Governance in the wider sense: Institutions and Actors
College of Europe, 3 March 2017

Janez Kopač
Director, Energy Community Secretariat
Extending the EU internal energy market

Where?
South East Europe and Black Sea Region

Why?
Creating single regulatory and market framework to:
- increase energy trade,
- attract investments,
- enhance security of supply,
- improve environmental situation and
- increase competition in the energy market

How?
By the Rule of Law
Institutions

Ministerial Council

Parliamentary Plenum

Regulatory Board (ECRB)

Permanent High Level Group

Energy Community Secretariat

Fora (Electricity, Gas, Oil)
Enforcement

**DISPUTE SETTLEMENT PROCEDURE**

- **A Party to the Treaty, the Regulatory Board and the Secretariat may initiate a case of non-compliance**

**3-stage procedure**

- **Opening Letter** – Secretariat requests national governments to comment on non-compliance problem within 2 months

- **Reasoned Opinion** - No reply? Unsatisfactory reply? Secretariat states reasons why it believes there is a breach of Energy Community law and requests compliance within 2 months

- **Reasoned Request** – Secretariat refers case to PHLG (hears both parties to dispute + takes into account (non-binding) opinion of Advisory Committee) → Ministerial Council for decision

- Currently approx. 20 cases open

- **No Court of Justice!**
Energy Union:
_Panta Rhei - but first agree on what we are talking about_

- Battle of pillars
- What is Energy Union geographically?
- What is governance?
- What is external dimension?
Towards a European Energy Union (15 Dec 2015): “Energy Union must establish a free flow of energy across EU and Energy Community countries”
The concept of "governance" means different things to different people.

- is “process of assessment of policies and measures at various levels to establish if they are coherent, complementary and sufficiently ambitious” (draft Regulation on the Governance of the Energy Union)

- A set of processes of governing, whether undertaken by a government, market or network, whether over a family, tribe, formal or informal organization or territory and whether through the laws, norms, power or language (Mark Bevir)

- Governance is an alignment of institutions, countries and groupings to better enforce particular policy (J.Kopač)
External Dimension of Energy Union

Energy Union package, 25 Feb 2015

• Establish strategic energy partnerships with increasingly important producing and transit countries or regions
• Develop partnership with Norway, USA, Canada, Ukraine
• Reframe relationship with Russia
• Closer integrate EU and Energy Community markets

Second report on the State of the Play of the Energy Union, 1 Feb 2017

• reform process of the Energy Community
• reinvigorated dialogue with Algeria,
• Reinforced Energy Council EU-USA
• Ukraine
• Overviewing of oil and gas agreements with third countries
Acquis communautaire area

- European Union
- Contracting Parties
- European Economic Area
- Norway
Level of integration among countries in energy sector

Form of cooperation

- EU
- EEA
- EnC
- agreement
- MoU
- dialogue

Intensity

- Rock-Solid or Panta Rhei? The Emerging Governance of the Energy Union

Energy Community Secretariat
Trends

- Brexit

- visibilisation (MoU instead of stronger integration)

- accession to the EU (Montenegro)

- deep and comprehensive rule of law design (strengthening of Energy Community)
Energy Union after Brexit?

European Union

Contracting Parties

UK & Norway
EU+accession countries

- European Union
- Candidate countries

Rock-Solid or Panta Rhei? The Emerging Governance of the Energy Union

Energy Community Secretariat
Reciprocity on interconnection between EU MSs and EnC Contracting Parties - missing piece to the CPs’ market integration to EU IEM

How to close the gap?

- **Title III EnC Treaty** – complete solution
- **Title II EnC Treaty** – additional legal instruments needed
Energy Community Treaty amendments

- Level playing field (switch-on clause/reciprocity)  
  -----------------two tier approach------------------------------------------

- Direct applicability of Network Codes + Regulations

- Competence of EU institutions (ACER) in Contracting Parties

- Better enforcement in case of infringement

- State aid and competition enforcement
Thank you for your attention!
Janez Kopač

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