

# Look at the EU Third Package - the SEE Perspective -

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**4<sup>th</sup> ENERGY TRADING WEEK**  
**CENTRAL AND EASTERN EUROPE**  
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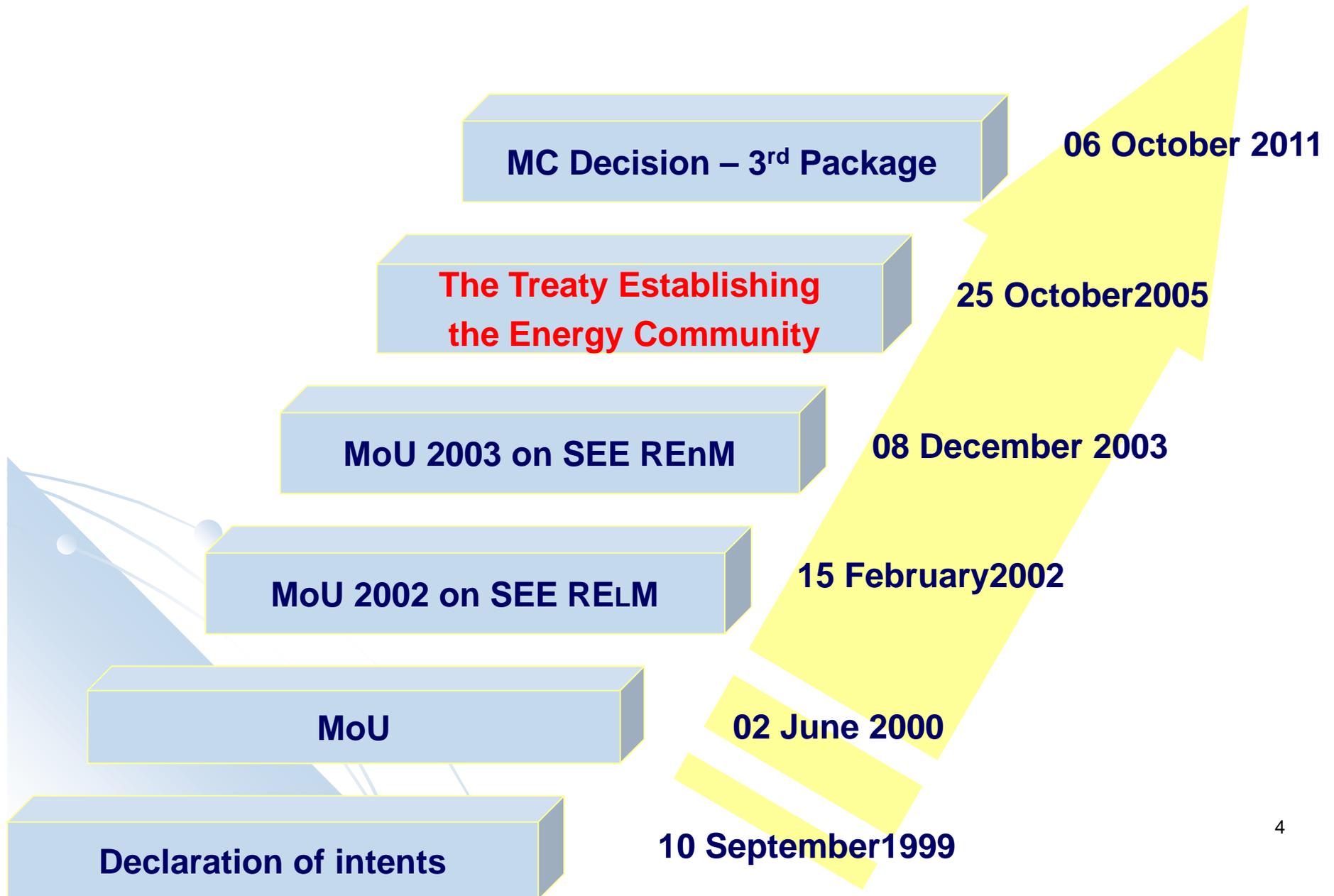
# Content

- **SEE regulatory framework: The Energy Community Treaty**
- **Implementation of the 3<sup>rd</sup> package in the Energy Community**
- **Pan- European energy market- the way forward**

**SEE REGULATORY  
FRAMEWORK:  
THE TREATY ESTABLISHING  
THE ENERGY COMMUNITY**



# Athens Process



A large yellow scroll graphic with rounded corners and a vertical strip on the left side, resembling a rolled-up document. The text is centered on the scroll.

# **THE TREATY**

## **ESTABLISHING THE ENERGY COMMUNITY**

**Legally binding contract**

**Entered into force: July 2006**

**Designed as an EU pre-accession instrument**

**Opened to European Neighborhood Policy area in 2010**

# Objectives of the EnC



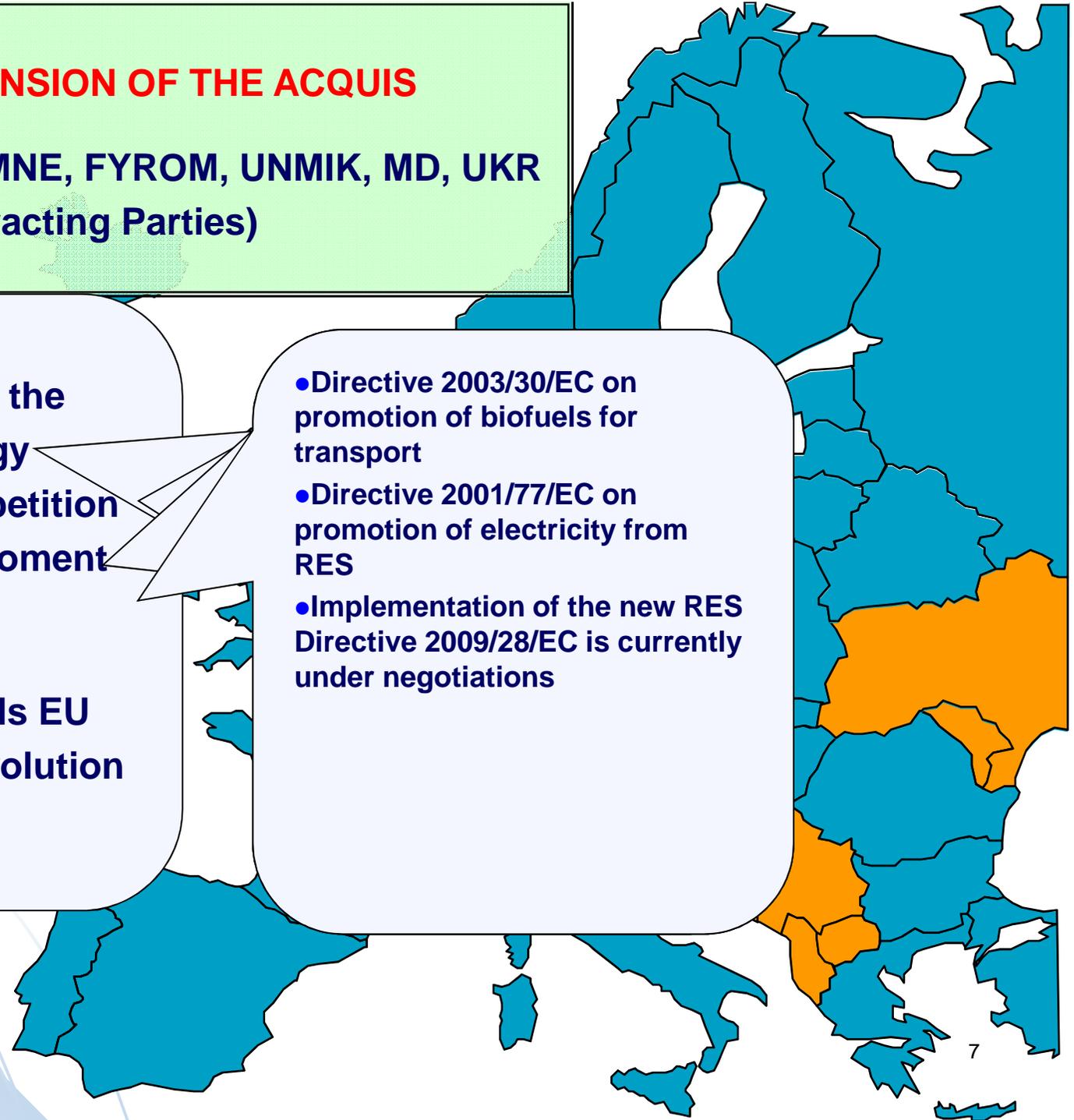
- ✓ **security of supply**
- ✓ **sustainability**
- ✓ **competition**

## TITLE II- EXTENSION OF THE ACQUIS

ALB, CRO, BIH, SRB, MNE, FYROM, UNMIK, MD, UKR  
(Contracting Parties)

- Implementation of the
  - Acquis on energy
  - Acquis on competition
  - Acquis on environment
  - Acquis on RES
- Compliance with technical standards EU
- Adaptation and evolution of the Acquis

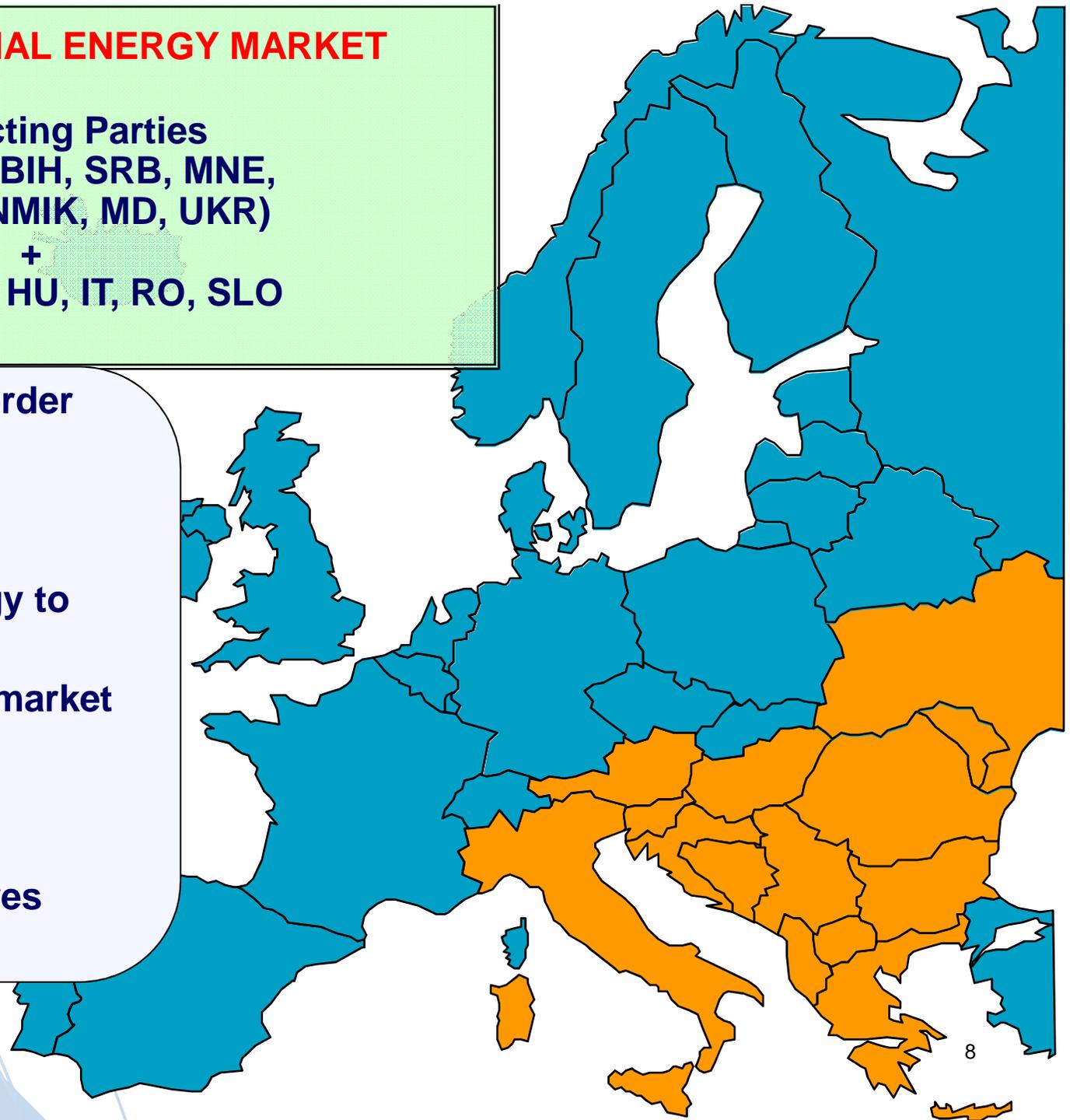
- Directive 2003/30/EC on promotion of biofuels for transport
- Directive 2001/77/EC on promotion of electricity from RES
- Implementation of the new RES Directive 2009/28/EC is currently under negotiations



## TITLE III- REGIONAL ENERGY MARKET

Contracting Parties  
(ALB, CRO, BIH, SRB, MNE,  
FYROM, UNMIK, MD, UKR)  
+  
AT, BG, GR, HU, IT, RO, SLO

- Regional cross-border transmission mechanisms
- Security of supply
- Provision of energy to citizens
- Harmonization of market rules
- RES and energy efficiency
- Safeguard measures



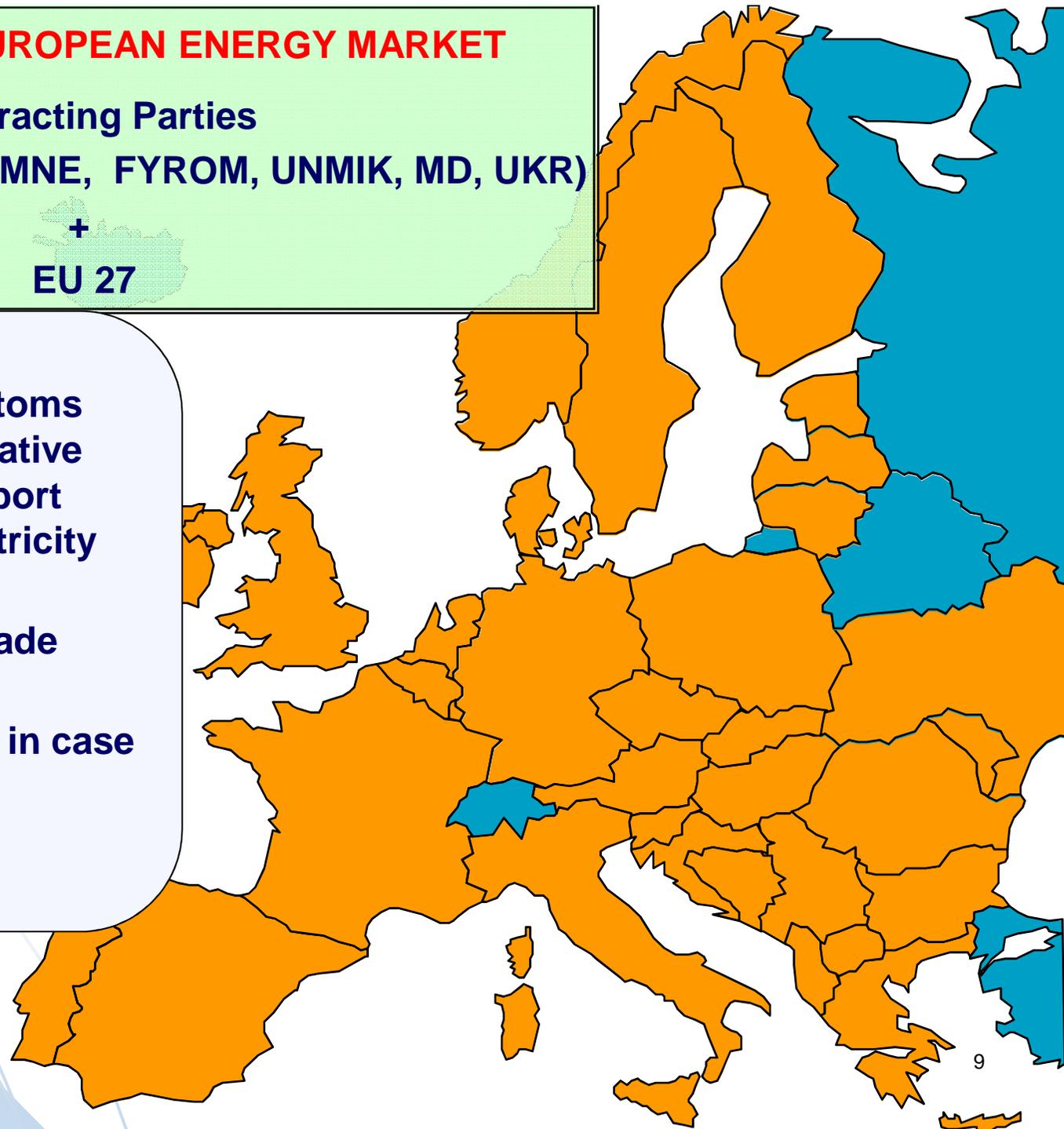
## TITLE IV- PAN – EUROPEAN ENERGY MARKET

### Contracting Parties

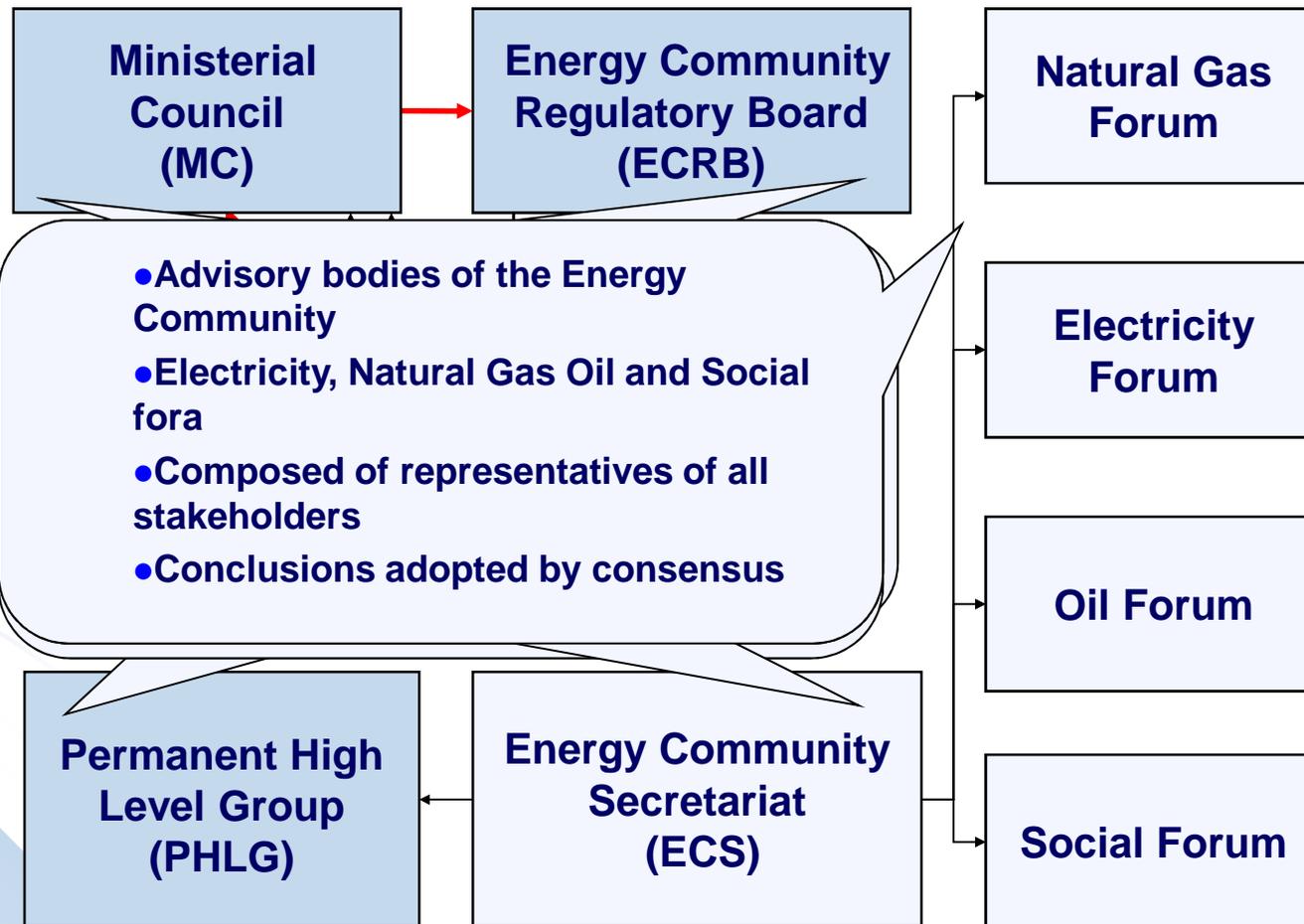
(ALB, CRO, B&H, SRB, MNE, FYROM, UNMIK, MD, UKR)

+  
EU 27

- Prohibition of customs duties and quantitative restrictions on import and export of electricity and natural gas
- External energy trade policy
- Mutual assistance in case of disruption



# The Energy Community- institutional set-up



# Dispute resolution

- Failure of a party to comply with Treaty obligations
- Request by Party, ECRB, ECS
- Private bodies may approach the ECS with complaints
- MC takes the final decisions
- Sanctions
- Rules of Procedure adopted in 2008
- Several cases so far

# Enforcement

<b>EUROPEAN UNION</b>		<b>ENERGY COMMUNITY</b>	
<b>Monitoring</b>	<b>EC</b> Continuous monitoring and complaints	<b>Review</b>	<b>ECS</b> Continuous monitoring and complaints
<b>Letter of Formal Notice</b>	<b>EC</b> 1st phase of pre- litigation procedure; the Commission takes whatever action it deems appropriate in response to either a complaint or indications of infringements which it detects itself.	<b>Opening Letter</b>	<b>ECS</b> 1st phase of pre- litigation procedure; the ECS takes action in response to a complaint or indications of infringements
<b>Reasoned Opinion</b>	<b>EC</b> formal request to comply with EU law; set out the Commission's position on the infringement; requesting the Member State to comply within a given time limit.	<b>Reasoned Opinion</b>	<b>ECS</b> formal request to comply with EnC law; set out the ECS' position on the infringement; requesting the Party to comply within a given time limit
<b>Litigation procedure commencement</b>	<b>EC</b> referral to the Court; EC enjoys a discretionary power in deciding whether or not and when to commence infringement proceedings and to refer a case to the Court	<b>Litigation procedure commencement</b>	<b>ECS</b> referral to the MC; currently ECS discretionary decides whether or not and when to commence infringement proceedings and to refer a case to the MC
<b>Ruling/ Sanctions</b>	<b>Court of Justice</b>	<b>Ruling/ Sanctions</b>	<b>Ministerial Council</b> <sup>12</sup>

# The Energy Community- status quo

- **Transposition of the acquis**
  - Notable progress compared to status in 2006
  - Implementation lags behind transposition
  - Wide differences between Contracting parties
  - New primary legislation **in place / underway** in **BIH, MK, MNE, SER, UNMIK, Albania, BIH, Croatia\***
- **Progress in establishing the REM**
  - Advanced analytical work
  - SoS statements; Priority Projects BUT fragile security of supply (the cold snap)
  - Some progress in electricity and gas REM
- **Barriers for establishing the REM**
  - High market concentration and vertical foreclosure
  - **Absence of market integration**
  - Low level of transparency
  - Competencies and coordination of NRA

**EU**<sup>TM</sup>

# **IMPLEMENTATION OF THE 3<sup>RD</sup> PACKAGE IN THE ENERGY COMMUNITY**



# EnC and the EU external energy policy



- **Green Paper “A Strategy for Sustainable, Competitive and Secure Energy” (2006)**
- **“An Energy Policy for Europe” (2007)**
- **Second Strategic Energy Review (2008)**
- **“Energy 2020 - A Strategy for Sustainable, Competitive and Secure Energy” (2010)**

# Implementation of the 3<sup>rd</sup> Package in the EnC Contracting Parties

- **24<sup>th</sup> September 2010- Ministerial Council:**
  - ✓ Recommendation on implementation of the Directives 2009/72/EC, 2009/73/EC and Regulations 714/2009 and 715/2009
- **6<sup>th</sup> October 2011- Ministerial Council:**
  - ✓ Decision on implementation of the Directives 2009/72/EC, 2009/73/EC and Regulations 714/2009 and 715/2009
  - ✓ Regulation 713/2009 not implemented
- **14<sup>th</sup> December 2011- PHLG:**
  - ✓ 3rd Package Implementation Plan

# Adaptations #1

## EnCT- Article 24:

*“For the implementation of this Title, the Energy Community shall adopt Measures **adapting the acquis** communautaire described in this Title, taking into account both the **institutional framework** of this Treaty and the **specific situation** of each of the Contracting Parties.”*

# Adaptations #2

<b>MILESTONES</b>	<b>EU</b>	<b>CONTRACTING PARTIES</b>
<b>Market opening (2003/54/EC)</b>	<b>1<sup>st</sup> July 2004 (non-household) 1<sup>st</sup> July 2007 (all customers)</b>	<b>1<sup>st</sup> January 2008 (non-household) 1<sup>st</sup> January 2015 (all customers)</b>
<b>Adoption</b>	<b>13 July 2009</b>	<b>06 October 2011</b>
<b>Transposition deadline</b>	<b>03 March 2011</b>	<b>01 January 2015</b>
<b>TSO designation and certification</b>	<b>03 March 2012</b>	<b>01 June 2016</b>
<b>TSO unbundling (derogation)</b>	<b>03 March 2013</b>	<b>01 June 2017</b>
<b>3<sup>rd</sup> countries' TSO certification</b>	<b>03 March 2013</b>	<b>01 January 2017</b>
<b>IMS CBA Smart meters roll- out</b>	<b>03 September 2012 01 January 2020 (80%)</b>	<b>01 January 2014</b>

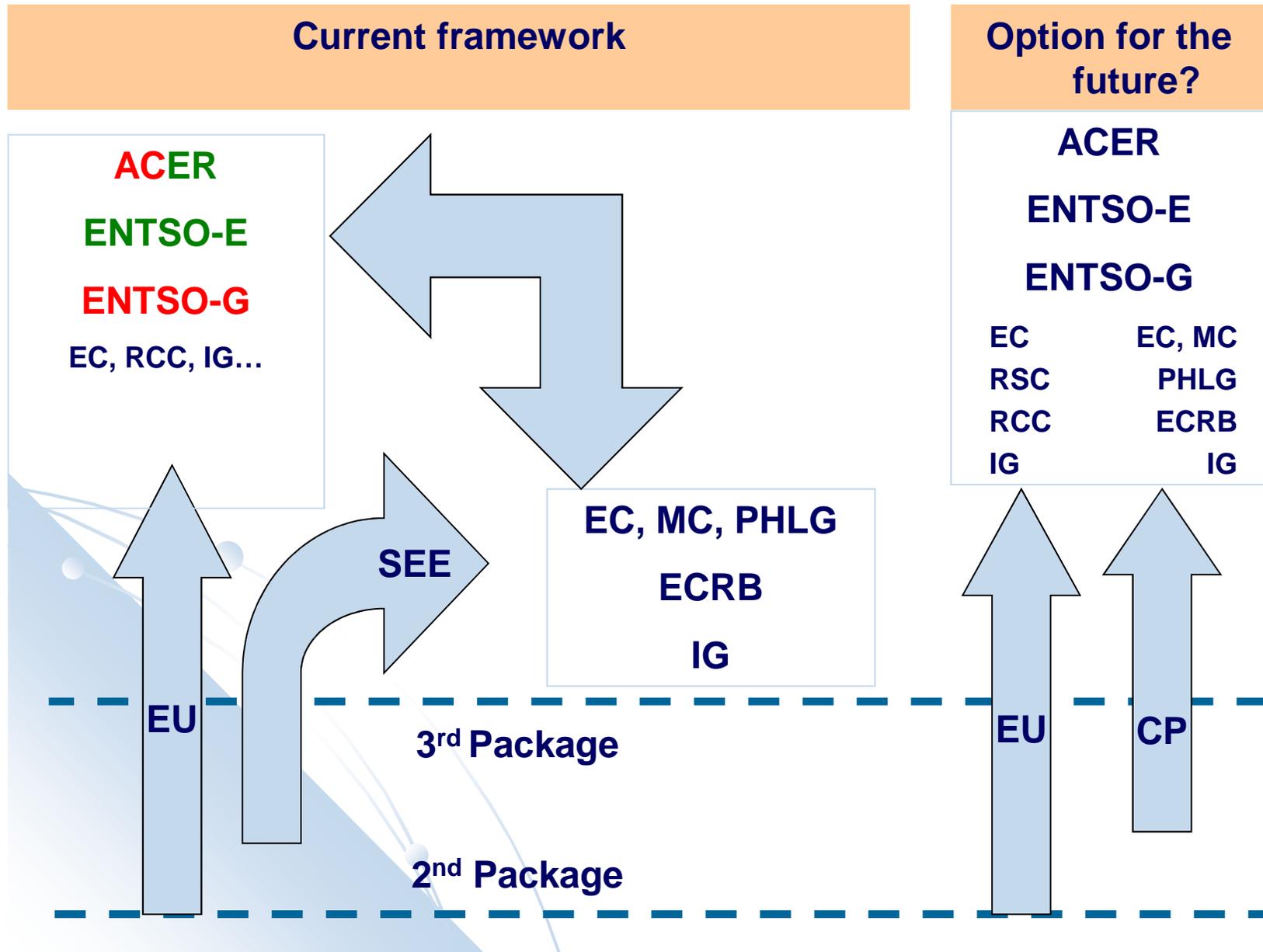
# Adaptations #3

	EU	Contacting Parties
TSO certification	<p style="text-align: center;"><b>ACER</b></p> <p style="text-align: center;">↓ Decision</p> <p>TSO ⇨ NRA ⇨ EC ⇨ NRA</p>	<p style="text-align: center;"><b>ECRB</b></p> <p style="text-align: center;">↓ Opinion</p> <p>TSO ⇨ NRA ⇨ ECS ⇨ NRA</p>
ISO designation	EC approval	ECS opinion
TPA exemptions	<p>NRAs ⇨<sup>Decision</sup> ACER ⇨ EC Decis.</p> <p>NRAs ⇨<sup>Case</sup> ACER ⇨<sup>Decis.</sup> EC Decis.</p>	<p>NRAs ⇨<sup>Decision</sup> ECRB ⇨ ECS Opinion</p> <p>NRAs ⇨<sup>Case</sup> ECRB ⇨<sup>Decis.</sup> ECS Opinion</p>
Network Codes	<p>FG ⇨ ENTSO ⇔ ACER ⇨ EC</p> <p style="margin-left: 20px;">NC</p> <p style="margin-left: 20px;">NC</p>	<p style="text-align: center;"><b>ECRB</b></p> <p style="text-align: center;">↓ Opinion</p> <p>NC ⇨ PHLG</p>
Guidelines	EC adopts Guidelines	PHLG adopts Guidelines

# Adaptations #4

EU	Contacting Parties
Regulation 713/2009 (the ACER Regulation)	<b>Not applicable</b>
References to ACER	
References to ENTSOs	
References to the <b>establishment</b> of the network codes	
References to Community- wide network development plan	

# Top-down governance



# Few additional notes...

- **Preconditions for further reforms of national markets fulfilled (TSO unbundling, empowering NRA, retail markets, customer protection...)**
- **Few essential provisions addressing market integration not applicable**
  - **Community - wide 10YNDP**
  - **Monitoring implementation of NC, Guidelines, regional cooperation of TSOs (Pan-European mechanisms can not be monitored by national or regional instruments)**
  - **Participation in ACER and ENTSOs**
- **Measures complementing the 3rd Package implementation**
  - **Investment support mechanisms (R&D, infrastructure regulation)**
  - **REMIT, MIFID, EMIR...**
- **Interface CP – MS not clearly defined**
  - **Jurisdiction for TPA exemptions in case of interconnectors spanning MS-CP-MS border (ex. Trans-Adriatic Pipeline)**
  - **Lack of clear obligation of MS to apply cross-border mechanisms on their borders with CP (interconnector definition)**

# **PAN- EUROPEAN ENERGY MARKET - THE WAY FORWARD -**



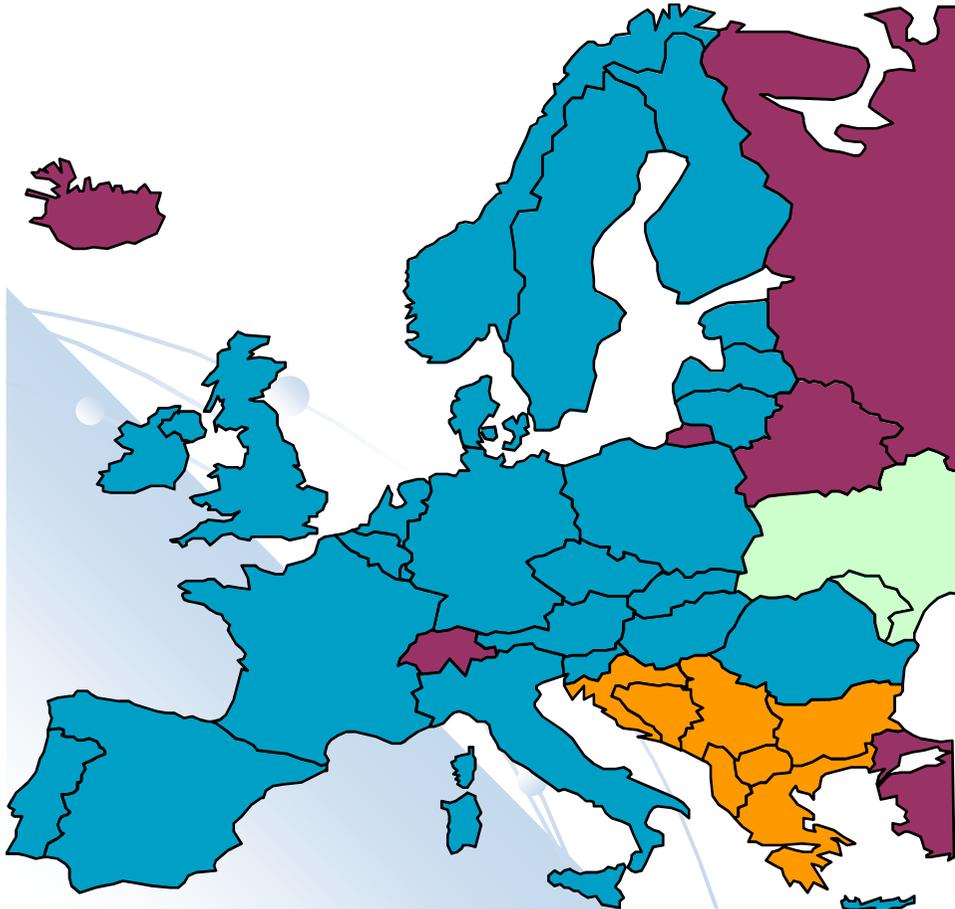
# Starting position

<b>EU</b>	<b>Contracting Parties</b>
<ul style="list-style-type: none"><li>• 2009 / 2011</li></ul>	<ul style="list-style-type: none"><li>• 2011 / 2015</li></ul>
<ul style="list-style-type: none"><li>• Economic and political integration</li></ul>	<ul style="list-style-type: none"><li>• Undeveloped regional cooperation</li></ul>
<ul style="list-style-type: none"><li>• Developed economies</li></ul>	<ul style="list-style-type: none"><li>• Economies in transition</li></ul>
<ul style="list-style-type: none"><li>• Developed energy markets</li></ul>	<ul style="list-style-type: none"><li>• Emerging national energy markets</li></ul>
<ul style="list-style-type: none"><li>• Competition presses prices downwards</li></ul>	<ul style="list-style-type: none"><li>• Market conditions presses prices upwards</li></ul>
<ul style="list-style-type: none"><li>• Diversification</li></ul>	<ul style="list-style-type: none"><li>• Diversification</li></ul>
<ul style="list-style-type: none"><li>• Infringements- 2<sup>nd</sup> package (25 MS)</li></ul>	<ul style="list-style-type: none"><li>• Infringements- 2<sup>nd</sup> package</li></ul>

# Market integration options

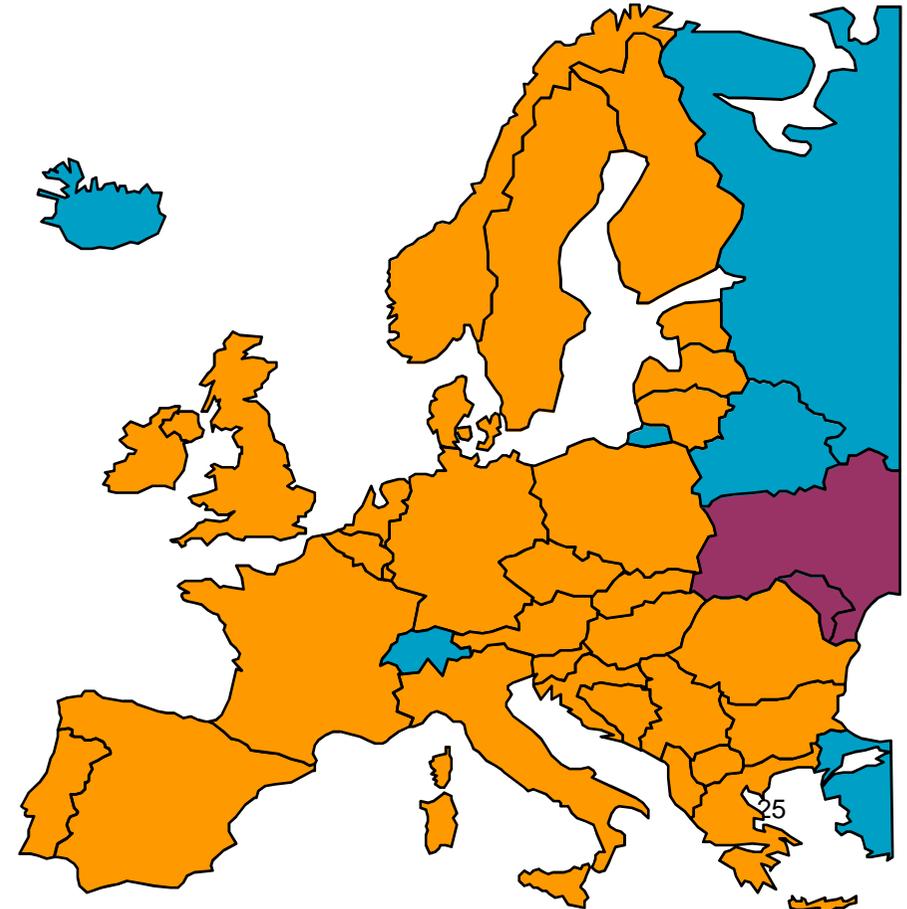
2015 - OPTION 1

3 market areas: EU, SEE, MD+UA



2015 - OPTION 2

Single market=EU+SEE, MD+UA



# Work in progress...

- **ITC mechanism**
  - Voluntary participation of SEE TSOs
  - Adoption of ITC guidelines expected in 2012
  - The issue of cost reflectivity
- **Establishment of SEE Coordinated Auction Office**
  - Project company to be registered in June 2012
- **The SEE regional action plan on WMO (ENTSO E RG SEE & ECRB)**
  - Follows the main principles set by the FG
  - Objective: EU IEM 2014; SEE joining 2015
  - Capacity calculation
  - Forward capacity markets
  - Price based market coupling
  - Intraday markets
- **Local Action Plans (national measures: establishment of PX, abolishment of regulated prices, balancing markets...)**
- **ACER – ECRB coordination established**
- **ENTSO-E RG SEE: flagship of the SEE market integration**

# Final remarks

- **EU External Policy** → **Pan-European Energy market**
- **Market integration crucial for SEE countries**
  - Enables meaningful competition
  - Improves investment climate and reduces risks
  - Enhances security of supply
- **Sufficient time left for 3<sup>rd</sup> Package transposition and implementation – change management essential**
- **Earlier implementation of cross- border mechanisms**
  - Top-down guidance launched by the 3<sup>rd</sup> Package beneficial for the SEE (limiting risk of developing incompatible market models)
  - Network Codes to be adopted shortly after adoption in EU
  - Target date for European- wide market coupling: 2015
- **The moving target – “EU pool” under construction**

***Thank you!***

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