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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	14 October 2025
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2025) 636 annex
Subject:	ANNEX 3 ANNEX to the Proposal for a Council Decision on the position to be taken on behalf of the European Union in the Ministerial Council of the Energy Community as regards amendments to the Treaty establishing the Energy Community to update and expand the scope of the Treaty to the evolution of Union environmental law

Delegations will find attached document COM(2025) 636 annex.

Encl.: COM(2025) 636 annex



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COM(2025) 636 final

ANNEX 3

ANNEX

to the

Proposal for a Council Decision

on the position to be taken on behalf of the European Union in the Ministerial Council of the Energy Community as regards amendments to the Treaty establishing the Energy Community to update and expand the scope of the Treaty to the evolution of Union environmental law

ANNEX III
DECISION No. 20xx/XX/MC-EnC
OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY
of xx xx 202x

on amending the Energy Community Treaty and on the implementation of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration, Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy and Commission Directive 2009/90/EC of 31 July 2009 laying down technical specifications for chemical analysis and monitoring of water status

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

Having regard to the Energy Community Treaty, and in particular Articles 25, 79 and 100, point (i) thereof,

Whereas:

- (1) Article 2 of the Energy Community Treaty ('the Treaty') sets out the improvement of the environmental situation in relation to Network Energy and related energy efficiency in the Contracting Parties as one of its key objectives.
- (2) Article 12 of the Treaty requires each Contracting Party to implement the '*acquis communautaire* on environment' in compliance with the timetable for the implementation of those measures set out in Annex II to the Treaty.
- (3) Article 16 of the Treaty lists the '*acquis communautaire* on environment' which is covered by the Treaty.
- (4) Article 25 of the Treaty provides that the Energy Community may take measures to implement amendments to the *acquis communautaire* set out in Title II, in line with the evolution of European Union law.
- (5) Article 79 of the Treaty provides that the Ministerial Council, the Permanent High Level Group or the Regulatory Board shall take Measures under Title II on a proposal from the European Commission. Pursuant to Articles 81 and 82 of the Treaty, such measures shall be taken by the majority of the votes cast, each Contracting Party having one vote.
- (6) Article 100 of the Treaty provides *inter alia* for decisions on amendments of the provisions of Titles I to VII to be taken by unanimity of the Members of the Energy Community Treaty.
- (7) The acceleration of domestic renewable energy projects in the Energy Community is necessitated by the attainment of the Contracting Parties' greenhouse gas emission

reduction and renewable energy generation targets for 2030, as set by Regulation (EU) 2018/1999¹.

- (8) A large number of existing, renewable and non-renewable, Network Energy-related projects and activities can have significant negative impacts on the status of aquatic ecosystems. In addition, in the context of the foreseeable uptake of renewable energy, including hydropower, hydrogen and mining of critical raw materials for energy-related purposes, an increased risk of damage to such ecosystems is foreseeable in the Contracting Parties.
- (9) Albeit to a different degree, many type of Network Energy projects and activities are dependent on the availability of water in the right quantity and quality. Water scarcity is already having an impact on energy production and reliability; further constraints may call into question the physical, economic and environmental viability of future projects and operations.
- (10) In the context of the 2023 UN Water Conference, the Union presented its vision to achieve by 2050 a water resilient global society, offering water security for all. On 4 June 2025, the Union adopted a European Water Resilience Strategy² to design the trajectory to achieve this goal.
- (11) It is necessary to ensure a just energy transition based on the protection and enhancement of water resources, and the avoidance of deterioration of the status of aquatic ecosystems.
- (12) The preparation and approval of Network Energy-related projects, as well as ongoing activities, in the context of the Treaty, must be made part of the overall efforts to protect and enhance water resources, and such projects must be designed to prevent or, where necessary, limit as far as possible any negative impacts on the status of water bodies.
- (13) The purpose of Directive 2000/60/EC of the European Parliament and of the Council³ is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater, including through (i) the prevention of further deterioration and the protection and enhancement of the status of aquatic ecosystems, and (ii) the promotion of sustainable water use based on a long-term protection of available water resources.
- (14) It is necessary for the Contracting Parties to ensure that all Network Energy-related activities are designed and operated so as to ensure compliance with Directive 2000/60/EC, and in particular with Article 4 of that Directive which sets out the main objectives, establishing that Member States are to implement the measures necessary to prevent deterioration of the status of water bodies and take measures with the aim of achieving to good water status, without prejudice to a series of time limited and other

¹ Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1–77, ELI: <https://eur-lex.europa.eu/eli/reg/2018/1999/oj>).

² COM(2025) 280 final European Water Resilience Strategy.

³ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1, ELI: <http://data.europa.eu/eli/dir/2000/60/oj>).

exemptions. At the current stage of development of Union law, for groundwater bodies good status implies good quantitative and good chemical status, whereas for surface water bodies this requires good ecological status or potential and good chemical status.

- (15) In order to assess the potential impacts of existing and new energy-related projects on the status of water bodies, it is necessary to know the current status of those water bodies, based on regular monitoring. Since the process of monitoring and classifying water bodies is a continuous process and since many water bodies are already affected by energy-related projects and it is not possible to identify *a priori* all water bodies that will be impacted by new energy-related projects, the Contracting Parties should carry out the monitoring and classification of all water bodies on their territory.
- (16) Assessing water status implies putting in place a permanent and structured water body monitoring system, selecting the monitoring sites and quality elements to be monitored on the basis of a preliminary assessment of all pressures and impacts. The assessment of the status of water bodies potentially affected by energy-related projects is a comprehensive exercise, that would be incomplete if limited to the pressures and impacts resulting from those projects. Therefore, the Contracting Parties should assess pressures and impacts of all activities potentially affecting the status of water bodies.
- (17) To ensure that both existing and new energy-related projects do not deteriorate the status of water bodies or do not affect their potential to achieve good water status, in accordance with Article 4 of Directive 2000/60/EC or, where unavoidable and appropriately justified, minimize their negative impact, Contracting Parties should identify all measures necessary to achieve good status and choose the most cost-effective combination of measures to reach the objectives of that Directive, including measures affecting activities that are not Network Energy-related, but which affect the status of water bodies impacted by new or existing Network Energy-related projects.
- (18) Since good status of water bodies depends on a combination of measures in respect of all activities impacting those water bodies, and since all these measures interact with each other in the framework of the objective to achieve good status, the Contracting Parties should identify measures in relation to all activities, including non-energy-related ones, so as to enable decisions to be made based on the most cost-effective combination of measures to achieve good status, affecting the various activities within the same river basin.
- (19) Contracting Parties should therefore undertake analyses of the characteristics of a river basin and the impacts of human activity as well as an economic analysis of water use, in accordance with Article 5 of Directive 2000/60/EC. The development in water status should be monitored on a systematic and comparable basis throughout the Energy Community, in accordance with Article 8 of Directive 2000/60/EC. This information is necessary in order to provide a sound basis for Contracting Parties to develop programmes of measures in accordance with Article 11 of Directive 2000/60/EC, aimed at achieving the objectives established under that Directive. For the purpose of ensuring consistent and effective implementation of Directive 2000/60/EC, Contracting Parties should establish river basin management plans and report those to the Secretariat every six years, in accordance with Articles 13, 14 and 15 of Directive 2000/60/EC. Those plans should set out, based on the established status of each individual water body, the measures that will be implemented during the six-year river basin management plan in order to move towards good status and avoid deterioration.

- (20) Considering the possible impact of Network Energy-related activities on the chemical status of water bodies, it is necessary to apply the provisions governing good chemical status of groundwater and surface water, which are respectively set out in Directive 2006/118/EC of the European Parliament and of the Council⁴ and Directive 2008/105/EC of the European Parliament and of the Council⁵. Directive 2006/118/EC establishes criteria for the assessment of good groundwater chemical status, and criteria for the identification and reversal of significant and sustained upward trends and for the definition of starting points for trend reversals. Directive 2008/105/EC lays down environmental quality standards for priority substances and certain other pollutants, which must be complied with for the purpose of achieving good surface water chemical status.
- (21) Commission Directive 2009/90/EC⁶ complements the abovementioned Directives, laying down technical specifications for chemical analysis and monitoring of water status.
- (22) The Treaty concerns projects that are relevant to the implementation of Directive 2000/60/EC, whose inclusion in the '*acquis communautaire* on environment' would ensure that the protection, enhancement and avoidance of deterioration of the status of aquatic ecosystems are taken into account during the design and implementation of Network Energy-related projects.
- (23) Directive 2000/60/EC, Directive 2006/118/EC, Directive 2008/105/EC and Commission Directive 2009/90/EC have not yet been incorporated into the '*acquis communautaire* on environment' of the Energy Community.
- (24) The framework for regional cooperation established by the Energy Community and the assistance offered by its institutions and bodies can be essential in preparing the successful implementation of Directive 2000/60/EC.
- (25) Article 94 of the Treaty requires institutions to interpret any term or other concept used in the Treaty that is derived from Union law in conformity with the case law of the Court of Justice of the European Union.
- (26) The Environmental Task Force, at its meetings on [xxx] and [xxx], analysed the proposal in detail and recommended its adoption with a number of adaptations which are reflected in this Decision. The adaptations were agreed by the European Commission.
- (27) The Permanent High Level Group, at its meetings of [xxx] and [xxx], elaborated and proposed to adopt this Decision,

HAS ADOPTED THIS DECISION:

⁴ Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration (OJ L 372 27.12.2006, p. 19, ELI: <http://data.europa.eu/eli/dir/2006/118/2014-07-11>).

⁵ Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council (OJ L 348, 24.12.2008, p.84, ELI: <http://data.europa.eu/eli/dir/2008/105/2013-09-13>).

⁶ Commission Directive 2009/90/EC of 31 July 2009 laying down, pursuant to Directive 2000/60/EC of the European Parliament and of the Council, technical specifications for chemical analysis and monitoring of water status (OJ L 201, 1.8.2009, p. 36–38, ELI: <http://data.europa.eu/eli/dir/2009/90/oj>).

Article 1

The Energy Community Treaty is amended as follows:

(1) In Article 16, the following points [XX], [XX], [XX] and [XX] are added:

“(XX) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy,

(XX) Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration,

(XX) Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council,

(XX) Commission Directive 2009/90/EC of 31 July 2009 laying down, pursuant to Directive 2000/60/EC of the European Parliament and of the Council, technical specifications for chemical analysis and monitoring of water status.”;

(2) In Annex II, the following points [XX], [XX], [XX] and [XX] are added:

“[XX]. Each Contracting Party shall implement Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy by [five years after the date of adoption of this Decision], without prejudice to commitments stemming from the Union accession process and other international obligations.

[XX]. Each Contracting Party shall implement Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration by [five years after the date of adoption of this Decision], without prejudice to commitments stemming from the Union accession process and other international obligations.

[XX]. Each Contracting Party shall implement Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council by [five years after the date of adoption of this Decision], without prejudice to commitments stemming from the Union accession process and other international obligations.

[XX]. Each Contracting Party shall implement Commission Directive 2009/90/EC of 31 July 2009 laying down, pursuant to Directive 2000/60/EC of the European Parliament and of the Council, technical specifications for chemical analysis and monitoring of water status by [five years after the date of adoption of this Decision], without prejudice to commitments stemming from the Union accession process and other international obligations.”

Article 2

1. For the purposes of the Energy Community Treaty, the following references throughout the Directives listed in Article 1(1) shall be understood as follows:

- (a) 'Member State' and 'Member States' as 'Contracting Party' and 'Contracting Parties', respectively;
- (b) 'Community', 'European Union' and 'Union' as 'Energy Community';
- (c) 'Community legislation' as 'national legislation, including legislation transposing the *acquis communautaire* covered by the Energy Community Treaty';
- (d) 'Commission' as 'Energy Community Secretariat'.

2. For the purposes of the Energy Community Treaty, references throughout the Directives listed in Article 1(1) to other pieces of Union legislation and the provisions thereof shall be understood as references to national legislation on the same subject matter as that covered by those pieces of Union legislation, including legislation transposing the relevant *acquis communautaire* covered by the Energy Community Treaty.

3. The adaptations referred to in Articles 3 to 6 shall apply in addition to the adaptations referred to in paragraph 1.

Article 3

For the purposes of Title II of the Energy Community Treaty, the following provisions of Directive 2000/60/EC shall be read with the following adaptations:

(1) Article 3(7) and (8) shall be read as follows:

“7. Contracting Parties shall identify the competent authority by [five years after the date of adoption of this Decision].

8. Contracting Parties shall provide the Energy Community Secretariat ('the Secretariat') with a list of their competent authorities and of the competent authorities of all the international bodies in which they participate at the latest by [five years and six months after the date of adoption of this Decision]. For each competent authority the information set out in Annex I shall be provided.”

(2) The deadline 'by 2010' set in Article 9(1) shall be read as 'by [twelve years after the date of adoption of this Decision]’.

(3) The deadlines that are counted '[x] years after the date of entry into force of this Directive' or '[x] years from the date of entry into force of this Directive' shall be read as '[x+ 2] years after the date of adoption of Decision 202x/xx/MC-EnC' or '[x + 2] years from the date of adoption of Decision 202x/xx/MC-EnC', respectively.

(4) For the purposes of identifying relevant ecoregions, the ecoregions listed in points 1.2.3. and 1.2.4. of Annex II and presented on map B in Annex XI shall be completed with the 'Black Sea'.

(5) Points 1.4.1.(vii), (viii) and (ix) of Annex V shall be read as follows:

“(vii) The Secretariat shall prepare a draft register of sites to form the intercalibration network by [five years after the date of adoption of this Decision]. The final register of sites shall be established by [six years after the date of adoption of this Decision] and shall be published by the Secretariat.

(viii) The Secretariat and the Contracting Parties shall complete the intercalibration exercise within 18 months from the date on which the finalised register is published.

(ix) The results of the intercalibration exercise and the values established for the Contracting Parties monitoring system classifications shall be published by the Secretariat within six months from the completion of the intercalibration exercise.”

(6) Article 8(3) and Articles 16 to 22, 24, 25 and 26 shall not be applicable.

Article 4

For the purposes of Title II of the Energy Community Treaty, the following provisions of Directive 2006/118/EC shall be read with the following adaptations:

(1) The reference years stipulated in Article 2(6) shall be the two years following the establishment of programmes for the monitoring of water status implemented under Article 8 of Directive 2000/60/EC.

(2) The deadline ‘by 22 December 2008’ set in Article 3(5) shall be read as ‘by [ten years after the date of adoption of this Decision]’.

(3) Point 2(a)(ii) of Part A of Annex IV shall be read as follows:

‘enable such upward trends to be identified in sufficient time to allow measures to be implemented in order to prevent, or at least mitigate as far as practicable, environmentally significant detrimental changes in groundwater quality. This identification will be carried out for the first time by [eleven years after the date of adoption of this Decision], and at least every six years thereafter;’

(4) Article 3(7) and Articles 7 to 14 shall not be applicable.

Article 5

For the purposes of Title II of the Energy Community Treaty, the following provisions of Directive 2008/105/EC shall be read with the following adaptations:

(1) Article 5 shall be read as follows:

“1. On the basis of the information collected in accordance with Articles 5 and 8 of Directive 2000/60/EC and other available data, Contracting Parties shall establish an inventory, including maps, if available, of emissions, discharges and losses of all priority substances and pollutants listed in Part A of Annex I to this Directive for each river basin district or part of a river basin district lying within their territory including their concentrations in sediment and biota, as appropriate.

2. The reference period for the estimation of pollutant values to be entered in the inventories referred to in paragraph 1 shall be one year between 2034 and 2036.

3. Contracting Parties shall communicate the inventories established pursuant to paragraph 1 of this Article, including the respective reference periods, to the Secretariat in accordance with the reporting requirements under Article 15(1) of Directive 2000/60/EC.

4. Contracting Parties shall update their inventories as part of the reviews of the analyses specified in Article 5(2) of Directive 2000/60/EC.

The reference period for the establishment of values in the updated inventories shall be the year before that analysis is to be completed.

Contracting Parties shall publish the updated inventories in their updated river basin management plans as laid down in Article 13(7) of Directive 2000/60/EC.”

(2) Article 3(1a), Article 3(7), (8a) and (8b) and Articles 7 to 15 shall not be applicable.

Article 6

For the purposes of Title II of the Energy Community Treaty, Articles 7, 8 and 9 of Directive 2009/90/EC shall not be applicable.

Article 7

1. The Contracting Parties shall bring into force the laws, regulations and administrative provisions necessary to comply with Directives 2000/60/EC, 2008/105/EC, 2006/118/EC and 2009/90/EC by [five years after the date of adoption of this Decision], without prejudice to commitments stemming from the Union accession process and other international obligations. They shall forthwith inform the Secretariat thereof.

2. When Contracting Parties adopt the measures referred to in paragraph 1, they shall contain references to this Decision and the relevant Directive transposed by each measure, or they shall be accompanied by such references on the occasion of their official publication. The methods for making such references shall be laid down by the Contracting Parties.

3. Contracting Parties shall communicate to the Secretariat the text of the main provisions of national law which they adopt in the field covered by this Decision and the Directives referred to in paragraph 1.

Article 8

This Decision shall enter into force on the date of its adoption by the Ministerial Council.

Article 9

This Decision is addressed to the Contracting Parties of the Energy Community Treaty.

Done in [xxx], on [DATE]

For the Ministerial Council

(President)

