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Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on energy efficiency (recast) - Progress report

I. INTRODUCTION

1. The Commission submitted the above proposal on 14 July 2021, as part of the 'Fit for 55' package which aims at the implementation of the European Green Deal and follows on the increased binding EU climate target of a net domestic reduction of at least 55% in greenhouse gas emissions by 2030, endorsed by the European Council conclusions of 10-11 December 2020.¹

¹ doc. 22/20 EUCO.

2. The recast of the Energy Efficiency Directive, in particular, has the objective of updating the EU-level energy consumption reduction target to the level required to achieve the at least 55% greenhouse gas emission reduction target. It also aims to ensure that Member States continue to consistently implement energy efficiency policy measures matching the EU-level ambition and their national ambitions outlined in the national energy and climate plans.
3. Notably, the Directive proposes a binding 9% EU-level reduction of energy consumption compared to the 2020 reference scenario², while national contributions to the EU target, calculated based on a newly proposed formula, remain indicative. Regarding annual energy savings obligations, it is proposed that Member States achieve new energy savings every year at an increased rate of 1.5%, implement energy saving measures as a priority among vulnerable households and establish various other measures to support them. The proposal also introduces new measures to reduce energy consumption in public sector buildings and establishes more stringent criteria for new or refurbished efficient district heating and cooling systems, requiring an increased share of renewable energy.
4. The opinions of the Economic and Social Committee and the Committee of the Regions are not yet available.
5. The examination of the above proposal by the European Parliament has been assigned to the Committee on Industry, Research and Energy (ITRE, MEP Niels Fuglsang, DK, S&D rapporteur).
6. This report outlines the state of play with the file and the main issues discussed within the Council preparatory bodies. The Permanent Representatives Committee and the Council (TTE - Energy) are invited to take note of this progress report.

² This target translates into a 36% reduction in final, and 39% reduction in primary energy consumption when compared to the 2007 Reference Scenario used for the target calculations until now.

7. The Presidency also prepared a report set out in doc. 13977/21, aiming to provide an overall state of play and overview of progress made not only on this proposal but also overall on the "Fit for 55" package. The report focuses on its horizontal aspects, such as interlinkages between proposals, and the main issues raised in discussions so far. This report has been distributed to all Council formations responsible for various proposals of the package as a background document.

II. STATE OF PLAY

8. The Working Party on Energy examined the proposed draft Directive intensively between July and November. The impact assessment was presented and discussed on 2 September 2021, when delegations inquired in particular about the calculation of the overall EU target for energy savings, and about the impact of the revised Directive at national level. They also showed interest in how the national contributions calculated on basis of the newly proposed formula link to the EU target, the concept of cost-efficiency used in the impact assessment and how administrative burden was assessed in relation to various provisions of the Directive. Further work entailed a first detailed examination of the articles and the annexes of the proposal.
9. All delegations hold a scrutiny and/or parliamentary reservation on the text and are still analysing the provisions of the draft Directive.

A. General views

10. In principle, delegations expressed consistent support for energy efficiency policy measures, and agreed on their multiple benefits and the crucial role they should play in the decarbonisation of Europe's economy and reaching the increased climate ambition by 2030 and achieving climate neutrality by 2050. At the same time, many delegations expressed concerns about the overall ambition level of the proposal, underlined the need for flexibility to implement the most cost-efficient policy measures to reach the desired objectives and stressed the importance of national specificities in this regard. While agreeing with the objectives, delegations also pleaded for keeping the administrative burden to the strict minimum.

It should also be noted that during the first round of examinations carried out under the Slovenian Presidency many delegations submitted only preliminary comments and concentrated primarily on seeking a clear understanding of the Commission proposal in order to be able to assess its consequences at national level and in the context of other, already tabled or upcoming, proposals of the Fit for 55 package.

B. Main issues

New 2030 EU target (Article 4)

11. Some delegations welcomed the increased EU-level target. However, many of them expressed concerns about the level of ambition, and inquired how the Commission took into account cost-efficiency and the technical and economic potential of Member States when defining the target. Several delegations mentioned the need to keep national contributions to the EU target as indicative and to continue expressing their national targets either in primary or final energy consumption. They requested a detailed examination of the criteria set out in the article and the new, compulsory formula to calculate national contributions, which raised doubts in particular on whether it allows for sufficient flexibility to take into account national specificities and the particular energy saving potential of each Member State.

Energy savings obligation (Article 8)

12. Regarding the increased 1.5% energy savings obligation up to 2030, several delegations see a direct link to the overall EU target and estimate that such an increase for all Member States is too ambitious. Some Member States, however, supported the need for increased effort. Two Member States regretted the deletion of the derogation granted for lower energy savings, and several others stressed the need for flexibility in the implementation of policies and between accounting periods. They requested clarifications on the relationship between savings triggered by the EU ETS and the savings to be achieved under the Energy Efficiency Directive. Preliminary concerns were expressed also on the exclusion of savings from technologies using direct fossil fuel combustion and notably schemes promoting the replacement of old heating technologies with gas-operated systems or appliances.

Energy efficiency first principle (Article 3 and Article 25)

13. Delegations in general expressed broad support for the energy efficiency first principle, and its inclusion in the Directive. However, many Member States expressed concern about the level of regulatory intervention proposed, the ambiguity of the provisions and the increased administrative burden introduced by monitoring and reporting obligations. Regarding the application of the principle by national regulatory authorities, gas and electricity TSOs/DSOs, similar concerns were raised, with many Member States expressing the need for flexibility and taking cost-effectiveness into account. Delegations' shared opinion is that these articles require further work to deliver an added value within the Directive.

Exemplary role of public buildings (Articles 5, 6, 7)

14. Regarding the required annual 1.7% energy consumption decrease by public bodies, the main concern expressed by several Member States was the rigidity of the target and the lack of flexibility in defining the contribution of public bodies to the overall targets. They also stressed the substantial complexity and administrative burden in defining and keeping up to date the exact scope of public buildings, followed by the tracking and implementation reporting as part of the governance process. For some Member States, the potential inclusion of social housing in the scope is of particular concern.
15. The requirement of annually renovating 3% of the total floor area of the buildings owned by public bodies and achieving nearly-zero energy consumption (NZEB) is evaluated as too stringent by many Member States, which regretted the deletion of exemptions and the alternative approaches in the article and emphasised that in many historic public buildings reaching NZEB levels is not possible. Several Member States commented that their position on this article is linked to the upcoming revision of the Directive on the Energy Performance of Buildings, which defines the calculation of NZEB levels.

Energy management systems and energy audits (Article 11)

16. Delegations in general welcomed the revision of this article which changes the criterion for carrying out energy audits and implementing energy management systems from the size of the company to its energy consumption. Many delegations, however, underlined the need to evaluate closely the threshold of energy consumption to be included in the article. The new provision requiring transparency on the energy consumption of data centers was evaluated positively, but will nonetheless require further fine-tuning.

Energy poverty and vulnerable consumers (Article 8 and Article 22)

17. Regarding provisions that require Member States to implement energy efficiency policy measures as a priority among vulnerable consumers and people affected by energy poverty, most Member States agree with the objectives pursued, but criticised the provisions on the account of difficulties with implementation, in particular regarding administrative procedures and reporting. Some also reiterated that energy poverty is part of their social policy and therefore the provisions introduced in the Energy Efficiency Directive should be kept limited in scope or non-compulsory.

Heating and cooling (Article 24)

18. This Article raised particular concerns among delegations due to the tightening of the criteria for the definition of an efficient heating and cooling system according to a fixed timetable up to 2050. While agreeing with the objective of increasing primary efficiency and the share of renewable energy in heating and cooling, several Member States raised questions on the approach chosen in the prioritisation of some technologies over others, for example regarding the role of waste heat, high-efficiency co-generation and the general reference to renewable energy. Doubts were also voiced over the concept of substantial refurbishment of a district heating and cooling system, following which the newly defined stricter criteria should apply. Several delegations are still analysing the article and a more detailed examination seems necessary in order to define the appropriate approach to efficiency in heating and cooling.