discussion.

Implementation of energy market legislation continues

The Energy Community continued to focus on the implementation of the Third Energy Package, including its network codes. The Secretariat assisted the Contracting Parties in major tasks such as unbundling and certification of transmission system operators, unbundling of distribution system operators, full market opening and strengthening of their national regulatory authorities and other institutions. The Secretariat gave its Opinion on the exemption granted by the Energy Agency of Serbia to the national section of the TurkStream II natural gas pipeline project, which was not followed by the Serbian regulator. It also opined on the certification of the transmission system operators for electricity of North Macedonia, MEPSO, and of Kosovo*, KOSTT. Ukraine has recently accelerated the process of unbundling of its transmission system operator for gas. In cooperation with the Secretariat, the necessary acts which would enable the certification to happen by the crucial end of 2019 have been prepared. But they are yet to be adopted and implemented on time.

To offer additional assistance to the Contracting Parties, the Secretariat issued Policy Guidelines 01/2019-ECS on Increasing Competition and Liquidity of Wholesale Electricity Markets, including Power Exchanges. They set out legal and regulatory measures to boost competition on national wholesale markets. The Secretariat also continued to monitor the independence and effectiveness of national regulatory authorities for energy and sounded the alarm in June 2019 when the independence of the Ukrainian regulator was abandoned.

During this reporting period, the Secretariat brought enforcement actions to the Ministerial Council in two cases against Serbia for failure to comply with its obligations under the Treaty in the certification of Yugorosgaz-Transport as a gas transmission system operator and for failure to grant third party access to a gas interconnection point with Hungary. Another case referred to the Ministerial Council concerns the lack of transposition of the Large Combustion Plants Directive by Kosovo*. The Secretariat also proceeded with a case against Albania for the lack of effective unbundling of the country's electricity distribution system operator, OShEE, and opened a case against Bosnia and Herzegovina for violation of State aid rules in case of the Tuzla 7 Power Plant. Bosnia and Herzegovina as well as Serbia will be asked to rectify a number of serious and persistent breaches or face measures under Article 92 of the Energy Community Treaty this year.

The Gas and Electricity Fora continued to be the leading platforms in their respective areas for discussing the implementation of the Third Energy Package as well as the current challenges facing electricity and gas markets. A series of targeted workshops focused on preparing the Contracting Parties for the implementation of Third Energy Package network codes.

Outside of the legal domain, the Secretariat worked to promote concrete national projects and regional energy market integration initiatives, including electricity market integration between Ukraine and Moldova, starting with a system of joint cross-border capacity, and the regional energy market integration of the Western Balkans.

The Secretariat's Dispute Resolution and Negotiation Centre continued to be involved in the settlement of disputes in the Energy Community Contracting Parties, ensuring regulatory stability and respect for the rule of law. For example, a dispute between the Ukrainian transmission system operator for gas and the Ukrainian energy regulatory authority regarding amendments to the Ukrainian Gas Transmission Code was successfully settled by a team of experts from the Secretariat. Other disputes, including between an investor and Albania or between the transmission system operators of Serbia and Kosovo*, are still pending.

Western Balkan 6 moves ahead with creating a regional electricity market

The so-called WB6 Initiative from 2016 is financially supported by the Grant Contract to "Technical Assistance to Connectivity in the Western Balkans - Component 2: Regional Energy Market", which is funded by the European Union and implemented by the Secretariat.

During the reporting period, notable progress was made in putting in place the national and regional preconditions for regional electricity market integration in the "Western Balkan 6". Regional projects for day-ahead market integration, cross-border balancing and coordinated capacity calculation, were completed. Implementation of the supporting agreements, roadmaps and methodologies developed under these projects by the Contracting Parties is still to follow.

Day-ahead electricity markets, a necessary precondition for market coupling, started to take shape. Activities to establish power exchanges in Albania, Montenegro and North Macedonia advanced and are expected to lead to their launch in the first half of 2020. Support via the WB6 technical assistance will contribute to the further development of the ongoing market coupling projects between Bulgaria and North Macedonia and between Albania, Italy, Montenegro and Serbia. Cooperation with the Multi-Regional Coupling (MRC) project was initiated in order to explore preconditions for the WB6 to join the project. To ensure a harmonised regulatory framework for market coupling between EU Member States and Western Balkan 6 Contracting Parties, a toolkit for the early implementation of the Guideline on Capacity Allocation and Congestion Management was developed.

The Regulatory Board: Enhancing alignment of regulatory rules beyond the Contracting Parties and preparing for upcoming regulatory challenges

In the reporting period, the Energy Community Regulatory Board (ECRB) – the regional body of energy regulators in the Energy Community – continued its efforts to provide a harmonised regional regulatory framework that promotes integration of the Contracting Parties' electricity and gas sectors with EU neighbouring markets and beyond.

A cooperation arrangement signed between ECRB, the Council of European Energy Regulators (CEER) and the Association of the Mediterranean Energy Regulators (MEDREG) in December 2018 paved the way for further alignment of regulatory rules beyond the Contracting Parties. The ongoing preparation of a joint report on gas transparency with MEDREG and a trilateral benchmarking activity on quality of supply proves that the established common reporting practices are a success. The organisation of a joint consumer conference confirmed the commitment of the three regional regulatory bodies to cooperation on consumer protection.

ECRB also continued its international cooperation with the Agency for the Cooperation of Energy Regulators (ACER): data provided by ECRB members on electricity wholesale and gas and electricity retail markets contributed to ACER's annual market

monitoring report and the two institutions held joint events on electricity day-ahead market integration.

In the reporting period, ECRB also joined for the first time the European Commission and CEER in their efforts to align regulatory rules in Eastern Partnership countries. Focusing on the emerging new roles for regulators in the context of digitalisation of the energy sector and cybersecurity, this common activity complemented other activities that ECRB took on board to address upcoming regulatory challenges such as net-metering and renewables integration.

ECRB continued to deliver Opinions on network codes and preliminary certification decisions and prepared for upcoming monitoring duties in the context of the Regulation on Wholesale Energy Market Integrity and Transparency (REMIT) and network codes. As in previous years, market monitoring remained a core area of ECRB activities, targeting wholesale and retail market developments for electricity and gas and transparency. Sector specific ECRB activities focused, among others, on reviewing complaint handling and distribution tariff methodologies.

The Energy Community Regulatory School that kicked-off in late 2017 developed into an educational platform for Contracting Parties' regulators that provides tailor-made courses on contemporary regulatory challenges stemming from new legislative requirements and market developments.



Joint ECRB-CEER-Eastern Partnership Workshop for Energy Regulatory Bodies, 21 May 2019, Minsk, Belarus



Energy Community prepares to address the cybersecurity challenge

Cybersecurity is among the key challenges posed by the energy transition and enhanced digitalization. The Energy Community follows the European Union's core rules in the area. In interconnected electricity and gas systems, increased cooperation at the Energy Community level will not only help protect the Contracting Parties but also make the European Union less vulnerable. In April 2019, the first Energy Community Cybersecurity Day opened a new chapter in the activities of the Energy Community which will endeavour to answer the needs of the Contracting Parties in ensuring safe and secure energy system operation.

The event kicked off the preparation of a cybersecurity study, the aim of which is to identify the state of cybersecurity in the energy domain in the Energy Community Contracting Parties. The Secretariat also partnered up with the European Network and Information Security Agency (ENISA) in order to extend the standards and rules applying in the European Union to the Contracting Parties.

EU4Energy Governance: Improving the legislative and regulatory environment in the Eastern Neighbourhood

The Energy Community Secretariat is one of the implementing partners of the “EU4Energy Governance” technical assistance project, funded by the European Union, under the EU4Energy Initiative. Within this project, the Secretariat delivers technical assistance to Georgia, Moldova and Ukraine to improve the legislative and regulatory environment of their energy sectors in line with their EU and Energy Community Treaty obligations and promotes multi-stakeholder dialogue, inter alia, to support the adoption of energy efficiency legislation. Support for the identification of key regional energy infrastructure projects, with the aim of fostering trade and improving security of supply, also covers Armenia, Azerbaijan and Belarus.

Over 55 regulatory drafts were prepared for Georgia, Moldova and Ukraine since the launch of the project. 119 workshops and ten high-level policy talks were organized in order to facilitate implementation of the legislation. These were attended by over 800 officials from the three beneficiary countries. The project runs for four years, from June 2016 to December 2020.

b. Events

On top of the events organized under the umbrella of the EU4Energy Governance project, the Secretariat organized 98 official meetings, which were attended by approximately 2.700 participants during this reporting period. This year’s highlights include the Seventh Vienna Forum on European Energy Law with over 200 participants. Kicking off with an insightful evening debate on the impact of Chinese investments on the European energy sectors, the Forum focused on the legal and economic aspects of the energy transition, as well as on traditional topics such as the future of gas transit through Ukraine and Nordstream and South Stream under the Third Energy Package. Organized back-to-back, the Second Dispute Resolution Forum discussed the potential impacts of the energy transition on the world of energy disputes, arbitration and international law and provided insights into high-stake energy disputes and recent investment arbitration cases.

The clean energy transition was also at the heart of this year’s Energy Community Summer School taking place in Kraków, Poland. In order to reduce the carbon footprint of the event and demonstrate the importance of taking ambitious actions to mitigate climate change, a small team of experts of the Energy Community Secretariat undertook the 460-kilometre journey from Vienna to Kraków by bicycle. Building on their efforts, the majority of this year’s Summer School speakers travelled to the event venue by train instead of using aerial transport.



Seventh Vienna Forum on European Energy Law, 19-20 September 2019, Vienna, Austria

c. Communication

With more than 72.000 website visitors during this reporting period, the website continued to serve as the key reference point for stakeholders. The Secretariat continued to provide up-to-date information via its regular news as well as specific web sections. For example, the Secretariat updated the Energy Community Transparency Platform – PLIMA, which provides information to potential investors and other stakeholders about the Projects of Energy Community Interest and Projects of Mutual Interest. Furthermore, it highlights the future development schedule, along with the approximate routing on an interactive map.

Keeping abreast of latest communication trends, the Secretariat continued to aim to enhance the Energy Community's presence on social media. The Energy Community's social media channels have a rapidly growing audience. The Energy Community has more than 2.400 followers on Twitter, 2.300 on Facebook and 2.100 on LinkedIn.

To make its communication more dynamic, the Secretariat focused on developing several targeted videos that were shared on its social media channels. To raise greater awareness of the organization, the Secretariat launched the first ever promotional video about the Energy Community. The two-minute video presented the main achievements of the Energy Community and explained, in an easy to understand way, its main objectives. The video targeted energy professionals as well as the public at large. In addition, the Secretariat produced two e-learning videos on topical issues presented by its members of staff.

d. Publications

Meeting its reporting tasks under the *acquis*, the Secretariat published a report on the implementation of chapters II to V of Regulation (EU) 703/2015 establishing a network code on interoperability and data exchange rules in the Energy Community. The Secretariat also published two monitoring reports on the Western Balkan 6 regional electricity market and Policy Guidelines 01/2019-ECS on Increasing Competition and Liquidity of Wholesale Electricity Markets and on the Design and Implementation of an Energy Efficiency Obligation Scheme in line with the Energy Efficiency Directive. The Secretariat's Analysis of Direct and Selected Hidden Subsidies to Coal Electricity Production "Rocking the Boat: What is Keeping the Energy Community's Coal Sector Afloat?" drew widespread attention at the Energy Community and EU level.

e. Staff

During the reporting period, the Energy Community Secretariat consisted of 35 permanently employed professionals, covering diverse expertise from all areas covered by the Energy Community Treaty. In addition to its permanent staff members, the Secretariat also employed 14 temporary personnel (11 interns, 2 secondees and 1 temporary staff member).

f. Budget 2018

The Energy Community is funded by contributions from the Parties to the Energy Community Treaty. The final budget for 2018 amounted to EUR 4.761.931 (2017: EUR 4.586.931).

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