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#### NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. prev. doc.:	6695/23
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on energy efficiency (recast) - Preparation for the trilogue

#### I. INTRODUCTION

1. On 14 July 2021, the Commission submitted to the European Parliament and the Council, as part of the Fit for 55 package, the proposal for a recast of the Energy Efficiency Directive. On 18 May 2022, the European Commission presented its REPowerEU plan, a plan to rapidly reduce fossil fuel dependency and accelerate the energy transition.
2. Following intensive preparatory work, on 27 June 2022, the Council agreed on a General Approach on the proposal and gave a mandate to the Presidency to engage in negotiations with the European Parliament.

3. The European Parliament appointed the Committee on Industry, Research and Energy (ITRE) as the committee responsible for this proposal and Mr Niels Fuglsang (DK, S&D) as rapporteur. The European Parliament adopted its position in plenary on 14 September 2022.
4. The European Economic and Social Committee adopted its opinion on the above proposal on 9 December 2021. The European Committee of the Regions adopted its opinion on the above proposal on 28 April 2022.

## **II. INTERINSTITUTIONAL NEGOTIATIONS – STATE OF PLAY**

1. Under the Czech Presidency three trilogues were held in Strasbourg, with the opening one on 6 October 2022. On 22 November 2022, in the second trilogue, the co-legislators found a constructive and balanced compromise on the definition of the thresholds for the application of the energy efficiency first principle for major investment decisions.
2. On 14 December 2022, in the third trilogue, the co-legislators provisionally agreed on the majority of provisions on energy efficiency first principle in Article 3; several provisions on basic contractual rights for heating, cooling and domestic hot water in Article 20; all provisions on information and awareness raising in Article 21; and almost all provisions on heating and cooling assessment and planning in Article 23.
3. Against this background, the Swedish Presidency has swiftly resumed the negotiations on this file by holding intense exchanges with the European Parliament and the European Commission in the context of five Interinstitutional Technical Meetings (ITMs), on 20, 25 and 30 January 2023, and on 9 and 17 February 2023.
4. The Permanent Representatives Committee was consulted by the Presidency on 1 March 2023 regarding flexibilities regarding key political provisions, which are necessary for the overall balanced compromise. In the same meeting the Permanent Representatives Committee showed its support to agree on the work carried out at the technical level, as presented in the 4-column table in doc. ST 6695/23.

5. On 2 March 2023, in the 4<sup>th</sup> trilogue, the co-legislators approved the work carried out at the technical level. They also discussed their positions regarding two clusters: public sector (comprising articles 5, 6 and related definitions in article 2) and targets (with articles 4 and 8 and related annexes I and V). These are the core elements of the directive on which the co-legislators have diverging positions.

### **III. PREPARATION FOR THE NEXT TRILOGUE**

1. During the 4th informal political trilogue on the EED the co-legislators have discussed the remaining political issues, namely targets in Article 4 and 8, and role for the public sector in Article 5 and 6. It was clear that these are important issues for both co-legislators. While the Council emphasised the importance of, for example, flexibilities regarding national contributions in Article 4 and keeping the alternative approach in Article 6, the by the European Parliament stayed firm on high ambition in terms of the level of the targets in Article 4 and 8. Consequently, the need of movement from both institutions remains.
2. In view of the 5th trilogue scheduled for 9 March, taking into account the flexibilities signalled by the European Parliament and the positions expressed by Member States in previous exchanges, the Presidency is seeking political guidance of the Permanent Representatives Committee, particularly concerning the balance between possible solutions regarding the targets in articles 4 and 8, and the public sector package, in articles 5 and 6, with two definitions in Article 2 (definition 2.10 and 2.10a).
3. In view of the 9 March trilogue, the intention of the Presidency is to firmly maintain the General Approach regarding the following elements:
  - a) The EU target is only binding when it comes to final energy consumption (FEC) (Art. 4.1, line 211).
  - b) The national contributions and the formula are non-binding (Art. 4.2, line 212).
  - c) The mechanism for margin for Member States' national contributions (Art. 4.3, line 227e).

- d) The gap-filling mechanism as established in Council's general approach (Art. 4.3, line 227f).
  - e) The alternative approach to reach the renovation requirement in article 6 (Art. 6.3, line 249).
  - f) The principle of gradual/stepwise increase of energy savings (Art. 8.1, lines 268a – 268d).
  - g) Counting energy savings from policy measures stemming from art. 9 in the revised EPBD (MEPS), EU ETS 1 and 2 (building and transport) and crises related measures (Annex V, lines 760 and 762).
  - h) Flexibility regarding policy measures promoting combination of technologies (Annex V, line 767).
  - i) Malta and Cyprus maintaining their own savings requirement (Art. 8.1, lines 268a and 269a)
  - j) Counting in energy savings from direct fossil fuel combustions technologies improving the energy efficiency in energy intense enterprises in the industry sector (Annex V, lines 767a-c).
4. In return, the Presidency sees the need to find movement within an overall agreement, and seeks the Delegations' flexibilities on:
- a) Article 4: raising EU's energy efficiency target to around 13 %.
  - b) Article 8: a minor degree of flexibility in relation to average level of energy savings 2024-2030. The average for this period in the Council's position is 1,25 %, while the European Parliament proposes the average of 2 %.

#### **IV. CONCLUSIONS**

1. In light of the above, the Permanent Representatives Committee is invited to reflect on the above-mentioned balance regarding the possible compromise in the interinstitutional negotiations (points 12 and 13 ) and provide political guidance on possible flexibilities.