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European Union

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2018/0385(COD)

'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 1)
No. Cion doc.:	14336/18
Subject:	Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on adapting Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency [as amended by Directive 2018/XXX/EU] and Regulation (EU) 2018/XXX of the European Parliament and of the Council [Governance of the Energy Union], by reason of the withdrawal of the United Kingdom from the European Union - Confirmation of the final compromise text with a view to agreement

The Permanent Representatives Committee will find in Annex the report voted by the European Parliament Committee for Industry, Research and Energy ("ITRE committee") on 14 January 2019 as regards the above mentioned dossier.

On 27 November 2018, the Energy Working Party held a first discussion on the Commission proposal; subsequently an informal silence procedure¹ confirmed that no delegations had objections or remarks concerning such proposal.

¹ The informal silence procedure ran between 27 and 30 November 2018.

On 22 January 2019, the Energy Working Party held an examination of the ITRE committee report. In order to guide delegations in the examination of the amendments thereby included, the Presidency highlighted that such amendments appeared: 1) to have technical nature; 2) not to go beyond the newly adopted Energy Efficiency Directive and Governance Regulation; and 3) to introduce the due technical adjustments in line with the agreement reached in June 2018 on both files and with Council's horizontal instructions concerning entry into force clauses in Brexit preparedness files. In particular:

- amendments 3 to 5, 7 and 8 (first paragraph) reflected adjustments to the Commission proposal based on the newly adopted Energy Efficiency Directive and Governance Regulation as agreed by the two co-legislators in June 2018; and
- amendments 1, 2, 6 and 8 (remaining paragraphs) included suggestions made by the Austrian and Romanian Presidencies to the co-legislator at the technical level. These suggestions were in line with current horizontal discussions concerning entry into force clauses in Brexit preparedness files and have been drafted in agreement with the Council Legal Service.

The Presidency then invited the delegations to support the ITRE committee report; no objections were raised to this invitation.

In the light of this and in view of facilitating the legislative process that is held under extreme time pressure, the Committee of Permanent Representatives is invited to:

- confirm that it agrees with the preliminary position of the European Parliament as expressed in the report in Annex.

Should this Committee confirms its agreement, the Presidency will inform the European Parliament that, should this latter adopt its position at first reading, in accordance with Article 294 paragraph 3 TFEU, in the form of the above mentioned report in Annex to this note, the Council would, in accordance with Article 294, paragraph 4 of the Treaty, approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.²

² This is without prejudice to the usual lawyer-linguist phase and to any Brexit-related change that will be then duly addressed and translated into the legislative process.

European Parliament

2014-2019



Plenary sitting

A8-0014/2019

14.1.2019

*****I**

REPORT

on the proposal for a decision of the European Parliament and of the Council on adapting Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency [as amended by Directive 2018/XXX/EU] and Regulation (EU) 2018/XXX of the European Parliament and of the Council [Governance of the Energy Union], by reason of the withdrawal of the United Kingdom from the European Union
(COM(2018)0744 – C8-0482/2018 – 2018/0385(COD))

Committee on Industry, Research and Energy

Rapporteur: Miroslav Poche

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United in diversity

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Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in *bold italics* in the left-hand column. Replacements are indicated in *bold italics* in both columns. New text is indicated in *bold italics* in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in *bold italics*. Deletions are indicated using either the ¶ symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in *bold italics* and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a decision of the European Parliament and of the Council on adapting Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency [as amended by Directive 2018/XXX/EU] and Regulation (EU) 2018/XXX of the European Parliament and of the Council [Governance of the Energy Union], by reason of the withdrawal of the United Kingdom from the European Union (COM(2018)0744 – C8-0482/2018 – 2018/0385(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0744),
 - having regard to Article 294(2), Article 192(1) and Article 194(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0482/2018),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy (A8-0014/2019),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a decision

Recital 1

Text proposed by the Commission

(1) On 29 March 2017, the United Kingdom notified the European Council of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. ***Consequently, unless another date is established in a withdrawal***

Amendment

(1) On 29 March 2017, the United Kingdom notified the European Council of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. ***The Treaties will cease to apply to the United Kingdom from the***

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agreement, or the European Council, in agreement with the United Kingdom, unanimously *establishes another date, Union law will cease to apply to the United Kingdom from 30 March 2019. The United Kingdom will then become a third country.*

date of entry into force of a withdrawal agreement or, failing that, two years after that notification, i.e. from 30 March 2019, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period.

Justification

This is a technical change reflecting the interinstitutionally agreed horizontal wording applying to all legislative acts related to BREXIT.

Amendment 2

Proposal for a decision Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) The withdrawal agreement as agreed between the negotiators contains arrangements for the application of provisions of Union law to and in the United Kingdom beyond the date the Treaties cease to apply to and in the United Kingdom. If that agreement enters into force, Directive 2012/27/EU of the European Parliament and of the Council^{1a}, as amended by Directive (EU) 2018/2002 of the European Parliament and of the Council^{1b}, and Regulation (EU) 2018/1999 of the European Parliament and of the Council^{1c}, will apply to and in the United Kingdom during the transition period in accordance with that agreement and will cease to apply at the end of that period.

^{1a} Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

^{1b} *Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018 amending Directive 2012/27/EU on energy efficiency (OJ L 328, 21.12.2018, p. 210).*

^{1c} *Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).*

Justification

This is a technical change reflecting the interinstitutionally agreed horizontal wording applying to all legislative acts related to BREXIT.

Amendment 3

Proposal for a directive Recital 2

Text proposed by the Commission

(2) Directive 2012/27/EU *of the European Parliament and of the Council of 25 October 2012 on energy efficiency*⁶, as amended by Directive 2018/XXX/EU⁷, requires Member States to set indicative national energy efficiency contributions towards the Union's energy efficiency **target** of at least 32,5% for 2030. In doing so the Member States *should* take into account the Union's 2030 energy consumption⁸.

Amendment

(2) Directive 2012/27/EU, as amended by Directive (EU) 2018/2002, requires Member States to set indicative national energy efficiency contributions towards the Union's energy efficiency **targets** of at least 32,5% for 2030. In doing so the Member States **are to** take into account the Union's 2030 energy consumption **in terms of primary and/or final energy**⁸.

Justification

Technical clarification to reflect more accurately the terminology used in the recently agreed revision of the Energy Efficiency Directive with regard to the Union's energy efficiency targets for 2030 in terms of primary/final energy consumption.

Amendment 4

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) Regulation (EU) 2018/XXX **[Governance of the Energy Union]**⁹ requires Member States in their contribution setting process towards the Union targets in the area of energy efficiency to take into account the Union's 2030 energy consumption¹⁰. The energy consumption at Union level is also relevant for the Commission's assessment of the progress towards collectively achieving the Union's targets¹¹.

Amendment

(3) Regulation (EU) 2018/**1999** requires Member States in their contribution setting process towards the Union targets in the area of energy efficiency to take into account the Union's 2030 energy consumption **in terms of primary and/or final energy**¹⁰. The energy consumption at Union level is also relevant for the Commission's assessment of the progress towards collectively achieving the Union's targets¹¹.

Justification

Technical clarification to reflect more accurately the terminology used in the recently agreed revision of the Energy Efficiency Directive with regard to the Union's energy efficiency targets for 2030 in terms of primary/final energy consumption.

Amendment 5

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) Due to the United Kingdom's withdrawal from the Union, it is necessary to technically adapt the projected energy consumption figures for the European Union in 2030 to reflect the Union of 27 Member States ('EU 27'). Projections made for the at least 32,5 % Union headline **target** show that primary energy consumption should equal 1 273 million tonnes of oil equivalent (Mtoe) and 956 Mtoe of final energy consumption in

Amendment

(4) Due to the United Kingdom's withdrawal from the Union, it is necessary to technically adapt the projected energy consumption figures for the European Union in 2030 to reflect the Union of 27 Member States ('EU 27'). Projections made for the at least 32,5 % Union headline **targets** show that primary energy consumption should equal 1 273 million tonnes of oil equivalent (Mtoe) and 956 Mtoe of final energy consumption in

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2030 for the Union of 28 Member States. The equivalent projections for the EU 27 excluding the United Kingdom show that primary energy consumption should equal 1 128 Mtoe and final energy consumption should equal 846 Mtoe in 2030. This requires the adaptation of the figures for energy consumption levels in 2030.

2030 for the Union of 28 Member States. The equivalent projections for the EU 27 excluding the United Kingdom show that primary energy consumption should equal 1 128 Mtoe and final energy consumption should equal 846 Mtoe in 2030. This requires the adaptation of the figures for energy consumption levels in 2030.

Justification

Technical clarification to reflect more accurately the terminology used in the recently agreed revision of the Energy Efficiency Directive with regard to the Union's energy efficiency targets for 2030.

Amendment 6

Proposal for a decision

Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) In accordance with Article 4(3) of Regulation (EEC, Euratom) No 1182/71 of the Council^{1a}, cessation of application of acts fixed at a given date is to occur on the expiry of the last hour of the day falling on that date. This Decision should therefore apply from the day following that on which Directive 2012/27/EU, as amended by Directive (EU) 2018/2002, and Regulation (EU) 2018/1999 cease to apply to the United Kingdom.

^{1a} Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).

Justification

This is a technical change reflecting the interinstitutionally agreed horizontal wording applying to all legislative acts related to BREXIT.

Amendment 7

Proposal for a directive Article 3

Text proposed by the Commission

Article 3

Articles 1 and 2 of this Decision are without prejudice to the time *limit* provided in Article 28 of Directive 2012/27/EU [as amended by Directive 2018/XXX/EU] and Article 59 of Regulation (EU) 2018/XXX [Governance of the Energy Union].

Amendment

Article 3

Articles 1 and 2 of this Decision are without prejudice to the time *limits* provided in Article 2 of Directive (EU) 2018/2002 and Article 59 of Regulation (EU) 2018/1999.

Justification

Reference should be made to the transposition of the recently agreed Directive on energy efficiency [amending Directive 2012/27/EU]. Article 28 of Directive 2012/27/EU provides for a general transposition date on 5 June 2014 (with specific dates for certain provisions); it is not therefore relevant to refer to that Article.

Amendment 8

Proposal for a decision Article 4

Text proposed by the Commission

Article 4

This Decision shall enter into force on the *twentieth* day following that of its publication in the Official Journal of the European Union and shall apply from the day following that on which Union law ceases to apply to the United Kingdom.

Amendment

Article 4

This Decision shall enter into force on the *third* day following that of its publication in the Official Journal of the European Union and shall apply from the day following that on which Union law ceases to apply to the United Kingdom.

Article 1 shall apply from the day following that on which Directive 2012/27/EU, as amended by Directive (EU) 2018/2002, ceases to apply to and in the United Kingdom.

Article 2 shall apply from the day following that on which Regulation (EU) 2018/1999 ceases to apply to and in the United Kingdom.

Article 3 shall apply from [date of entry into force].

Justification

Due to the time constraints for the timely completion of the legislative procedure, this change is necessary to ensure that the Decision can enter into force before the day on which Union law ceases to apply to the United Kingdom. Other changes reflect the interinstitutionally agreed horizontal wording applying to all legislative acts related to BREXIT.

EXPLANATORY STATEMENT

1. Commission proposal

The present proposal for a Decision of the European Parliament and the Council adapting Directive 2012/27/EU [as amended by Directive (EU) 2018/2002] on energy efficiency and Regulation (EU) 2018/1999 [Governance of the Energy Union] is necessitated by the upcoming withdrawal of the United Kingdom from the European Union.

Due to the United Kingdom's withdrawal from the Union, it is necessary to technically adapt the projected energy consumption figures for the European Union in 2030 to reflect the Union of 27 Member States ('EU 27'). Projections made for the at least 32,5 % Union headline targets show that primary energy consumption should equal 1 273 million tonnes of oil equivalent (Mtoe) and 956 Mtoe of final energy consumption in 2030 for the Union of 28 Member States. The equivalent projections for the EU 27 excluding the United Kingdom show that primary energy consumption should equal 1 128 Mtoe and final energy consumption should equal 846 Mtoe in 2030. This requires the adaptation of the figures for primary and final energy consumption provided for in the recently amended Energy Efficiency Directive.

The new Regulation on the Governance of the Energy Union requires Member States in their contribution setting process for the Union 2030 targets for energy efficiency to take into account the Union's 2030 energy consumption; the energy consumption at Union level is also relevant for the European Commission's assessment of progress towards collectively achieving the Union's targets. Therefore, the Regulation on the Governance of the Energy Union should be also amended to reflect the adapted figures for energy consumption in 2030.

It should be reminded that the Union's 2030 headline targets for energy efficiency were set compared to projections made in 2007 using an econometric modelling exercise (PRIMES energy system model) known as the 2007 Reference Scenario (or REF 2007). The targets were translated into levels of primary and final energy consumption by reducing the 2007 Reference Scenario projections for 2030 by 32.5%. The Mtoe numbers are based on the above mentioned energy modelling projection. The adjustment of the figures proposed by the Commission in order to take account of the UK withdrawal from the EU is based on the same underlying energy model.

2. Rapporteur's position

The Rapporteur welcomes the Commission's proposal as a technical adaptation of the Union's energy consumption figures for 2030, which is necessitated by the upcoming withdrawal of the United Kingdom from the European Union. As this is a technical adjustment, based directly on a modelling exercise that served as the basis of the original calculation of the absolute levels of energy consumption of the Union's headline targets, the Rapporteur is not proposing any changes to the figures proposed by the Commission.

The Rapporteur has included in this draft report a very limited number of technical amendments with the broad aim of clarifying some of the provisions proposed by the Commission. The amendments proposed by the Rapporteur cover the following issues:

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- Technical clarification of the wording used in the recitals in relation to the Union's energy efficiency targets for 2030, to reflect more accurately the terminology used in the recently agreed revision of the Energy Efficiency Directive. It should be noted that the Directive refers to headline targets (in plural), to reflect that the target for energy efficiency is expressed in primary/final energy consumption.
- Clarification that the Decision should be without prejudice to the transposition of the recently agreed Directive on energy efficiency, and not that of Directive 2012/27/EU which has been already transposed.
- Change of the date of entry into force of the Decision (three days instead of twenty following its publication in the Official Journal of the European Union), in order to ensure that it can enter into force before the day on which Union law ceases to apply to the United Kingdom. This change seems necessary in view of the time constraints for the completion of the legislative procedure before 29 March 2019.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Adapting Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency [as amended by Directive 2018/XXX/EU] and Regulation (EU) 2018/XXX of the European Parliament and of the Council [Governance of the Energy Union], by reason of the withdrawal of the United Kingdom from the European Union
References	COM(2018)0744 – C8-0482/2018 – 2018/0385(COD)
Date submitted to Parliament	14.11.2018
Committee responsible Date announced in plenary	ITRE 15.11.2018
Committees asked for opinions Date announced in plenary	ENVI 15.11.2018
Not delivering opinions Date of decision	ENVI 20.11.2018
Rapporteurs Date appointed	Miroslav Poche 21.11.2018
Discussed in committee	3.12.2018
Date adopted	14.1.2019
Result of final vote	+: 49 –: 1 0: 3
Members present for the final vote	Bendt Bendtsen, Jonathan Bullock, Cristian-Silviu Buşoi, Jerzy Buzek, Edward Czesak, Jakop Dalunde, Fredrick Federley, Ashley Fox, Igor Gräzin, Theresa Griffin, András Gyürk, Rebecca Harms, Eva Kaili, Barbara Kappel, Seán Kelly, Jeppe Kofod, Jaromír Kohlíček, Peter Kouroumbashev, Zdzisław Krasnodebski, Miapetra Kumpula-Natri, Christelle Lechevalier, Paloma López Bermejo, Edouard Martin, Tilly Metz, Angelika Mlinar, Csaba Molnár, Nadine Morano, Angelika Niebler, Morten Helveg Petersen, Miroslav Poche, Carolina Punset, Julia Reda, Paul Rübig, Massimiliano Salini, Algirdas Saudargas, Sven Schulze, Neoklis Sylikiotis, Patrizia Toia, Evžen Tošenovský, Vladimír Urutchev, Kathleen Van Brempt, Henna Virkkunen, Flavio Zanonato, Carlos Zorrinho
Substitutes present for the final vote	Pilar Ayuso, Michał Boni, Gunnar Hökmark, Rupert Matthews, Clare Moody, Caroline Nagtegaal, Dennis Radtke, Giancarlo Scottà, Davor Škrlec
Date tabled	14.1.2019

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FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

49	+
ALDE	Fredrick Federley, Igor Gräzin, Angelika Mlinar, Caroline Nagtegaal, Morten Helveg Petersen, Carolina Punset
ECR	Edward Czesak, Ashley Fox, Zdzisław Krasnodębski, Rupert Matthews, Evžen Tošenovský
ENF	Barbara Kappel, Christelle Lechevalier, Giancarlo Scottà
PPE	Pilar Ayuso, Bendt Bendtsen, Michał Boni, Jerzy Buzek, Cristian-Silviu Buşoi, András Gyürk, Gunnar Hökmark, Seán Kelly, Nadine Morano, Angelika Niebler, Dennis Radtke, Paul Rübig, Massimiliano Salini, Algirdas Saudargas, Sven Schulze, Vladimir Urutchev, Henna Virkkunen
S&D	Theresa Griffin, Eva Kaili, Jeppe Kofod, Peter Kouroumbashev, Miapetra Kumpula-Natri, Edouard Martin, Csaba Molnár, Clare Moody, Miroslav Poche, Patrizia Toia, Kathleen Van Brempt, Flavio Zanonato, Carlos Zorrinho
VERTS/ALE	Jakop Dalunde, Rebecca Harms, Tilly Metz, Julia Reda, Davor Škrlec

1	-
EFDD	Jonathan Bullock

3	0
GUE/NGL	Jaromír Kohlíček, Paloma López Bermejo, Neoklis Sylikiotis

Key to symbols:

+ : in favour

- : against

0 : abstention