



Republika e Kosovës
Republika Kosova-Republic of Kosovo
Qeveria-Vlada-Government

MINISTRY FOR DIALOGUE

From: Edita Tahiri, Minister for Dialogue

To: The Republic of Kosovo Delegation at the WB6 meeting on energy issues in Vienna on 27 April 2016, Minister of Economic Development Blerand Stavileci, Deputy Minister Gani Koci, KOSTT Head Mustafe Hasani, ERO Head Enver Halimi

CC: Prime Minister Isa Mustafa, Permanent Secretary Fitim Krasniqi, Angeline Eichorst, EEAS Director, Nicholas Cendrowicz, EU facilitator on the Energy Agreement between Kosovo and Serbia

Date: 26 April 2016 / Ref. no. 52/2016

Su: Kosovo's position on the Memorandum of Understanding of WB6 on Regional Electricity Market Development in the context of the unfulfilled implementation obligation of Serbia to the 2013 Energy Agreement / KOSTT-ENTSO-E of 1st October 2015

Dear Minister Stavileci and other members of the Republic of Kosovo Delegation,

Having in mind the upcoming meeting of the Western Balkans 6 on *Regional electricity market development and establishing a framework for other future collaboration*, to be held in Vienna on 27 April 2016;

Considering the relevance of developing the regional electricity market and establishing a framework for other future collaboration based on the Treaty establishing the Energy Community and the subsequent legal acts forming the Energy Community acquis on electricity, the Berlin Process and the final declarations by the Chair of the Conference on the Western Balkans at the Berlin Summit and Vienna Summit and Regulation 2015/1222 establishing a Guideline on Capacity Allocation and Congestion Management ("CACM Regulation") and other upcoming EU Regulations establishing network codes and guidelines;

Acknowledging the readiness of the six Western Balkan countries, to which Kosovo fully adheres, to agree on the priority list of 'soft measures' in energy covering specific national issues to implement the Energy Community acquis and having invited the Energy Community

Secretariat to take the lead on development of the regional energy market and to help implementing these 'soft measures' such as Spot Market Development, Cross-border Balancing and Regional Capacity Allocation – prior to WB6 Summit in France 2016

Taking into full consideration that the meeting in Vienna aims at signing the Memorandum of Understanding (MoU) on Regional electricity market development and establishing a framework for other future collaboration (hereinafter "MoU") by the signatories (Ministries, National Regulatory Authorities (NRAs), Transmission System Operators (TSOs) and Power Exchanges (PXs) of the six Western Balkan states - Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia)

Having in mind that KOSTT has not yet started to operate as an independent TSO based on the KOSTT-ENTSO-E Agreement signed on 1st October 2015 because of the of Serbia's fault in fulfilling its implementing obligations of registering of two new companies in Kosovo in accordance with the Kosovo Law as stipulated in the 2103 Brussels Energy Agreement, to which the implementation of the above mentioned agreement was conditional.

The position of the Republic of Kosovo regarding the MoU

As the Chief negotiator at the Brussels Dialogue between Republic of Kosovo and Serbia facilitated by EU and supported by US, I would like to recommend that the Republic of Kosovo delegation position regarding the MoU should be as follows:

1. The KOSTT cannot be signatory of the MoU prior to starting its operation as an independent TSO based on the Agreement between KOSTT and ENTSO-E signed on 1st October 2015 which derives from the 2013 Brussels Energy Agreement, 2014 Energy Action Plan and 2015 EU Conclusions on Energy.
2. The KOSTT signature should be conditioned with start of the operation by KOSTT as an independent TSO, namely the start of implementation of the KOSTT-ENTSO-E agreement of 1st October 2015. The implementation of this agreement is stalled because of the of Serbia's fault in fulfilling its implementing obligations of registering of two new companies in Kosovo in accordance with the Kosovo Law as stipulated in the 2103 Brussels Energy Agreement, to which the implementation of the KOSTT-ENTSO-E agreement was conditional. The Kosovo Government has urged several times the EU to consider this conditionality as void because the Serbia itself has failed to fulfil this condition. This contradictory situation is known to the European Union, ENTSO-E and the Energy Community Secretariat, whom the Kosovo Ministry of Dialogue have informed regularly. Unfortunately, the issue is still pending.

3. In order for KOSTT to be able to sign, the MoU should include the following formulation:
 - a. MoU should call for urgent implementation of the KOSTT-ENTSO-E agreement of 1st October 2015 which provides for KOSTT to start its operation as an independent TSO and be able to assume responsibilities that derive from this MoU and to be able to implement the soft measures of WB6 on energy issues. There should be established a deadline of implementation.
 - b. MoU should call on Serbia to urgently fulfil its implementation obligations towards the 2013 Energy Agreements (as per point 1). In case of Serbia's failure to fulfil the obligations, the EU as facilitator and guarantor of the 2013 Energy Agreement should invalidate the conditionality and instruct ENTSO-E to start with the implementation of the agreement with KOSTT (of 1st October 2015) by the deadline established by this MoU.
4. In case of non-inclusion of the point 3, in the text of the MoU, all the signatories of the Republic of Kosovo (Ministry of Economic Development, KOSTT and ERO) should not accept to sign this MoU.

For your information, I have regularly informed and written to EU about the delays in implementation of the KOSTT-ENTSO-E agreement of 1 October 2015, because of Serbia's failure in registering two new companies based on the Kosovo Law, as required by the 2013 Energy Agreement. The issue is that Serbia, due to its own political reasons seems not to be ready to register those new companies in accordance with the Kosovo Law; in turn, this is holding the KOSTT to start operating as an independent TSO.

Serbia has violated already two deadlines, the one of 30 November 2015 and the other of 6 February 2016. The second deadline was established after the meeting in Vienna in November 2015 facilitated by the Energy Community Secretariat. Although the second deadline was violated despite the clear conclusions from this meeting, both facilitators, EU and Energy Community Secretariat, could not push forward this issue to this date. We have asked the EU several times to cancel the conditionality of registration of new companies, in order for KOSTT to start operating as an independent TSO, because the registration did not happen due to Serbia's fault. However, to this date, no progress was made in this direction.

I remain available for further argumentation regarding Kosovo's position on MoU related to the unimplemented Energy Agreement due to Serbia's failures, which is delaying KOSTT to operate as an independent TSO.

I thank you for your cooperation.

Sincerely yours,



Edita Tahiri
Minister for Dialogue
Chief-negotiator at the Brussels Dialogue