Council of the European Union

Brussels, 14 December 2023
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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	13 December 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 794 final - ANNEX
Subject:	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

Delegations will find attached document COM(2023) 794 final - ANNEX.

Encl.: COM(2023) 794 final - ANNEX

EUROPEAN
COMMISSION

Brussels, 13.12.2023
COM(2023) 794 final

ANNEX

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

ANNEX

PROCEDURAL ACT 2023/XX/MC-EnC AMENDING THE ENERGY COMMUNITY STAFF REGULATIONS OF 18 DECEMBER 2007 AS AMENDED BY PROCEDURAL ACT 2009/04/MC-EnC AND PROCEDURAL ACT 2022/02/MC-EnC, AND AMENDING PROCEDURAL ACT 2006/02/MC-EnC ON THE ADOPTION OF RULES FOR RECRUITMENT, WORKING CONDITIONS AND GEOGRAPHICAL EQUILIBRIUM OF THE SECRETARIAT'S STAFF OF THE ENERGY COMMUNITY, AS AMENDED BY PROCEDURAL ACT 2016/01/MC-EnC AND PROCEDURAL ACT 2022/02/MC-EnC

The position to be taken on behalf of the Union in the Ministerial Council should be to approve the draft Ministerial Council Procedural Act amending the Energy Community Staff Regulations of 18 December 2007 and amending the Procedural Act on the Rules for Recruitment, Working Conditions and Geographical Equilibrium of the Secretariat's Staff of the Energy Community in accordance with Addendum 1 to this Annex.

PROCEDURAL ACT 2023/XX/MC-EnC ON AMENDING PROCEDURAL ACT 2021/01/MC-EnC ON THE ADOPTION OF THE BUDGET OF THE ENERGY COMMUNITY FOR THE YEARS 2022-2023 AND ON THE CONTRIBUTIONS BY THE PARTIES TO THE BUDGET

The position to be taken on behalf of the Union in the Ministerial Council should be to approve the draft Ministerial Council Procedural Act on amending the Procedural Act 2021/01/MC-EnC on the adoption of the Budget of the Energy Community for the years 2022-2023 and on the contributions by the Parties to the budget in accordance with Addendum 2 to this Annex.

PROCEDURAL ACT 2023/XX/MC-EnC ON AMENDING PROCEDURAL ACT 2021/02/MC-EnC ON THE APPOINTMENT OF THE DIRECTOR OF THE ENERGY COMMUNITY SECRETARIAT

The position to be taken on behalf of the Union in the Ministerial Council should be to approve the draft Ministerial Council Procedural Act amending Procedural Act 2021/02/MC-EnC on the appointment of the Director of the Energy Community Secretariat in accordance with Addendum 3 to this Annex.

PROCEDURAL ACT 2023/XX/MC-EnC ON THE ADOPTION OF THE BUDGET OF THE ENERGY COMMUNITY FOR THE YEARS 2024-2025 AND ON THE CONTRIBUTIONS BY THE PARTIES TO THE BUDGET

The position to be adopted on behalf of the European Union is to approve the draft Procedural Act of the Ministerial Council of the Energy Community on the adoption of the budget of the Energy Community for the years 2024-2025 and on the contributions by the Parties to the budget in accordance with Addendum 4 to this Annex.

PROCEDURAL ACT 2023/XX/MC-EnC ON THE ADOPTION OF THE ORGANIGRAMME OF THE ENERGY COMMUNITY SECRETARIAT

The position to be taken on behalf of the Union in the Ministerial Council should be to approve the draft Ministerial Council Procedural Act on the adoption of the Organigramme of the Energy Community Secretariat in accordance with Addendum 5 to this Annex.

PROCEDURAL ACT 2023/XX/MC-EnC ON AMENDING PROCEDURAL ACT 2006/03/MC-EnC ON THE ADOPTION OF ENERGY COMMUNITY PROCEDURES FOR THE ESTABLISHMENT AND IMPLEMENTATION OF BUDGET, AUDITING AND INSPECTION, AS AMENDED BY PROCEDURAL ACT 2014/01/MC-EnC AND PROCEDURAL ACT 2022/02/MC-EnC

The position to be taken on behalf of the Union in the Ministerial Council should be to approve the draft Ministerial Council Procedural Act on amending Procedural Act 2006/03/MC-EnC on the adoption of Energy Community Procedures for the Establishment and Implementation of Budget, Auditing, and Inspection in accordance with Addendum 6 to this Annex.

DECISION 2023/XX/MC-EnC ON FINANCIAL DISCHARGE OF THE DIRECTOR OF THE SECRETARIAT OF THE ENERGY COMMUNITY

The position to be taken on behalf of the Union in the Ministerial Council should be to approve the draft Ministerial Council Decision on the Financial Discharge of the Director of the Secretariat of the Energy Community in accordance with Addendum 7 to this Annex.

ADDENDUM 1 TO THE ANNEX

PROCEDURAL ACT 2023/XX/MC-EnC

OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

amending the Energy Community Staff Regulations of 18 December 2007 as amended by Procedural Act 2009/04/MC-EnC and Procedural Act 2022/02/MC-EnC, and amending Procedural Act 2006/02/MC-EnC on the adoption of Rules for Recruitment, Working Conditions and Geographical Equilibrium of the Secretariat's Staff of the Energy Community, as amended by Procedural Act 2016/01/MC-EnC and Procedural Act 2022/02/MC-EnC

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY,

Having regard to the Treaty establishing the Energy Community, and in particular Articles 69, 82, 83, 86 and 87 thereof,

Whereas the Energy Community's Staff Regulations should be amended to provide greater clarity as regards the rules of appointment and performance evaluation, on salaries and social benefits, on the arbitration of disputes concerning the staff of the Energy Community Secretariat and on the applicability of these Staff Regulations to Director of the Energy Community Secretariat,

Whereas the Energy Community's Rules for Recruitment, Working Conditions and Geographical Equilibrium of the Secretariat's Staff of the Energy Community should be amended to ensure alignment with the above-mentioned amendments to the Staff Regulations,

Whereas it is necessary to provide transitional arrangements to ensure legal certainty on the applicability of these amendments to the present Director of the Energy Community Secretariat during his current mandate,

Having regard to the proposal of the European Commission,

HAS ADOPTED THIS PROCEDURAL ACT:

Article 1

Amendments to the Energy Community Staff Regulations of 18 December 2007 as amended by Procedural Act 2009/04/MC-EnC and Procedural Act 2022/02/MC-EnC

(1) In Section 2.1. ('Definitions'):

– In the first subparagraph a sentence shall be added at the end: 'The Director is a staff member.';

– Third subparagraph shall be amended to read as follows: 'Seconded Staff': staff members seconded by their governments or international organisations for an assignment within the Secretariat';

– Sixth subparagraph shall be amended to read as follows: 'Employer': The Energy Community, represented by the Director of the Energy Community Secretariat or by the Ministerial Council as regards the Director';

(2) Section 3.1. ("The international nature of service") shall be amended to read as follows:

– 'The staff members are international civil servants whose obligations are exclusively international. By accepting appointment, they pledge themselves to discharge their functions and to regulate their conduct with the interests of Energy Community alone in view. They shall be subject to the authority of the Director and shall be responsible to him/her in the exercise of their functions. The Director shall be subject to the authority of the Ministerial Council. The staff members shall not seek or accept instructions in the performance of their duties from any government or other authority external to the Energy Community.'

(3) In Section 3.3. ("Outside activities"):

– Subparagraph a) shall be amended to read as follows: 'Staff members shall not engage in any activity outside the Energy Community which is incompatible with the

proper performance of their duties, may give rise to a conflict of interest, or may cause damage to the reputation of the Energy Community.';

– Subparagraph b) shall be amended to read as follows: 'Staff members shall not engage in any paid occupation of employment outside Energy Community without prior written approval of the Director. Any staff member who has a share directly or indirectly of a company, involved in the energy sector, which may allow him/her to influence the management of the company, shall notify in writing the Director about this fact. In a similar case, the Director shall notify in writing the Presidency of the Ministerial Council. The Director shall not engage in any paid occupation of employment outside Energy Community without prior written approval of the Presidency of the Ministerial Council. The Presidency of the Ministerial Council may grant its written approval for a range of activities.'

– Subparagraph c) shall be replaced to read as follows: 'Before taking up duties in the Secretariat, the Director shall submit to the Ministerial Council of the Energy Community a declaration of integrity laying down any interest which might be considered prejudicial to his independence. The Director shall update such declaration when circumstances change. If at any time in the course of duties the Director becomes aware of any potential conflict of interest that may be perceived as possibly jeopardising his or her independence and integrity, he or she shall inform the Presidency of the Ministerial Council without undue delay.'

– Subparagraph d) shall be inserted and read as follows: 'The Director shall report about the implementation of this provision annually to the Ministerial Council.'

(4) Section 3.5.a) ("Use and release of information") shall be amended to read as follows:

– 'Officials of the Secretariat shall exercise the necessary discretion in all matters of official business. They shall not, except in the performance of their duties or by authorization of the Director, or by the Presidency of the Ministerial Council as regards the Director, communicate to any person unpublished information known to them by reason of their official position, nor shall they at any time use such information to personal advantage including financial advantages. This obligation shall continue to bind Officials of the Secretarial after their separation from service.'

(5) Section 3.7.a) ("Honours and Gifts") shall be amended to read as follows:

– 'In connection with their duties staff member shall not accept, or offer, any honor, decoration, favor, gift or fee from/to any government or any other source external to the Secretariat, which is incompatible with his/her status as an international civil servant. A staff member being offered or receiving any such honor, decoration, favor, gift or fee shall report this fact forthwith to the Director. The Director shall report such facts to the Ministerial Council. Gifts received by staff members in an official capacity become property of the Energy Community, shall be kept at the premises of the Secretariat and shall be listed in an index drawn up for this purpose.'

(6) In Section 4.1. ("Appointment of the Director") under 4. ("Appointments") a sentence shall be added at the end:

– 'The appointment of the Director shall take effect as of the date that the Director signs his or her Employment Agreement as set out in Section 4.4.'

(7) Section 4.1.bis ("Deputy Director") shall be amended to read as follows:

– The Director may assign the function of Deputy Director to one of the existing heads of unit in the Secretariat. The Director shall define tasks of Deputy Director.'

(8) In Section 4.4. ("Employment Agreement"):

– Subparagraph a) shall be amended to read as follows: 'The terms of employment of a staff member shall be governed by an Employment Agreement which shall be signed by the Director and by the staff member. Before taking up his or her functions, the Director and the Presidency of the Ministerial Council shall sign an Employment Agreement, which has been approved by the Ministerial Council in line with the Rules for Recruitment, Working Conditions and Geographical Equilibrium of the Secretariat's Staff.';

– Subparagraph b) shall be amended to read as follows: 'The Employment Agreement shall state as a minimum:

(a) Name and legal address of the employer;

(b) Name and legal address of the employee;

(c) The effective date of appointment;

(d) The duration of the appointment;

(e) Ordinary duty station;

(f) The job title;

(g) Total remuneration pertaining to the appointment;

(h) Conditions for probation;

(i) Total of the annual leave entitlement;

(j) The number of working hours per week;

(k) Explicit list of documents, which are attached to the Agreement, including these Staff Regulations, and which refer to regulation of the employment relationship.'.

(9) In Section 4.5.b) ('Job descriptions') a sentence shall be added at the end:

– The job description for the Director's post shall be set out in his or her Employment Agreement.

(10) In Section 4.7. ('General Performance requirements'):

– Subparagraph a) shall be amended to read as follows: 'Staff members shall fulfil their duties and responsibilities conscientiously and shall strictly follow all instructions and guidelines provided by the Director and other superiors and/or supervisors. Staff members shall report to the Director regarding their activities on a regular basis.';

– Subparagraph b) shall be amended to read as follows: 'The Director may assign, either temporarily or permanently, duties and responsibilities to a Staff member that correspond to the Staff member's education and training and capabilities, and which are reasonable in terms of the relevant job description.';

– Subparagraph c) shall be amended to read as follows: 'Staff members may present in writing their disagreement with any assignment if they are of the view that it is not in accordance with the requirements under point (b) of this Section.';

– Subparagraph d) shall be inserted and read as follows: ‘The Director shall establish a human resources performance management strategy that includes a promotion procedure linked to performance criteria, subject to budgetary constraints.’.

(11) In Section 4.8. (‘Performance Appraisal/Staff Dialogues’):

– Subparagraph b) shall be amended as follows: ‘Performance reports, including comments and recommendations, shall be made in writing by immediate superiors. The annual report shall be discussed with and shown to the staff member concerned who may attach to it such comments as he or she may consider relevant and shall sign and date it.’.

– Subparagraph c) shall be inserted and read as follows: ‘In the first quarter of each calendar year, the Director shall be subject to an annual performance appraisal. The objective of the annual appraisal is to assess the competence, the efficiency, and the conduct in the service of the Director and to adjust the Job Description, as need be. A representative of the Contracting Party holding the Presidency of the Ministerial Council in the year preceding the assessment, as well as a representative of the European Commission, shall act as reporting officers. The Director shall establish a self-assessment by 31 January of the following year, which is subsequently discussed with the two reporting officers. Within 4 weeks, the reporting officers draw a report which is notified in writing to the Director and circulated for information to the Ministerial Council. In case of disagreement with the report, the Director may ask the Presidency of the Ministerial Council to reconsider it. The Presidency must duly motivate its opinion in writing and inform the Ministerial Council’.

(12) Section 4.9.c) (‘Appointment/Extension Periods’) shall be added and read as follows:

– ‘The appointment of the Director may be renewed once for a fixed term of five years. This shall be indicated in his or her Employment Agreement.’.

(13) In Section 4.10. (‘Probationary Period’):

– Subparagraph a) shall be amended to read as follows: ‘Appointments of Staff members shall be subject to a probation period of six months according to the Rules for Recruitment, Working Conditions and Geographical Equilibrium for Secretariat’s Staff and to conditions to be specified in the Employment Agreement.’;

– A new subparagraph shall be added after subparagraph a) and read as follows: ‘The Director shall serve a probationary period of six months. The Ministerial Council, following an appraisal of the Director’s performance at the end of the probationary period in accordance with the rules set out in Section 4.8.c), shall decide to confirm or terminate the Employment Agreement for the Director in accordance with the rules set out in Article 88 of the Treaty. Any Member of the Ministerial Council may inform the Ministerial Council of their views in writing no later than two weeks prior to the end of the six-month probationary period. In derogation from Section V 23—25(sentences 1 and 2) of Procedural Act 2006/01/MC-EnC on the adoption of the internal Rules of Procedures of the Ministerial Council of the Energy Community, as amended, the Director may initiate a decision by correspondence within ten calendar days prior to the end of the six-month probationary period on the basis of the appraisal. Section 4.10h) does not apply’.

(14) Section 9.1.a) (‘Salaries’) shall be amended to read as follows:

– ‘The Director, in consultation with the European Commission, shall establish a competitive salary scale corresponding to the classification of posts in the Energy

Community Secretariat. The salary scale shall include a fork for promotions. It shall be proposed by the European Commission and approved by the Ministerial Council as part of the relevant budget proposal, pursuant to the rules set out in Article 88 of the Treaty.'.

(15) A new Section ("Parental Leave") shall be inserted after Section 10.4. and read as follows:

– 'Any staff member shall be entitled to up to six months of parental leave without basic salary for every child, to be taken during the first twelve years after the birth or adoption of the child. The duration of the leave may be doubled for single parents. The minimum leave taken at any one time shall not be less than one month.'.

(16) Section 10.7 ("Special non-paid leave") shall be amended to read as follows:

– Staff members may be granted special leave without pay. The Director, and the Presidency of the Ministerial Council as regards the Director, shall decide on the conditions and the period of the special non-paid leave in each individual case on the ground of the relevant application.'.

(17) In Section 12.1 ("Participation/ National Social Security Schemes"):

– Subparagraph a) shall be amended to read as follows: 'Staff members are responsible to arrange at their own cost for appropriate health and pension insurance as of the first day of appointment, subject to point c) below. Staff members have to inform the Director, and the Presidency as regards the Director, in writing of their health insurance coverage within one month of the appointment date.';

– Subparagraph c) shall be added and read as follows: 'The Employer may compensate staff members for a fixed share of the costs of their health insurance. Such compensation shall be approved as part of the relevant budget proposal.'.

(18) Section 13 ('Staff Appeal') shall be amended to read as follows:

– 'Staff members can notify in written form the Director, or the President and the Vice-President of the PHLG in the eventuality that a complaint concerns the Director, whenever the Staff member considers that he/she has been treated in a manner that is inconsistent with the provisions of the Staff Regulations, the rules on recruitment, working conditions and geographical equilibrium or other relevant rules or that he/she has been subjected to unjustifiable or unfair treatment by a superior.'

(19) Section 14 ('Arbitration Committee') shall be amended to read as follows:

– 'Any dispute between the Employer and a Staff Member concerning these Staff Regulations may, in the first instance, be submitted by the Director or the Staff Member to an Arbitration Committee. The Arbitration Committee shall be composed by:

– An independent and experienced labour law expert nominated by the Contracting Party holding the Presidency when the Arbitration Committee is meeting;

– An independent and experienced labour law expert nominated by Contracting Party that will hold the Presidency for the next term;

– An independent and experienced labour law expert nominated by the European Commission, who acts as the chair of the Arbitration Committee.

The list of nominated experts shall be adopted by the Permanent High Level Group by simple majority for a period of five years. Before taking its decision, the Permanent High Level Group may reject experts based on the lack of independence or expertise and request a renomination by the nominating party.

The Arbitration Committee shall decide by majority. The Permanent High Level Group shall establish rules governing the procedure before the Arbitration Committee by Procedural Act. The Arbitration Committee shall protect personal data of all Staff Members concerned.'

(20) Section 15 ('Dispute Settlement') shall be renamed and replaced by the following:

– 'Appeal Procedure:

Upon an award rendered by the Arbitration Committee established under Section 14, the Staff Member may bring the dispute to the attention of the Ministerial Council. The Ministerial Council shall decide by simple majority after hearing the Director and the Staff Member. The decision shall be reasoned and protect personal data of all Staff Members concerned.

The Ministerial Council shall decide on the dispute in accordance with these Staff Regulations or other relevant rules.

The Appeal Procedure shall take place in Vienna or on-line, and the language of these proceedings shall be English.

The Permanent High Level Group may lay down further rules on the Appeal Procedure.'

Article 2

Amendments to Procedural Act 2006/02/MC-EnC on the adoption of Rules for Recruitment, Working Conditions and Geographical Equilibrium of the Secretariat's Staff of the Energy Community, as amended by Procedural Act 2016/01/MC-EnC and Procedural Act 2022/02/MC-EnC

(1) Section II. 9 shall be deleted.

(2) Section II.10. shall be amended to read as follows:

– 'Within 7 days after the Ministerial Council meeting, on the ground of its decision, the Ministerial Council represented by the Presidency shall issue an Act of Appointment containing an Employment Agreement, which shall be signed by the Director. The draft Act of Appointment shall be included in the annex to the Ministerial Council decision on the appointment of the Director. The Employment Agreement shall include the elements listed in point 4.4(b) of the Staff Regulations of the Energy Community as well as the Director's job description and a reference to the rules on the probationary period set out in point 4.10b) of the Staff Regulations of the Energy Community. The appointment of the Director shall take effect as of the date the Director signs his or her Employment Agreement.'

(3) Section II. bis shall be amended to read as follows:

– 'The Director may assign the function of Deputy Director to one of the existing heads of unit in the Secretariat. The Director shall define the tasks of Deputy Director.'

(4) In Section III. 9:

– Subparagraph 9.2 shall be amended to read as follows: ‘During the sixth month of any probationary period, the staff member’s immediate superior shall draw up a report on his or her competence, efficiency and conduct. The report shall recommend:

(a) that the official’s appointment be confirmed;

(b) that his or her period of probation be extended to maximum of six more months;

(c) that his or her appointment be terminated.’.

– Subparagraph 9.3 shall be amended to read as follows: ‘The report shall be transmitted before the end of the sixth month to the Director for decision.’.

(5) A new Section shall be added after Section III.11. and read as follows:

– ‘The Director shall serve a probationary period of 6 months. The procedure set out in Section 4.10.b) of the Staff Regulations of the Energy Community shall apply.’.

Article 3

Entry into force and applicability

(1) This Procedural Act shall enter into force upon adoption.

(2) The provisions of Staff Regulations, as amended by this Procedural Act, that concern the Director of the Energy Community Secretariat shall apply to the present Director upon entry into force of this Procedural Act except for Section 4.1. on appointment of the Director, the last sentence of Section 4.5.b) on defining the job description in the Employment Agreement and Section 4.10.b) on probationary period of the Director.

Second sentence of Section 4.4.a) on Employment Agreement shall apply to the present Director upon entry into force of this Procedural Act by including the conditions for employment in the Act of Appointment issued by the Presidency representing the Ministerial Council.

Pursuant to Section 3.3. of the Staff Regulations of the Energy Community, the Director shall, no later than 31 January 2024, submit to the Ministerial Council the first declaration of integrity laying down any interest which might be considered prejudicial to his independence.

The Director shall, by end of 2024, provide a first report to Ministerial Council about his activities held outside the Energy Community. The report may be provided orally or in writing.

(3) The provisions of Rules for Recruitment, Working Conditions and Geographical Equilibrium of the Secretariat’s Staff of the Energy Community, as amended by this Procedural Act, that concern the Director of the Energy Community Secretariat shall apply to the present Director upon entry into force of this Procedural Act except for Rule II.9 on recruitment of the Director and Rule III.12 on probationary period for the Director.

Article 4

The Secretariat shall make this Procedural Act available to all Parties and institutions under the Energy Community Treaty within 7 days after its adoption.

Done in Vienna, on

For the Ministerial Council

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Presidency

ADDENDUM 2 TO THE ANNEX

PROCEDURAL ACT 2023/XX/MC-EnC

OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

on amending Procedural Act 2021/01/MC-EnC on the adoption of the Budget of the Energy Community for the years 2022-2023 and on the contributions by the Parties to the budget

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY,

Having regard to the Treaty establishing the Energy Community, and in particular Articles 73, 74, 86 and 88 thereof,

Having regard to the proposal from the European Commission of XX.12.2023,

Having regard to Articles 24 and 25 of the Energy Community procedures for the establishment and implementation of Budget, Auditing and Inspection, as amended by Procedural Act 2022/02/MC-EnC,

Whereas the Budget of the Energy Community for the years 2022-2023 is to be amended to adjust the salary level of the Director, to bring it to a level commensurate with the responsibility carried and tasks executed under this budget,

HAS DECIDED AS FOLLOWS:

Article 1

(1) With effect as of 1 January 2022, the Budget of the Energy Community covering the financial years 2022 and 2023, as set out in Annex to the Procedural Act 2021/01/MC-EnC, shall be amended as follows:

– the salary scales 2022-2023 set out in point 12 (Establishment Plan 2022-2023) of the Annex to the Procedural Act 2021/01/MC-EnC shall provide a full-time salary per month of the Director fixed at EUR 13 567 in 2022 and EUR 14 381 in 2023;

– point 8 (Statement of expenditure 2022-2023) and point 9 (Details of statement of expenditure 2022-2023) of the Annex to the Procedural Act 2021/01/MC-EnC shall be amended accordingly to reflect the full-time annual salary of the Director, as set out in the first subparagraph, in the budget line 'Human Resources' and total expenditure 2022-2023.

(2) The reimbursement of the difference between previously paid amounts and updated rates listed in the first subparagraph for 2022 and 2023 shall be completed 30 days upon adoption of this Procedural Act.

Article 2

This Procedural Act is addressed to all Parties and institutions under the Treaty establishing the Energy Community.

Article 3

(1) This Procedural Act shall enter into force upon adoption.

(2) The Director of the Energy Community Secretariat shall make this Procedural Act available to all Parties and institutions under the Treaty establishing the Energy Community within 7 days after its adoption.

Done in Vienna, on

For the Ministerial Council

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Presidency

ADDENDUM 3 TO THE ANNEX

PROCEDURAL ACT 2023/XX/MC-EnC

OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

on amending Procedural Act 2021/02/MC-EnC on the appointment of the Director of the Energy Community Secretariat

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY,

Having regard to the Treaty establishing the Energy Community, and in particular Articles 69 and 88 thereof,

Having regard to the proposal from the European Commission of XX.12.2023,

Having regard to Article 1 of Procedural Act 2021/02/MC-EnC which appointed Mr. Artur Lorkowski as Director of the Energy Community Secretariat for a period of three years, starting on 1 December 2021,

Having regard to Procedural Act 2022/02/MC-EnC which extended the duration of mandate of Director of Energy Community Secretariat to five years, renewable no more than once, and applied this extended term to the first mandate of the present Director,

Having regard to Article 2 of the Procedural Act 2021/02/MC-EnC on the appointment of the Director of the Energy Community Secretariat, which fixed the newly appointed Director's annual gross remuneration at EUR 116.532,

Whereas Procedural Act 2023/XX/MC-EnC amended the Budget of the Energy Community for the years 2022-2023 to adjust the salary level of the Director, bringing it to a level commensurate with the responsibility carried and tasks executed under this budget,

Whereas a progressive increase of the salary for the Director is to take place under the Budget of the Energy Community 2024-2025, adopted pursuant to Procedural Act 2023/XX/MC-EnC, subject to a positive annual performance evaluation,

Whereas it is necessary to amend Procedural Act 2021/02/MC-EnC to ensure it is aligned with the amended Budget of the Energy Community for the years 2022-2023 and the new Budget for the years 2024-2025,

Having regard to Article 3 of Procedural Act 2023/XX/MC-EnC of the Ministerial Council of the Energy Community amending the Energy Community Staff Regulations of 18 December 2007 and Procedural Act 2006/02/MC-EnC on adoption of Rules for Recruitment, Working Conditions and Geographical Equilibrium of the Secretariat's Staff of the Energy Community, which sets out the transitional provisions regarding its applicability to the first mandate of the present Director of the Energy Community Secretariat,

Whereas the Act of Appointment of the present Director of the Energy Community Secretariat, issued by the Presidency on 29 December 2021, should also be amended as set out in the Annex to reflect the amended duration of Director's mandate and the adjusted salary, and to include the conditions of employment that apply until expiry of the present Director's first mandate,

Whereas the amended Act of Appointment should be issued by the Ministerial Council represented by the Presidency on the date of adoption of this Procedural Act,

HAS DECIDED AS FOLLOWS:

Article 1

(1) Article 1 of Procedural Act 2021/02/MC-EnC shall be replaced by the following:

– "The Ministerial Council appoints Mr. Artur Lorkowski as a Director of the Energy Community Secretariat for a period of five years, renewable no more than once, starting on 1 December 2021."

(2) Article 2 of Procedural Act 2021/02/MC-EnC shall be replaced by the following:

– "The Working Conditions of the Director shall be determined by the Staff Regulations in their most recent version and the Act of Appointment that includes the conditions of employment applicable until the end of the mandate. With effect as of 1 January 2022, the Director's full-time salary per month shall be determined in line with the Staff Regulations of the Energy Community and its amount shall be fixed as set out in the Budget of the Energy Community for the years 2022-2023 pursuant to Procedural Act 2021/1/MC-EnC as amended by Procedural Act 2023/XX/MC-EnC, for the years 2024-2025 pursuant to Procedural Act 2023/XX/MC-EnC on the adoption of the Budget of the Energy Community for the years 2024-2025 and on the contributions by the Parties to the budget, and for year 2026 as determined by the future Procedural Act setting the Budget of the Energy Community for the years 2026-2027 and on the contributions by the Parties to the budget."

Article 2

The Act of Appointment of Director of the Energy Community Secretariat, amending the Act of Appointment of 29 December 2021 and containing the employment conditions, as set out in the Annex to this Procedural Act, shall be issued by the Presidency representing the Ministerial Council on the day of adoption of this Procedural Act.

Article 3

The Secretariat shall make this Procedural Act available to all Parties and institutions under the Energy Community Treaty within 7 days after its adoption.

Article 4

This Procedural Act shall enter into force upon adoption.

Done in Vienna, on

For the Ministerial Council

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Presidency

Annex

Act of Appointment

amending the Act of Appointment of 29 December 2021

According to the Rules for Recruitment, Working Conditions and Geographical Equilibrium of the Secretariat's Staff adopted by the Ministerial Council by Procedural Act 2006/02/MC-EnC, as amended by Procedural Act 2016/01/MC-EnC and Procedural Act 2023/XX/MC-EnC, as annexed hereto

(1) Name of the employer: Energy Community, Am Hof 4, 1010 Vienna, Austria

(2) Name of the employee: Artur Lorkowski

(3) Date of Appointment: 1 December 2021

(4) Expiry of Appointment: 30 November 2026

(5) Title: Director

(6) Duty Station: Vienna, Austria

(7) Working conditions:

As set out in the Staff Regulations and Rules for Recruitment, Working Conditions and Geographical Equilibrium of the Secretariat's Staff, as amended.

(8) Salary:

In line with the Staff Regulations of the Energy Community and as set out in the Budget of the Energy Community for the years 2022-2023 pursuant to Procedural Act 2021/1/MC-EnC as amended by Procedural Act 2023/XX/MC-EnC, for the years 2024-2025 pursuant to Procedural Act 2023/XX/MC-EnC, and for year 2026 as determined by the Procedural Act setting the Budget of the Energy Community for the years 2026-2027.

(9) Job description:

(a) The annual evaluation of the performance of the director will be conducted in compliance with Article 4.8 of the Staff Regulations, based on the below job description that covers at the minimum the following tasks:

(a) Developing and ensuring effective implementation of the Secretariat's short- and long-term activities in accordance with its mandate, as set out in Article 67 of the Energy Community Treaty,

(b) Ensuring the effective planning and management of the human resources, including an efficient allocation and use of resources, motivating staff, fostering a good team spirit as well as creating and maintaining a balanced and productive working environment,

(c) Ensuring the effective planning, management and implementation of the budget in accordance with the principles of sound financial management and the budgetary rules,

(d) Ensuring the representation of the Energy Community Secretariat within the institutions and bodies of the Energy Community, as well as to the outside.

(b) This job description shall be discussed with the Director during the annual performance evaluation and, based on its outcome, adjusted if necessary.

Presidency of the Energy Community

Done in Vienna, on

ADDENDUM 4 TO THE ANNEX

PROCEDURAL ACT OF

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

2023/XX/MC-EnC: On the adoption of the Budget of the Energy Community for the years 2024-2025 and on the contributions by the Parties to the budget

The Ministerial Council of the Energy Community,

Having regard to the Treaty Establishing the Energy Community, and in particular Articles 73, 74, 86 and 88 thereof,

Having regard to the proposal from the European Commission of XX.12.2023 to the Ministerial Council of the Energy Community on the Budget of the Energy Community for the period 2024-2025,

Having regard to Articles 24 and 25 of the Energy Community procedures for the establishment and implementation of Budget, Auditing and Inspection,

Whereas the Ministerial Council shall adopt a bi-annual budget covering the operational expenses of the Energy Community necessary for the functioning of its institutions,

Whereas each Party shall contribute to the budget of the Energy Community as set out in Annex IV of the Treaty establishing the Energy Community,

HAS DECIDED AS FOLLOWS:

Article 1

The Energy Community Budget covering the financial years 2024 and 2025 as set out in the Annex is hereby adopted.

Article 2

With effect as of 1 January 2024, the contributions to the budget of the Energy Community by the Parties are set out in Annex to the present Procedural Act.

Article 3

This Procedural Act is addressed to all Parties and institutions under the Treaty establishing the Energy Community.

Article 4

The Director of the Energy Community Secretariat shall make this Procedural Act and its Annex available to all Parties and institutions under the Treaty establishing the Energy Community within 7 days after its adoption.

Done in Vienna on

For the Ministerial Council

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Presidency

ADDENDUM 5 TO THE ANNEX

PROCEDURAL ACT 2023/XX/MC-EnC OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

on adopting the Organigramme of the Secretariat

The Ministerial Council of the Energy Community,

Having regard to the Treaty Establishing the Energy Community (the Treaty), and in particular Articles 67 and 68 thereof,

Having regard to Procedural Act 2006/02/MC-EnC of 17 November 2006 on adoption of Rules for Recruitment, Working Conditions and Geographical Equilibrium of the Secretariat's Staff of the Energy Community,

as amended by the Procedural Act 2016/01/MC-EnC of 14 October 2016,

as amended by the Procedural Act of the Ministerial Council 2022/02/MC-EnC of 15 December 2022, and in particular Item III.2 thereof,

Whereas:

(1) The Ministerial Council shall adopt the Secretariat Organigramme, based on a proposal of the Director of the Secretariat;

(2) The presently applicable Secretariat Organigramme dates back to 15 December 2022 and should be updated.

Having regard to the proposal made by the Director of the Secretariat,

HAS ADOPTED THIS PROCEDURAL ACT:

Sole Article

(1) The Secretariat Organigramme annexed to this Procedural Act is hereby adopted and applicable from January 1, 2024.

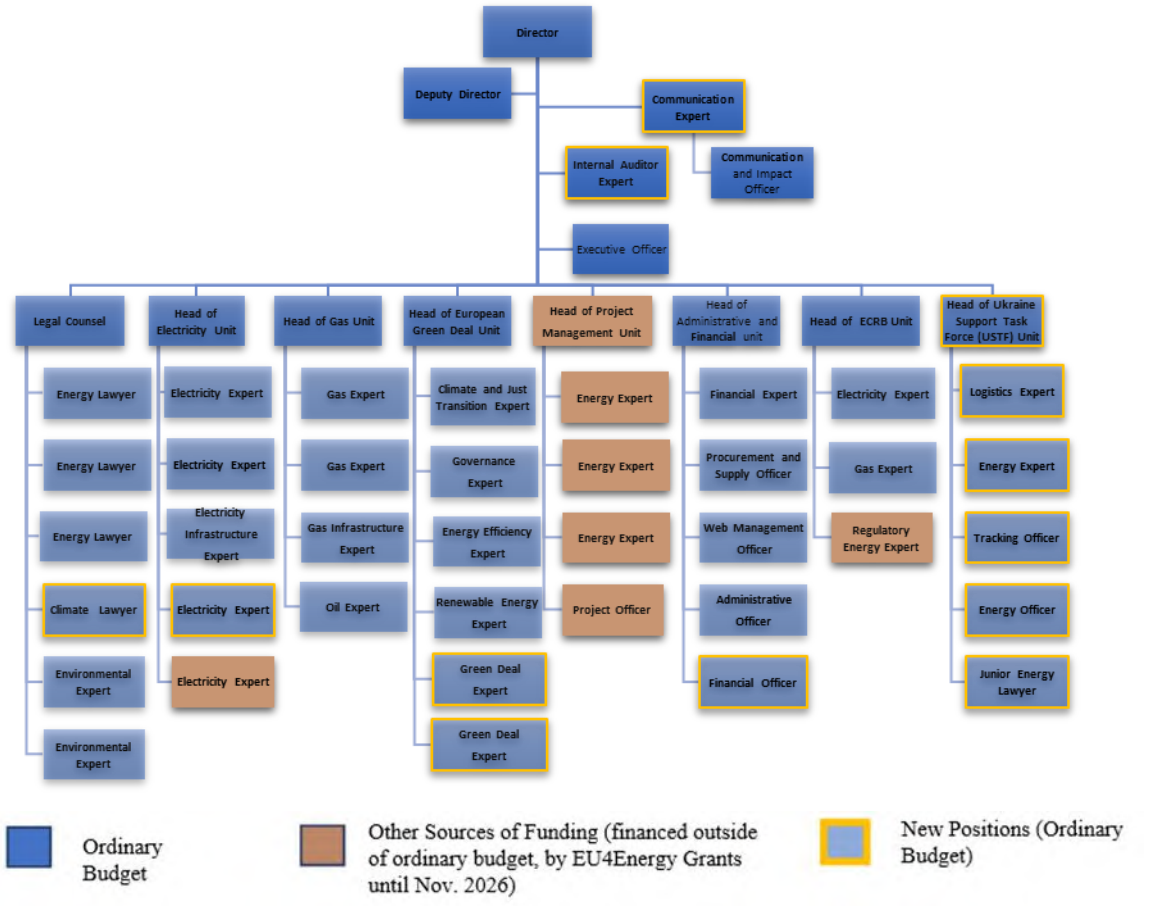
(2) This Procedural Act shall enter into force on the day of its adoption.

Done in Vienna on

For the Ministerial Council

Presidency

Annex: Energy Community Secretariat Organigramme as of January 1, 2024



ADDENDUM 6 TO THE ANNEX

PROCEDURAL ACT 2023/XX/MC-EnC

OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

on amending Procedural Act 2006/03/MC-EnC on the adoption of Energy Community Procedures for the Establishment and Implementation of Budget, Auditing and Inspection, as amended by Procedural Act 2014/01/MC-EnC and Procedural Act 2022/02/MC-EnC

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY,

Having regard to the Treaty establishing the Energy Community ('the Treaty'), and in particular Article 74 and Article 88 thereof,

Whereas the Energy Community's Budgetary Rules require to provide an empowerment to the Director to represent and act on behalf of the Energy Community for the purpose of implementing the Energy Community budget and its routine operation, in particular in his/her interaction with banks,

Having regard to the proposal by the Secretariat,

HAS ADOPTED THIS PROCEDURAL ACT:

Article 1

Article 31 shall be modified and read as follows:

"The Director shall perform the duties of authorising officer during his/her term in the office. S/he shall implement the budget in compliance with the rules applicable to the implementation of the Energy Community budget pursuant to Article 74 of the Treaty, on his own responsibility and within the limits of the appropriations authorised. In particular, the Director is authorised to open and close accounts of the Energy Community in any bank in the European Union, to operate such accounts, including by initiating payments orders, transfers of capital and any other necessary banking transactions and to execute any bank resolutions in relation to these accounts which may be required, including the signature of financial documents, instruments and statements within the framework of operating such accounts for the purpose of implementing the Energy Community budget and its routine operation.

The Director shall inform the Budget Committee of the opening and closure of accounts."

Article 2

Entry into force

This Procedural Act shall enter into force upon adoption.

Done in Vienna, on

For the Ministerial Council

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Presidency

ADDENDUM 7 TO THE ANNEX

DECISION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

D/2023XX/MC-EnC: On the Financial discharge of the Director of the Secretariat

The Ministerial Council of the Energy Community,

Having regard to the Procedural Act establishing Energy Community Procedures for the Establishment and Implementation of Budget, Auditing and Inspection, and in particular Article 83 thereof,

Having examined the Report on the Audit of the Financial Statements of the Energy Community for the year ended 31 December 2022 as well as the auditors' statement of assurance,

Taking account of the observations of the Budget Committee and the relevant report,

HAS ADOPTED THIS DECISION,

Article 1

The current Director of the Secretariat of the Energy Community, Mr. Artur Lorkowski, is discharged from his management and administrative responsibility in respect of the budget for the period of January 1 – 31 December 2022.

Article 2

This Decision enters into force on the day of its adoption.

Done in Vienna on

For the Ministerial Council

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Presidency