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REPORT FROM THE COMMISSION TO THE COUNCIL

Report on Chapter III of Council Regulation (EU) No 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices

Solidarity contribution and enacted equivalent measures: stocktaking

I. Introduction

This report presents the findings of the review of the provisions set out in Chapter III of Council Regulation (EU) No 2022/1854 of 6 October 2022[1] on an emergency intervention to address high energy prices (hereinafter, the Council Regulation) in view of the general situation of the fossil fuel sector and surplus profits generated. The report is presented to the Council by the Commission pursuant to its reporting obligation under Article 20 of the Council Regulation.

In particular, the report aims to review the application by Member States of the solidarity contribution set by the Council Regulation or the equivalent national measures they have enacted as an alternative. The report does so against the backdrop of developments in the fossil fuel sector and evolution of profits generated in this sector. It is based on information submitted by Member States in accordance with their reporting obligation to the Commission under Article 19(4) of the Council Regulation and internal analysis by the Commission.

II. Background

The Council Regulation was adopted by the Council on 6 October 2022. It entered into force on 8 October 2022. It was part of the Commission's emergency intervention in Europe's energy markets to tackle dramatic price rises in the wake of Russia's war of aggression against Ukraine[2]. Very high prices in electricity markets since September 2021, coupled with an increased risk of shortage of Russian gas supply since March 2022 and the exceptionally high temperatures of the summer months of 2022 which had an impact on the electricity demand, led to an overall negative impact across the Union. Consumers and businesses of all Member States were faced with higher energy and electricity prices, while inflation was rising and the economy slowing. The Council Regulation was of an exceptional, targeted, and temporary nature with a twofold objective: to intervene in the electricity market in order to reduce electricity demand, and to redistribute the exceptionally high profits of certain actors in the energy sector in particular towards final customers. A recent Flash Eurobarometer confirms the strong support among Europeans (86%) for the measures taken by the EU in 2022 to protect consumers and companies to limit the immediate impact of the volatility of energy prices[3].

Building on the actions set out by the Commission in October 2021 with the energy prices toolbox[4] as well as the Communication in March 2022 outlining the principles of the

[1] Council Regulation (EU) 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices, OJ L 61 I , 7.10.2022, p. 1.

[2] Given the crisis in the energy and electricity markets in 2022 which led to the Council Regulation, its legislative genesis as an exceptional and temporary measure can be found in article 122(1) TFEU. The latter empowers the Council to adopt measures appropriate to the economic situation in a spirit of solidarity. This is in particular the case if severe difficulties arise in the supply of certain products, notably in the area of energy.

[3] https://ec.europa.eu/commission/presscorner/detail/en/ip_23_4410.

[4] Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions - Tackling rising energy prices: a toolbox for action and support, COM(2021) 660 final.

REPowerEU plan[5] and the subsequent REPowerEU plan[6] adopted in May 2022, the Council Regulation was – alongside other emergency regulations (e.g. on gas demand reduction[7], gas storage[8], gas prices also known as "market correction mechanism"[9], coordination of gas purchases also known as the "solidarity regulation"[10] and on permitting for renewables[11]) – a further step forward to guarantee a coordinated and rapid response to the emergency situation the EU was confronted with.

Chapter II of the Council Regulation provides for measures aimed at intervening in the electricity market. They concern an indicative and a mandatory target for electricity demand reduction, a temporary revenue cap on 'inframarginal' power producers and support for consumers through the extension of the existing toolbox. The measures related to the electricity market in Chapter II are not analysed in this report as they have been reviewed in a separate report from the Commission to the Council[12].

III. Chapter III of the Council Regulation

Chapter III of the Council Regulation sets a mandatory temporary solidarity contribution on the surplus profits generated in the fiscal years 2022 and/or 2023, depending on Member States' policy choice, for EU companies and permanent establishments with activities in the crude petroleum, natural gas, coal and refinery sectors generating at least 75 % of their turnover from economic activities in the field of the extraction, mining, refining of petroleum or manufacturing of coke oven products. Member States must have applied the solidarity contribution by 31 December 2022, unless they had enacted equivalent national measures contributing to the affordability of energy by that date. The latter are national measures that share similar objectives and are subject to similar rules as the solidarity contribution that generate comparable or higher proceeds to the estimated proceeds from the solidarity contribution.

The Council Regulation provides for the base for calculating the solidarity contribution and a minimum rate. In particular, only taxable profits generated in 2022 and/or 2023 above a 20 % increase of the average taxable profits generated in the four fiscal years starting on or after 1 January 2018 are subject to the solidarity contribution. The minimum rate determined by Member States must not be below 33%. Both elements ensure that the solidarity contribution is proportionate. Furthermore, Chapter III also lists the purposes the proceeds of the solidarity contribution must be used for with the aim that the measure reduces and mitigates the harmful

[5] REPowerEU: Joint European Action for more affordable, secure and sustainable energy, COM (2022) 108 final.
[6] REPowerEU Plan, COM/2022/230 final.
[7] EUR-Lex – 02022R1369-20230401 – EN – EUR-Lex (europa.eu).
[8] EUR-Lex - 02022R1032-20220630 - EN - EUR-Lex (europa.eu).
[9] Publications Office (europa.eu).
[10] EUR-Lex - 32022R2576 - EN - EUR-Lex (europa.eu).
[11] https://eur-lex.europa.eu/eli/reg/2022/2577/oj.
[12] Report of 5 June 2023 from the Commission to the European Parliament and the Council on the review of emergency interventions to address high energy prices in accordance with Council Regulation (EU) 2022/1854: COM_2023_302_1_EN_ACT_part1_v2.pdf (europa.eu).

effects of the energy crisis for households and companies across the Union whilst protecting the internal market and preventing the risk of further fragmentation.

Chapter III of the Council Regulation will apply until 31 December 2023. This is without prejudice to the Commission's obligation to report to the Council on the state of implementation of Chapter III across Member States again by 15 October 2024. This is explained by the fact that Member States could apply the solidarity contribution or their enacted equivalent national measures also in the fiscal year 2023 and proceeds will continue to be generated from such measures.

IV. General situation of fossil fuel sector

This section presents developments in the fossil fuel sector since the adoption of the Council Regulation. As further explained in section 6.3 of this report, these developments have had substantial implications for Member States' budgets. Chapter III of the Council Regulation laying down an obligation for Member States to apply the solidarity contribution or alternatively enact equivalent national measures has helped Member States to foot part of the financial burden related to the cost of energy measures in support of households and businesses.

The upswing in energy prices presented a unique and favourable business environment for fossil fuel companies despite the prevailing uncertainty. As a result, the energy crisis of 2022 offered a perfect backdrop for the creation of windfall profits across the entire value chain, significantly outperforming the market conditions of the pre-crisis era. Some businesses were better placed than others to leverage on their hedging and long-term contracts strategy to secure favourable terms amidst the volatility. However, with the gradual decrease in energy prices throughout 2023 (that remain above historical levels), the environment for generating windfall profits has tempered compared to the extraordinary conditions of the previous year 2022 as the companies have to compose with a more uncertain economic environment and rising capital costs.

Table 1: average prices pre-crisis 2018-2021, 2022, and 2023 (until November) (sources: European Commission, DG ENER Chief Economist, based on S&P Global Commodities, VaasaETT, Weekly Oil Bulletin)

Average	**Pre-crisis (2018-2021)**	**2022**	**2023 *(until November[13])***
Gas Wholesale *EUR/MWh*	23	123	41
Gas Retail *EUR/MWh*	69	137	116
Coal *EUR/ton*	70	283	122
Oil *EUR/barrel*	54	97	77
Diesel *EUR/L*	1.29	1.83	1.68

[13] As of data available on 14 November 2023.

Natural gas

The measures adopted in 2022 have eased the pressure on the energy markets and thus reduced *natural gas* prices, which ranged between EUR 40/MWh and EUR 50 MWh in early autumn 2023 down from above EUR 200/MWh over the summer 2022 and around 20 EUR/MWh before the crisis[14]. However, prices remain volatile and higher than historical averages. Moreover, there remain a number of risks which, if they materialised would considerably worsen the situation. These include a rebound in Asian liquified natural gas (LNG) demand that reduces the availability of gas on the global gas market,[15] extreme weather conditions potentially affecting hydropower storage or nuclear production[16] which would require higher recourse to gas-fired power generation, and further possible gas supply disruptions, including a complete halt of gas imports from Russia or a disruption of existing critical gas infrastructure. The ongoing crisis in the Middle East constitutes an additional significant geopolitical risk with potential impact on prices and gas supply.

The EU remains more resilient and better prepared ahead of the winter 2023 to minimise price volatility thanks to the continued large inflow of LNG (LNG imports went up by 98% when comparing June 2023 to June 2021), the record high level of storage filling (the 90% storage filling annual target was reached in mid-August way-ahead the November deadline), the gas demand reduction effort (-17% for the period August 2022 to July 2023, thus above the 15% target) and the accelerated deployment of renewables (estimated +41 GW of solar and +15 GW of wind installed in 2022 saving around 11bcm of gas demand annually).

Encouraged by the unprecedented EU response, the EU has partially compensated for the missing Russian gas volumes with EU dependency on Russian gas falling to 15% in 2023 from 45% in 2021 thanks to a rise in LNG imports and pipeline flows from more reliable international partners.

Crude oil and refined oil products

Global *crude oil* prices have recently decreased to below 85 USD/barrel[17] on overall improvement of market fundamentals pointing to less tightness in the market. This is partially compensated by the risk premium in the market linked to recent Middle East events that could affect further supply. Oil prices had increased reacting to the crisis in the Middle East and on the extension until the end of the year of voluntary cuts announced by OPEC+ in early April

[14] Source: S&P Global Commodity Insights.

[15] IEA noted that "*Global gas demand is expected to return to moderate growth in 2024, primarily driven by Asia Pacific and the Middle East*" and that the Asian-Pacific demand is expected "*to expand by 20% by 2026 compared with 2022*", see Medium-Term Gas Report 2023.

[16] Domestic shortfalls in hydro and nuclear power, due to climatic conditions and other availability factors, exacerbated the stress on gas market pushing prices further up in summer 2022. The production gap in hydro and nuclear generation in 2022 was approximately 60 TWh and 120 TWh, respectively, compared with 2021.

[17] Brent oil prices as of 15 November according to S&P Global Commodity Insights.

and June 2023[18] (the move by OPEC+ was an attempt to redress the plummeting oil prices' trend: below 75 USD/barrel in June 2023 from around 100 USD/barrel in October 2022 and around 60 USD/barrel in the first half of 2021). The decreasing trend has been supported by Western sanctions and price caps on Russian oil[19] as well as concerns about the global macroeconomic outlook, especially following recent economic weakness in China and tightening global monetary policies. Nudged by the EU embargo on Russian oil, the EU managed to diversify away from its Russian oil dependency.

As regards *refined oil products*, after a steep decrease until the beginning of the summer 2023 with *diesel* prices at 1.55 EUR/L in June 2023 from above 2 EUR/L the previous year[20], oil products prices are bouncing back recently (diesel at 1.75 EUR/L early-November[21]) mirroring latest months crude oil prices rises and sustained by strong demand leading to higher refining margins for European refiners recently. Diesel had price spikes in June and October 2022 (going above 2 EUR/L) due to the fact that central and Eastern Europe was until then supplied predominantly by Russian diesel, which took some time to replace from other sources.

The global economic outlook, potential extension of OPEC+ cuts, tensions following Russia's war against Ukraine and the conflict in the Middle East, as well as the speed of China's recovery would be four main drivers affecting global oil demand, supply, and prices in the remaining of 2023 and foreseeable future.

Coal

After peaking above 400 EUR/ton in summer 2022 from pre-crisis prices at around 50 EU/ton, *coal* prices have been continuously falling to stabilise at around 100 EUR/ton in summer 2023. The EU embargo on Russian coal introduced in the fifth sanctions package[22] has allowed Europe to completely diversify away from Russian coal by securing alternatives from more reliable partners, thus helping to stabilise prices.

V. Overview of the application by Member States of Chapter III of the Council Regulation

Article 14 of the Council Regulation gave Member States the possibility of applying the solidarity contribution or enacting equivalent national measures. According to Article 14(3), Member States had to adopt and publish measures to ensure the application of the solidarity contribution by 31 December 2022. For those Member States that wished to apply national

[18] OPEC+ 1.66 million barrels per day (mbpd) voluntary cut announced in early April and additional 1 mbpd cut for July (and later extended to end of 2023) announced by Saudi Arabia on 4 June. Russia also announced a cut of oil exports by 0.3mbpd in September (later extended to the end of 2023).

[19] 5 December 2022 marked the entry into force of the EU embargo on Russian seaborne crude oil and G7+ coalition 60 USD/barrel price cap on Russian oil (the price cap will allow European operators to transport Russian oil to third countries, provided its price remains strictly below the cap) - EUR-Lex - 02014R0833-20230624 - EN - EUR-Lex (europa.eu).

[20] Source: European Commission Weekly Oil Bulletin.

[21] Source: European Commission Weekly Oil Bulletin (6 November).

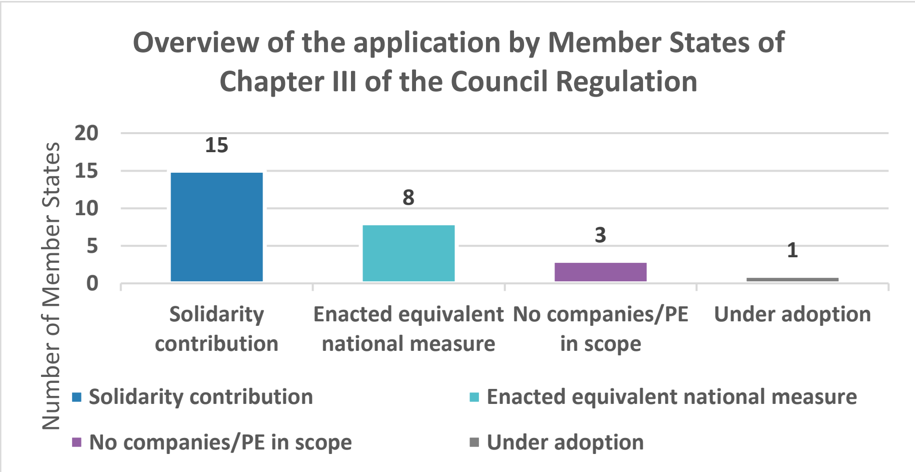
[22] EUR-Lex - 02014R0833-20230624 - EN - EUR-Lex (europa.eu).

measures as an alternative, the ultimate deadline for such a measure to qualify as an enacted equivalent national measure was also set at 31 December 2022 by the Council Regulation.

By the cut-off date for this report of 12 September 2023, all Member States have reported to the Commission in line with their obligations under Article 19(4) of the Council Regulation on the introduction of the solidarity contribution or on applicable enacted equivalent national measures, on the amendments to their national legal framework to this end, on the total estimated proceeds of them, and also on the proceeds they have collected so far in 2023.

Of the 27 Member States who have reported to the Commission, 15 apply the solidarity contribution (AT, BG, DE, DK, EL, FI, FR, HR, IE, LT, NL, PL, RO, SI, SK), while 8 Member States (BE, CZ, EE, ES, HU, IT, PT, SE) have opted for the adoption or application of enacted equivalent national measures as explicitly allowed by the Council Regulation. In addition, 3 out of 27 Member States (LU, LV, MT) reported they have no companies or permanent establishments in scope of the Council Regulation to which the solidarity contribution could apply. Following engagement with the Commission services those Member States have not adopted any application measures. Some other Member States that expected few or no companies or permanent establishments to be in scope (FI, HR, SI) do apply the Council Regulation and have adopted application measures but expect to generate only few proceeds. Finally, 1 Member State (CY) is still in the process of adopting measures.

Graph 2: overview of the application by Member States of Chapter III of the Council Regulation (source: European Commission, DG TAXUD)



Within the group of Member States which have enacted an equivalent national measure, 6 out of 8 Member States have reported such measures are inspired by other already existing national measures applicable to other economic sectors in their jurisdiction, such as banking (CZ), food and retail (PT), or national frameworks applicable to oil sellers and other activities within the energy sector (BE, EE, HU, CZ). IT applied a pre-existing national measure in the fiscal year 2022 and amended it in view of the requirements of the Council Regulation for 2023. SE took inspiration from the solidarity contribution.

5.1 Member States applying the solidarity contribution

With respect to the calculation of the solidarity contribution, the Council Regulation allows Member States to make some choices. Those concern, for example the fiscal year for which the measure applies and the rate applied to the base. Regarding the chosen **fiscal year** to apply the solidarity contribution, out of the 15 Member States, 6 of them have opted to apply the solidarity contribution to both the fiscal years 2022 and 2023 (AT, BG, DE, IE, RO, SI). 6 Member States have reported they apply it only to the fiscal year 2022 (EL, FR, NL, HR, PL, SK). 3 Member States reported they apply it only to the fiscal year 2023 (DK, FI, LT). With respect to the applicable **rate**, 10 Member States apply the minimum rate of 33% (BG, DE, DK, EL, FI, FR, HR, LT, NL, PL) while 5 Member States apply rates that are higher. In particular, the following higher rates have been reported: 40% (AT), 55% (SK), 60% (RO), 75% (IE), and 80% (SI).

5.2 Member States applying enacted equivalent national measures

As regards the **base** used by Member States applying enacted equivalent national measures4 Member States out of 8 use taxable profits as the base (CZ, IT PT, SE), while 4 other Member States have opted for a different base. For the latter group of Member States the picture looks as follows: 1 Member State (BE) uses the processed tonnes of crude oil for refineries as base; 1 Member State (EE) uses the value created by the mineral resource subject to the charge; 1 Member State (ES) uses the net turnover; 1 Member State (HU) has introduced two separate measures to which it applies different bases, namely a modified corporate income tax base for an income tax on energy suppliers, and a world market price difference of crude oil from the Russian Federation and the quantity of crude oil from the Russian Federation purchased in the relevant month, measured in barrels.

Regarding applicable **rates** for enacted equivalent measures put in place by Member States, 2 Member States have applied the minimum tax rate set out by the Council Regulation of 33% (PT, SE). Higher rates include a rate of 50% by 1 Member State (IT), 60% by 1 Member State (CZ). One Member State applies a rate of 1,2% on a turnover base (ES). One other Member State (HU) has set a range that varies over time: the rate for the first measure is set at 31% for 2022 and 41% for 2023, and for the second measure the rate is 40% until 9 December 2022 and 95% from 10 December 2022. Finally, 2 Member States have set variable rates: 6.9 per tonne of crude oil processed (BE), or a rate to be fixed quarterly (EE) depending on minimum and maximum percentages, which are set per ton of the energy mineral resource.

As regards the applicable **fiscal year**, the Member States concerned apply their measures also in different fiscal years. In particular, 4 Member States apply their enacted equivalent national measures to the fiscal years 2022 and 2023 (BE, PT, HU, ES). One Member State applies it to the fiscal year 2022 (EE), and 2 Member States apply their enacted equivalent national measures to the fiscal year 2023 (IT[23], SE). One Member State applies its measure to the fiscal years 2022-2025 (CZ).

[23] Italy reported it collected 2.897 bn euro in 2022 for its preceding national measure as explained in Section V.

VI. Estimated and collected proceeds and their use under Chapter III of the Council Regulation

6.1. Reported estimated proceeds

As part of the Commission's monitoring of the application of Chapter III of the Council Regulation, Member States reported first provisional estimated proceeds in March 2023. For the purposes of this report, 12 Member States (BE, BG, DE, FR, EL, ES, HU, IE, IT, RO, SI, SK) provided their updated estimated proceeds during summer 2023 for the fiscal year 2022[24]. The figure of estimated proceeds for the fiscal year 2022 (as of 12 September 2023) is **EUR 17,574 million**.

Table 2: Overview of estimated proceeds (in million EUR) as of 12 September 2023 as reported by Member States to the Commission for the fiscal year 2022.

Country	Estimated total proceeds (in million EUR) as at 12 September 2023 as reported by Member States to the Commission	Provisional estimated proceeds (in million EUR) as at 24 March 2023 as reported by Member States to the Commission (High point)	Difference between the two reported figures (in million EUR)
	Year 2022	Year 2022	Year 2022
Netherlands	6,433	6,433	0
Poland	3,230	N/A	3,230
Italy	2,897	2,547	350
Spain	1,089.34	1,245	-156
Germany	1,000	1,500	-500
Romania	640.78	783.4	-143
Greece	630	556	74
Slovakia	520	521	-1
Hungary	446	476.5	-31
Belgium	289	300	-11
Ireland	167	240	-73
France	100	404	-304
Estonia	87.5	87.5	0
Bulgaria	43.3	44.8	-2
Slovenia	0.9	0.048	0.852
Austria	N/A	100	-100
Croatia	N/A	N/A	N/A
Cyprus	N/A	N/A	N/A
Czechia	N/A	N/A	N/A
Denmark	N/A	N/A	N/A
Finland	N/A	N/A	N/A
Latvia	N/A	N/A	N/A
Lithuania	N/A	N/A	N/A
Luxembourg	N/A	N/A	N/A
Malta	N/A	N/A	N/A
Portugal	N/A	82	-82
Sweden	N/A	N/A	N/A
Total	**17,574**	**15,320**	**2,254**

The figures for the fiscal year 2022 show that even though most of the Member States reported less estimated proceeds (as of 12 September 2023) compared to March 2023, there is

[24] The Netherlands and Estonia confirmed their original figure of estimated proceeds for the purposes of this report. Poland reported a figure of estimated proceeds for the first time.

an increase of EUR 2,254 million in the overall estimated proceeds mainly due to the fact that Poland now provided figures.

It is also important to note with respect to the figures in Table 2 that there are a few Member States such as Latvia, Luxembourg, or Malta reporting to have no companies in scope. Other Member States like Finland and Croatia reported to the Commission that they expect to derive no or little revenue. In addition, there are Member States that will only apply the Council Regulation for the fiscal year 2023 (Czechia, Cyprus, Denmark, Italy, Lithuania). Other Member States such as Portugal only starts collecting proceeds in Autumn 2023. Finally, Austria did not provide updated estimated proceeds for the fiscal year 2022 as of 12 September 2023 while they did provide provisional estimated proceeds previously. Sweden did not provide any estimated figure of proceeds. Hence, no estimated proceeds for those Member States are reflected in the Table 2 above. They are marked with N/A.

6.2. Reported collected proceeds

For the purpose of this report, Member States were also asked by the Commission to report, where already possible for those applying the measure in fiscal year 2022, on any collected proceeds of measures under Chapter III of the Council Regulation. On 30 June 2023, collected proceeds for the fiscal year 2022 under Chapter III of the Council Regulation amounted to **EUR 6,850 million**.

Table 3: Collected proceeds (in million EUR) as of 30 June 2023, as reported by Member States to the Commission for the fiscal year 2022

Collected proceeds (in million EUR) as at 30 June 2023 as reported by Member States to the Commission	
Country	**Year**
	2022
Italy	2,897
Poland	1,430
Spain	1,089.34
Hungary	446
Belgium	289
Slovakia	260
Ireland	167
Estonia	81
Austria	79.2
France	67
Bulgaria	43.3
Slovenia	0.737
Croatia	N/A
Cyprus	N/A
Czechia	N/A
Denmark	N/A
Finland	N/A
Latvia	N/A
Lithuania	N/A
Luxembourg	N/A
Malta	N/A
Portugal	N/A
Romania	N/A
Sweden	N/A
Germany	0
Greece	0
Netherlands	0
Total	**6,850**

Going forward, the Commission will continue to engage regularly with Member States to get a good overall view of the amount of estimated proceeds and collected proceeds generated under Chapter III of the Council Regulation for the full fiscal year 2022. The Commission will also engage in same exercise for the fiscal year 2023 regarding those Member States that apply the solidarity contribution or an enacted equivalent national measure for both fiscal years or only in the fiscal year 2023. This will allow the Commission to properly fulfil its reporting obligation to the Council under Article 20(2) of the Council Regulation in autumn 2024.

6.3. Use of proceeds

Member States are required to report also on the use of proceeds from the solidarity contribution or the enacted equivalent measures. Article 17 of the Council Regulation sets out the spending purposes for which those proceeds can be used in line with the objective of the Council Regulation of reducing the burden of the rising energy prices on final energy customers.

Based on the reporting submitted by Member States for the purposes of this report, many of the measures ensuring the application of the solidarity contribution or enacted equivalent national measures contain no explicit reference to the use of the proceeds. This is in line with the fact that some Member States have general national budgetary frameworks in place governing the spending of any kind of measures they apply (principle of universality of the budget). Member States are invited to continue reporting to the Commission on this matter with a view to ensure that the proceeds generated under the Council Regulation are used for the purposes established by it.

For those Member States applying the solidarity contribution, 7 Member States out of 15 do not make any express reference in their reporting to the Commission on the spending purposes provided for by Article 17 of the Council Regulation (AT, BG, FI, FR, HR, NL, SI). 7 of them make an express reference to the requirements of Article 17 of the Council Regulation (DK, DE, EL, IE, PL, RO, SK), with a preference for offering financial support to consumers and households. 1 Member State has reported the creation of a fund to collect the proceeds of the solidarity contribution, to be destined to provide financial support to households (LT).

For Member States applying enacted equivalent national measures, 2 Member States out of 8 have listed an identical use of the proceeds to those listed in Article 17 (ES, PT). 2 Member States have mentioned using the proceeds to support households and companies (BE, EE), and 1 Member State more generally referred to mitigating high energy prices (CZ). 1 Member State has reported on the creation of a fund to collect the proceeds of the solidarity contribution, to be destined to provide financial support to households (HU). One Member State (SE) clarifies in its reporting that although tax income cannot be allocated under the national budget law, the intention is however to compensate households and companies for the high energy bills with a total amount that is estimated to exceed the revenues from the temporary measure on extraordinary profits. One Member State (IT) did not make any reference in its reporting to the requirements of Article 17 of Council Regulation.

The contribution laid down in Chapter III of the Council Regulation did not aim at fully financing the fiscal cost of the various domestic policy measures alleviating the effect of soaring energy prices. The Commission has assessed the impact of the cost of energy measures from a budgetary perspective at the occasion of its Autumn 2022 Economic Forecast (see Box I.2.4 Fiscal policy measures to mitigate the impact of high energy prices)[25]. According to the forecast, Member States have adopted measures with a net cost of close to EUR 200 billion. The net budgetary cost of energy measures for 2023 was forecast at around EUR 144 billion. The figures on projected costs are much higher than the estimated total proceeds as reported by Member States to the Commission for the solidarity contribution or equivalent national measures (see section 6.1), implying that the latter could only partially finance the projected expenditure.

Going forward, the Commission will continue to closely monitor the use of the proceeds generated under the Council Regulation in order to ensure compliance with Article 17 of the same Regulation.

VII. Conclusions

Against the backdrop of the evolutions in energy markets, this report provides an overview of the state of play of the application of Chapter III of the Council Regulation (EU) no 2022/1854 a year after its entry into force. In particular, the report sheds light on market and profit developments in the fossil energy sector but also on the application of measures under this Council Regulation. In particular, it focusses on (i) the type of measures implemented by Member States, faced with the choice of implementing the solidarity contribution or an enacted equivalent national measure; (ii) the specificities of each measure with regard to the applicable fiscal year(s), base, applicable rate and use of the collected proceeds; (iii) the estimated total proceeds reported by Member States, and (iv) collected proceeds by Member States who could report on such collection by 30 June 2023.

A glance at the developments in the fossil energy markets shows that the situation is very different than it was when the Council Regulation entered into force in October 2022. The decrease in energy prices throughout 2023 and a more uncertain economic environment and rising capital costs have led companies in oil, gas, and coal sectors to see a decrease of their profits as compared to the extraordinary surplus profits of 2022.

The picture that emerges from the analysis of data reported to the Commission by Member States on the application of Chapter III of the Council Regulation shows that a majority of Member States have opted for applying the solidarity contribution. However, it is also clear that Member States have made use of the flexibility which the legal act offers when it comes to the applicable fiscal years and rate. Moreover, amongst Member States who have opted to enact an equivalent national measure as an alternative for the solidarity contribution, there are differences with regards to the applicable fiscal year, the applicable rate, and the taxable base.

[25] https://economy-finance.ec.europa.eu/system/files/2023-02/ip187_en.pdf

With regard to the collected proceeds of the measures under Chapter III of the Council Regulation, the reporting by Member States shows that not all Member States have applied the solidarity contribution or enacted equivalent national measures to the fiscal year 2022. That fact, coupled with the different collection dates throughout Member States explains why the reported collected amounts by 30 June 2023 are still far from the estimated total collected proceeds.

Furthermore, Member States are invited to continue reporting on the use they intend to make of the proceeds generated by the measures under Chapter III of the Council Regulation. Going forward it is important that such data are shared with the Commission, including sufficient details regarding the different use of the share of proceeds. Those Member States which have reported data on the use of proceeds are in line with the spending purposes listed in Article 17 of the Council Regulation, notably to reduce the burden of the rising energy prices on consumers.

The Commission will submit a second report to the Council by mid-October 2024, with a second analysis of the application of Chapter III of Council Regulation in compliance with Article 20(2) of said Regulation.