



Brussels, 11 November 2025
(OR. en)

14632/25

**Interinstitutional File:
2025/0321(NLE)**

LIMITE

**ENER 559
ENV 1170
RELEX 1365
COWEB 123
COEST 768**

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the position to be taken on behalf of the European Union within the Ministerial Council of the Energy Community with regard to amendments to the Treaty establishing the Energy Community in order to reflect the evolution of Union environmental law

COUNCIL DECISION (EU) 2025/...

of ...

**on the position to be taken on behalf of the European Union
within the Ministerial Council of the Energy Community
with regard to amendments to the Treaty establishing the Energy Community
in order to reflect the evolution of Union environmental law**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Energy Community Treaty (the ‘Treaty’) was concluded by the Union on 29 May 2006 by means of Council Decision 2006/500/EC¹ and entered into force on 1 July 2006.
- (2) Pursuant to Article 12 of the Treaty, each Contracting Party is to implement the *acquis communautaire* on environment in compliance with the timetable for the implementation of the measures set out in Annex II to the Treaty.
- (3) Article 16 of the Treaty sets out the list of the Union Acts which constitute the *acquis communautaire* on environment (the ‘Union Acts’) that are covered by the Treaty.
- (4) Pursuant to Article 24 of the Treaty, the Energy Community is to take measures to adapt the *acquis communautaire* on environment as described in Title II of the Treaty. Pursuant to Article 25 of the Treaty, the Energy Community is able to take measures to implement amendments to the *acquis communautaire* as described in Title II of the Treaty, in line with the evolution of Union law.

¹ Council Decision 2006/500/EC of 29 May 2006 on the conclusion by the European Community of the Energy Community Treaty (OJ L 198, 20.7.2006, p. 15, ELI: <http://data.europa.eu/eli/dec/2006/500/oj>).

- (5) Pursuant to Article 79 of the Treaty, the Ministerial Council of the Energy Community (the ‘Ministerial Council’), the Permanent High Level Group or the Regulatory Board are to take measures under Title II on a proposal from the European Commission. Pursuant to Articles 80 and 81 of the Treaty, such measures are to be taken by the Ministerial Council, the Permanent High Level Group or the Regulatory Board acting by the majority of the votes cast, each Contracting Party having one vote.
- (6) With regard to expanding the list of Union Acts covered by the Treaty, decisions on amendments of the provisions of Titles I to VII are to be taken, pursuant to Article 100 of the Treaty, by the Members of the Ministerial Council by unanimity of its Members.

- (7) Directive 2009/147/EC of the European Parliament and of the Council², Council Directive 92/43/EEC³, Directive 2000/60/EC of the European Parliament and of the Council⁴, together with the Directive 2006/118/EC of the European Parliament and of the Council⁵, Directive 2008/105/EC of the European Parliament and of the Council⁶ and Commission Directive 2009/90/EC⁷ are not yet included in Article 16 of the Treaty. Consequently, Contracting Parties do not yet have the obligation to implement those Directives. Therefore, it is necessary to update and expand the list of Union Acts by adding those Directives.

² Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7, ELI: <http://data.europa.eu/eli/dir/2009/147/oj>).

³ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7, ELI: <http://data.europa.eu/eli/dir/1992/43/oj>).

⁴ 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>).

⁵ 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/oj>).

⁶ 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/oj>).

⁷ 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, ELI: <http://data.europa.eu/eli/dir/2009/90/oj>).

- (8) In order to ensure a just energy transition that guarantees co-benefits for biodiversity and the avoidance of deterioration in the conservation status of wild bird species, it is necessary to adapt the existing *acquis communautaire* as described in Title II of the Treaty by replacing the existing reference to Article 4(2) of Council Directive 79/409/EEC⁸ with a reference to Directive 2009/147/EC in the list of Union Acts.
- (9) Furthermore, Directive 92/43/EEC provides for a structured approach to assessing and mitigating environmental impacts of energy projects within the scope of the Energy Community Treaty on biodiversity, and along with Directive 2009/147/EC, represents the main legal tool in Union law for the implementation of the international obligations of the Union arising under the Bern Convention on the Conservation of European Wildlife and Natural Habitats. Therefore, it is necessary to extend the *acquis communautaire* as described in Title II of the Treaty by adding Directive 92/43/EEC to the list of Union Acts.

⁸ Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (OJ L 103, 25.4.1979, p. 1, ELI: <http://data.europa.eu/eli/dir/1979/409/oj>).

- (10) Following the need to provide for comprehensive assessments of the potential impacts on water ecosystems of the energy projects within the scope of the Treaty, 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 thereof. Pursuant to that provision, Member States are to implement the measures necessary to prevent deterioration of the status of bodies of surface water and to take measures with the aim of achieving good surface water status, subject to certain time limitations and other exemptions. Therefore, it is necessary to extend the *acquis communautaire* as described in Title II of the Treaty by adding Directive 2000/60/EC as well as Directive 2006/118/EC, Directive 2008/105/EC and Directive 2009/90/EC to the list of Union Acts.
- (11) It is necessary that the Commission present the necessary proposals to the Ministerial Council.
- (12) It is appropriate to establish the position to be taken on the Union's behalf within the Ministerial Council at its meeting on 18 December 2025 with regard to amendments of the Treaty.

- (13) Should the Ministerial Council not be in a position to adopt the decisions at its meeting on 18 December 2025, it should be possible to adopt such decisions by correspondence following the 23rd session of the Ministerial Council, in accordance with the Rules of Procedure of the Energy Community, without this requiring a further decision of the Council, or at the next ministerial Council's meeting in 2026.

HAS ADOPTED THIS DECISION:

Article 1

The Commission shall submit to the Ministerial Council of the Energy Community (the ‘Ministerial Council’) the proposal set out in Annexes I, II and III to this Decision (the ‘proposal’), with a view to amending the Treaty establishing the Energy Community (the ‘Treaty’) in order to update and expand the scope of the Treaty taking into account the evolution of Union environmental law.

Article 2

The position to be taken on the Union’s behalf within the Ministerial Council at its meeting on 18 December 2025, or, if not adopted at that meeting, by correspondence or at the next Ministerial Council’s meeting in 2026, shall be to support the adoption of the proposal.

Article 3

Minor changes to the proposal may be agreed upon by the representatives of the Union in the Ministerial Council without further decision of the Council.

Article 4

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

Done at ...,

For the Council

The President

