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transposition of IED to Slovenian legislation

Jill.MICHIELSSEN@ec.europa.eu <Jill.MICHIELSSEN@ec.europa.eu>

Wed, Mar 23, 2016 at 5:57 PM

To: eko.krog@gmail.com

Cc: Aneta.WILLEMS@ec.europa.eu, Christopher.ALLEN@ec.europa.eu

Dear Sir,

Further to my below mail, please note the following:

Having reconsidered the issue, we believe that it was correct to mark in the transposition checklist sent early 2011 to Member States that Article 15(4) requires transposition. Please note that this list is indicative.

The IED empowered the Commission to adopt BAT conclusions containing BAT Associated Emission Levels (BAT AELs), that have a mandatory character. The mechanism of Article 15(4) authorising competent authorities to grant derogations from compliance with BAT AELs under the strict conditions set therein, should in our view be considered as forming an entire part of that system. Indeed, Article 15(4) takes account of the possibility that the BAT-AELs set in the BAT conclusions are not necessarily fit for each and every individual facility in the EU.

Therefore, we would in principle expect each Member State to transpose also the derogation mechanism under Article 15(4). However, by virtue of Article 193 of the TFEU, Member States remains free to maintain or introduce more stringent protective measures, provided that such measures are compatible with Union law and have been notified.

Our apologies for the conflicting position sent earlier this year. We have informed the SI authorities accordingly.

Please note that this opinion does not represent an official position of the Commission and cannot be invoked in the context of legal proceedings.

According to the TFEU, mandatory interpretation of the provisions of a EU Directive can only be given by the European Court of Justice.

Kind Regards

Jill

Jill Michielssen

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The views expressed in this mail are purely those of the author and may not in any circumstances be regarded as stating an official position of the European Commission. The European Commission cannot give a binding interpretation of EU legislation, as this is the prerogative of the Court of Justice of the European Union



Please consider the environment before printing this e-mail.

From: MICHELSEN Jill (ENV)

Sent: Thursday, February 25, 2016 12:29 PM

To: 'eko.krog@gmail.com'

Cc: STEFFNER Barbara (ENV); FRANOTOVIC Tanja (ENV); PETSIA Iris (COMM); WILLEMS Aneta (ENV); FRANCOIS Filip (ENV)

Subject: RE: transposition of IED to Slovenian legislation

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