

DECISION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

D/2016/03/MC-EnC: on the failure by Bosnia and Herzegovina to comply with the Energy Community Treaty in Case ECS-2/13

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY,

Having regard to the Treaty establishing the Energy Community ("the Treaty"), and in particular Article 91(1)(a) thereof;

Upon the Reasoned Request by the Secretariat in Case ECS-2/13 dated 13 May 2016;

Having regard to the absence of a Reply by Bosnia and Herzegovina;

Having regard to the Opinion by the Advisory Committee established under Article 32 of Procedural Act No 2008/01/MC-EnC of the Ministerial Council of the Energy Community of 27 June 2008 on the Rules of Procedure for Dispute Settlement under the Treaty, dated 16 September 2016;

HAS ADOPTED THIS DECISION:

Article 1

Failure by Bosnia and Herzegovina to comply with the Treaty

Bosnia and Herzegovina,

1. by failing to ensure that heavy fuel oils are not used if their sulphur content exceeds 1.00 % by mass on its entire territory, has failed to fulfil its obligations under Article 3(1) of Directive 1999/32/EC in conjunction with Article 16 of the Treaty; and
2. by failing to ensure that gas oils are not used if their sulphur content exceeds 0.1 % by mass on its entire territory, has failed to fulfil its obligations under Article 4(1) of Directive 1999/32/EC in conjunction with Article 16 of the Treaty.

For the reasons sustaining these findings, reference is made to the Reasoned Request.

Article 2

Follow-up

1. Bosnia and Herzegovina shall take all appropriate measures to rectify the breaches identified in Article 1 and ensure compliance with Energy Community law immediately. Bosnia and Herzegovina shall report regularly to the Secretariat and the Permanent High Level Group about the measures taken.

2. If the breaches have not been rectified, the Secretariat is invited to initiate a procedure under Article 92 of the Treaty.

Article 3
Addressees and entry into force

This Decision is addressed to the Parties and the institutions under the Treaty. It enters into force upon its adoption.

Done in Sarajevo on 14 October 2016

For the Presidency


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