



EUROPEAN COMMISSION

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*Mr Miloš VYSTRČIL  
President of the Senát  
Valdštejnské náměstí 17/4  
CZ – 118 01 PRAGUE 1*

*Dear President,*

*The Commission would like to thank the Senát for its reasoned Opinion on the proposal for a Council Directive restructuring the Union framework for the taxation of energy products and electricity (recast) {COM(2021) 563 final}.*

*To allay the concerns contained in the reasoned Opinion, the Commission would like to provide the following clarifications.*

*The proposal, as the current Energy Taxation Directive<sup>1</sup> ('ETD'), is based on Article 113 of the Treaty on the Functioning of the European Union (TFEU), which permits the EU to lay down harmonised rules in order to ensure the proper functioning of the internal market. The proposal is also based on Article 192(2), first subparagraph, point (a), of the TFEU, which allows for the adoption at EU level of appropriate provisions of fiscal nature intended, inter alia, to preserve and protect the environment.*

*The proposal under consideration was presented under the European Green Deal as part of the Fit for 55 legislative package. It aims at ensuring the proper functioning of the internal market, while focusing on environmental and climate issues, to support the Commission's commitment to tackling environmental challenges. The necessity and value of the European Green Deal have only grown in light of the very severe effects of the COVID-19 pandemic on the health and economic well-being of the Union's citizens.*

*The current ETD no longer contributes to the proper functioning of the internal market since the existing minimum tax rates have lost their converging effect over national tax rates. The proposed tax structure of excise duty rates would group energy products and electricity into categories and rank them according to their energy content and environmental performance. Groups of products with similar characteristics (such as fossil fuels), would have the same tax treatment, and the ranking among groups in accordance with the proposed tax structure should be respected.*

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<sup>1</sup> Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).

*Within those limits, which respond both to the climate objective and the proper functioning of the internal market objective, Member States would be free to set their national levels of taxation above the minima as they see fit. Additionally, in the light of the principle of subsidiarity, the proposal for a recast of the ETD would provide the Member States with the necessary flexibility to adapt national legislations to their specific context and needs.*

*Moreover, in order to fulfil over time the objectives according to article 113 TFEU, a yearly indexation mechanism, based on a harmonised index of Eurostat, is proposed. The latter would further maintain the relevance of the minimum tax rates and would timely adjust them according to their real value.*

*The Commission's proposal provides for a social dimension by introducing the possibility to exempt vulnerable households from taxation of heating fuels for a period of ten years. The possible tax exemption for vulnerable households would be linked to a harmonised criterion whose application would actually depend on national situations. Other national measures, such as compensatory measures, could also be envisaged to mitigate the effects of taxation, allowing to strike a balance between the needs to give the right price signal and to tackle energy poverty.*

*As for the possible increase in the price of energy products and electricity, recent events have showed that the spike can be driven by several factors, including an increased global demand for energy. The proposal would however keep the possibility for Member States to adjust above the minima national levels of taxation accordingly.*

*Finally, the provisions allowing to apply reduced levels of taxation for certain uses and users such as households and business sectors would allow to integrate social and economic concerns, without precluding other interventions at national level regarding issues such as social policy.*

*Discussions in the Council concerning the proposal are now underway and the Commission remains hopeful that an agreement among Member States will be reached in the near future.*

*The Commission hopes that the clarifications provided in this reply address the issues raised by the Senát and looks forward to continuing the political dialogue in the future.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*

*Paolo Gentiloni  
Member of the Commission*