Council of the European Union
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COMMUNICATION

WRITTEN PROCEDURE

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Subject:	**Written Procedure with reply by Thursday 6 October 2022 at 18:00 CET (Brussels time) by email to energy@consilium.europa.eu** Proposal for a Council Regulation an emergency intervention to address high energy prices – Approval – End of the written procedure

Delegations are informed that the written procedure, opened by CM 4714/22 of 6 October 2022 was completed on **6 October 2022** at **18:00** and that all delegations voted in favour of, except for the Slovakian and Polish delegations that **voted against**, the adoption of the Council Regulation on an emergency intervention to address high energy prices, as set out in document **ST 12521/22.**

The required qualified majority has been reached. Therefore, the Council Regulation on an emergency intervention to address high energy prices is adopted.

The statements by Estonia, Latvia, Poland, Croatia, Slovenia and Hungary are reproduced in the Annex 1 to this CM.

The above statements will be included in the summary of acts adopted by the written procedure as statements to be entered in the Council minutes, in accordance with the third subparagraph of Article 12(1) of the Council's Rules of Procedure.

Statement of the Republic of Estonia

Council Regulation on an emergency intervention to address high energy prices

Estonia expresses its concern about the ongoing energy crisis and is convinced that Member States should do their utmost to mitigate the impact of high energy prices to consumers and businesses.

Estonia recognises the objectives of the Council Regulation on an emergency intervention to address high energy prices and, in the spirit of unity between Member States, agrees to the Council Regulation.

In relation to Article 14 on implementing the mandatory temporary solidarity contribution, Estonia interprets Article 14(2) in a way that Estonia's already existing domestic resource tax system for users of energetic mineral resources, which contains a clear link between the global oil commodity prices and the rate that the companies are entitled to pay for the usage rights of the resource, is an equivalent measure to the solidarity contribution and is already fulfilling similar objectives.

In relation to future tax matters, Estonia continues to insist on the proper legal basis (Article 115 of the Treaty on the Functioning of the European Union) and the requirement of unanimity it prescribes.

Joint Statement of the Republic of Estonia and the Republic of Latvia

Council Regulation on an emergency intervention to address high energy prices

In relation to the distribution of surplus revenues, Estonia and Latvia interpret Article 10(1) that requires to ensure that surplus revenues are employed in support of final electricity customers in the following way:

Estonia and Latvia will ensure that all surplus revenues resulting from the application of the cap are employed by investing them in accelerating additional renewable energy production. Inframarginal revenues will be accounted for and reported but not collected. In our specific circumstances, the revenues that could be obtained from the implementation of the cap on market revenues would be insignificant. We conclude that the consumers of Estonia and Latvia will benefit from the accounted inframarginal revenues the most if companies commit to directly investing the surplus profits in additional renewable energy production.

Statement by Poland

- Oświadczenie Rzeczypospolitej Polskiej do głosowania w procedurze pisemnej w dniu 6 października 2022 r.-

Polska uważa, że nadzwyczajne działania UE w obszarze energii powinny być zgodne z zasadą solidarności energetycznej. Równocześnie jednak działania te powinny być oparte na odpowiedniej do ich charakteru podstawie traktatowej. Rzeczpospolita Polska ocenia, że w toku negocjacji w Radzie UE nad projektem ***Rozporządzenia Rady ws. interwencji w sytuacji nadzwyczajnej w celu zaradzenia wysokim cenom energii***, Komisja Europejska nie uzasadniła w wystarczającym stopniu, że proponowane przez nią nowe środki, w szczególności tzw. „opłata solidarnościowa", nie stanowią środków o charakterze fiskalnym. Rzeczpospolita Polska stoi na stanowisku, że głosowanie w Radzie UE dot. środków, które mają głównie charakter fiskalny, w rozumieniu art. 194 ust. 3 TFUE, musi się odbywać zgodnie z tym postanowieniem poprzez stanowienie przez Radę zgodnie ze specjalną procedurą prawodawczą, jednomyślnie i po konsultacji z Parlamentem Europejskim, nie zaś w trybie głosowania większością kwalifikowaną. Biorąc pod uwagę utrzymujące się wątpliwości wobec charakteru proponowanego przez KE środka, w ocenie Rzeczypospolitej Polskiej podstawą prawną dla przedmiotowego rozporządzenia powinien być w związku z powyższym art. 194 ust. 3 TFUE.

Rzeczpospolita Polska stoi także na stanowisku, że przyjęcie przedmiotowego rozporządzenia w żaden sposób nie podważa uprawnień Państw Członkowskich do wprowadzania
i utrzymywania na poziomie krajowym środków tożsamych lub równoważnych wobec uzgodnionych przez Radę UE w rozporządzeniu, a środki takie zgodnie z art. 7a oraz art. 13 powinny być uznane za zgodne z wymogami tego rozporządzenia.

Joint Statement by Croatia and Slovenia

"Republic of Croatia and Republic of Slovenia reiterate their positions that the possibility of support should be extended to all market participants. Given that the impact of high prices affects a much larger number of market participants than only small and medium-sized companies, the possibility of regulated prices should be made available for all consumers and companies."

Statement by Hungary

"The Hungarian delegation expresses its reservation on the choice of the legal basis of this Regulation, as article 122 of the TFEU cannot be the sole legal basis for the solidarity contribution, which includes provisions of a fiscal nature, that should be discussed and adopted accordingly with unanimity."