Council of the European Union

Brussels, 17 January 2024
(OR. en)

5520/24

Interinstitutional File:
2024/0004(NLE)

FISC 5
ECOFIN 57
ENER 23

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	15 January 2024
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2024) 8 final
Subject:	Proposal for a COUNCIL IMPLEMENTING DECISION authorising Poland to apply reduced rates of excise duty to heavy fuel oil, natural gas, coal, and coke, used as heating fuels.

Delegations will find attached document COM(2024) 8 final.

Encl.: COM(2024) 8 final

EUROPEAN
COMMISSION

Brussels, 15.1.2024
COM(2024) 8 final

2024/0004 (NLE)

Proposal for a

COUNCIL IMPLEMENTING DECISION

authorising Poland to apply reduced rates of excise duty to heavy fuel oil, natural gas, coal, and coke, used as heating fuels.

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Taxation of energy products and electricity in the European Union is governed by Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity[1] (the 'Energy Taxation Directive' or the 'Directive').

Pursuant to Article 19(1) of the Directive, in addition to the provisions laid down in particular in Articles 5, 15 and 17, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce further exemptions or reductions in the level of taxation for specific policy considerations.

By virtue of Council Implementing Decision (EU) 2023/1197[2] of 19 June 2023, Poland was authorised to apply reduced rates of excise duty to heavy fuel oil, natural gas, coal, and coke, used as heating fuels. That authorisation expired on 30 June 2023.

Poland is seeking for an authorisation to continue to apply a temporary reduction of the national tax rates for heavy fuel oil, natural gas, coal, and coke, used as heating fuels, below the minimum levels of taxation laid down in Article 9 of the Directive and Table C of Annex I to the Directive.

The requested period of validity is limited to 6 months, which is within the maximum period allowed by Article 19(2) of the Energy Taxation Directive.

By a letter dated 30 June 2023, the Polish authorities have informed the Commission that they intend to continue to apply the above mentioned temporary measure for a further period of six months, with effect from 1 July 2023 to 31 December 2023. The Polish authorities provided additional information respectively on 8 September 2023, as well as on 5 and 13 October 2023.

The request for derogation concerns the application of reduced rates of excise duty to heavy fuel oil, natural gas, coal, and coke, used as heating fuels.

The Polish authorities pointed out that the annual update of the minimum rates expressed in national currencies for Member States that have not adopted the euro, required on the basis of Article 13 of the Directive, in combination with the temporarily high – and unfavourable – euro-zloty (EUR/PLN) exchange rate on the first working day of October 2022, would require an increase in the levels of taxation applicable to the products concerned[3].

Although the exchange rate of the zloty since then has returned to a more favourable level, the rules established by Article 13 do not take that into consideration, and therefore the only way for Poland to maintain constant levels of taxation for the energy products concerned would be by means of a request for derogation. According to Poland, without this derogation, it would be necessary to increase the levels of taxation applicable to those products.

[1] OJ L 283, 31.10.2003, p. 51-70.

[2] OJ L 158, 21.6.2023, p. 71.

[3] The applicable exchange rate for 2023, is of PLN 4.8320 for one euro, while for 2022, it was of PLN 4.5826, and for 2024 it will be of PLN 4.6123.

The objective of the Polish request is to mitigate the negative impact potentially deriving from the adjustment under Article 13 of the Energy Taxation Directive, by maintaining the relevant national tax rates at their current levels, below the relevant minimum taxation levels laid down in the Directive. That would correspond to a reduction of the national tax rates expressed in euro compared to the minimum rates, resulting from the difference of EUR/PLN exchange rate after annual adjustment carried out in accordance with Article 13 of the Directive. This maitenance of current national rates would also be applied to other products intended for heating purposes within the meaning of Article 2(3) of the same Directive.

According to the Polish authorities, the social and economic situation generated by high inflation as well as rising prices of energy products continue to constitute a serious problem for the Polish society.

Besides the other measures adopted[4], Poland highlighted the importance of such a derogation due to the negative impact stemming from the sharp increase in energy sales prices, which is one of the consequences of the Russian invasion of Ukraine. Along with a rampant inflation, the Polish authorities underlined that this situation directly affects both households and companies.

In that respect, Poland specified that such excise duty rates reduction is available to all consumers purchasing energy products covered by the derogation request[5]. To this end, the Polish authorities provided the below chart presenting the overall consumption trend[6] of those energy products.

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[4] As part of the actions taken in 2022, Poland adopted a legislative package (the so-called Anti-inflation Shield) designed to minimise the negative impact incurred by inflation. Poland introduced in this respect an aid in the form of reduced excise duty rates for certain motor fuels, light heating oil and electricity, reduced to the EU minima. This temporary package of legislation ceased to apply from 1 January 2023.
The Polish authorities also mentioned that Article 15(1)(h) of the Directive has been partially implemented into the Polish legislation (i.e. coal products and gas products - falling withing CN codes 2705 00 00, 2711 11 00, 2711 21 00 and 2711 29 00 - used for heating purposes by households and certain other specific users, are exempted from excise duty).

[5] According to national estimates, the number of direct beneficiaries has been calculated at approximately 6100 taxpayers in Poland, mainly entrepreneurs (including almost 5600 taxable persons submitting declarations for coal products).

[6] Data extracted from the Central Statistical Office (see to that effect: https://stat.gov.pl/wyszukiwarka/?query=tag:zu%C5%BCycie+w%C4%99gla+kamiennego).

Chart 1 – Consumption of the energy products (2006-2021)[7]

Year	Coal (in thousands of tons)	Natural gas (TJ)	Heavy fuel oil (in thousands of tons)
2006	83.483	493.544	1.750
2007	84.230	499.571	1.711
2008	80.323	505.922	1.609
2009	73.842	488.179	1.615
2010	81.979	519.923	1.587
2011	79.108	515.162	1.403
2012	75.165	552.579	1.171
2013	77.300	560.164	876
2014	72.768	542.598	795
2015	72.283	553.964	1.056
2016	74.176	592.114	1.049
2017	74.637	628.517	924
2018	74.232	660.336	813
2019	68.302	691.543	785
2020	62.404	694.653	802
2021	69.621	741.000	889

The above chart shows that between 2006 and 2010, the consumption of coal remained relatively stable, while since 2010, despite some fluctuations, a decline is noticeable. In 2021, however, there was some recovery and coal consumption increased compared to 2020.

An analysis of the data from 2006 to 2021 shows an upward trend in natural gas consumption. Overall, there was an increase in natural gas consumption.

The Polish authorities stressed that between 2006 and 2021, there was a decrease in heavy fuel oil consumption. They also added that, although there was a general downward trend, there was a slight increase in 2015 and 2021.

According to estimates from the Energy Forum[8], the consumption of coal in 2022 was around 66.000.000 tonnes, which represents a decrease of around 4.000.000 tonnes compared to the

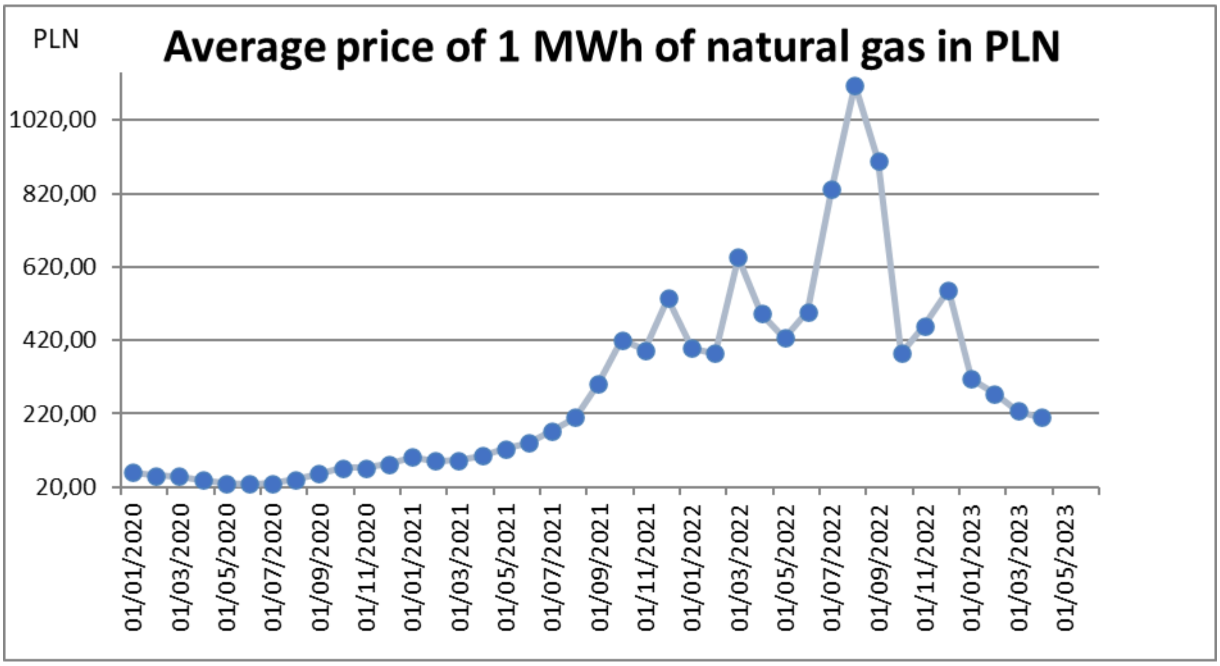
7 Data for 2022 will only be published on 20 December 2023. The Polish authorities also highlighted that the consumption categories/sectors indicated by the Central Statistical Office for individual products do not have to be the same as the consumption categories that are subject to effective excise duty (e.g. the Central Statistical Office list includes natural gas used by households, while on the basis of excise regulations, consumption is exempt from excise duty).

previous year. This indicates a continuation of the general downward trend observed in recent years.

The Polish authorities also added that gas purchases from abroad to meet the needs of consumers in Poland in 2022, amounting to 154.5 TWh (556.200 Tj), were supplemented by gas from domestic sources amounting to 39.8 TWh (143.280 Tj). Total gas supplies from abroad in 2022 included imports and intra-EU purchases. In total, gas purchases for the needs of consumers in Poland in 2022 amounted to 699.480 Tj[9]. Using the same source of information, Poland noted that gas purchases in 2021 amounted to 831.960 Tj and in 2020 to 768.960 Tj. With reference to the data in the table, Poland noted that the upward trend of previous years is expected to continue.

To illustrate the price increase, the Polish authorities provided the below chart (Chart 2) showing the average price for natural gas from January 2020 to May 2023.

Chart 2 – Average price for natural gas (2020-2023)[10]



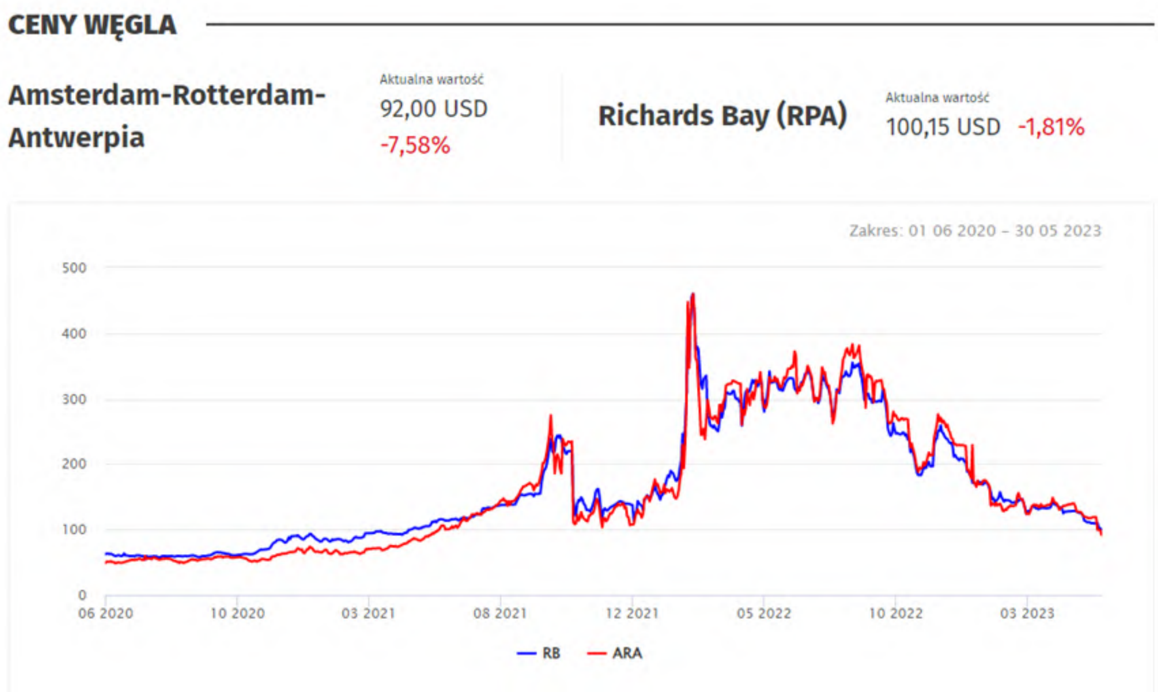
The chart below (Chart 3), also provided by the Polish authorities, illustrates trends in historical coal and natural gas prices in the respective wholesale markets, including the increase in prices in 2022 related to the effects of Russia's agression against Ukraine.

8 See to that effect: https://nettg.pl/gornictwo/196416/gornictwo-wegiel-do-polski-plynal-wartkim-strumieniem

9 See also: https://www.ure.gov.pl/pl/paliwa-gazowe/charakterystyka-rynku/11092,2022.html

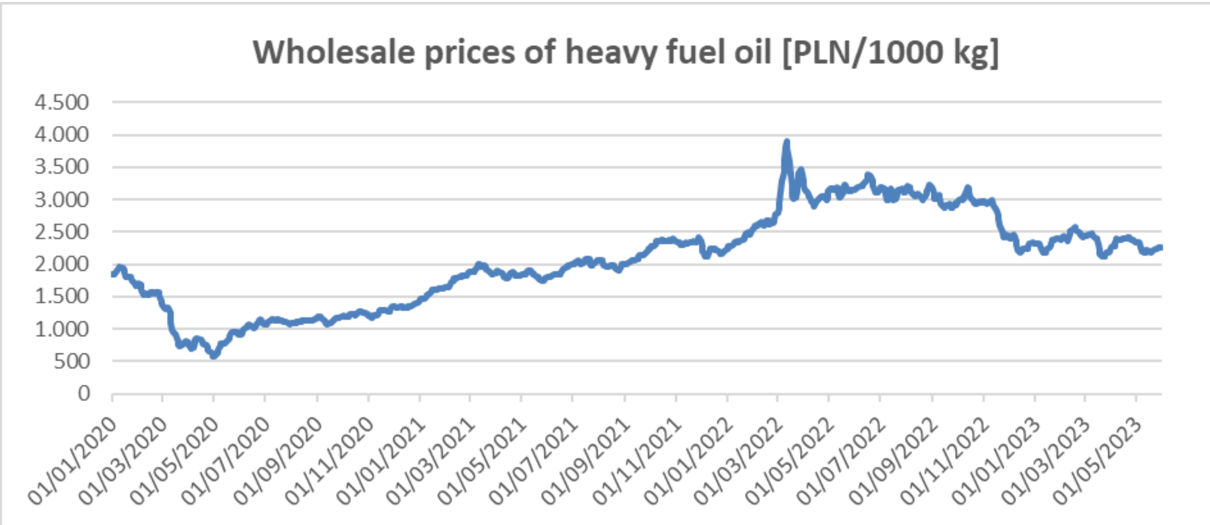
10 Data extracted from the Polish Power Exchange (POLPX).

Chart 3 – Spot price of coal and natural gas in USD (2020-2023)[11]



The Polish authorities additionally provided the wholesale prices (2020-2023)[12] on heavy fuel oil illustrated in the chart below (Chart 4).

Chart 4 – Wholesale prices for heavy fuel oil (2020-2023)

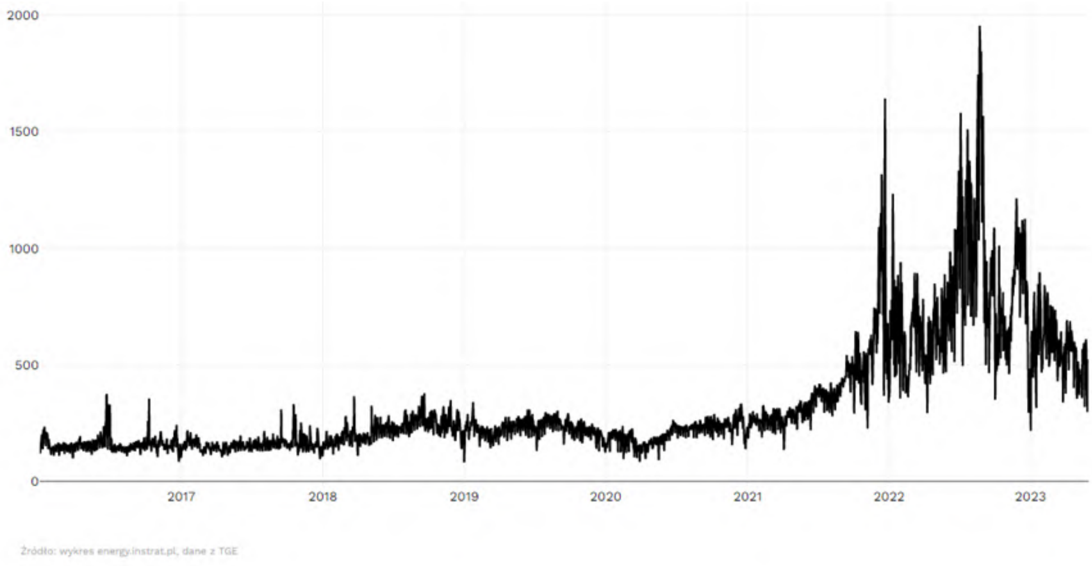


Finally, the Polish authorities presented daily energy prices on the Polish Power Exchange (POLPX) in the below chart (Chart 5).

11 Data based on the Amsterdam-Rotterdam-Antwerp (ARA) and Richards Bay (South Africa) markets; https://www.wnp.pl/gornictwo/notowania/ceny_wegla/, June 2023
Ceny węgla – eng. price of coal; aktualna wartość – eng. actual value; zakres – eng. scope/period]

12 Based on ORLEN wholesale price data.

Chart 5 – Daily Energy Prices (2016-2023)



As regards the tax levels on the concerned products, the Polish authorities provided the below table (Table A) which compares the minimum levels of taxation as applicable under the Directive for each product covered by their request, together with the corresponding rates currently in force in Poland (January 2023). They emphasised in this respect that the excise duty rates on heating fuels apply without distinction to both non-commercial and commercial customers.

Table A

Energy product	**EU minima (EUR)**	**EUR/PLN (2023)**	**EU minima in 2023 (PLN)**	**Excise duty in 2022 (PLN)**	**Excise duty in 2023 without changing the excise duty rate (EUR)**	**Difference between the EU minima and the actual taxation (PLN)**	**Difference between the EU minima and the actual taxation (EUR)**	**Change of the EU minima in relation to actual taxation (%)**
Heavy fuel oil *(in PLN per 1 000 kg)*	15	4.832	72.48	69	14.2798	3.48	0.72	5.04
Natural gas *(in PLN per gigajoule gross calorific value)*	0.3	4.832	1.45	1.38	0.2856	0.07	0.01	5.04
Coal and coke *(in PLN per gigajoule gross calorific value)*	0.3	4.832	1.45	1.38	0.2856	0.07	0.01	5.04

In light of the above table, according to the Polish authorities, the difference between the minimum levels of taxation as laid down in the Directive and the Polish rates, corresponds to 5.04%, for all the energy products covered by their request.

According to Poland, the excise duty appears to be the price component on which it is possible to intervene in the short term in order to alleviate the undesirable effects of the annual adjustment carried out in accordance with Article 13 of the Directive.

To support their request, the Polish authorities provided the Commission with the charts below, presenting (i) the exchange rate as applicable on the first working day of each month from January 2022 to April 2023 (Chart 6); (ii) fluctuations in the exchange rate in October 2022 (Chart 7); and (iii) the average monthly exchange rate for 2022 (Chart 8).

Chart 6 – EUR/PLN exchange rate on the first working day of each month (2022-2023)

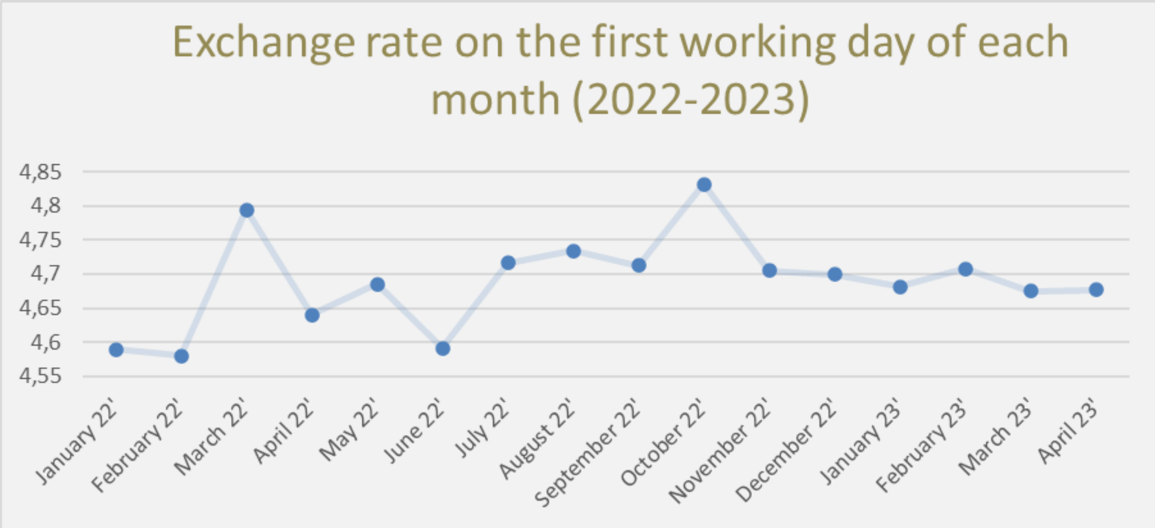
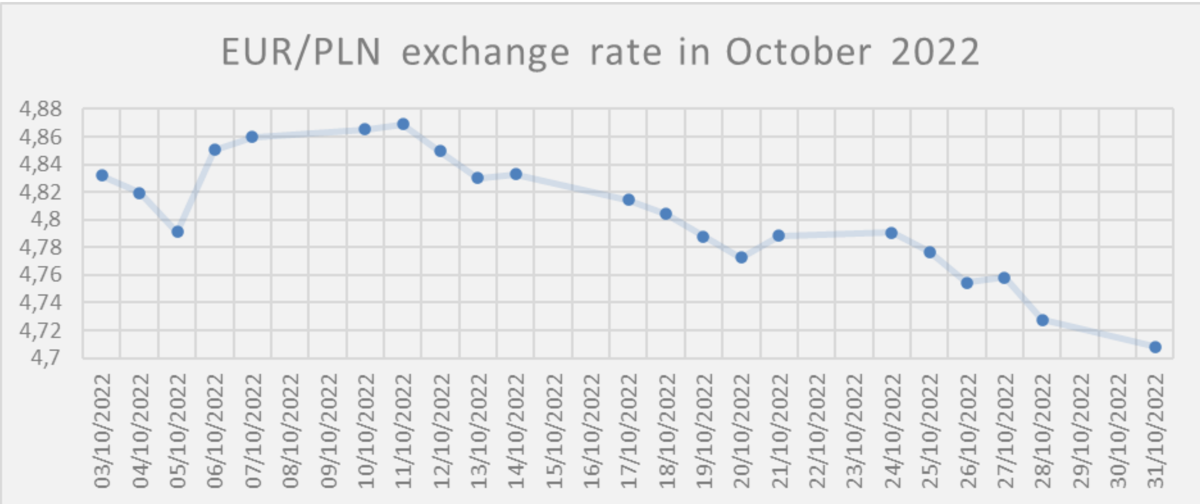


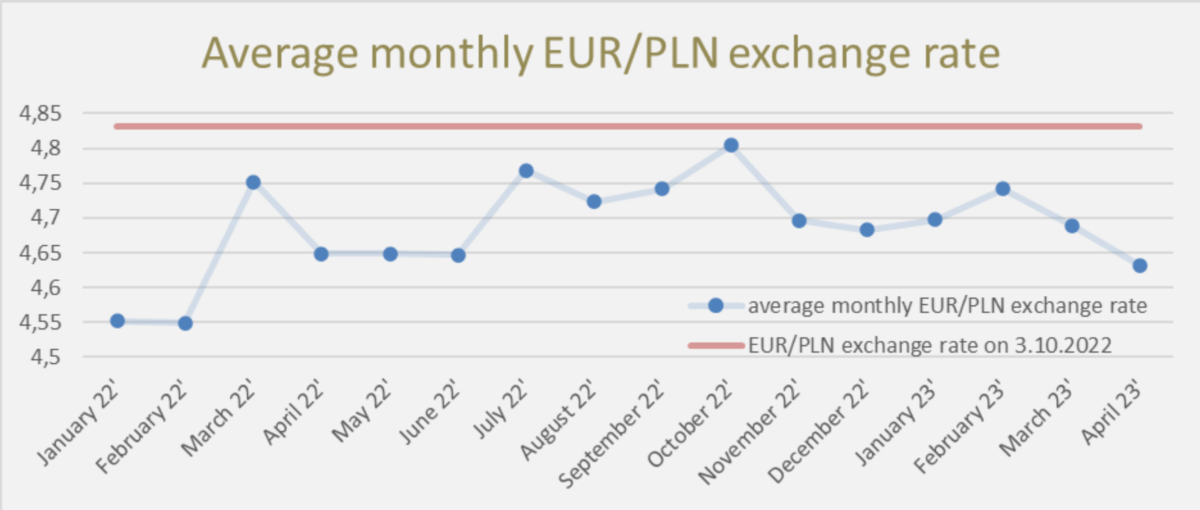
Chart 7 – EUR/PLN exchange rate in October (2022)



Based on the above chart, the Polish authorities stressed that after reaching the peak on 11 October 2022, the EUR/PLN exchange rate was progressively decreasing.

Similarly, they also highlighted that, based on the chart below, the exchange rate dated October 2022 was the highest in 2022.

Chart 8 – Average monthly EUR/PLN exchange rate (2022-2023)



In light of the information presented in the above charts, the Polish authorities stressed that using October 2022[13] as a reference for the annual adjustment, in accordance with Article 13 of the Directive, had a negative impact, especially in light of the fluctuation of the Polish currency. According to the Polish authorities, this adjustment does not consider the dynamics of economic changes, and the exchange rate fluctuations in the period from October of a given year to the end of September of the next year are irrelevant. To give further evidence of this adverse effect, they presented the below example (Table B) emphasising that the excise duty rates for the energy products covered by their request would have been within the minimum levels, as laid down in the Directive, if the annual adjustment had been based on the exchange rate as it stood in January 2022.

[13] On the first working day of October 2022, the said value was the highest for the year 2022 and amounted to PLN 4.832 to the euro.

Table B

Energy products covered by the request	**EU minimum levels of taxation (in euro)**	**Excise-duty rate (in Polish zloty)**	**Tax rate based on average monthly EUR/PLN exchange rate in January 2022**	**Rate 2023**
Coal and coke (per gigajoule gross calorific value)	0.3	1.38	0.3 * 4.55 ≈ 1.37	No change needed
Natural gas (per gigajoule gross calorific value)	0.3	1.38	0.3 * 4.55 ≈ 1.37	No change needed
Heavy fuel oil (per 1 000 kg)	15	69	15 * 4.55 ≈ 68	No change needed

Given the fact that the PLN/EUR exchange rate of PLN 4.8320 applicable in 2023 (in 2022, this rate was PLN 4.5826, and for 2024 it will return to a level of PLN 4.6123), and in order to maintain the required EU minimum levels laid down in the Directive, Poland considers that an increase in the applicable rates of excise duty on the above energy products would have been required. The derogation therefore appears necessary according to the Polish authorities.

The Polish authorities considered that it was difficult to estimate the effect on the budget of the change in the rates of excise duty on the energy products covered. However, they confirmed that since the correction of the rates is minor, it should not have a significant impact on budget revenues, especially since high prices of energy carriers generate higher budget revenues from VAT[14].

The budgetary expenditure for the period covered by the derogation request is estimated at PLN 6.5 million (based on the consumption data and income of 2022). The table below (Table

[14] According to their estimates, for recipients who do not benefit from excise-tax exemptions (most of the entities using coal and natural gas for heating purposes are exempt from excise duty, e.g. households or energy-intensive businesses), the change means an increase in costs: in the case of **heavy fuel oil** by approx. 0.4 PLN/kg (approx. 0.5 PLN/kg with VAT), in the case of **coal** by approx. 1.67 PLN/tonne (2 PLN/tonne with VAT), and in the case of group E high-methane **natural gas** by approx. 0.2 PLN/cubic metre (0.27 PLN/kg/m^3 including VAT).

C), provided by the Polish authorities, presents in this respect the budgetary implications for each of the energy products concerned.

Table C

Excise product	**Budgetary implications as regards excise duty for the period of 6 months of 2023 [PLN million]**
Heavy fuel oil and other fuels used for heating	0.5
Natural gas and other gas fuels used for heating	4.2
Coal and coke	1.8

- **Consistency with existing policy provisions in the policy area**

Article 19(1), first subparagraph of the Directive reads as follows:

"*In addition to the provisions set out in the previous Articles, in particular in Articles 5, 15 and 17, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce further exemptions or reductions for specific policy considerations.*".

Article 13 (1) of the Directive requires that for Member States that have not adopted the euro, the value of the euro in national currencies to be applied to the value of the levels of taxation shall be fixed once a year. The rates to be applied shall be those obtaining on the first working day of October and published in the Official Journal of the European Union and shall have effect from 1 January of the following calendar year.

Article 13(2) of the Directive states that "*Member States may maintain the amounts of taxation in force at the time of the annual adjustment provided for in paragraph 1 if the conversion of the amounts of the level of taxation expressed in euro would result in an increase of less than 5 % or EUR 5, whichever is the lower amount, in the level of taxation expressed in national currency*".

The relevant Polish national rates, converted on the basis of Article 13(1), are just over the 5% tolerance permitted under Article 13(2) of the same Directive. By asking for a derogation to allow the non-indexation of its national rates, the Polish authorities are asking for a very small (less than 1 percentage point) temporary increase in the tolerance level applicable to the annual adjustment of rates for a limited period.

By means of the requested derogation, limited in time, the Polish authorities intend to mitigate the negative impact that would result from an increase in the levels of taxation due to a high euro-zloty (EUR/PLN) exchange rate of euro, applicable due to Article 13 of the Directive. That reduction would correspond to the amount resulting from the exchange rate difference after annual adjustment carried out in accordance with Article 13 of the Directive.

Poland considers that the temporary measure should partially alleviate the social and economic burden that Polish consumers are enduring in the present geopolitical context. The

Polish authorities pointed out in this respect that the tax reduction would be beneficial also for the sellers of the covered energy products.

The possibility of keeping such a tax reduction can be permitted under Article 19 of the Directive since its purpose is to allow Member States to introduce further exemptions or reductions for specific policy considerations.

The limited period of validity of 6 months is within the maximum period allowed by Article 19(2) of the Energy Taxation Directive, laying down, for this type of measure, a maximum period of 6 years, with the possibility of renewal.

However, the derogation should not undermine the future adoption by the Council of a legal act based on a Commission proposal for amendment of the Energy Taxation Directive[15].

State aid rules

The temporary tax reduction envisaged by the Polish authorities falls under the relevant minimum levels of taxation as laid down in the Directive.

The present proposal is without prejudice to any assessment of the Polish measure under State aid rules. Moreover, the proposal for a Council implementing decision does not prejudge the Member State's obligation to ensure compliance with State aid rules.

- **Consistency with other Union policies**

Each request for derogation under Article 19 of the Energy Taxation Directive must be examined by the Commission taking into account: (i) the proper functioning of the internal market; (ii) the need to ensure fair competition; (iii) and EU policies on health, environment, energy and transport policies.

As highlighted by the Polish authorities, the objective of such tax reduction is to partially alleviate the social and economic burden the Polish population would face in the event of a tax increase due to the high exchange rate of euro, coupled with rampant inflation affecting both households and businesses, partly due to the recent price increase resulting from the conflict in Ukraine.

As a result of that situation, the temporary reduction is not likely to affect intra-EU trade. Given its limited effects and duration, the requested measure should not distort competition or hinder the functioning of the internal market.

As underlined in the RePowerEU Communication[16], while focusing on vulnerable households and businesses, the Commission invites Member States to adopt measures incentivising energy savings and reducing fossil fuels consumption. Nonetheless, given its short duration and the current exceptional circumstances linked to the geopolitical situation, the requested derogation appears appropriate and proportionate. The measure also takes account of the need to balance the specific policy objectives listed in Article 19 of the Energy Taxation Directive,

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15 Proposal for a Council directive restructuring the Union framework for the taxation of energy products and electricity (recast), 14.7.2021, 563 final 2021/0213 (CNS).

16 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 '*REPowerEU: Joint European Action for more affordable, secure and sustainable energy'*, (COM(2022) 108 final, 8.3.2022).

and notably the EU's environmental policy, with the imperative of ensuring energy affordability for businesses and households.

Under these circumstances and given that the measure is temporary and limited in scope, it is appropriate to grant the authorisation as requested.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 19 of Council Directive 2003/96/EC.

- **Subsidiarity (for non-exclusive competence)**

The field of indirect taxation covered by Article 113 TFEU is not in itself within the exclusive competence of the European Union within the meaning of Article 3 TFEU.

However, pursuant to Article 19 of Directive 2003/96/EC, the Council has been granted an exclusive competence, as a matter of secondary law, to authorise a Member State to introduce further exemptions or reductions within the meaning of that provision. Member States cannot therefore substitute themselves for the Council. As a result, the principle of subsidiarity is not applicable to the present implementing decision. In any event, since this act is not a draft legislative act, it should not be transmitted to national parliaments pursuant to Protocol No 2 to the Treaties for review of compliance with the subsidiarity principle.

- **Proportionality**

The proposal respects the principle of proportionality.
The tax reductions do not exceed what is necessary to attain the objective in question.
The tax reductions are applicable during a limited six-month period.

- **Choice of the instrument**

The instrument proposed is a Council implementing decision.
Article 19 of Directive 2003/96/EC makes provision for this type of measure only.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The measure does not require the evaluation of existing legislation.

- **Stakeholder consultations**

This proposal is based on a request made by Poland and concerns this Member State only.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

This proposal concerns an authorisation for an individual Member State upon its own request and does not require an impact assessment.

- **Regulatory fitness and simplification**

The measure does not provide for any simplification.
It is the result of the request made by Poland and concerns this Member State only.

- **Fundamental rights**

The measure has no bearing on fundamental rights.

4. BUDGETARY IMPLICATIONS

The measure does not impose any financial or administrative burden on the European Union. The proposal therefore has no impact on the budget of the Union.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

An implementation plan is not necessary. The proposal concerns an authorisation for a tax reduction for an individual Member State upon its own request. It is provided for a limited period of 6 months.

The applicable tax rates will be below the minimum levels of taxation set by the Energy Taxation Directive (Article 9).

The measure can be evaluated in case of a request for a renewal after the validity period has expired.

- **Explanatory documents (for directives)**

The proposal does not require explanatory documents on the transposition.

- **Detailed explanation of the specific provisions of the proposal**

Article 1 stipulates that Poland will be allowed to apply reduced taxation rates to heavy fuel oil, natural gas, coal, and coke, used as heating fuels, below the minimum levels of taxation.

Article 2 stipulates that the authorisation requested is granted for 6 months, as requested by Poland, within the maximum period of 6 years allowed by the Directive.

2024/0004 (NLE)

Proposal for a

COUNCIL IMPLEMENTING DECISION

authorising Poland to apply reduced rates of excise duty to heavy fuel oil, natural gas, coal, and coke, used as heating fuels.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity[17], and in particular Article 19 thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) By virtue of Council Implementing Decision (EU) 2023/1197[18], Poland was authorised to apply reduced rates of excise duty to heavy fuel oil, natural gas, coal, and coke, used as heating fuels, in accordance with Article 19 of Directive 2003/96/EC. That authorisation expired on 30 June 2023.

(2) By letter of 30 June 2023, Poland requested authorisation to continue to apply reduced rates of excise duty to heavy fuel oil, natural gas, coal and coke, used as heating fuels, pursuant to Article 19 of Directive 2003/96/EC. Additional information and clarifications in support of the request were provided by the Polish authorities on 8 September 2023, and on 5 and 13 October 2023. The authorisation was requested for a period of six months starting from 1 July 2023 until 31 December 2023.

(3) According to the Polish authorities, the application of a reduced tax rate aims at mitigating the negative impact that would have been caused by an increase in the levels of taxation due to a high exchange rate between the euro and the złoty, in accordance with Article 13 of Directive 2003/96/EC. That reduction would correspond to the amount resulting from the exchange rate difference of the two currencies after the annual adjustment carried out in accordance with Article 13 of that Directive. That reduction would render the applicable tax rates below the relevant minimum levels of taxation referred to in Article 9 of Directive 2003/96/EC.

(4) The requested authorisation is not likely to distort competition or hinder the proper functioning of the internal market. Given its short duration and the exceptional circumstances linked to the geopolitical situation, the requested authorisation is considered adequate and proportionate. The authorisation balances out the specific policy considerations referred to in Article 19(1) of Directive 2003/96/EC, and notably the Union’s environmental policy, with the need to ensure energy affordability for businesses and households. The tax reduction would partially offset the increased energy costs and is not cumulative with any other type of tax reductions.

(5) Poland should therefore be authorised to continue to apply reduced rates of excise duty to heavy fuel oil, natural gas, coal, and coke, used as heating fuels, as requested.

(6) In accordance with Article 19(2) of Directive 2003/96/EC, each authorisation granted under that provision is to be limited in time. However, in order not to undermine future general developments of the existing legal framework, it is appropriate to provide that, should the Council, acting on the basis of Article 113, or any other relevant provision, of the Treaty on the Functioning of the European Union, introduce a modified general system for the taxation of energy products and electricity to which

[17] OJ L 283, 31.10.2003, p. 51.
[18] OJ L 158, 21.6.2023, p. 71.

this authorisation would not be adapted, this authorisation should cease to apply on the day on which those general rules become applicable.

(7) In order to ensure a smooth tackling of the adverse effects for consumers of energy products, it should be ensured that Poland may apply the tax reduction, as requested, with effect from 1 July 2023.

(8) This Decision is without prejudice to the application of Union rules regarding State aid,

HAS ADOPTED THIS DECISION:

Article 1

Poland is authorised to apply reduced rates of excise duty to heavy fuel oil, natural gas, coal, and coke, used as heating fuels, below the relevant minimum levels of taxation referred to in Article 9 of Directive 2003/96/EC.

Article 2

This Decision shall apply from 1 July 2023 until 31 December 2023.

However, should the Council, acting on the basis of Article 113, or any other relevant provision, of the Treaty on the Functioning of the European Union, introduce a modified general system for the taxation of energy products and electricity to which the authorisation granted in Article 1 of this Decision would not be adapted, this Decision shall expire on the day on which such system becomes applicable.

Article 3

This Decision is addressed to the Republic of Poland.

Done at Brussels,

For the Council
The President