

COMMISSION DECISION

of 25 September 2006

granting the Republic of Cyprus a derogation from certain provisions of Directive 2003/54/EC of the European Parliament and of the Council*(notified under document number C(2006) 4177)***(Only the Greek text is authentic)**

(2006/653/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC⁽¹⁾, and in particular Article 26(1) thereof,

Having regard to the application submitted by the Republic of Cyprus on 28 June 2004,

After informing the Member States of the application,

Whereas:

- (1) On 28 June 2004, the Republic of Cyprus submitted an application to the Commission, for a derogation from the provisions of Article 21(1)(b) of Directive 2003/54/EC for the period ending on 31 December 2008 and from Article 21(1)(c) for the period ending on 31 December 2013. Express authority for the submission of such application is contained in Article 26(1) of that Directive.
- (2) The information provided was initially not adequate to permit the request to be assessed. Moreover, the consumption data presented included some consumption in the northern part of Cyprus. In the light of Article 1 paragraph 1 of Protocol No 10 on Cyprus to the Accession Treaty, the figures related to that part of Cyprus were considered immaterial to the examination. On request, Cyprus provided additional elements of information.
- (3) The Republic of Cyprus qualifies as a 'small isolated system' as defined in point (26) of Article 2 of Directive 2003/54/EC. According to that provision, 'small isolated system' means any system with

consumption of less than 3 000 GWh in 1996, and where less than 5 % of annual consumption is obtained through interconnections with other systems. In 1996, the Republic of Cyprus consumed 2 315,3 GWh. The Republic of Cyprus is an isolated not interconnected power system.

- (4) The documents annexed to the application and those subsequently submitted provide sufficient evidence that it is not possible for the time being to achieve the objective of a competitive market in electricity given the size and structure of the electricity market on the island and the fact that the prospect of this system becoming interconnected with the main grid of a Member State is remote. An immediate opening up of the market would create substantial problems relating in particular to the security of supply of electricity.
- (5) The Electricity Authority of Cyprus (ECA) is currently the only licensed supplier of electricity in Cyprus. A considerable burden has been placed on it by the government's decision, motivated by environmental considerations, to diversify the fuel mix, which currently depends on heavy fuel. For that reason, natural gas has been required to be introduced in the generation mix. ECA has agreed to build combined cycle units that will use natural gas in 2010. The required investments will place on ECA an extra burden that would be a disadvantage compared to its competitors.
- (6) Furthermore, the government has provided generous incentives to potential investors in renewable energy sources notably for wind, photovoltaic and biomass capacity. The interest shown by the private sector is considerable. Electricity from renewable energy sources enjoys preferential access to the system. However, the unrestricted introduction and operation of electricity generation from renewable energy sources would create difficulties with regard to the stability of the system and security of supply.
- (7) The opening up of the market would necessarily entail costly reinforcement of the transmission system, to avoid a negative impact on the reliability and security of the network. This would result in a tariff increase that would increase prices for the final customers. At present, no meaningful competition would be possible.

⁽¹⁾ OJ L 176, 15.7.2003, p. 37. Directive amended by Council Directive 2004/85/EC (OJ L 236, 7.7.2004, p. 10).

- (8) The Commission, having examined the reasoning of the Republic of Cyprus application, is satisfied that the derogation and the conditions for its application will not prejudice the eventual achievement of the objectives of Directive 2003/54/EC.
- (9) The derogation requested by the Republic of Cyprus should therefore be granted.
- (10) However, whilst the application gives a fair description of the present situation, it does not take into consideration possible developments in the medium- and long-term, which are liable to lead to significant changes. The situation should therefore be monitored regularly.

HAS ADOPTED THIS DECISION:

Article 1

A derogation from points (b) and (c) respectively of Article 21(1) of Directive 2003/54/EC is granted to the Republic of Cyprus.

The derogation from Article 21(1)(b) of Directive 2003/54/EC shall apply until 31 December 2008.

The derogation from Article 21(1)(c) of Directive 2003/54/EC shall apply until 31 December 2013.

Article 2

The derogation may be withdrawn by the Commission if substantial changes occur in the electricity sector of the Republic of Cyprus.

To that end, Cyprus shall monitor the evolution of the electricity sector and shall report to the Commission any substantial changes therein, in particular information on new generating licenses, new entrants in the market, price movements and new infrastructure plans that may necessitate a review of the derogation.

In addition, the Republic of Cyprus shall submit a general report to the Commission every two years, starting no later than 31 December 2007. The reports shall set out tariffication and pricing policy together with measures taken to protect customers' interests in the light of the derogation.

Article 3

This Decision is addressed to the Republic of Cyprus.

Done at Brussels, 25 September 2006.

For the Commission
Andris PIEBALGS
Member of the Commission