

BOSNA I HERCEGOVINA
MINISTARSTVO VANJSKE TRGOVINE I
EKONOMSKIH ODNOSA



БОСНА И ХЕРЦЕГОВИНА
МИНИСТАРСТВО СПОЉНЕ ТРГОВИНЕ И
ЕКОНОМСКИХ ОДНОСА

BOSNIA AND HERZEGOVINA
MINISTRY OF FOREIGN TRADE AND
ECONOMIC RELATIONS

No: 07-1-28-3543-3/15
Sarajevo, 31.8.2016

ENERGY COMMUNITY SECRETARIAT
Attn: Janez Kopač, Director

Subject: Reasoned Request in Case ECS-2/13, response

Dear Mr. Kopač,

Please find enclosed the Response to the Reasoned Request in Case ECS-2/13 of the Energy Community Secretariat.

MINISTER

Mirko Šarović



Response to the Reasoned Request in Case ECS-2/13

I Introduction

The Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina is familiar with the content of the Reasoned Request in Case ECS-2/13 submitted by the Energy Community Secretariat (hereinafter referred to as the Secretariat) in the continuation of dispute settlement procedure against Bosnia and Herzegovina.

The Reasoned Request was submitted in accordance with Article 90 of the Treaty establishing the Energy Community (hereinafter referred to as the Treaty), Article 29 of the Procedural Act No. 2008/1/MC-EnC of the Ministerial Council of the Energy Community of 27.6.2008, and in accordance with the Rules of Procedure for Dispute Settlement from the Treaty.

In accordance with Article 67 of the Treaty and the supervisory role of the Secretariat to evaluate the compliance of existing legislation governing the oil industry in Bosnia and Herzegovina with the *acquis communautaire* under Title II of the Treaty, in its Reasoned Request, the Secretariat presented the following:

- Bosnia and Herzegovina has not within the prescribed time limit ensured that heavy fuel oils are not used in the entire territory of the Contracting Party if their sulphur content exceeds 1.00% by mass, failing to fulfil its obligations under Article 3 (1) of Directive 1999/32/EC in conjunction with Article 16 of the Treaty;
- Bosnia and Herzegovina has not within the prescribed time limit ensured that gas oils are not used in the entire territory of the Contracting Party if their sulphur content exceeds 0.1% by mass, failing to fulfil its obligations under Article 4 (1) of Directive 1999/32 / EC in conjunction with Article 16 of the Treaty.

Given the above, the Secretariat shall submit a Reasoned Request to the Ministerial Council and request the adoption of a Decision.

II History

Representatives of the Energy Community Secretariat have, during the missions in Bosnia and Herzegovina and in their reports, repeatedly pointed out the non-compliance of national legislation with the *acquis communautaire* in the field of environmental protection. They emphasized the non-compliance with Council Directive 1999/32 / EC of 26 April 1999 on reducing the sulphur content in certain liquid fuels and additional Directive 93/12/EEC of amended Regulation (EC) no. 1882/2003 of the European Parliament and the Council of 29 September 2003 (hereinafter: Directive 1999/32/EC). Also, in its Implementation Report of 01.09.2012, the Secretariat reiterated that "on the implementation of the Directive on sulphur content in fuels, the full implementation in Bosnia and Herzegovina should be guaranteed by mid-2013 when it is expected that the refinery Brod should be complied with the requirements of the Directive. Taking into account the above circumstances, Bosnia and Herzegovina has not been able to implement the Directive by the scheduled deadline - 31.12.2011."

The Secretariat sent an open letter to Bosnia and Herzegovina on 11.2.2013 in accordance with Article 12 of the Procedure for Dispute Settlement.

The Ministry of Foreign Trade and Economic Relations gave an official response to the open letter in its letter dated 3.5.2013. and received by the Secretariat on 06.06.2013. In its response, in Secretariat's opinion, the Ministry did not provide sufficient arguments to dispute the facts given by the Secretariat. The reply of the Ministry was that considering the issue of heavy fuel oils, the legislation of Bosnia and Herzegovina allowed local manufacturers to sell fuels that did not comply with the requirements of Directive 1999/32 /EC. The Secretariat, then, emphasized that the authorities of Bosnia and Herzegovina did not by the mentioned letter prove to have taken adequate measures to set up a legislative threshold in accordance with the requirements of Articles 3 (1) and 4 (1) of Directive 1999/32/EC.

III Measures taken by Bosnia and Herzegovina

In order to comply with the needs of the oil market in Bosnia and Herzegovina and the international obligations which include the requirements of Directive 1999/32/EC, the Minister of Foreign Trade and Economic Relations of Bosnia and Herzegovina made the Decision on Appointment of a Working Group to prepare the Draft Decision on quality of liquid fuels No. 06-2-02-438/16 of 02.04.2016, Decision on amending the Decision on appointment of the Working Group for drafting the Decision on quality of liquid fuels, no 06-2-02-438-1/16 of 15.04.2016, and Decision on the appointment of the Working Group for drafting the Decision on the quality of liquid fuels No. 07-1-02-438-10/16 of 8.2.2016.

These decisions established a working group composed of representatives of relevant ministries and inspection bodies in BiH.

The task of the Working Group is to draw up the Draft Decision on quality of liquid fuels which is aligned with the needs of the oil market in Bosnia and Herzegovina and the international obligations of Bosnia and Herzegovina and to submit it to the Minister of Foreign Trade and Economic Relations of Bosnia and Herzegovina, not later than 31.12.2016.

The Working Group is currently working hard on the implementation of set tasks and setting up the legislative threshold for sulphur content in accordance with the requirements of Articles 3 (1) and 4 (1) of Directive 1999/32/EC.

The Work Programme of the Council of Ministers of Bosnia and Herzegovina envisages adoption of the Decision on quality of liquid petroleum fuels by 31.12.2016.

IV Conclusion

Bosnia and Herzegovina would like to highlight the fact that measures and activities have already been taken that represent a clear commitment of Bosnia and Herzegovina to remedy the violation and that they constitute a sufficient basis for rejecting the case.

Sincerely,

MINISTER

Mirko Šarović

