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2018/0385 (COD)

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

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The present proposal for a Decision of the European Parliament and the Council adapting Directive 2012/27/EU [as amended by Directive 2018/XXX/EU][1] on energy efficiency and the Regulation (EU) 2018/XXX [Governance of the Energy Union] is necessitated by the upcoming withdrawal of the United Kingdom from the European Union.

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date'). Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

The present proposal covers Directive 2012/27/EU of the European Parliament and the Council of 25 October 2012 on energy efficiency [as amended by Directive 2018/XXX/EU] and Regulation (EU) 2018/XXX [Governance of the Energy Union][2]. The energy consumption figures for 2030 given in both legal acts cover 28 Member States (EU28).

Directive 2012/27/EU,as amended by Directive 2018/XXX/EU, sets a Union energy efficiency target of at least 32,5% for 2030 and requires Member States to set indicative national energy efficiency contributions. In so doing the Member States should take into account the Union's 2030 energy consumption[3]. Regulation (EU) 2018/XXX [Governance of the Energy Union] requires Member States in their contribution setting process for the Union 2030 target for energy efficiency to take into account the Union's 2030 energy consumption. Energy consumption at Union level is also relevant for the European Commission's assessment of progress towards collectively achieving the Union's targets.

The revised Energy Efficiency Directive translates the Union's 2030 energy efficiency headline target of at least 32,5 % into absolute values of no more than 1 273 Mtoe of primary and no more than 956 Mtoe of final energy consumption for the Union of 28 Member States. These values are calculated by reducing the 2007 PRIMES reference scenario projections for the EU in 2030 by 32,5 %. The respective projections for the EU 27 excluding the United Kingdom result in absolute energy consumption levels of no more than 1 128 Mtoe of primary energy consumption and no more than 846 Mtoe of final energy consumption in 2030.

With the withdrawal of the United Kingdom, the Union's energy consumption figures for 2030 therefore needs to be adjusted to the situation of 27 Member States. As this change is based on the same underlying energy model figures, it can be considered a technical adaptation.

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2 On 19 June 2018 the co-legislators reached a provisional political agreement on a revision of the Energy Efficiency Directive and the Governance Regulation. It is expected that the European Parliament´s plenary for a joint debate and the vote in first reading for both legal acts will take place in November. The Energy Efficiency Directive and the Governance Regulation will be brought to the General Affairs Council and, once adopted, will be formally signed by both co-legislators.

3 Article 3(1)(a) and Article 3(5) of Directive 2012/27/EU as amended by Directive 2018/xx/EU.

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

n.a.

- **Consistency with other Union policies**

n.a.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for the proposal is the Treaty on the Functioning of the European Union, and in particular Articles 192(1) and 194(2) thereof. These are also the legal basis for Directive 2012/27/EU on energy efficiency [as amended by Directive 2018/XXX/EU] and Regulation (EU) 2018/XXX [Governance of the Energy Union] which this proposal amends. As the Treaty contains a specific energy legal basis, it is appropriate to use it.

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

The principles of subsidiarity and proportionality are fully respected. The action of the Union is necessary under the principle of subsidiarity (Article 5(3) TEU) because it concerns technical adaptations to legal acts which were enacted by the Union.

- **Proportionality**

The proposal respects the principle of proportionality (Article 5(4) TEU) because it does not go beyond what is necessary to reach the objective pursued. The proposed amendments to the current legislative framework will adapt it to a 2030 time frame and ensures consistency. The scope of the elements proposed is limited to those aspects that require action by the Union.

- **Choice of the instrument**

As this proposal amends an existing Directive and an existing Regulation, an amending Decision of the European Parliament and of the Council is the appropriate instrument.

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

As this proposal is of a purely technical nature and does not involve any political choices, consultations with interested parties or impact assessments would not have made sense.

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

n.a.

- **Stakeholder consultations**

n.a.

- **Collection and use of expertise**

n.a.

- **Impact assessment**

n.a.

- **Regulatory fitness and simplification**

n.a.

- **Fundamental rights**

n.a.

4. BUDGETARY IMPLICATIONS

The proposal has no budgetary implications.

5. OTHER ELEMENTS

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

n.a.

- **Explanatory documents (for directives)**

As this proposal is of a purely technical nature explanatory documents on the transposition are not necessary.

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

n.a.

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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 192(1) and 194(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[4],

Having regard to the opinion of the Committee of the Regions[5],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(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 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.

(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/EU[7], 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 consumption[8].

(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

4 OJ C , , p. .
5 OJ C , , p. .
6 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. 1–56).
7 OJ
8 Article 3(5) of Directive 2012/27/EU as amended by Directive 2018/XXX/EU.
9 OJ…

energy efficiency to take into account the Union's 2030 energy consumption[10]. The energy consumption at Union level is also relevant for the Commission's assessment of the progress towards collectively achieving the Union's targets[11].

(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 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.

(5) The same projections for the energy consumption in 2030 are also relevant for Articles 6 and 29 of Regulation (EU) 2018/XXX [Governance of the Energy Union].

(6) Directive 2012/27/EU [as amended by Directive 2018/XXX/EU] and Regulation (EU) 2018/XXX [Governance of the Energy Union] should therefore be amended accordingly,

HAVE ADOPTED THIS DECISION:

Article 1

In Article 3 of Directive 2012/27/EU [as amended by Directive 2018/XXX/EU], paragraph 5 is replaced by the following:

'5. Each Member State shall set indicative national energy efficiency contributions towards the Union's 2030 targets as referred to in Article 1(1) of this Directive in accordance with Articles [4] and [6] of Regulation (EU) 2018/XXX [Governance of the Energy Union]. When setting those contributions, Member States shall take into account that the Union's 2030 energy consumption has to be no more than 1 128 Mtoe of primary energy and/or no more than 846 Mtoe of final energy. Member States shall notify those contributions to the Commission as part of their integrated national energy and climate plans as referred to in, and in accordance with, the procedure pursuant to Articles [3] and [7] to [12] of Regulation (EU) 2018/XXX [Governance of the Energy Union].'

Article 2

Regulation (EU) 2018/XXX [Governance of the Energy Union] is amended as follows:

(a) In Article 6(1) in the first subparagraph:

(i) the figure of "1 273 Mtoe" is replaced by "1 128 Mtoe";

(ii) the figure of "956 Mtoe" is replaced by "846 Mtoe".

(b) In Article 29(3), the first subparagraph is replaced by the following:

[10] First subparagraph of Article 6(1) of the Regulation (EU) 2018/XXX [Governance of the Energy Union].

[11] First subparagraph of Article 29(3) of the Regulation (EU) 2018/XXX [Governance of the Energy Union].

‘In the area of energy efficiency, as part of its assessment referred to in paragraph 1, the Commission shall assess progress towards collectively achieving a maximum energy consumption at Union level of 1 128 Mtoe of primary energy and 846 Mtoe of final energy in 2030 in accordance with Article 3(5) of Directive 2012/27/EU [as amended by Directive 2018/XXX/EU].’

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].

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.

Done at Strasbourg,

For the European Parliament	*For the Council*
The President	*The President*