



Governance in the wider sense: Institutions and Actors

College of Europe, 3 March 2017

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Extending the EU internal energy market

Where?

South East Europe and Black Sea Region

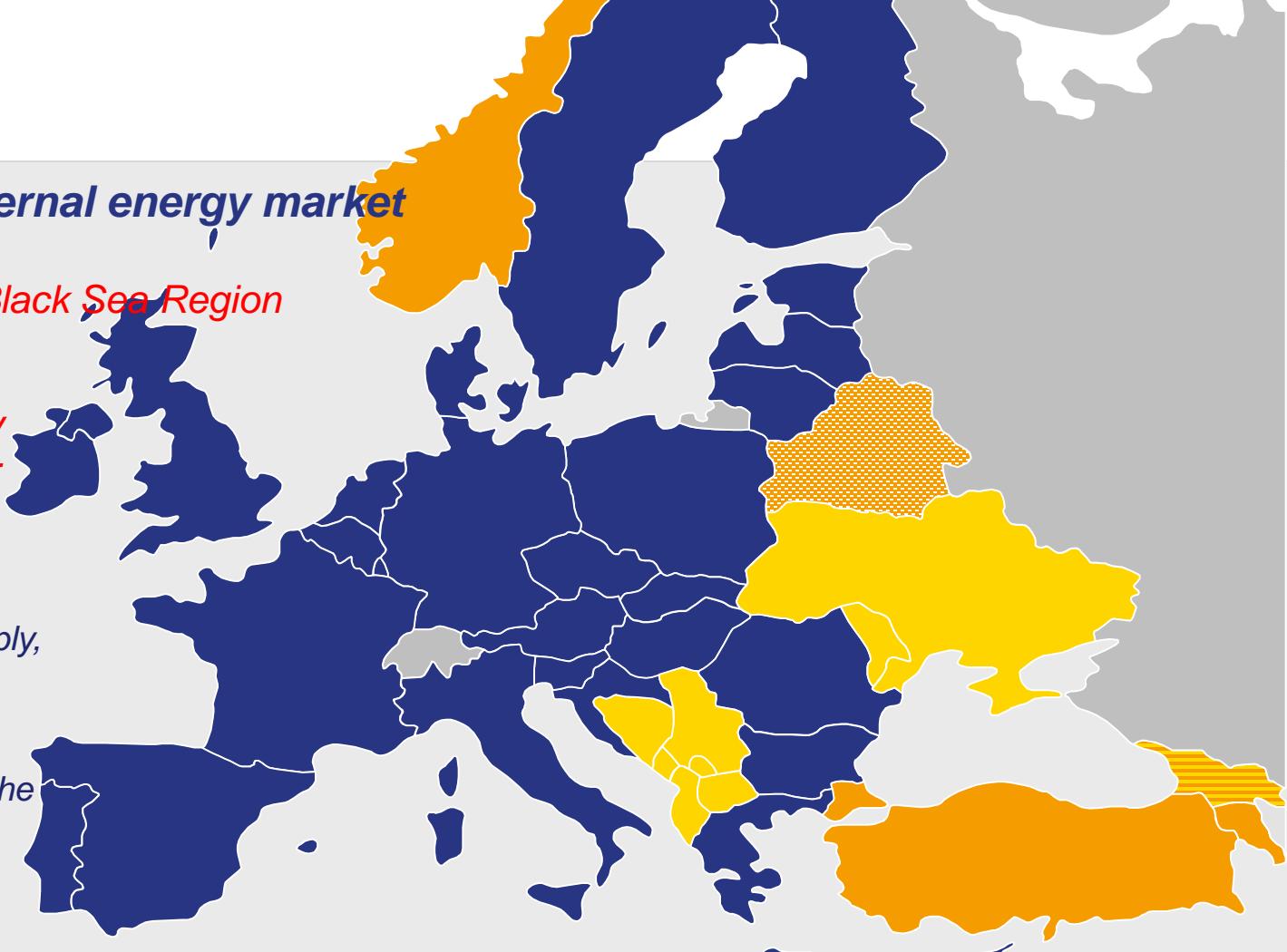
Why?

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

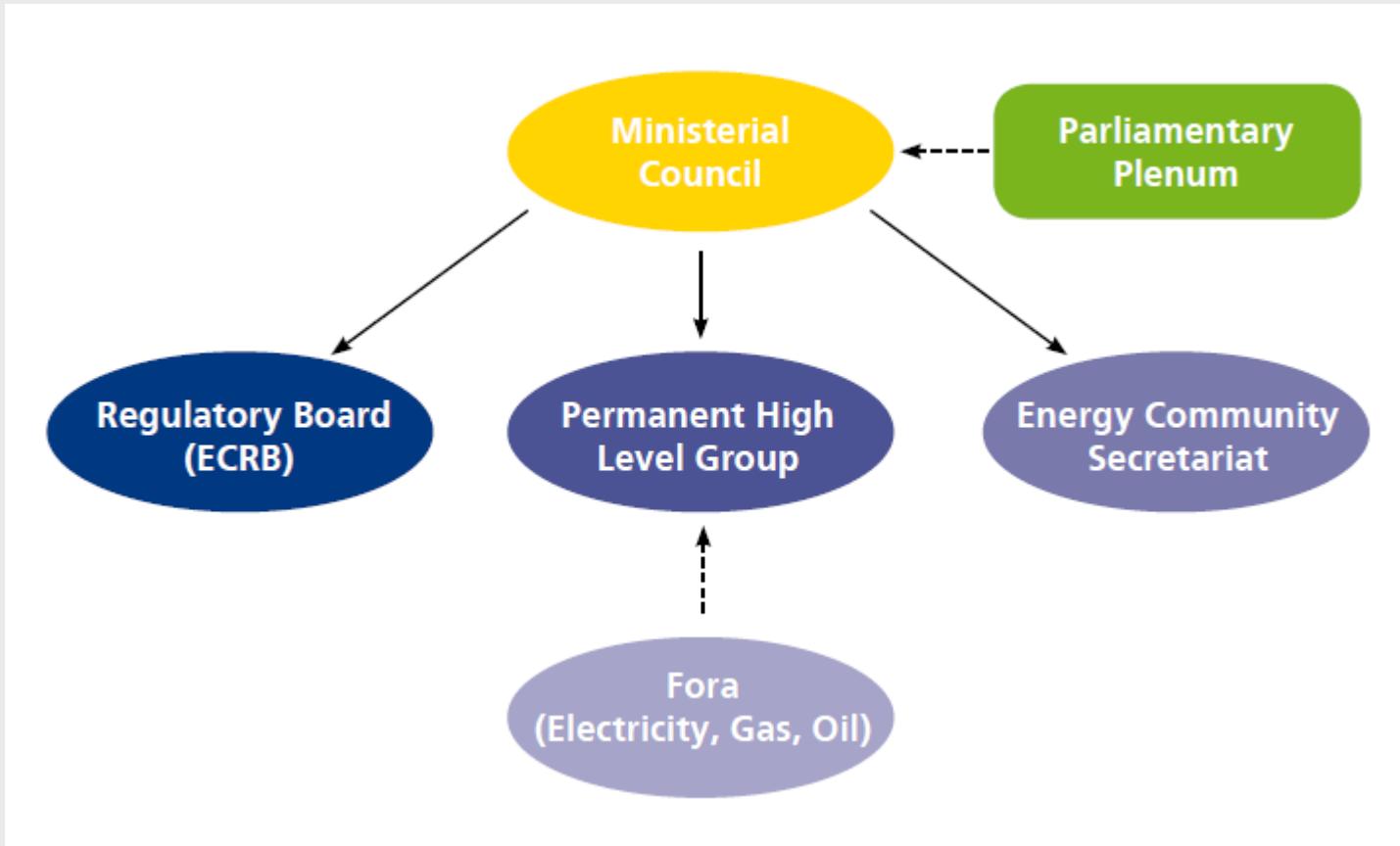
➤ How?

By the Rule of Law



■ European Union ■ Contracting Parties ■ Candidate Parties ■ Observers ■ Candidate Observers

Institutions



DISPUTE SETTLEMENT PROCEDURE

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

3-stage procedure

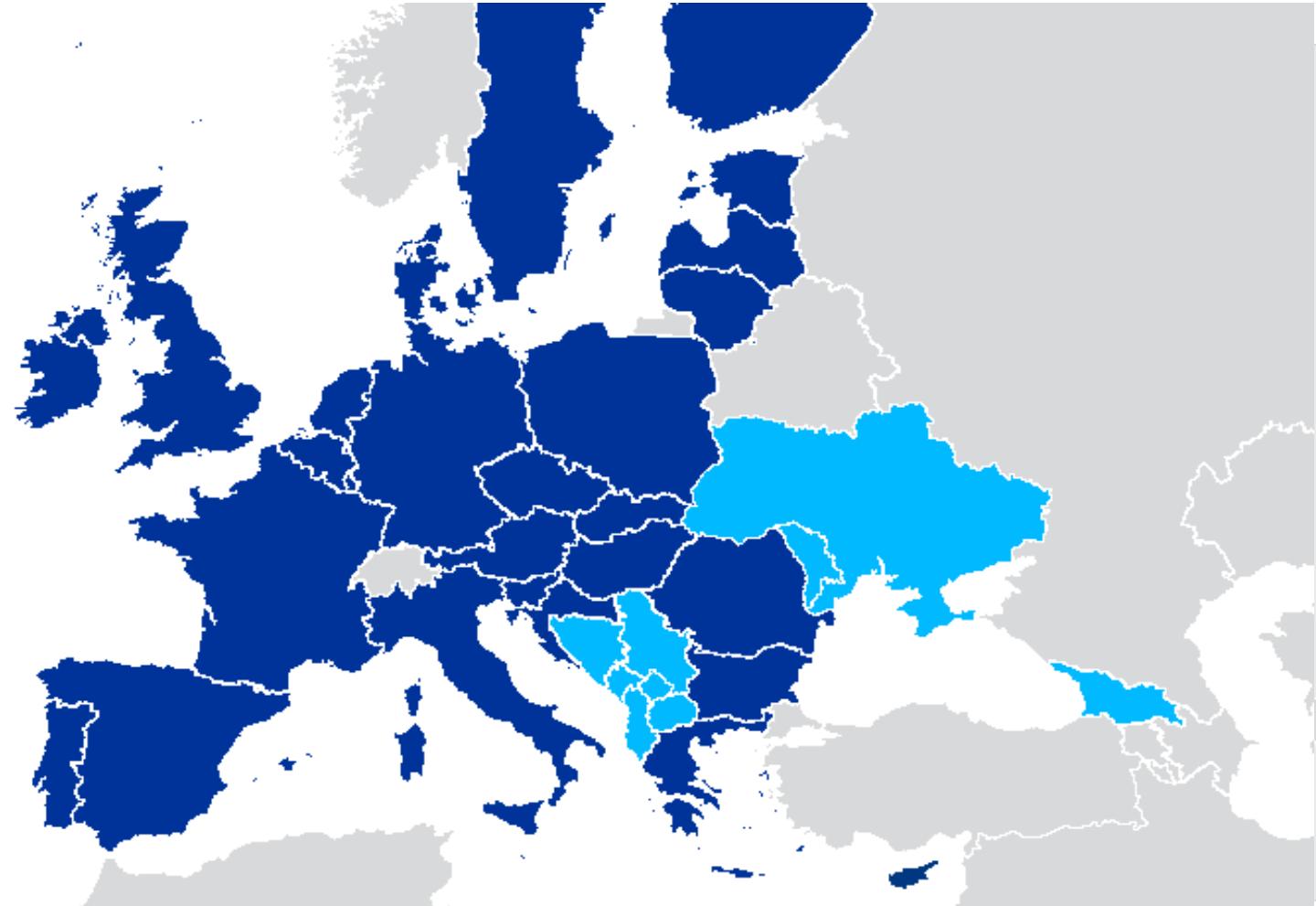
- **Opening Letter** – Secretariat requests national governments to comment on non-compliance problem within 2 months
- **Reasoned Opinion** - No reply? Unsatisfactory reply? Secretariat states reasons why it believes there is a breach of Energy Community law and requests compliance within 2 months
- **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”



Governance

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

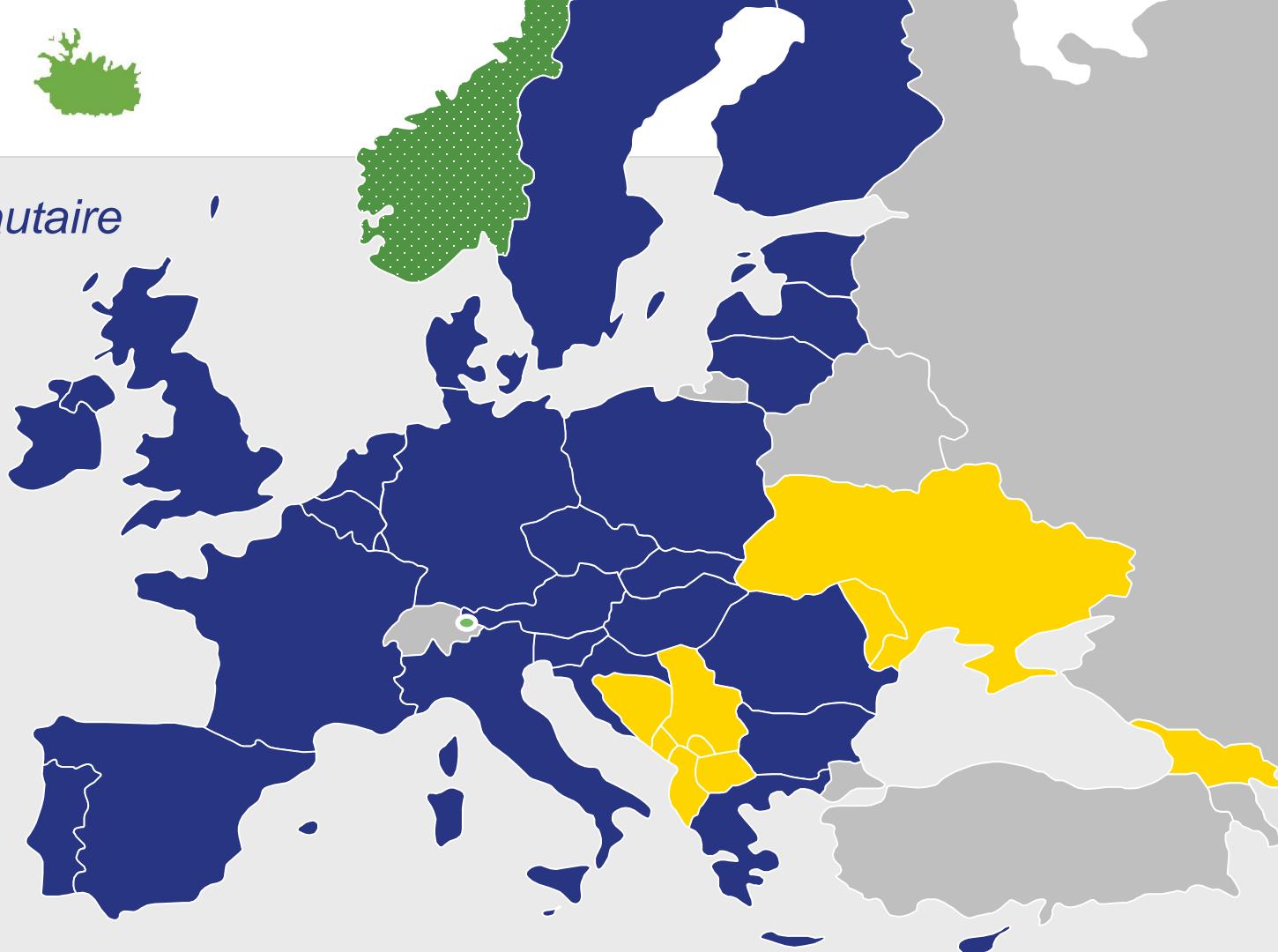
- Establish strategic energy partnerships with increasingly important producing and transit countries or regions
- Develop partnership with Norway, USA, Canada, Ukraine
- Reframe relationship with Russia
- Closer integrate EU and Energy Community markets

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

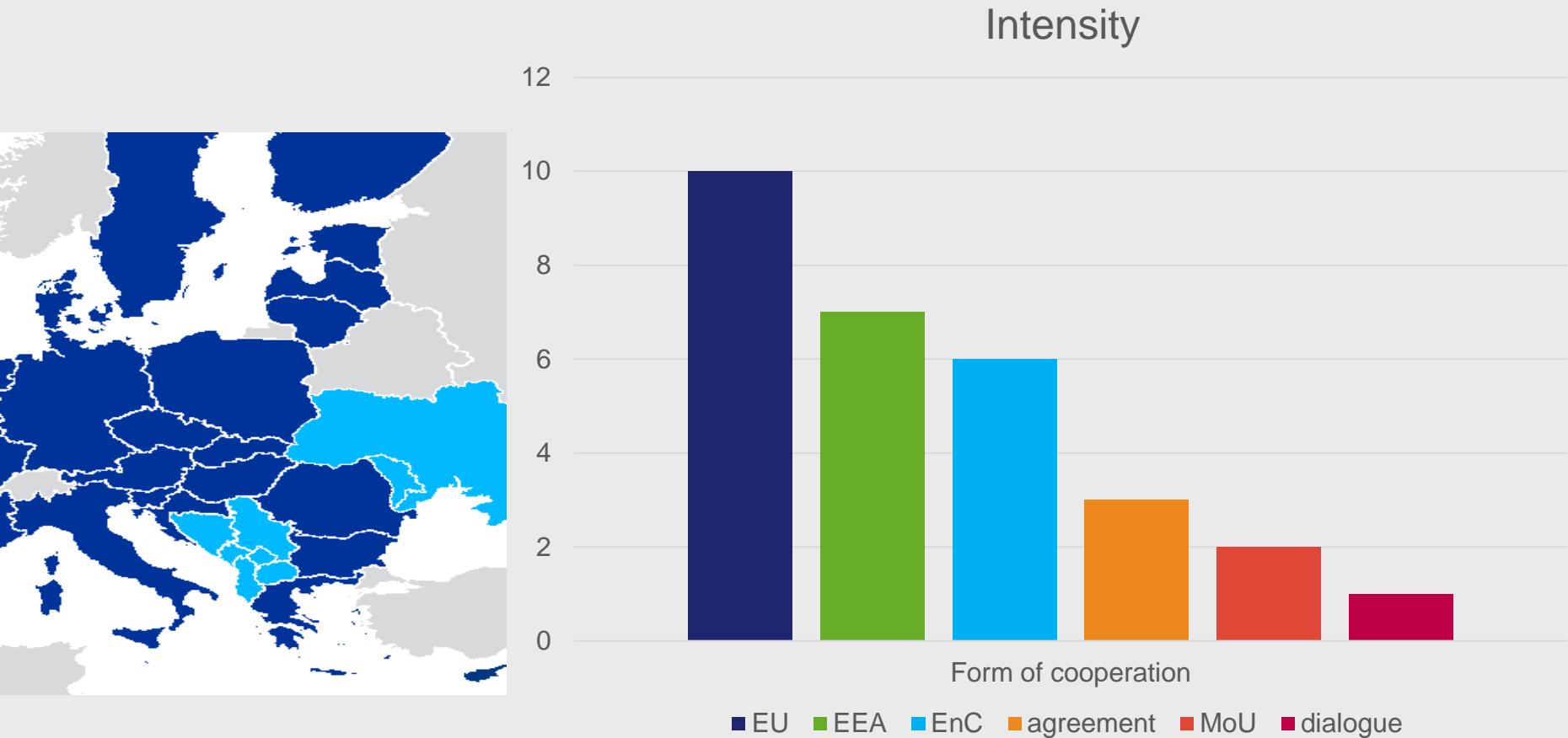
- reform process of the Energy Community
- reinvigorated dialogue with Algeria,
- Reinforced Energy Council EU-USA
- Ukraine
- Overviewing of oil and gas agreements with third countries



Acquis communautaire area



Level of integration among countries in energy sector



Trends



-Brexit

-visibilisation (MoU instead of stronger integration)

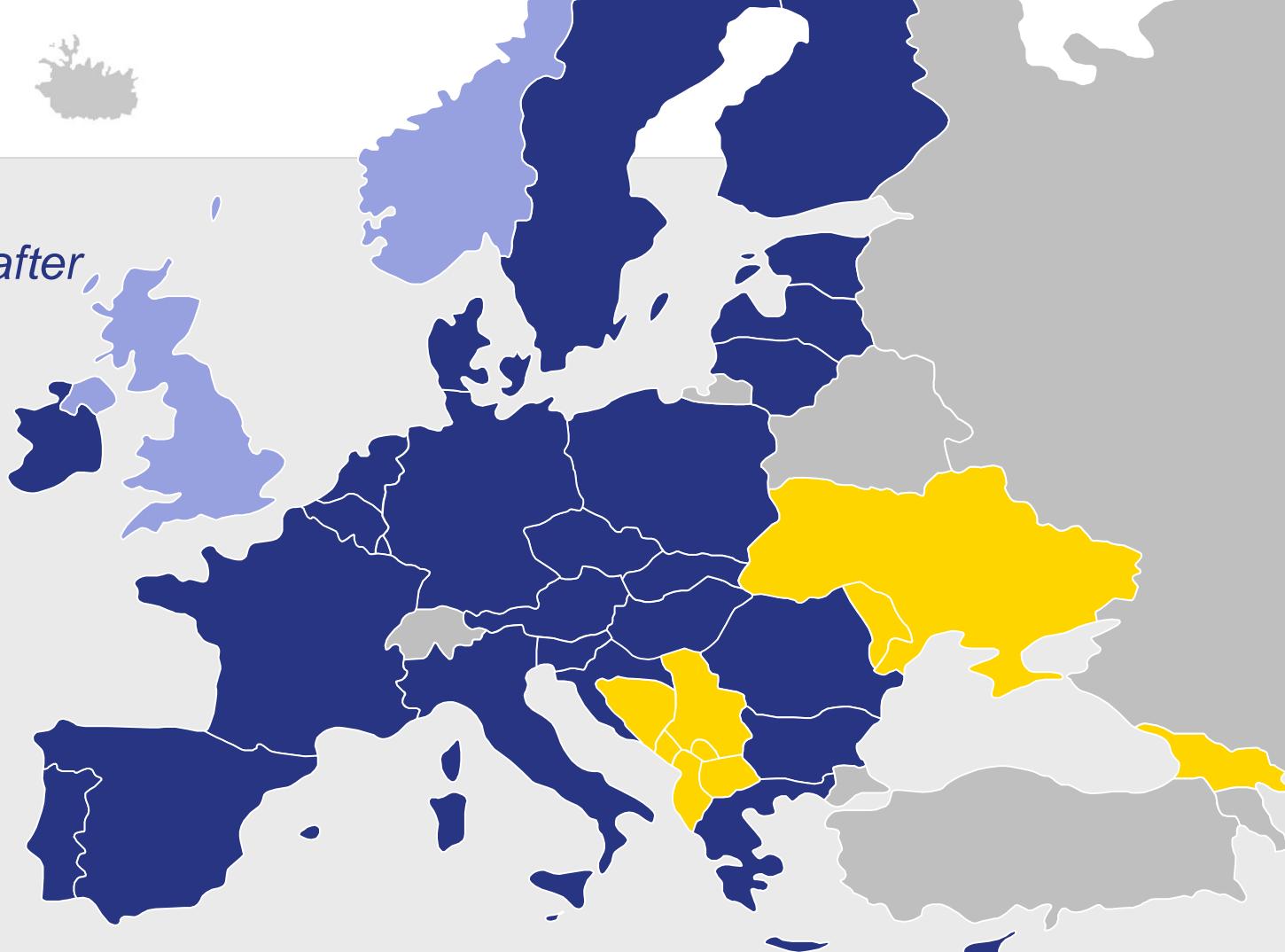


-accession to the EU (Montenegro)

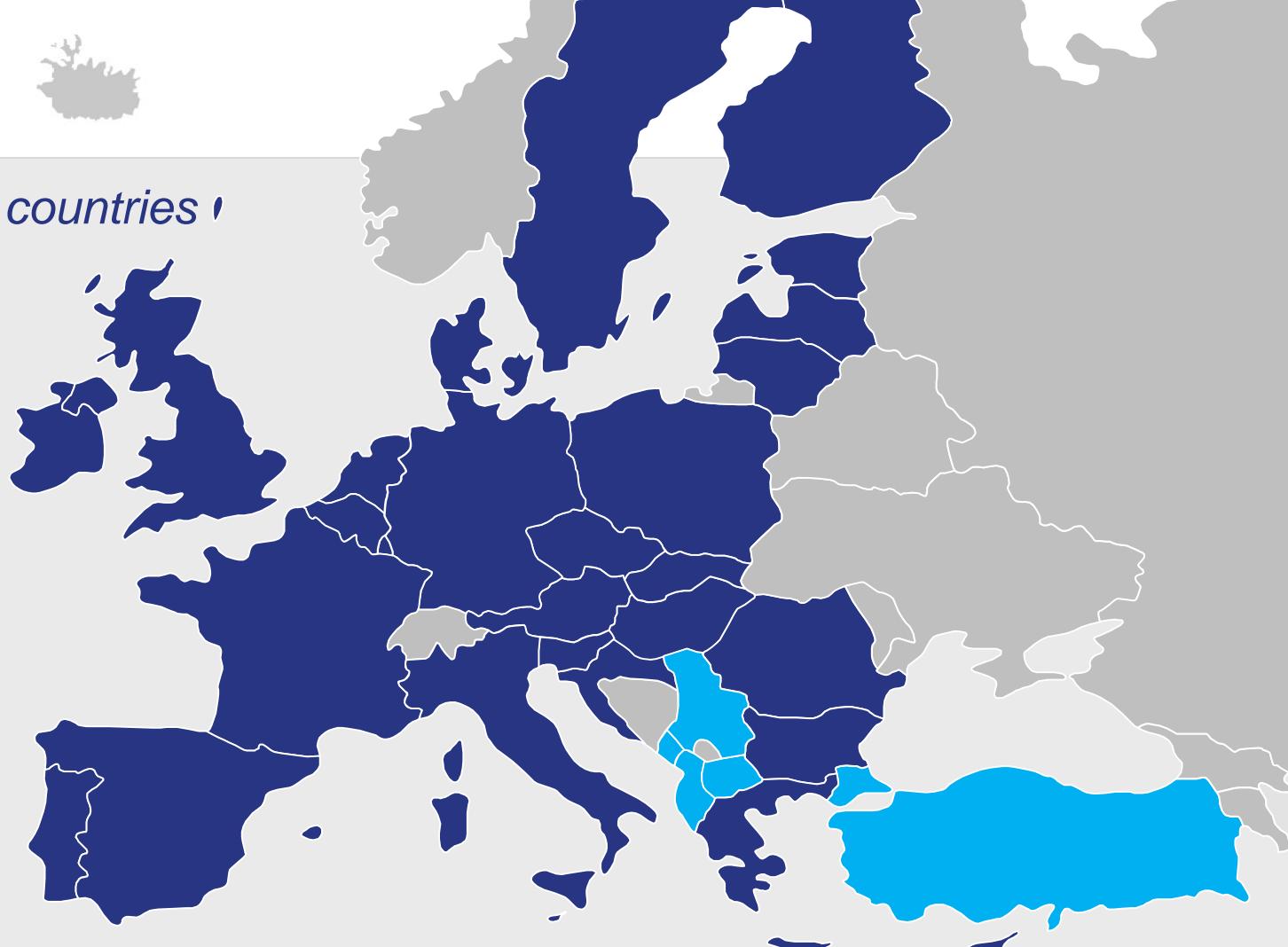
-deep and comprehensive rule of law design (strengthening of Energy Community)

Energy Union after Brexit?

- European Union
- Contracting Parties
- UK & Norway



EU+accession countries



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*

www.energy-community.org