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Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on common rules for the internal market in electricity (recast) - Opinion of the Consultative Working Party of Legal Services

Delegations will find attached the opinion of the Consultative Working Party of Legal Services regarding the above mentioned subject.



GROUPE CONSULTATIF
DES SERVICES JURIDIQUES

Brussels, 24 JUL. 2017

OPINION

FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT
THE COUNCIL
THE COMMISSION

Proposal for a Directive of the European Parliament and of the Council on common rules for the internal market in electricity (recast)
COM(2016) 864 final/2 of 23.2.2017 - 2016/0380 (COD)

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 6 June 2017 for the purpose of examining the aforementioned proposal submitted by the Commission.

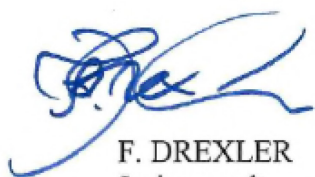
At that meeting¹, an examination of the proposal for a Directive of the European Parliament and of the Council recasting Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC resulted in the Consultative Working Party's establishing, by common accord, that the following should have been marked with the grey-shaded type generally used for identifying substantive changes:

- in recital 2, the deletion of the words '*and more cross-border trade, so as to achieve efficiency gains*';
- in recital 37, the deletion of the first three sentences of recital 50 of Directive 2009/72/EC, which read '*The public service requirements, including as regards the universal service, and the common minimum standards that follow from them need to be further strengthened to make sure that all consumers, especially vulnerable ones, are able to benefit from competition and fair prices. The public service requirements should be defined at national level, taking into account national circumstances; Community law should, however, be respected by the Member States. The citizens of the Union and, where Member States deem it appropriate, small enterprises, should be able to enjoy public service obligations, in particular with regard to security of supply, and reasonable prices*';
- in Article 1, the deletion of the word '*integrating*';

¹ The Consultative Working Party worked on the basis of the English language version of the proposal, being the master-copy language version of the text under discussion.

- in Article 9(5), the deletion of a reference to Article 8 of Directive 2009/72/EC;
- in Article 10(2)(g), the deletion of the wordings '*benefit from transparent, simple and inexpensive procedures for dealing with their complaints. In particular, all consumers shall have the right to a good standard of service and complaint handling by their electricity service provider. Such out-of-court dispute settlements procedures shall enable disputes to be settled fairly and promptly, preferably within three months, with provision, where warranted, for a system of reimbursement and/or compensation*';
- after the text of Article 18, the deletion of the entire wording of paragraph 10 of Article 3 of Directive 2009/72/EC;
- after the text of Article 25, the deletion of the entire wording of paragraph 16 of Article 3 of Directive 2009/72/EC;
- in Article 26, the deletion of the words '*an independent mechanism such as an energy ombudsman or a consumer body is in place in order to ensure efficient treatment of complaints and out-of-court dispute settlements*';
- in Article 27(2), the replacement of the words '*the opening of the market*' with the words '*the free choice of supplier*';
- in Article 28(1), the deletion of the adjective '*final*' preceding the word '*customers*';
- in Article 38(2)(a), the deletion of the words '*reserve capacity*';
- in Article 47(3), the adding of the initial words '*The vertically integrated undertaking and its*';
- in Article 59(4), introductory wording, the adding of the words '*and 3*';
- in Article 61(2)(d), the adding of the words '*and guidelines*';
- in Article 66(1), the replacement of the current wording '*may apply for derogations from the relevant provisions of Chapters IV, VI, VII, and VIII, as well as Chapter III, in the case of micro isolated systems, as far as refurbishing, upgrading and expanding existing capacity are concerned, which may be granted to them by the Commission 23(2)*' with to the wording '*may apply for derogations from the relevant provisions of Chapters IV, V and VI as well as articles 4, 6, 7 and 8*';
- in point 4(a) of Annex II, the adding of the words '*(at national level i. e. in the Member State where the supply contract has been concluded, as well as at the level of the supply undertaking if the supplier is active in several Member States)*';
- in the second subparagraph of point 4 of Annex II, the reference to point (b) of the first subparagraph of that same point;
- in point 3 of Annex III, the replacement of the word '*consumers*' with the words '*final customers*'.

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such. The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that the proposal contains a straightforward codification of the existing legal text, without any change in its substance.



F. DREXLER
Jurisconsult



H. LEGAL
Jurisconsult



L. ROMERO REQUENA
Director General