

Serbia: Not great, not terrible Review of the Secretariat of the Energy Community Annual Implementation Report with particular focus on National emission reduction plan

On November 1st, 2018 Energy Community Secretariat has announced Annual Implementation Report on monitoring the implementation of key EU energy and environmental legislation in Energy Community contracting parties (Serbia, Montenegro, Bosnia and Herzegovina, North Macedonia, Albania, Georgia, Moldova, Ukraine and Kosovo*).

Background

By signing the Energy Community Treaty 2005 in Athens, the Contracting Parties committed to implementing key EU energy and environmental legislation within a fixed timeframe. Treaty, signed between European Union and eight neighbouring countries, among which is the Republic of Serbia, came into force in July 2006, when the Republic of Serbia also rectified it.

By the treaty, contracting parties of EC, committed to implementing key EU energy and environmental legislation within a predetermined timeframe. Among the stated regulations the Large Combustion Plants Directive 2001/80 EC („LCP Directive“) stands out. In accordance with Article 16 and Annex II of the Treaty, Serbia had to implement LCP Directive by December 31, 2017. The objective of LCP Directive is to achieve significant emission reductions of the polluting materials (sulphur dioxide, nitrogen oxides and dust) into the air from large combustion plants (LCP Directive shall apply to combustion plants, the rated thermal input of which is equal to or greater than 50 MW, irrespective of the type of fuel used).

By Decision of the Ministerial Council of the Energy Community the January 1st, 2018 was confirmed as a deadline for implementation of the directive. However, as Contracting Parties were not prepared to comply with the emissions limit values from the Directive within the defined timeframe, they were, alternatively, allowed to adopt and implement National emission reduction plan („NERP“) which shall be applicable to predetermined combustion plants, whose cumulative emissions of polluting materials should not exceed the emission ceilings prescribed by NERP for a certain year. Each successive year, the emission ceilings of polluting materials emitted from combustion plants which are subject to NERP shall gradually decrease. Decision of the Ministerial Council prescribe that NERP shall be applicable from January 1st, 2018 to December 27, 2027.

By adopting the Regulation on emissions limit values of certain pollutants in the air from combustion plants Serbia transposed the provisions of the LCP Directive and Decision of the Ministerial Council into the internal legal framework. Article 8 of the Regulation prescribes that NERP shall be applicable from January 1st, 2018 up to December 31, 2027 at the latest.

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However, although NERP is in use from January 2018, it was not until December 2018 that the document first became available to the public, when the Ministry of environmental protection conducted a public debate on strategic environmental impact assessment for NERP.

Findings of the Annual Implementation report for Serbia

I Environment

Energy Community Secretariat in its report states that the Government of the Republic of Serbia still did not adopted NERP, meaning that the plants have to comply with the Directive's emission limit values individually. This means that combustion plants subject to NERP shall comply with the emission limit values prescribed by Regulation on emissions limit values of certain pollutants in the air from combustion plants individually, which are significantly lower than those prescribed by NERP.

Serbia has not yet transposed Directive which regulates environmental impact assessment. Quality control mechanisms of environmental reports need improvement and the authorities have to provide effective opportunities for the public to participate in decision-making. A systematic application of strategic environmental assessments is missing as well.

II Electricity

Progress made by Serbia in the development of the electricity market and its integration remains limited due to the lack of progress in unbundling of system operators (the unbundling of EPS distribution from JP EPS is still missing) operator unbundling is still to be completed and in resolving the long-standing dispute between the transmission system operators of Serbia and Kosovo* (EMS and KOSTT). *The United Nations Interim Administration Mission in Kosovo pursuant to the United Nations Security Council Resolution 1244

III Gas

The majority of Third Energy Package provisions (the package consists of EU regulations aimed at improving the functioning of the internal energy market and solving certain structural problems) are transposed by the Energy Law from 2014, but did not fully implemented them. As the most obvious example of this, the Secretariat states that Srbijagas is still engaged in gas supply and distribution (despite the obligation to separate

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production and supply of gas from distribution in two independent companies). Serbia, on the other hand, has adopted a number of by-laws in the area of security of supply, which imposed wider obligations than required.

IV National Authorities

The Secretariat evaluates the performance of the Energy Agency of the Republic of Serbia with 51% realisation, performance of the Commission for Protection of Competition with 80% realisation, and performance of Commission for State Aid Control with 75% realisation.

V Oil

The key provisions of the Oil Stock Directive had been transposed by Commodity Reserves Law from 2013. Establishing an emergency oil stocks register is in progress. Despite the obligation established in accordance with before mentioned law and international regulations, the Republic of Serbia had not reported requested data to the Secretariat of the Energy Community.

VI Renewable energy

According to the Report of the Energy Community in 2017 the share of energy from renewable sources in gross final energy consumption was a mere 20, 6%, well below the 25% indicative trajectory prescribed by National Renewable Energy Action Plan, and even lower than the renewable energy share of 21% in the 2009 baseline year. In addition, instead of auctions, the support system for investments in renewables remains based on feed-in tariffs and power purchase agreements signed between the market operator and the privileged producers. Finally, none of the relevant provisions of Directive which regulates renewable energy in transport have been transposed. Secretariat emphasize that Serbia shall put more efforts to transpose the renewables acquis and to amend the Energy Law.

VII Energy efficiency

According to the Secretariat of Energy Community the priority for Serbia in the forthcoming period remains the transposition of the Energy Efficiency Directive, either through amending the Law on Efficient Use of Energy or through a new law on energy efficiency. Furthermore, it shall be important to fully implement the Energy Performance of Buildings Directive and adopt the remaining delegated regulations for labelling of energy-related products, in accordance with the Ministerial Council Decision of November 2018.

VIII Climate

The climate change legislation shall be adopted (primarily it is referred to a Climate Change Law which is expected to be adopted by the end of 2019) as well as National Low Carbon Development Strategy. In addition, work on the preparation of the National Energy and Climate Plan (NECP) should be launched with no further delay.

IX Infrastructure

The national competent authority should start reporting on the projects of interest to the Energy Community to the project management groups (PECI Groups) and the Secretariat immediately. It should also prepare and publish the manual of procedures on licensing procedures applicable to projects of common interest, as defined by Regulation (EU) 347/2013. In addition, the Energy Agency of the Republic of Serbia must adopt and publish the methodology and criteria to be used to evaluate investment in electricity and gas projects and the higher risks incurred by them without delay.

X Statistics

To fully comply with the statistics acquis, Serbia must implement the reporting requirements in terms of monthly data collections in oil and gas.

Serbia does not apply NERP - Facts

Twelve combustion plants are subject to NERP, eight of which are owned by the operator Public Company Elektroprivreda Srbije, while three are owned by the operator NIS a.d.. Public Company Elektroprivreda Srbije (JP EPS) issued Report on the state of the environment in JP Elektroprivreda Srbije for 2018.

For 2018, the total sulphur dioxide emission ceiling prescribed by NERP was 54.575,33 tons. However, from the Report we can conclude that CP Kostolac alone in 2018 emitted three times more tons of sulphur dioxide (157.828, 00 tons) than the overall emission ceiling for all twelve combustion plants. In addition, it can be concluded that combustion plant Nikola Tesla in 2018 emitted four times more tons of sulphur dioxide (177.751,00 tons) than the overall emission ceiling for all twelve combustion plants. However, although combustion plants operated by JP EPS subject to NERP emitted a total of 336.373 tonnes of sulphur dioxide into the air during 2018, which is six times more than allowed, according to the public available information, Serbia has not taken measures to

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ensure compliance with emissions ceilings prescribed by NERP.

Opinion

Although it was expected that 2019 would be a turning point for Energy Community Contracting Parties, and present a year of transition to clean energy, the necessary progress in the implementation of the legislation by the Energy Community Contracting Parties was lacking.

The Republic of Serbia transposed majority of the legislation of the Energy community, but the implementation of the adopted legislation is still at an unenviable level. This discrepancy is particularly apparent regarding LCP Directive, as well as legislation based on it (Regulation on emissions limit values of certain pollutants in the air from combustion plants and National emission reduction plan).

Having in mind that NERP applies from January 1st, 2018 emission ceilings prescribed by NERP are obligatory for the operators of the combustion plants subject to NERP, and the Republic of Serbia was required to ensure that operators comply with annual emission ceilings of each combustion plant. By not taking measures to ensure compliance with emissions ceilings prescribed by NERP, Republic of Serbia undoubtedly violates obligations under ratified international treaties in the field of environmental protection. In order to point to the state authorities these irregularities, RERI has submitted a request for extraordinary inspection surveillance of each of the above mentioned JP EPS combustion plants.

Source: reri.org.rs