

Courtesy Translation

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MR JOSÉ MANUEL BARROSO  
PRESIDENT OF THE  
EUROPEAN COMMISSION

***Subject: Reasoned Opinion of the National Assembly of the Republic of Bulgaria on the Proposal for a Council Directive amending Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity – COM(2011) 169***

DEAR MR BARROSO,

One of the main challenges, arising for the Bulgarian Parliament from the Lisbon Treaty implementation, is the possibility to actively participate in the EU decision-making process by conducting subsidiarity checks and expressing reasoned opinions on the EU draft legislative acts being found incompliant with the subsidiarity principle.

Following these new responsibilities, the National Assembly of the Republic of Bulgaria via the Committee on European Affairs and Oversight of the European Funds (CEAOEF) and the Budget and Finance Committee (BFC) has thoroughly examined the proposal for a Council Directive amending Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity for compliance with the principles of subsidiarity and proportionality in accordance with Art. 5 of the Treaty on European Union and Protocol 2 of the Lisbon Treaty.

As a result of the held discussions within the relevant parliamentary committees<sup>1</sup>, the Bulgarian Parliament considers that some of the texts of the proposal for a Council Directive amending Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity **are in breach of the principle of subsidiarity and require an additional evaluation of the administrative and fiscal burden they create under the principle of proportionality.**

According to the Rules of Organization and Procedure of the National Assembly of the Republic of Bulgaria, the CEAOEF examines the draft acts of the EU institutions after receiving the other standing committees' reports. When the CEAOEF finds that a draft act of the EU institutions does not comply with the principle of subsidiarity, it issues a reasoned opinion which is being sent to the European Parliament, Council and European Commission Presidents by the Bulgarian Parliament President.

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<sup>1</sup> *The proposal for a Council Directive has been reviewed at a BFC sitting on 8<sup>h</sup> of June 2011 and at a CEAOEF sitting on 10<sup>th</sup> of June 2011.*

In this regard, herewith please find enclosed the CEAOEF Report which contains a Reasoned Opinion with a thorough argumentation of the reasons why the Bulgarian Parliament considers the proposal for a Council Directive in breach of the principles of subsidiarity and require additional evaluation of their impact under the proportionality principle. The Report takes into account the BFC statement on the draft EC proposal.

We highly appreciate that the Bulgarian Parliament's position will be taken into consideration during the future discussions on the proposal for a Council Directive amending Directive 2003/96/EC. In addition, I would like to inform you that the Reasoned Opinion has also been sent to the European Parliament, the Council and the Bulgarian Government.

In conclusion, let me express my confidence that our established, fruitful cooperation will be further developed and deepened.

Enclosure:

1. Report of the CEAOEF on the proposal for a Council Directive amending Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity COM(2011) 169 – *in Bulgarian*;
2. Reasoned opinion (an integrative part of the CEAOEF Report – point 1 of the enclosure) – *translation in English*.

*Yours sincerely,*

**PRESIDENT  
OF THE NATIONAL ASSEMBLY**

**TSETSKA TSACHEVA**

**REASONED OPINION OF THE NATIONAL ASSEMBLY OF THE REPUBLIC  
OF BULGARIA ON THE PROPOSAL FOR A COUNCIL DIRECTIVE  
AMENDING DIRECTIVE 2003/96/EC RESTRUCTURING THE COMMUNITY  
FRAMEWORK FOR THE TAXATION OF ENERGY PRODUCTS AND  
ELECTRICITY  
COM (2011)169**

After the discussion on June 10, 2011 on the proposal for a Council Directive amending Directive 2003/96/EC restructuring the community framework for the taxation of energy products and electricity the Bulgarian Parliament via the Committee on European Affairs and Oversight of the European Funds (CEAOEF) expresses the following Reasoned Opinion, which is to be sent to the European institutions:

1. During the discussions on topical issues from the European Agenda related to the new EU economic governance and the Single Market, as well as coordinated actions surpassing the economic and financial crisis' negative effects, CEAOEF has expressed on numerous occasions its position on the common EU Tax Policy conduction: **it has to be carefully approached in order for the potential changes not to reflect negatively on the predictability, stability and competitiveness of the business environment;**
2. CEAOEF states that the proposed amendments will establish a new legislative framework in the EU via expanding the scope of Directive 2003/96/EC and including a component related to the CO<sub>2</sub> emissions into the taxation on energy products;
3. CEAOEF finds relevant to point out that Bulgaria is among the Member States that will use extended transitional period until 2020. During that period the above mentioned countries shall not tax on the basis of the CO<sub>2</sub> component (for all the rest of the Member States the taxation starts in January 2013);
4. CEAOEF considers that the proposed Directive amendments carry serious preconditions for the increase of "Europe on two speeds" risk – bigger "scissors" between the old and new Member States (In spite of the transitional period until 2020);
5. CEAOEF states that the Directive proposal is a challenge to the EU economy competitiveness with view to the other players on the world stage.
6. Reviewing the Directive proposal in regard to subsidiarity and proportionality, CEAOEF has expressed the following position:

**Regarding the principle of subsidiarity:**

Although some of the Directive proposal provisions are compliant with the principle of subsidiarity, the provisions, related to the proposed minimal tax rates introduction are not compliant with the above-cited principle. Among the potential negative effects on the Bulgarian economy, CEAOEF highlights the following:

1. **Loss of competitiveness** of the Bulgarian business, because of its high energy consumption and dependence on traditional energy products;
2. **Potential pro-inflation pressure** and Consumer Price Index increase resulting from the higher prices for the consumers;
3. **Introduction of minimal tax rates could be regarded as a challenge for the national fiscal policy of the Republic of Bulgaria.**

**Regarding the proportionality principle:**

The Directive proposal does not exceed what is necessary to achieve the objectives of the Treaties. However, an additional assessment of the generated administrative and financial burden is to be elaborated. Moreover:

1. **The European Commission Impact Assessment is not thorough enough and does not provide sufficient justification of all the potential changes;**
2. **There is a risk of increase in the re-distributive role of the State** via the budget. This is not in line with the strategic priorities of the Republic of Bulgaria;
3. **A high propensity exists that the Bulgarian business would not have the resources and capacity to catch-up with the old Member States' energy efficiency in the mid-run.**