



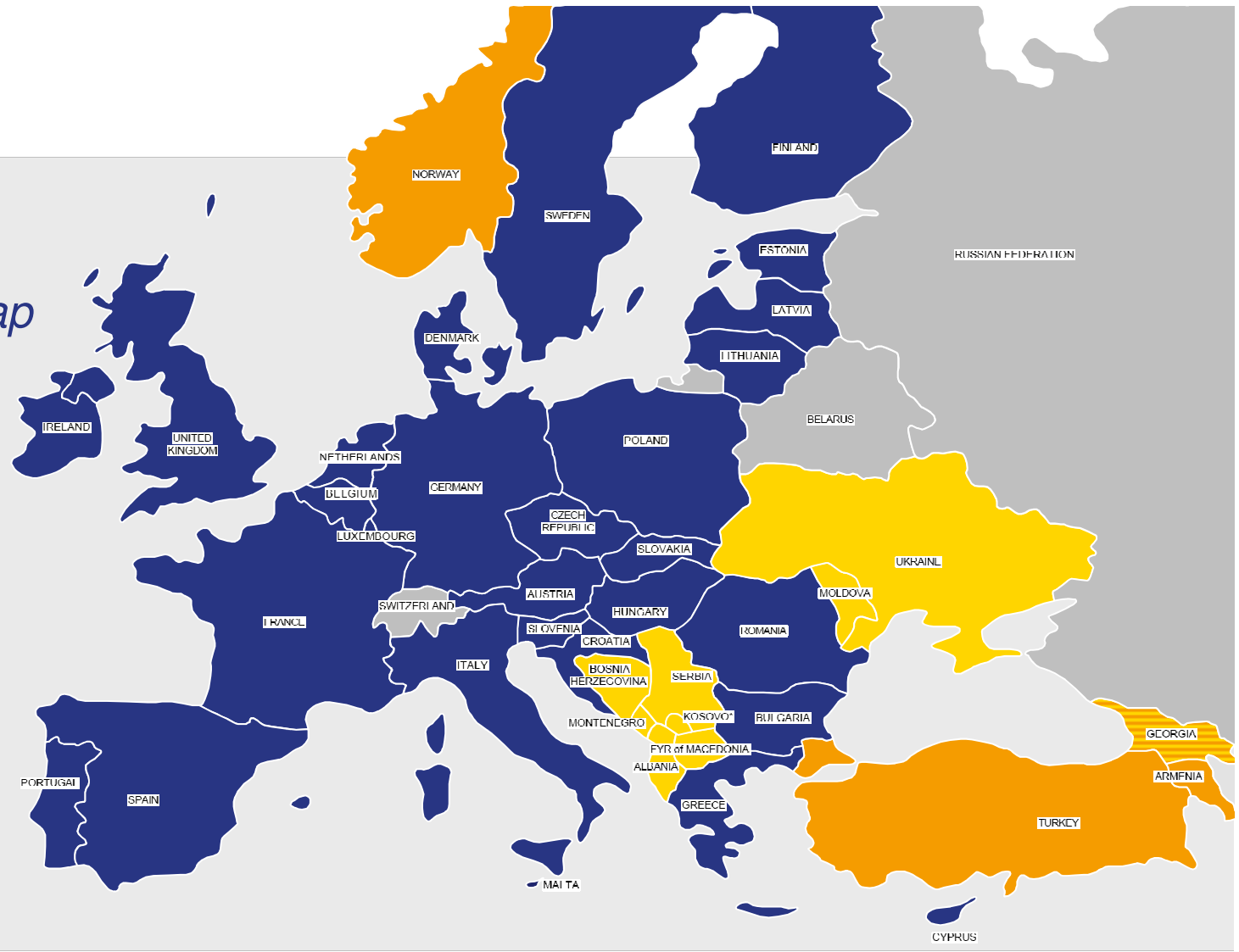
The background of the slide is a dark blue globe showing the Earth's continents. Overlaid on the globe are numerous glowing blue lines that represent energy transmission paths or power grids, connecting various points across the globe.

***An Energy Community  
for the Future – Key  
Findings of the Report of  
the High Level Reflection  
Group***

Barbora Jaksova, Energy Community Secretariat

# Energy Community Map

-  European Union
-  Contracting Parties
-  Candidate
-  Observers



## Objectives



- **Attract investment in power generation and networks** to ensure stable and continuous energy supply that is essential for economic development and social stability;
- **Create an integrated energy market** allowing for cross-border energy trade and integration with the EU market;
- **Enhance the security of supply**;
- **Improve the environmental situation** in relation with energy supply in the region; and
- **Enhance competition at regional level** and exploit economies of scale.

# Energy Community Legal Framework



- ▶ **Gas** (2 Directives, 2 Regulations)
- ▶ **Electricity** (2 Directives, 3 Regulations)
- ▶ **Environment** (3 Directives)
- ▶ **Competition** (some provisions of the Treaty)
- ▶ **Renewable energy sources** (1 Directive)
- ▶ **Energy efficiency** (3 Directives, 5 Regulations)
- ▶ **Antitrust and state aid** (some provisions of the Treaty)
- ▶ **Statistics** (1 Directive, 1 Regulation)
- ▶ **Oil** (1 Directive)

# Institutional setting



## HLRG report – Background



- Ministerial Council decision to prolong the Treaty and establish the HLRG in Oct. 2013
- Mandate to “*make an independent assessment of the adequacy of the institutional set up and working methods of the Energy Community to the achievement of the objectives of the Energy Community Treaty, taking into consideration the evolution of this organization over the past years and its extended Membership, and to make proposals for improvements to the Ministerial Council in 2014*”
- Prof. Jerzy Buzek, Chair of the HLRG, and 5 members: Mr. Walter Boltz, Ms. Vesna Borozan, Mr. Fabrizio Donini Ferretti, Mr. Volodymyr Makukha and Mr. Goran Svilanović
- Stakeholder consultation and public hearing



## *HLRG report – Findings*



- A success story, but need for improvements to achieve its ambitious goals
- Key shortcomings:
  - Lack of implementation of the legal commitments entered into by the Contracting Parties in real terms
  - Lack of private investment
  - More flexibility: need for adjustment to differing national or regional circumstances
  - Too narrow scope
  - Weak enforcement mechanisms
- Recommendations in 4 key areas: legal perspective, investments, geographical scope and institutional set-up
- 3 levels: no modification of the Treaty, modifications of the Treaty by simple decision of the Ministerial Council and full Treaty revision

## *Recommendations on legal perspective*



- More **flexibility** in the scope and time of the adaptation of the acquis (stop copy pasting), but creativity and homogeneity need to be well-balanced
- Title IV of the Treaty should be used more systematically - set of rules and institutions governing fully integrated pan-European energy markets
- Interconnectors between EU MSs and CPs to be considered interconnectors under 3<sup>rd</sup> Package
- Broadening scope
  - **Missing fundamental freedoms**: free movement of services and capital and freedom of establishment
  - Procedural rules on competition and State aid in the energy sector
  - Rules on public procurement (Directives 2004/17 and 2004/18/EC) in the energy sector
  - Additional acquis on environmental protection
- **More financial support, but conditioned on implementation of the acquis**



## Recommendations on investments (1)

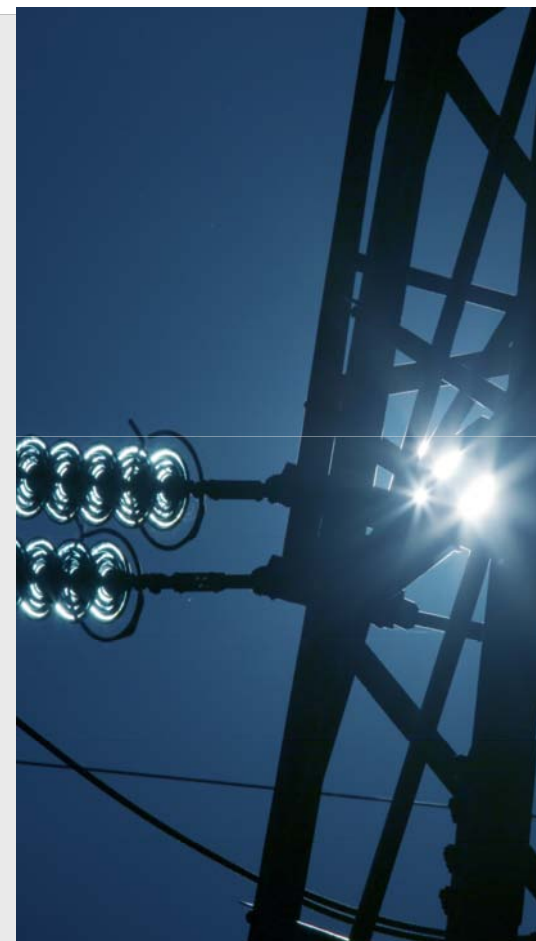


- **Establish an Energy Community Risk Enhancement Facility (ECREF)** to address risks difficult to mitigate (e.g. breach of contract by public bodies, retroactive measures etc.)
  - Ad-hoc vehicle to provide the relevant guarantee or insurance products and manage the facilities
- **Harmonise permitting procedures and criteria**, increase transparency and set a maximum time for the granting of permits or authorizations
- Create a “**gas single buyer agency**”; existing Treaty Art. 43 as basis

## *Recommendations on investments (2)*

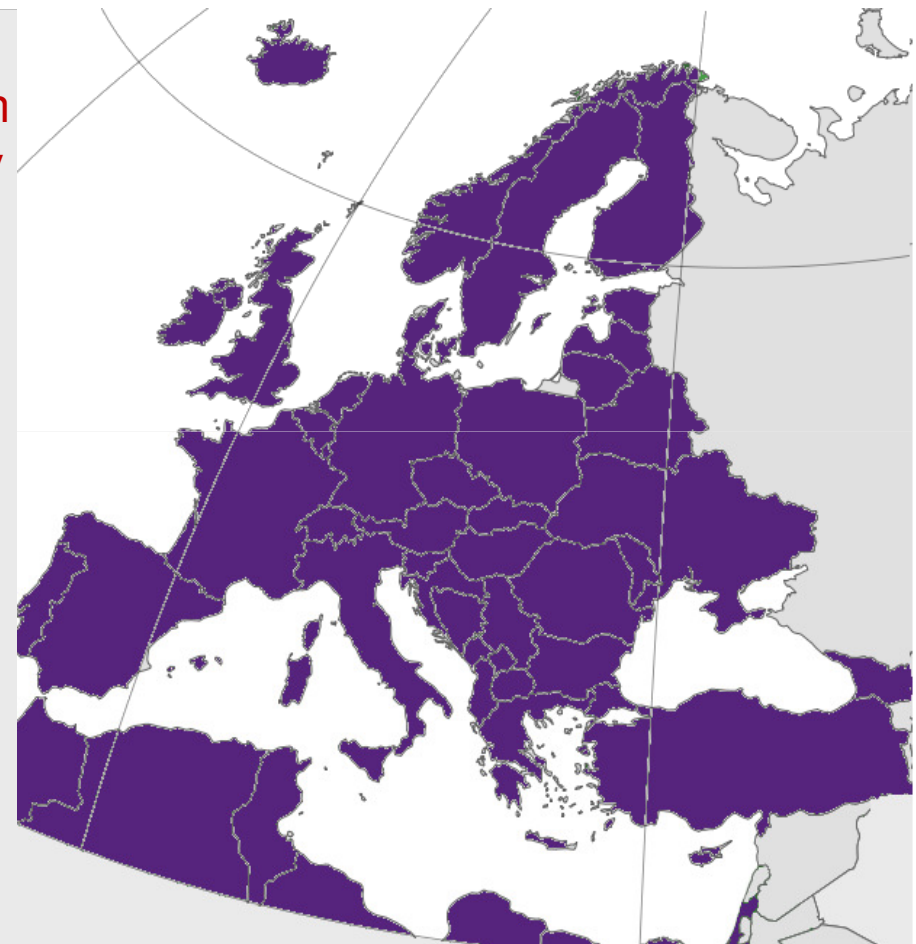


- **More bilateral and multilateral funding** for technical assistance and investments (at least for PECIs); **funding conditional on acquis compliance**
- The Secretariat to mobilize project development and financial expertise to enhance the quality and preparedness of priority projects (on a contractual basis)
- Establish “platforms” of complementary or similar projects which reinforce each other (e.g. an “energy security project” or a “networks enhancement project”) involving several pieces of infrastructure in several CPs or neighbouring states



## *Recommendations on geographical scope*

- Declare interest in specific strategically important countries and/or regions (**Eastern Partnership countries, Switzerland, Norway and Mediterranean countries**)
- Be open for new members and replace the current “one size fits all” approach by:
  - **One common minimum set of acquis adopted by all (“Members” and “Associated Members”) and a more ambitious scheme of transposing EU acquis for core “Members”**
  - Associated Members can “opt in” to implement additional acquis and improved enforcement and easier access to financing



## Recommendations on institutional set-up

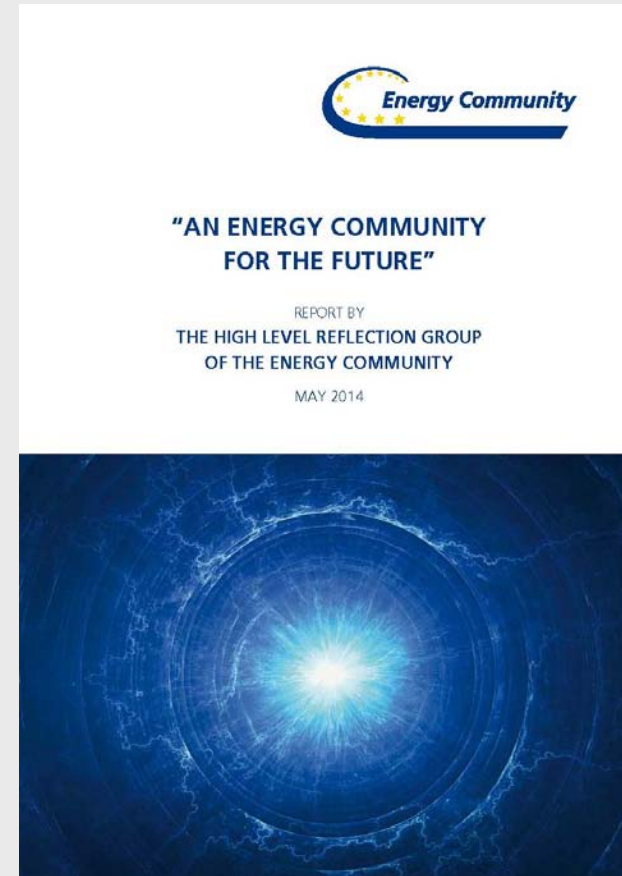


- Better link Energy Community institutions and CPs with EU institutions under 3rd Package: CPs NRAs join ACER and CPs TSOs in ENTSO-E and ENTSO-G
- Increase efficiency of institutions
  - **Ministerial Council** to focus only on strategic issues; **PHLG** strengthened to exercise its function of a plenipotentiary, high-level and permanent collective decision-making body
  - The Energy Community **Fora** re-examined case by case; replacement by pan-European Fora
  - Role of **civil society and business** strengthened by an observer role in the PHLG
  - **Secretariat** strengthened to provide assistance related to law implementation; coordinate EU technical assistance in energy sectors, including investment promotion; investigate and execute (e.g. competition, procurement and state aid)
- **Gradually replace the dispute settlement procedure by a Court of Justice**
  - Private enforcement of the Treaty before national courts
  - Financial sanctions in the future (based on EU model)

## HLRG report – Conclusions



- Most recommendations require further assessment in terms of their legal, financial and political feasibility
- Next steps:
  - Ministerial Council in Sept. 2014 to adopt a roadmap for preparation of concrete proposals by the Secretariat and European Commission
  - Adoption of proposals by the Ministerial Council in 2015





*Thank you  
for your attention!*

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