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10 YEARS OF ENERGY COMMUNITY – OVERVIEW OF MACEDONIA'S REFORM PROCESS IN THE ENERGY POLICY

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commentary

□ **10** years are passing this year in October from the establishment of the Energy Community back in October 2005. The Energy Community, an international organization dealing with energy policy, was founded by the Treaty establishing the Energy Community which entered into force in July 2006. The Energy Community's main aim is to extend the EU internal energy market to South East Europe and beyond on the basis of a legally binding framework.

The members of the Energy Community in the present day are: EU – a Party to the Treaty, whereas 19 out of 28 member states have a Participant status; Contracting Parties – Albania, Macedonia, Montenegro, Kosovo, Serbia, Bosnia and Herzegovina, Ukraine and Moldova; Observers are Georgia, Norway, Turkey and Armenia; out of which is Georgia a Candidate country too.

The Energy Community Secretariat, which is the only permanent institution of the Energy Community, reviews the implementation by the Parties of their obligations under the Treaty. Once a year it prepares the Annual Implementation Report, which represents a good overview of the developments achieved in implementing the Treaty over the years, the positive highlights as well as the challenges the Contracting Parties face, including Macedonia. The aspects covered include natural gas, electricity, security of supply, renewables, oil, energy efficiency, environment, competition and statistics.

Macedonia has ratified the Treaty in 2006 and has been working since on reforming its energy and related sectors to meet the Energy Community requirements. The commentary will focus mainly on some of the more stand-out matters which tend to be repeated in the reports in the areas of electricity, gas, renewable energy, energy efficiency and competition in the more recent reports (from 2010) since in these later years the reports are country-specific.

Gas sector. Macedonia's gas sector has been criticized regarding several aspects. First, in several reports in a row (2010, 2011, 2012) the un-

clear ownership over the gas transmission network was mentioned to be an issue and also that it has a big impact on the development of the gas market in the country. This dispute between the State and the private company Makpetrol about the ownership has not been solved till the present day. Next, GA-MA holds both licenses for gas transmission system operator and gas transmission which is not in line with the Macedonian Energy law. The Energy law does not allow the same entity to hold both licenses. The Energy Community further on recommends more unbundling. This latter is related to the fact that Makpetrol jointly with the State controls GA-MA and at the same time Makpetrol has a license for gas trade, being the biggest importer of Russian gas, and owns a daughter company Promgas which supplies to tariff customers and has public service obligations. In other words, there is a vertically integrated company currently involved in supply and system operation which is not in line with Directive 2009/73/EC. Other critical aspects were the amendments to the Energy Law in May 2013 which introduced public private partnership as a general model for constructing gas distribution grids. The concern is that this discriminates against other forms of investment, namely without State involvement. Non-compliant is also the Memorandum of Understanding on the South Stream project signed between the Macedonian and Russian Governments since it excludes third party access. On the other hand, as positive steps were considered the development of a feasibility study for natural gas transmission development in 2010, and the development of the gas distribution network in the city of Kumanovo and in the city of Strumica. The gas sector

in the country is still small (the gas distribution network is under-developed; capacity of the existing gas pipeline is under-used; natural gas was recorded to participate with 1.7% in the final energy consumption in 2010 according to the State Statistical Office) and despite the gasification plans, the development of the sector proceeds slowly. The complexity of the gas market structure seems to be the key barrier.

Renewable energy. Another issue which has been mentioned in more than one report (2010, 2011, 2012) is the administrative barriers the renewable energy projects face due to inefficient, uncoordinated and non-streamlined approaches in all public institutions involved with promoting renewable energy. It is also stated that MEPSO and EVN, as network operators, have to be more transparent towards the renewable energy producers regarding information on the estimated costs of connection, time for processing the application and for making the connection. A more coordinated approach of all institutions or the creation of a one-stop-shop for all renewable energy applications should create a more conducive investment climate in the country. Back in 2011 Analytica has analyzed the state of renewable energy policy in the paper titled [The challenge of achieving sustainable](#)

[renewable energy policy in Macedonia](#) stating: "The process of acquiring the status of preferential producer, the necessary precondition for utilizing the feed-in tariffs, is a long and thorny one. It also includes knocking on the door of a large list of institutions as the Ministry of Economy, Ministry of Transport and Communications, Ministry of Environment and Physical Planning, the Energy Agency, the Energy Regulatory Commission,

The more specific objectives of the Energy Community are to:

- **Attract investment in power generation and networks to ensure stable and continuous energy supply that is essential for economic development and social stability;**
- **Create an integrated energy market allowing for cross-border energy trade and integration with the EU market;**
- **Enhance the security of supply;**
- **Improve the environmental situation in relation with energy supply in the region; and**
- **Enhance competition at regional level and exploit economies of scale.**

the market operator MEPSO and for projects below 1MW the municipalities, which all make the projects costly and risky.” It seems that through the years the relevant institutions have not fully managed to cooperate well in order to make renewable energy procedures simpler. Another burning matter (mentioned in the report for 2010, 2011) and related to the previous aspect of renewables is that the price of electricity is subsidized and not cost-reflective which is an obstacle on the way of promoting renewable energy.

Energy efficiency. Regarding energy efficiency, the feedback has been different about the country’s obligations regarding the first and the second energy efficiency action plan. In fact, the country was praised for its 1st National Energy Efficiency Action Plan as one of the best and most ambitious such plans in the Energy Community. Its indicative energy savings target is 12.2% of the final domestic energy consumption by 2018, and it also included a comprehensive package of energy efficiency measures in all end-use sectors. Other positive steps were the National Programme for Energy Efficiency in Public Buildings until 2018 and several important projects supporting the implementation of energy efficiency. However, the draft second Energy Efficiency Action Plan was noted that it is still not adopted. Therefore Macedonia fails to comply with this requirement of Directive 2006/32/EC. The draft second Energy Efficiency Action Plan sets a less ambitious indicative overall energy savings target of 9% in 2018. The draft second Energy Efficiency Action Plan proposed also the establishment of the Energy Efficiency Fund. The Fund is expected to

strongly support the implementation of energy efficiency measures, but it has not been established till the present day.

Competition. The last report also discusses the competences of the Energy Regulatory Commission. It says that they need to be extended in compliance with the Third Energy Package, in particular related to the right to carry out investigations, impose measures to promote competition and proper market functioning and issue penalties to gas and electricity undertakings that do not comply with their obligations or to propose to a competent court to impose such penalties. Overall assessment is that the Energy Regulatory Commission does not live up to its legally granted independence to the maximum possible extent. Another institution which also does not live up to the desired standard is the Commission for Protection of Competition. It is noted that it should become more proactive in the application of competition law, which could include a sector inquiry in the electricity market. The same applies for the application of state aid law to the energy sector. In fact, the Commission for Protection of Competition has prolonged the cartel investigation in the electricity sector and no case of state aid granted in the energy sector has been assessed by the Commission for Protection of Competition.

Cases. Very important information about the compliance with the Energy Community law is the dispute settlement mechanism. A Party to the Treaty, the Regulatory Board and the Secretariat may bring a case of non-compliance by a Party with Energy Community law to the attention of the Min-

isterial Council. The Ministerial Council may determine the existence of a breach by a Party of its obligations. In cases of serious and persistent breaches, certain rights deriving of the application of the Treaty to the Party concerned may be suspended. Regarding the cases of non-compliance, for Macedonia the first one was in 2008 in the area of electricity, which was closed after adoption of the new Energy law in 2011 which rectified the matter. There are at the moment 4 ongoing cases against Macedonia – 1 in the area of environment, 2 about electricity and 1 about renewables. Important to mention are the two last cases - the one in the area of renewables from 2014, shared with some other Parties, which is about failure to adopt the National Renewable Energy Action Plan. This makes the country in breach of Directive 2009/28/EC. The 2015 electricity case is about postponing the full opening of the electricity market, meaning also for small businesses and households. The long expected full liberalization of the electricity market has been suddenly postponed depriving small businesses and households of the possibility to buy electricity directly from the supplier of their choice.

In conclusion, Macedonia has worked on reforming its energy sector and related areas to comply with the Energy Community law, and achieved progress, but the identified issues show that there is a long way to go. There are many challenges for the country to overcome before meeting the Energy Community standards, thus improving citizens’ quality of life. □



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