



2026/70

9.1.2026

COUNCIL DECISION (EU) 2026/70

of 17 November 2025

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/EC ⁽¹⁾ 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.
- (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.

⁽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>).

- (7) Directive 2009/147/EC of the European Parliament and of the Council ⁽²⁾, Council Directive 92/43/EEC ⁽³⁾, Directive 2000/60/EC of the European Parliament and of the Council ⁽⁴⁾, together with the Directive 2006/118/EC of the European Parliament and of the Council ⁽⁵⁾, Directive 2008/105/EC of the European Parliament and of the Council ⁽⁶⁾ and Commission Directive 2009/90/EC ⁽⁷⁾ 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.
- (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/EEC ⁽⁸⁾ 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.
- (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:

- ⁽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⁾ 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>).

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 Brussels, 17 November 2025.

For the Council

The President

J. JENSEN

ANNEX I

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 certain provisions of Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

Having regard to the Energy Community Treaty, and in particular Articles 25 79 and 81, 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) Pursuant to Articles 24 Treaty under Title II, the Energy Community is to take measures to update the *acquis communautaire* on environment.
- (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 80 and 81 of the Treaty, such measures shall be taken by the majority of the votes cast, each Contracting Party having one vote.
- (6) Article 4(2) of Directive 2009/147/EC on the conservation of wild birds is already listed under Article 16, point (iv), of the Treaty.
- (7) It is necessary to ensure a just energy transition that guarantees co-benefits for biodiversity, and the avoidance of deterioration in the conservation status of natural habitat types and the habitats of species in sites of international importance or in nationally protected areas hosting natural habitat types and species of Community interest.
- (8) Network Energy plans and projects, in the context of the Treaty, must be designed in order to mitigate or, where necessary, limit as far as possible any negative impacts on biodiversity.
- (9) Article 2 of Directive 2009/147/EC states that measures must be taken to maintain the population of all species of naturally occurring birds in the wild state in the European territory of the Member States of the Union.
- (10) Article 4(4), second sentence of Directive 2009/147/EC lays down an obligation to strive to avoid pollution or deterioration of habitats outside protection areas. Bird species are widely distributed and mobile, and it is therefore necessary to ensure that efforts are made to limit the impact of Network Energy beyond protected areas.
- (11) Articles 5 and 9 of Directive 2009/147/EC lay down a framework for the protection of all species of naturally occurring birds in the wild state in the European territory of the Member States of the Union. It is necessary to apply the prohibitions listed in Article 5 of that Directive to Network Energy activities due to the impacts they can have on naturally occurring wild bird species. It may be necessary to derogate from those prohibitions in limited circumstances provided that the necessary criteria are satisfied.
- (12) Areas protected under Directive 2009/147/EC are subject to the requirements of Article 6(2), (3) and (4) of Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora by virtue of Article 7 of that Directive. Article 6(2), (3) and (4) lays down a framework for site-based conservation and protection through preventive and procedural requirements to contribute to the maintenance or restoration, at favourable conservation status, of natural habitats and the habitats of species of wild fauna and flora of Community Interest.

- (13) Plans and projects within the meaning of Article 6 of Directive 92/43/EEC can also relate to Network Energy, and may have significant impacts on the integrity of sites of international importance and nationally protected areas hosting natural habitat types and species of Community interest. It will be necessary to take compensatory measures where those Network Energy plans or projects must nevertheless be carried out for imperative reasons of overriding public interest.
- (14) Directive 2009/147/EC, along with Directive 92/43/EEC, represent the main legal tools 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 ('the Convention'). Emerald Network Areas of Special Conservation Interest are to be established in each of the Contracting Parties and Observer States to the Bern Convention, as a tool for achieving the overall goals of the Convention. All Contracting Parties to the Treaty are also Parties to the Convention, with the exception of Kosovo ⁽¹⁾. Emerald Network Areas of Special Conservation Interest, and Candidate Emerald Network Areas of Special Conservation Interest are designated in each Contracting Party to the Bern Convention. The Emerald Network continues to be developed, since gaps remain before it can be considered complete and sufficient to support the achievement of the Convention's objectives.
- (15) Areas legally protected through national law are aimed at achieving long term conservation of habitat types and species with associated ecosystem services and cultural values. Such areas are present in all Contracting Parties to the Treaty.
- (16) Ramsar sites are wetlands of international importance designated under the Ramsar Convention on Wetlands of International Importance especially as Waterfowl Habitat (the 'Ramsar Convention'), an intergovernmental Agreement that aims to stop the loss of wetlands globally. All Contracting Parties to the Treaty are also Parties to the Ramsar Convention, and have designated Ramsar sites, with the exception of Kosovo.
- (17) The Treaty concerns plans and projects that are relevant to the implementation of Directive 2009/147/EC, by reference to Articles 6 and 7 of Directive 92/43/EEC. Therefore, the inclusion of Directive 2009/147/EC in the *acquis communautaire* on environment will ensure that the conservation of bird species and their habitats is taken into account during the design and implementation of Network Energy-related plans and projects.
- (18) Article 2, Article 4(4), second sentence, Article 5 and Article 9 and Annex I of Directive 2009/147/EC have not yet been incorporated into the *acquis communautaire* on environment of the Energy Community, it is necessary to adapt the existing *acquis communautaire* by replacing the existing reference to Article 4(2) of Council Directive 79/409/EEC ⁽²⁾ with a reference to Directive 2009/147/EC ⁽³⁾ to the list of Union Acts under Article 16 of the Treaty
- (19) 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.
- (20) Guidance documents ⁽⁴⁾ present the Commission's understanding of the provisions of Articles 6 of Directive 92/43/EEC, including its application to Directive 2009/147/EC, and may provide guidance on their application, in light of relevant jurisprudence of the Court of Justice of the European Union, and taking into account the experience arising from implementation in the Member States of the Union.
- (21) The *acquis communautaire* on environment set out in Article 16 of the Treaty and the timetable for implementation set out in Annex II of the Treaty should be aligned with Union law concerning nature conservation insofar as it relates to Network Energy.

⁽¹⁾ This designation is without prejudice to positions on status and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence.

⁽²⁾ 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>).

⁽³⁾ 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>).

⁽⁴⁾ 'Managing Natura 2000 sites — The provisions of Article 6 of the Habitats Directive 92/43/EEC' (C/2018/7621); and 'Commission notice Assessment of plans and projects in relation to Natura 2000 sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC' (C/2021/6913).

- (22) 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.
- (23) The Permanent High Level Group, at its meetings of xxx and xxx, elaborated and proposed to adopt this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The Energy Community Treaty is amended as follows:

- (1) in Article 16, point (iv) is replaced by the following:

‘(iv) Article 2, Article 4(2) and (4), second sentence, Article 5, Article 9 and Annex I of Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds,’;

- (2) in Annex II, point 4 is replaced by the following:

‘4. Each Contracting Party shall implement Article 2, Article 4(2) and (4), second sentence, Article 5, Article 9 and Annex I of Directive 2009/147/EC of 30 November 2009 on the conservation of wild birds 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 Title II of the Energy Community Treaty, Article 2 of Directive 2009/147/EC shall be read as follows:

‘Contracting Parties shall take the requisite measures in the field of Network Energy to maintain the population of all species of naturally occurring birds in the wild state in the territory of the Contracting Parties to which the Treaty establishing the Energy Community applies at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or to adapt the population of these species to that level.’

2. For the purposes of Title II of the Energy Community Treaty, Article 4(4), second sentence, of Directive 2009/147/EC shall be read as follows:

‘Outside protection areas, Contracting Parties shall also strive to avoid pollution or deterioration of habitats of bird species, insofar as it relates to Network Energy.’

3. For the purposes of Title II of the Energy Community Treaty, Article 5 of Directive 2009/147/EC shall be read as follows:

‘Without prejudice to Article 9, Contracting Parties shall take the requisite measures to establish a general system of protection for all species of naturally occurring birds in the wild state in the European territory of the Contracting Parties to which the Treaty establishing the Energy Community applies, prohibiting in particular:

- (a) deliberate killing or capture by any method;
- (b) deliberate destruction of, or damage to, their nests and eggs or removal of their nests;
- (c) taking their eggs in the wild and keeping these eggs even if empty;
- (d) deliberate disturbance of these birds particularly during the period of breeding and rearing, in so far as disturbance would be significant having regard to the objectives of this Directive;
- (e) keeping birds of species the hunting and capture of which is prohibited.’

4. For the purposes of Title II of the Energy Community Treaty, Article 9 of Directive 2009/147/EC shall be read as follows:

‘1. Contracting Parties may derogate from the provisions of Article 5, where there is no other satisfactory solution, for the following reasons:

- (a) — in the interests of public health and safety,
 - in the interests of air safety,
 - to prevent serious damage to crops, livestock, forests, fisheries and water,
 - for the protection of flora and fauna;
- (b) for the purposes of research and teaching, of re-population, of re-introduction and for the breeding necessary for these purposes;
- (c) to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers.

2. The derogations referred to in paragraph 1 must specify:

- (a) the species which are subject to the derogations;
- (b) the means, arrangements or methods authorised for capture or killing;
- (c) the conditions of risk and the circumstances of time and place under which such derogations may be granted;
- (d) the authority empowered to declare that the required conditions obtain and to decide what means, arrangements or methods may be used, within what limits and by whom;
- (e) the controls which will be carried out.

3. Each year the Contracting Parties shall send a report to the Energy Community Secretariat (“the Secretariat”) on the implementation of paragraphs 1 and 2. The Secretariat shall ensure that the reports are made available to the public.

4. On the basis of the information available to it, and in particular the information communicated to it pursuant to paragraph 3, the Secretariat shall at all times ensure that the consequences of the derogations referred to in paragraph 1 are not incompatible with this Directive. It shall take appropriate steps to this end.’

Article 3

1. The Contracting Parties shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 2, Article 4(4), second sentence, Article 5, and Article 9 of Directive 2009/147/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 Energy Community Secretariat (‘the Secretariat’) thereof.

2. When Contracting Parties adopt the measures referred to in paragraph 1, they shall contain references to this Decision and Directive 2009/147/EC, 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. The Contracting Parties shall communicate the text of the main provisions of national law which they adopt in the field covered by this Decision and Directive 2009/47/EC to the Secretariat.

Article 4

This Decision shall enter into force upon its adoption by the Ministerial Council.

Article 5

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

Done in [xxx], on [DATE]

For the Ministerial Council

(President)

ANNEX II

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 certain provisions of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

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 that Treaty.
- (3) Article 16 of the Treaty lists the *acquis communautaire* on environment which is covered by the Treaty.
- (4) Pursuant to Article 25 of the Treaty under Title II, the Energy Community is able to take measures to implement amendments to the *acquis communautaire* described in Title II, in line with the evolution of 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.
- (6) Article 100, point (i), of the Treaty stipulates that the Ministerial Council may, by unanimity of its Members, amend the provisions of Titles I to VII of the Treaty.
- (7) It is necessary to ensure a just energy transition that guarantees co-benefits for biodiversity, and the avoidance of deterioration in the conservation status of natural habitat types and the habitats of species in sites of international importance or in nationally protected areas hosting natural habitat types and species of Community interest.
- (8) Network Energy plans and projects, in the context of the Treaty, must be designed in order to mitigate or, where necessary, limit as far as possible any negative impacts on biodiversity.
- (9) Article 1 of Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora defines key terms relevant for the interpretation and implementation of that Directive.
- (10) Article 2 of Directive 92/43/EEC states that the aim of the Directive is to contribute towards ensuring biodiversity through the conservation of natural habitats and of wild fauna and flora.
- (11) Article 6(2), (3), and (4) of Directive 92/43/EEC lays down a framework for site-based conservation and protection through preventive and procedural requirements to contribute to the maintenance or restoration, at favourable conservation status, of natural habitats and habitats of species of wild fauna and flora of Community Interest.
- (12) Plans and projects within the meaning of Article 6 of Directive 92/43/EEC can also relate to Network Energy, and may have significant impacts on the integrity of sites of international importance and nationally protected areas hosting natural habitat types and species of Community interest. It will be necessary to take compensatory measures where those Network Energy plans or projects must nevertheless be carried out for imperative reasons of overriding public interest.

- (13) Article 6(2), (3) and (4) of Directive 92/43/EEC also applies to special protection areas established for the bird species mentioned in Article 4(2) and listed in Annex I of Directive 2009/147/EC on the conservation of wild birds through Article 7 of Directive 92/43/EEC. It is therefore necessary make sites protecting those bird species in the territory of the Contracting Parties subject to the requirements of Article 6(2), (3) and (4) in the *acquis communautaire* on environment also.
- (14) Article 12, Article 13 and Article 16 of Directive 92/43/EEC lay down a framework for the strict protection of species of Community interest across their entire natural range, both within and beyond protected areas. It is necessary to apply the prohibitions listed in Article 12 and Article 13 of that Directive to Network Energy activities to due to the impacts they can have on species of Community interest. It may be necessary to derogate from those prohibitions in limited circumstances provided that the necessary criteria are satisfied.
- (15) Directive 92/43/EEC, along with Directive 2009/147/EC, represent the main legal tools 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 ('the Bern Convention'). Emerald Network Areas of Special Conservation Interest are to be established in each of the Contracting Parties and Observer States to the Bern Convention, as a tool for achieving the overall goals of the Convention. All Contracting Parties to the Treaty are also Parties to the Bern Convention, with the exception of Kosovo.⁽¹⁾ Emerald Network Areas of Special Conservation Interest, and Candidate Emerald Network Areas of Special Conservation Interest are designated in each Contracting Party to the Bern Convention. The Emerald Network continues to be developed, since gaps remain before it can be considered complete and sufficient to support the achievement of the Convention's objectives.
- (16) Areas legally protected through national law are aimed at achieving long term conservation of habitat types and species with associated ecosystem services and cultural values. Such areas are present in all Contracting Parties to the Treaty.
- (17) Ramsar sites are wetlands of international importance designated under the Ramsar Convention on Wetlands of International Importance especially as Waterfowl Habitat (the 'Ramsar Convention'), an intergovernmental Agreement that aims to stop the loss of wetlands globally. All Contracting Parties to the Treaty are also Parties to the Ramsar Convention, and have designated Ramsar sites, with the exception of Kosovo.
- (18) The Treaty concerns plans and projects that are relevant to the implementation of Directive 92/43/EEC and its inclusion in the *acquis communautaire* on environment would ensure that the conservation of nature is taken into account during the design and implementation of Network Energy-related plans and projects.
- (19) Article 1, Article 2, Article 6(2), (3) and (4), Article 12, Article 13, Article 16 and Annexes I, II, and IV of Directive 92/43/EEC have not yet been incorporated into the *acquis communautaire* on environment of the Energy Community, it is necessary to extend the *acquis communautaire* by adding Directive 92/43/EEC to the list of Union Acts under Article 16 of the Treaty.
- (20) 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.
- (21) Guidance documents present the Commission's understanding of the provisions of Directive 92/43/EEC and may provide guidance on their application, in light of relevant jurisprudence of the Court of Justice of the European Union, and taking into account the experience arising from implementation in the Member States of the Union.⁽²⁾
- (22) The *acquis communautaire* on environment set out in Article 16 and the timetable for implementation set out in Annex II of the Treaty should be aligned with Union law concerning nature conservation insofar as it relates to Network Energy.

⁽¹⁾ This designation is without prejudice to positions on status and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence.

⁽²⁾ 'Managing Natura 2000 sites — The provisions of Article 6 of the Habitats Directive 92/43/EEC' (C/2018/7621); Commission notice Guidance document on the strict protection of animal species of Community interest under the Habitats Directive (C/2021/7201 final); 'Commission Guidance on the provisions of Article 6 of the Habitats Directive'; and 'Commission notice Assessment of plans and projects in relation to Natura 2000 sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC' (C/2021/6913).

- (23) 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.
- (24) The Permanent High Level Group, at its meetings of xxx and xxx elaborated and proposed to adopt this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The Energy Community Treaty is amended as follows:

- (1) in Article 16, the following point [XX] is added:

‘(XX) Article 1, Article 2, Article 6(2), (3) and (4), Article 12, Article 13, Article 16 and Annexes I, II, and IV of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora’;

- (2) in Annex II, the following point [XX] is added:

‘[XX]. Each Contracting Party shall implement Article 1, Article 2, Article 6(2), (3) and (4), Article 12, Article 13, and Article 16 and Annexes I, II, and IV of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora 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 Title II of the Energy Community Treaty, Article 1 of Directive 92/43/EEC shall be read as written in that Directive.

2. For the purposes of Title II of the Energy Community Treaty, Article 2 of Directive 92/43/EEC shall be read as follows:

‘1. The aim of this Directive shall be to contribute towards ensuring bio-diversity through the conservation of natural habitats and of wild fauna and flora in the European territory of the Contracting Parties to which the Treaty establishing the Energy Community applies.

2. Measures taken pursuant to this Directive shall be designed to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest.

3. Measures taken pursuant to this Directive shall take account of economic, social and cultural requirements and regional and local characteristics.’

3. For the purposes of Title II of Energy Community Treaty, Article 6(2), (3) and (4) of Directive 92/43/EEC shall be read as follows:

‘2. Contracting Parties shall take appropriate steps to avoid, in Emerald Network Areas of Special Conservation Interest, in Candidate Emerald Network Areas of Special Conservation Interest, in Ramsar Sites, in nationally protected areas hosting natural habitat types and species listed in Annexes I and II of Directive 92/43/EEC respectively, and in nationally protected areas hosting bird species referred to in Article 4(2) of Directive 2009/147/EC and listed in Annex I to that Directive, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.

3. Any Network Energy plan or project likely to have a significant effect on the sites referred to in paragraph 2, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the Network Energy plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

4. If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a Network Energy plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Contracting Party shall take all compensatory measures necessary to ensure that the overall coherence of its network of sites referred to under paragraph 2 is protected. It shall inform the Energy Community Secretariat ("the Secretariat") of the compensatory measures adopted.

Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Secretariat, to other imperative reasons of overriding public interest.'

4. For the purposes of Title II of Energy Community Treaty, Article 12 of Directive 92/43/EEC shall be read as follows:

'1. Contracting Parties shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:

- (a) all forms of deliberate capture or killing of specimens of these species in the wild;
- (b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;
- (c) deliberate destruction or taking of eggs from the wild;
- (d) deterioration or destruction of breeding sites or resting places.

2. For these species, Contracting Parties shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.

3. The prohibition referred to in paragraph 1, points (a) and (b), and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.

4. Contracting Parties shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV, point (a). In the light of the information gathered, Contracting Parties shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.'

5. For the purposes of Title II of the Energy Community Treaty, Article 13 of Directive 92/43/EEC shall be read as follows:

'1. Contracting Parties shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV, point (b), prohibiting:

- (a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;
- (b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.

2. The prohibitions referred to in paragraph 1, points (a) and (b), shall apply to all stages of the biological cycle of the plants to which this Article applies.'

6. For the purposes of Title II of the Energy Community Treaty, Article 16 of Directive 92/43/EEC shall be read as follows:

'1. Provided that there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range, Contracting Parties may derogate from the provisions of Articles 12 and 13:

- (a) in the interest of protecting wild fauna and flora and conserving natural habitats;
- (b) to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property;

- (c) in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;
- (d) for the purpose of research and education, of repopulating and re-introducing these species and for the breeding operations necessary for these purposes, including the artificial propagation of plants;
- (e) to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities.

2. Contracting Parties shall forward to the Secretariat every two years a report in accordance with the format established by the Committee on the conservation of natural habitats and of wild fauna and flora (the Habitats Committee) on the derogations applied under paragraph 1. The Secretariat shall give its opinion on these derogations within a maximum time limit of twelve months following receipt of the report and shall give an account to the Task Force on Environment. The Secretariat shall ensure that the reports are made available to the public.

3. The reports shall specify:

- (a) the species which are subject to the derogations and the reason for the derogation, including the nature of the risk, with, if appropriate, a reference to alternatives rejected and scientific data used;
- (b) the means, devices or methods authorized for the capture or killing of animal species and the reasons for their use;
- (c) the circumstances of when and where such derogations are granted;
- (d) the authority empowered to declare and check that the required conditions obtain and to decide what means, devices or methods may be used, within what limits and by what agencies, and which persons are to carry out the task;
- (e) the supervisory measures used and the results obtained.'

Article 3

1. The Contracting Parties shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 1, Article 2, Article 6(2), (3) and (4), Article 12, Article 13, Article 16 and Annexes I, II, and IV of Directive 92/43/EEC 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 Energy Community Secretariat ('the Secretariat') thereof.

2. When Contracting Parties adopt the measures referred to in paragraph 1, they shall contain references to this Decision and Directive 92/43/EEC, 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. The Contracting Parties shall communicate the text of the main provisions of national law which they adopt in the field covered by this Decision and Directive 92/43/EEC to the Secretariat.

Article 4

In case of Network Energy plans or projects giving rise to an opinion under Article 6(4) of Directive 92/43/EEC, by reference to this Decision, the Contracting Party in whose territory the plan or project is intended to be carried out shall send to the Secretariat as soon as possible, *inter alia*:

- (a) a description of the plan or project;
- (b) any relevant information on its impacts on the priority habitat type(s) and/or priority species affected, including the findings and conclusions of the appropriate assessment.

Article 5

This Decision shall enter into force upon its adoption by the Ministerial Council.

Article 6

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

Done in [xxx], on [DATE]

For the Ministerial Council

(President)

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) Pursuant to Article 25 of the Treaty under Title II, the Energy Community is able to take measures to implement amendments to *acquis communautaire* described in Title II, in line with the evolution of 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.
- (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) 2018/1999 ⁽¹⁾.
- (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.

⁽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, ELI: <http://data.europa.eu/eli/reg/2018/1999/oj>).

- (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 Strategy ⁽²⁾ 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 Council ⁽³⁾ 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 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.

⁽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>).

- (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 Council ⁽⁴⁾ and Directive 2008/105/EC of the European Parliament and of the Council ⁽⁵⁾. 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/EC ⁽⁶⁾ 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, it is necessary to extend the *acquis communautaire* by adding Directive 2000/60/EC together with the Directive 2006/118/EC of the European Parliament and of the Council, Directive 2008/105/EC of the European Parliament and of the Council and Commission Directive 2009/90/EC to the list of union Acts under Article 16 of the Treaty.
- (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.

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

(27) The Permanent High Level Group, at its meetings of [xxx] and [xxx], elaborated and proposed to adopt this Decision,

HAS ADOPTED THIS DECISION:

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)
