01.07.2019

Energy Community Secretariat
Am Hof 4, Level 5-6, 1010 Vienna
Austria

Subject: **Formal complaint to the Energy Community dispute settlement mechanism on the North Macedonia *Decree on support measures for production of electrical energy from renewable sources of energy (Official Gazette no. 29/19)* and the accompanying *Decision on the total installed capacity of preferential electricity producers (Official Gazette no. 29/19)***

1. Name of complainant:

- Center for environmental research and information “Eko-svest”
- CEE Bankwatch Network

2. Represented by:

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5. Field and place(s) of activity:

Eko-svest works on topics closely related to environmental protection: sustainable transport; renewable energy sources and energy efficiency; sustainable waste management; and protection against chemicals and heavy metals. Its main work consists of informing and educating the public in North Macedonia, and pushing for public participation in environmental decision-making, transparent and accountable work of public institutions, public money for public benefits and access to justice in the area of environmental protection.

CEE Bankwatch Network is the largest network of grassroots, environmental and human rights groups in central and eastern Europe, with 17 member groups in 14 countries. It monitors public finance institutions that are responsible for hundreds of billions of investments across the globe. The banks and funds we watch are often obscure but always important entities that function outside public scrutiny. Together with local communities and other NGOs we work to expose their influence and provide a counterbalance to their unchecked power.

6. Party alleged by the Complainant not to have complied with Energy Community Law:

The Republic of North Macedonia, due to non-compliant decisions by the Ministry of Economy and the Government.

7. The decision concerned / introduction:

On 7 February 2019, the Government of the Republic of North Macedonia adopted the following:

- *the* ***Decree on support measures for production of electrical energy from renewable sources of energy***[1] (the 'Decree'), - see **Annex 1**.
- the ***Decision on the total installed capacity of preferential electricity producers***[2] (the 'Decision') - see **Annex 2 -** and
- the ***Program for financial support for production of electricity from preferential producers using a premium for 2019***[3] (the 'Program') - see **Annex 3**.

These create the legal framework that will define the utilisation of renewable energy sources for electricity production in the following years. However, as it was pointed out in a previous communication with the Energy Community Secretariat (see below), we believe that the Decree in combination with the Decision is non-compliant with Article 18 of the Energy Community Treaty.

Considering the limitations in the national legislation when it comes to public participation in these procedures, but also that even all informal options to influence the decision have been exhausted (see below), we hereby **request that the Energy Community Secretariat initiates a dispute settlement procedure on the Decree on support measures for production of electrical energy from renewable sources of energy and the Decision on the total installed capacity of preferential electricity producers**.

8. Steps taken by the Complainant to remedy the non-compliance:

We were made aware of the draft Decree on 11 November 2018 by articles published in the media. On 23 November we communicated our concerns to the Energy Community Secretariat (see **Annex 4**), receiving a response that the Secretariat shares our concerns and is working with the Ministry of Economy to bring the Decree into compliance with the Guidelines on State aid for environmental protection and energy 2014-2020.

1 http://www.economy.gov.mk/Upload/Documents/T25-AKT%20(1).pdf
2 http://www.economy.gov.mk/Upload/Documents/ilovepdf_com-1.pdf
3 http://www.economy.gov.mk/Upload/Documents/ilovepdf_com.pdf

On 6 December 2018 we sent an official request to the Ministry of Economy (see **Annex 5**), outlining our concerns and asking to be included in the preparation of the Decree. An English translation of the request was also sent to the Energy Community Secretariat on 7 December 2018 (see **Annex 6**). Despite the fact that formal public consultation is not legally required for secondary legislation in North Macedonia, considering the sensitivity of the issue and the possible financial implications for end users, but also the potential environmental impacts, including civil society would have been good practice by the Government. Unfortunately, our request was completely ignored by the Ministry.

We also carried out media work in order to highlight the issue and create more pressure on the Government to respond. On 20 December we held a media briefing on the issue which was well covered, including by no fewer than four TV stations. Yet there was still no response from the Government.

After we found out that the Decree and the Decision had been adopted by the Government in a form that was not significantly different from the draft and had not addressed any of our concerns, on 18 February 2019 we filed a freedom of information request to the Commission for the Protection of Competition, the national State aid control authority (see **Annex 7**). In the request we asked whether an opinion on the Decree had been requested from the Commission, and if so for the Commission to disclose its Decision approving the Decree to us. On 15 April 2019 we were informed by the Commission by telephone that Decision no. 10-6 dated 23 January 2019 (see **Annex 8**) had been made public on the Commission website, almost two months after the request and after all deadlines for official complaints had passed.

After carefully reviewing the Decision we concluded that **the Commission did not consider the feed-in-tariffs at all**, but only the feed-in-premiums, and subsequently the Commission did not find the Decree non-compliant with the EEAG, or with Article 18 of the Energy Community Treaty.

All our concerns on possible non-compliance, described in detail further down in this complaint, were communicated to the Commission on 7 May 2019 in a request to review the Decree again (see **Annex 9**), but this time taking the feed-in-tariffs into account. We received a response on 30 May 2019, that our request is denied (see **Annex 10**), without clearly stating why the feed-in-tariffs were not taken into account, but only giving a statement that in order for something to be considered State aid it has to cumulatively meet four criteria: to include transfer of state funds, to be selective, to give economic advantage to the recipient and to have impacts on competition and trade.

In addition, the Commission clarified that the feed-in premiums are considered State aid as defined in Article 5 of the Law for Control of State Aid: “all potential or realized expenditures or all potentially or actually reduced incomes of the state” which by itself is in conflict with the definition of state aid in the TFEU (see below). Premiums are planned to be paid from the State budget.

On 8 June 2019 we sent an email to the Commission asking to clarify its response and to make a clear statement whether it considers feed-in tariffs as State aid (see **Annex 11**). Until the day of the submission of this complaint we have not received any response to our last communication.

9. The law:

The Energy Community Treaty - Chapter IV - The acquis on competition

Article 18 of the Energy Community Treaty (the 'ECT') specifies that:

1. The following shall be incompatible with the proper functioning of the Treaty, insofar as they may affect trade of Network Energy between the Contracting Parties:
(...)
(c) any public aid which distorts or threatens to distort competition by favouring certain undertakings or ***certain energy resources****.*
2. Any practices contrary to this Article shall be assessed on the basis of ***criteria arising from the application of the rules of Articles 81, 82 and 87*** *of the Treaty establishing the European Community (the 'TEC').*

Article 107 Paragraph 1 of the Treaty on the Functioning of the European Union (the 'TFEU') - ex Article 87 of the TEC – specifies that:

1. Save as otherwise provided in the Treaties, ***any aid granted by a Member State*** *or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.*

And Paragraph 3 of the same Article states that:

3. The following may be considered to be compatible with the internal market:
(…)
(c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;

The criteria for application of the rules under which public aid for energy can be made compatible with the common market are laid out in the *Guidelines on State aid for environmental protection and energy 2014-2020 (2014/C 200/01)* (the 'EEAG'), as stated in Paragraph 10 of the Introduction:

(10) In these Guidelines, the Commission sets out the conditions under which aid for energy and environment may be considered compatible with the internal market under Article 107(3)(c) of the Treaty.

The specific criteria of interest for this complaint will be discussed below in comparison with the disputed Decree and Decision.

There has been some confusion within the Energy Community as to whether the EEAG is binding on the Contracting Parties or not, with some Contracting Parties claiming that it cannot be binding unless they explicitly approve it. However as this is the main set of State aid Guidelines within the EU containing "*criteria arising from the application of the rules of Articles 81, 82 and 87 of the Treaty*" related to renewable energy incentives, we believe it is relevant to this case.[4]

In addition, Article 94 on implementation of the ECT specifies that:

The institutions shall interpret any term or other concept used in this Treaty that is derived from European Community law in conformity with the case law of the Court of Justice or the Court of First Instance of the European Communities. (...)

A judgment of the Court of Justice on Case T-47/15 from 10 May 2016[5] specifies that:

"*(...) the advantage provided for by Paragraphs 16 to 33i of the EEG 2012 for producers of EEG electricity through* ***the feed-in tariffs and market premiums is akin****, in the present instance,* ***to a levy set by the State authorities involving State resources in that the State organises a transfer of financial resources through legislation and establishes for what purposes those financial resources may be used****."*

A similar judgment was made by the Court of Justice on Case C-515/16 from 15 March 2017.[6]

The Stabilisation and Association Agreement (the 'SAA') between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part - Article 69 on Competition and other economic provisions

Paragraphs 1 and 2 of Article 69 again state that:

1. The following are incompatible with the proper functioning of the Agreement, insofar as they may affect trade between the Community and the former Yugoslav Republic of Macedonia:
(…)
(iii) any public aid which distorts or threatens to distort competition by favouring certain undertakings or certain products.

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4 Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty may in principle assume that certain aid schemes are considered to be compatible State aid, if they are in line with Article 42 of the Regulation. However since the Decree is a mixture of feed-in tariffs and premiums and does not require auctions or phase out feed-in tariffs for all technologies above the EEAG/GBER thresholds, it does not appear to apply here.

5 http://curia.europa.eu/juris/document/document.jsf?text=&docid=177881&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=440460

6 http://curia.europa.eu/juris/document/document.jsf;jsessionid=9ea7d0f130d5e9270550ef644703b991c5e1a2722267.e34KaxiLc3eQc40LaxqMbN4PaxuSe0?text=&docid=189181&pageIndex=0&doclang=FR&mode=lst&dir=&occ=first&part=1&cid=440372

2. Any practices contrary to this Article shall be assessed on the basis of criteria arising from the application of the rules of Articles 81, 82 and 87 of the Treaty establishing the European Community.

This again leads to the EEAG as the criteria against which public aid is assessed.

North Macedonian national law

The Law on Energy (Official Gazette no. 96/18) (see **Annex 12**) pre-defines the types of public aid that can be given for production of electrical energy from renewable sources of energy as feed-in tariffs and premiums. Pursuant to Article 187 of the Law, the Government adopts the implementing legislation based on proposed draft legislation from the Ministry of Economy. For the purpose of this complaint, the legislation outlined in Paragraph 3 and 4 of the Law is relevant:

(3) On proposal of the Ministry, the Government shall adopt a Decree on measures to support the production of electricity from renewable energy sources, in which it is particularly prescribed:
1) ***the types of technologies for which a premium or a feed-in tariff is granted;***
2) the special conditions that the power plant needs for the manufacturer to acquire the status of preferential producer for that power plant;
3) ***the upper limit of the installed capacity of the power plant for which the producer can acquire the status of preferential producer for that power plant****;*
4) the amount and period of use of feed-in tariffs;
5) the manner of determining the amount of premiums, the manner of payment, as well as the period of their use;
(...)
(4) On the proposal of the Ministry, the Government shall adopt a Decision on the total installed capacity of preferential electricity producers, whose determination shall take into account the indicative trajectory for meeting the objectives envisaged in the Action Plan for Renewable Energy Sources.

Further on, in Paragraph 5, the Law limits the participation of the Commission for the Protection of Competition (the national authority on competition and State aid) only to the *Annual program for financial support for production of electricity from preferential producers using a premium*:

(*5) On a proposal by the Ministry, upon approval from the Commission for the Protection of Competition, the Government adopts an Annual program for financial support for production of electricity from preferential producers using a premium, which regulates in particular:*
1) the total installed power of the power plants by type of technology for which a premium will be granted to a renewable source after the conducted tender procedure;
2) the total installed capacity of the existing power plants of preferential producers that use the State aid award premium and
3) the volume of State aid for electricity produced.

The Law on Control of State Aid (Official Gazette no. 145/10) (see **Annex 13**) should be a transposition of Article 87 of the TEC with additional articles laying down the obligations of specific authorities. According to Article 5 Paragraph 1 of this Law, State aid is defined as:
*(1) State aid shall be considered **all potential or realized expenditures or any potentially or actually reduced incomes of the state**, granted by State aid providers, that distort or may distort competition by providing economic advantage to a particular enterprise which would not be possible without the State aid granted or by favouring the production of certain goods or the provision of certain services.*

This basically excludes all State aid that is not a direct transfer of funds from the state budget or a foregoing of income to the budget eg. tax breaks. This is non-compliant with EU State aid rules and the above mentioned Court of Justice judgment.

Article 3 Paragraph 3 of this Law again clarifies that all State aid shall be granted according to the criteria laid down by the European Commission, in this case the EEAG:

(3) In assessing the types of State aid that may affect trade between the Republic of Macedonia and the European Communities, in accordance with Article 69 of the Stabilization and Association Agreement between the Republic of Macedonia and the European Communities and its Member States, they shall apply in an appropriate manner the criteria that arise from the correct application of the rules on state aid in the European Union.

This is even partly applied in Decision no. 10-6 by the Commission on the Protection of Competition (see **Annex 8**) where the premiums scheme from the Decree - but not the feed-in tariffs scheme - is assessed according to the criteria in the EEAG.

Article 8 defines which State aid can be granted or can be considered for granting:

(2) State aid may be granted if it concerns:
a) regional aid for the promotion of the economic development of areas in the Republic of Macedonia in which the living standard is extremely low or where there is high unemployment;
b) assistance intended for removing the difficulties in the domestic economy or for promoting the realization of projects of significant economic interest for the Republic of North Macedonia;
c) aid for rescue and restructuring of enterprises in difficulty;
d) aid intended for the promotion of culture and the protection of cultural heritage, when it does not significantly affect trade conditions and market competition;
e) horizontal assistance and
f) other state aid granted on the basis of the act referred to in paragraph (3)[7] of this Article.

7 (3) On the proposal of the Commission for the Protection of Competition, the Government of the Republic of Macedonia shall prescribe the conditions and the procedure for granting State aid referred to in paragraph (2) of this Article.

Pursuant to Article 10:

The Commission for the Protection of Competition ***is responsible for assessment and supervision of each form of State aid****.*

10. Failure to recognise feed-in tariffs as State aid and subsequently to properly assess possible conflicts of the disputed Decree and Decision with State aid law, as well as creating a legal framework that favours certain technologies contrary to Article 18(c) of the Energy Community Treaty.

10.1. According to Article 4 of the newly adopted Decree different renewable energy technologies receive different incentives:

(1) The feed-in tariff shall be granted to a preferential producer for the production of electricity from the following types of technologies of power plants:
1) hydroelectric power plant,
2) wind power plant,
3) thermal power plant on biomass (thermal power plant that uses biomass as a fuel), and
4) thermal power plant on biogas (thermal power plant that uses biogas as a fuel).
(2) A premium is granted to a preferential producer for the production of electricity from the following types of technologies of power plants:
1) wind power plant, and
2) photovoltaic power plant.

In Article 5 Paragraph 1 of the Decree the maximum installed capacity for the technologies eligible for feed-in tariffs is laid down:

(1) The manufacturer may acquire the status of preferential producer who uses a feed-in tariff if the power plant referred to in Article 4 paragraph (1) of this Decree meets the following conditions:
1) the installed capacity must not exceed:
- 10 MW for a hydroelectric power plant,
- 50 MW for a wind power plant,
- 1 MW for a biomass thermal power plant,
- 1 MW for a biogas thermal power plant,

and in Article 6 Paragraph 1, the maximum installed capacity for technologies eligible for premiums:

(1) The manufacturer may acquire the status of preferential producer who uses a premium if the power plant referred to in Article 4 paragraph (2) of this Regulation meets the following conditions:
1) the installed power must not exceed:
- 50 MW for a wind power plant, and
- 30 MW for a photovoltaic power plant.

Applying different State aid schemes simply based on different technologies can favour or constrain the development of certain energy sources. The feed-in tariffs are a fixed buy-off price that are granted to already built capacities. These were built after they were granted a concession through a tender procedure in which the bidders apply for an offered location with planned installed capacity and a concession fee to be paid to the state.

Premiums are granted through an auction in which the bidder applies to build a plant with a predetermined installed capacity and pledges the cost of generation, which in turn defines the premium to be paid on top of the market price of electricity.

According to this, at least in theory, the *recipients* of both feed-in tariffs and premiums are defined through a competitive and transparent process, but in the case of feed-in tariffs the *level of support* is not defined through this process but is still administratively set. The technologies receiving feed-in tariffs are not bidding with the price of the electricity they produce, thus putting them in a position where they may receive higher incentives than the technologies eligible for premiums.

Another obvious observation is that wind power plants with the same installed capacity can be eligible for feed-in tariffs and for premiums, without any additional criteria defined in the Decree. This can distort the electricity market even between same-technology power plants.

Additionally, when compared to the EEAG, the aforementioned installed capacities for feed-in tariffs are significantly higher than the allowed ones. In the part *3.3.2.1. Aid for electricity from renewable energy sources*, the following is specified:

(124) In order to incentivise the market integration of electricity from renewable sources, it is important that beneficiaries sell their electricity directly in the market and are subject to market obligations. The following cumulative conditions apply from 1 January 2016 to all new aid schemes and measures:
(a) aid is granted as a premium in addition to the market price (premium) whereby the generators sell its electricity directly in the market;
(...)
(125) The conditions established in paragraph (124) do not apply to installations with an installed electricity capacity of less than 500 kW or demonstration projects, except for electricity from wind energy where an installed electricity capacity of 3 MW or 3 generation units applies.

In North Macedonia, premiums should be adopted for all technologies, including hydropower, biogas and biomass, above an appropriate threshold equal to or lower than those in the EEAG in order to ensure that the Decree is not favouring certain energy sources. Even if the EEAG thresholds turn out not to be appropriate for North Macedonia, those chosen need to be lower, not higher. In addition, the threshold for wind power plants eligible for feed-in tariffs should be lowered to the threshold given in the EEAG.

10.2. Article 9 Paragraph 4 allows thermal power plants on biomass and biogas to receive feed-in tariffs even if they use a certain percentage of fossil fuels:

(4) A preferential producer who uses a feed-in tariff for the production of electricity from a thermal power plant of biomass or biogas may also use fossil fuels in the process of electricity generation, with the highest permissible percentage of the share of fossil fuels in the total energy value of the used fuels during one calendar year must not exceed:
1) 30% for thermal power plants on biomass,
2) 20% for thermal power plants on biogas.

Although these power plants receive reduced feed-in tariffs calculated according to the percentage of fossil fuels they use, this completely defeats the purpose of support measures for renewable energy sources. Additionally, according to the EEAG, there are only very specific exceptions when the use of fossil fuels is acceptable: in highly-efficient co-generation of heat and electricity, energy-efficient district heating and district cooling and in aid for existing biomass plants after plant depreciation under very strict conditions assessed on a case-by-case basis. However none of these exceptions apply in this case because the measure applies to electricity generation, not cogeneration or heating/cooling.

10.3. Article 9 Paragraph 2 defines the amount of feed-in tariff paid for the generated and delivered electricity. The given amounts for small hydropower plants are:

(2) The amount of feed-in tariff for electricity produced and delivered by small hydropower plants during one calendar month, shall be calculated as the sum of the amounts calculated as the product of the quantities of electricity and the prescribed tariff for each block separately, using the principle of descending block tariff, according to the following table:

Block	***Monthly quantity of delivered electricity (kWh)***	***Feed-in tariff per block (€ ¢ / kWh)***
I	*≤ 85.000*	*12,00*
II	*> 85.000 and ≤ 170.000*	*8,00*
III	*> 170.000 and ≤ 350.000*	*6,00*
IV	*> 350.000 and ≤ 700.000*	*5,00*
V	*> 700.000*	*4,50*

According to the EEAG General conditions for investment and operating aid to energy from renewable sources:

(109) Market instruments, such as auctioning or competitive bidding process open to all generators producing electricity from renewable energy sources competing on equal footing at EEA level, ***should normally ensure that subsidies are reduced to a minimum in view of their complete phasing out.***

Feed-in tariffs for small hydropower plants in North Macedonia have effectively been paid out since 2010. During all this time, the **prescribed feed-in tariffs have not changed**, as can be seen by the Decrees from 2007,[8] 2011[9] and 2013.[10] Small hydropower plants already had enough time to mature and prove whether or not they are independently competitive on the market, thus the subsidies this technology receive should be significantly reduced to allow space for the development of other technologies such as solar and wind. Keeping the same tariffs for small hydropower plants while the rest of the technologies are shifting toward premiums is yet another indicator that they are favoured by this Decree.

10.4. In the *Decision on the total installed capacity of preferential electricity producers*, the total installed capacity of preferential electricity producers is prescribed. The caps for capacities that receive feed-in tariffs are the following:
1) 86 MW for wind power plants,
2) 10 MW for thermal power plants on biomass,
3) 20 MW for thermal power plants on biogas.

This is the total installed capacity that can receive feed-in tariffs, including the facilities that already have preferential producer or temporary preferential producer status. This means that the quota for wind is already filled with operational or planned plants and the same applies for 4.3 MW of the quota for biomass. The Decision further clarifies that 7 MW for biogas is available until the end of 2019 and the rest starting from 2020. With 7 MW of thermal power plants on biogas already receiving feed-in tariffs, this means that no new producers can apply for subsidies during 2019. At the same time the Government is implementing a tender procedure for 22 new small hydropower plants.

The cap for photovoltaic power plants that receive premiums is 200 MW, while there is no cap for wind other than the one set by individual auctions. There is no support for solar photovoltaic plants which are too small to compete in auctions at all.

In the Decision **there is no cap for feed-in tariffs for small hydropower plants**. There are almost 100 plants already operational in the country and very limited investments in other technologies due to similar caps in the past. Keeping the same policy that limits the development of the aforementioned technologies, further indicates that the Government is favouring small hydropower plants over the other renewable energy sources.

10.5. In the Ordinance on renewable energy sources (Official Gazette no. 112/19), adopted on 19 June 2019 (see **Annex 14**) the Government approved a limit of the installed capacity of rooftop solar for households and companies, further de-stimulating potential producer-consumers and limiting the development of rooftop solar. As Article 4 Paragraph 2 states:

(2) The producer-consumer may transfer the surplus electricity produced to the electricity distribution network if:

8 http://www.slvesnik.com.mk/Issues/8650523F1516A04BAAF33AA4BC485BBF.pdf
9 http://www.slvesnik.com.mk/Issues/463D36E92F96A546B1626AA8BDD99CE6.pdf
10 http://www.slvesnik.com.mk/Issues/3960c1ee46824d7babcf837f46e5eb31.pdf

3) the installed capacity of the production plant is not more than 4 kW, for household,
4) the installed capacity of the production plant is not greater than 20 kW, for small companies.

The caps set are not entirely justified either by the relative price of the technologies or by the overall potential for each technology. For example, IRENA's 2017 report on cost-competitive renewable power potential in southeast Europe found that for North Macedonia, "*The largest additional cost-competitive potential comes from utility-scale solar PV (up to 1.2 GW) and hydro (680 MW),*"[11] although any estimates on hydropower potential must be treated with caution: "*Increasing nature conservation requirements may, however, reduce this potential in practice.*"[12] Even if the Government believes there is high hydropower potential, there is no reason to make building small hydropower a lower-risk activity than building photovoltaic plants by guaranteeing feed-in tariffs to an unlimited number of producers.

Summary:

The evidence presented above shows how the Government further favours the development of the small hydropower sector compared to wind and solar by:

- allowing it to receive a fixed buy-off price (feed-in tariffs) for the produced electricity, with the same installed capacity threshold and the same value for the feed-in tariffs that were applied in the previous legislation from 2007, 2011 and 2013;
- moving the wind and solar power plants to a premium subsidies scheme where bidders have to compete with the amount of subsidies they are receiving while keeping the same fixed incentives for small hydropower plants, thus de-stimulating potential investors for wind and solar;
- not applying a cap on installed capacity for the overall installed capacity of small hydropower plants that can receive subsidies, while putting a cap on all other renewable energy sources, again a practice that repeats previous Government decisions but has not been retained for other sources;
- Limiting the installed capacity for rooftop solar and with it de-stimulating potential producer-consumers, subsequently keeping a centralised energy market where small hydropower plants are a favoured renewable energy source compared to solar and wind.

This is why we consider this set of implementing legislation to be in contravention of Article 18(c) of the ECT.

Additionally, allowing the use of fossil fuels in thermal power plants on biomass and biogas for which the producers receive subsidies for utilisation of renewable energy sources is in contravention of the EEAG, as the use of efficient cogeneration technology is not stipulated.

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11 IRENA, Joanneum Research and University of Ljubljana (2017), Cost-Competitive Renewable Power Generation: Potential across South East Europe, International Renewable Energy Agency (IRENA), Abu Dhabi: https://www.irena.org/publications/2017/Jan/Cost-competitive-renewable-power-generation-Potential-across-South-East-Europe, p.76

12 IRENA, Joanneum Research and University of Ljubljana (2017), Cost-Competitive Renewable Power Generation: Potential across South East Europe, International Renewable Energy Agency (IRENA), Abu Dhabi: https://www.irena.org/publications/2017/Jan/Cost-competitive-renewable-power-generation-Potential-across-South-East-Europe, p.31

11. Outcome sought by the complainant

The Complainant asks the Energy Community Secretariat to examine the matter, and if found to be well founded, to request the Republic of North Macedonia to take all appropriate measures to rectify the breaches identified and ensure compliance with Energy Community law.

Furthermore, the Complainant requests that Energy Community recommends a revision of the national Law on Control of State Aid, specifically in regard to the definition of State aid, in order to ensure proper assessment of future State aid schemes in the energy sector.

12. Documents or evidence in support of the complaint

1. Decree on support measures for production of electrical energy from renewable sources of energy
2. Decision on the total installed capacity of preferential electricity producers
3. Program for financial support for production of electricity from preferential producers using a premium for 2019
4. E-mail from CEE Bankwatch Network to the Energy Community Secretariat, dated 23 November 2018, enquiring whether the Secretariat was aware of the proposed Decree and outlining our concerns.
5. Letter from Eko-Svest to the Ministry of Economy dated 6 December 2018 outlining its concerns.
6. English translation of the request to the Ministry of Economy, dated 7 December 2018.
7. Freedom of information request from Eko-Svest to the Commission on the Protection of Competition, dated 18 February 2019
8. Decision no. 10-6 by the Commission on the Protection of Competition, dated 23.01.2019
9. Letter from Eko-Svest to the Commission on the Protection of Competition dated 7 May 2019, outlining concerns and asking for a revision of the Decision.
10. Response to Eko-Svest's request by the Commission, dated 30 May 2019 and declining Eko-Svest's request.
11. E-mail to the Commission requesting clarification on whether it considers feed-in tariffs as State aid, dated 8 June 2019.
12. Law on Energy
13. Law on Control of State Aid
14. Ordinance on renewable energy sources