



*Unofficial summary:*

**Reasoned opinion on the application of the subsidiarity principle to the proposed Energy Efficiency Directive COM (2011) 370 final**

**Decision of Parliament (EK 11/2011 vp – M 2/2011 vp)**

The Parliament of Finland approved in plenary session on 22 September 2011 on the proposal of Parliament's Grand Committee a reasoned opinion stating that article 10 of the Energy Efficiency Directive proposed by the European Commission is contrary to the principle of subsidiarity on the grounds contained in the Grand Committee's report (SuVM 1/2011 vp).

**Report of the Grand Committee (SuVM 1/2011 vp – M 2/2011 vp)**

The Commission's proposal was received by the Eduskunta on 5 July 2011 and referred to the competent sector committees and the Åland regional parliament. The Government's communication in the national scrutiny procedure was received on 12 August 2011. On the recommendation of the Government, with which the Commerce Committee, the Environment Committee and the Åland Parliament subsequently agreed, the Grand Committee decided on 14 September 2011 to institute a formal enquiry into the compatibility of the draft directive with the subsidiarity principle.

The Grand Committee limits this enquiry into the issues defined in art 5 TEU. The committee will prepare a further opinion within the national scrutiny procedure, in which it will deal with those aspects of the draft directive that are problematic, but are not admissible in the procedure regulated in Protocol 2 of the EU Treaty. The opinion will be communicated to the EU Institutions separately.

The Grand Committee observes that the 20 percent savings target for primary energy was set in the conclusions of the European Council in 2007. It is rather early for the Commission to claim that the target is not being met. The Grand Committee therefore considers it not proven that the EU's energy efficiency targets could not be met by the member states and that the compulsory measures proposed in the draft directive are necessary.

The Grand Committee considers that the objective of the draft directive is important for finding sustainable structures to contain climate change. However, the Committee considers that there are so many methods to reach the goal of energy efficiency that it is unjustified to restrict the measures permissible and to render certain measures compulsory at EU level. Attention is drawn in particular to article 10 of the draft directive and its corollaries in annexes VII and VIII, which the Committee deems contrary to the subsidiarity principle.

The Committee observes that article 10 would oblige member states to submit to the Commission the sites needing heating, cooling and combined production plants. The related annexes would impose detailed requirements on local spatial planning. The Committee considers that Community action at this level of detail does not promote the objectives of the directive compared to national or local action.

Article 10 also contains no such cross-border elements that national and regional authorities could not regulate satisfactorily and effectively at the national level. The Committee considers that planning the location of sites needing heating or cooling and combined sites such as power stations and industrial plant by its nature is best suited to local and regional decision making. Regulating these issues at the EU level is neither effective nor sensible. The Committee observes that impact and interaction issues are best controlled at local or regional level. Relevant variables such as urbanisation and combined production plants are local or regional in scale and best known locally.

The Grand Committee considers that the draft directive needs more work to make the energy effectiveness objectives relate more effectively and flexibly to the planning requirements. This approach should be more in accordance with the proportionality principle in art 5.4 TEU.

The Grand Committee recalls that the EU has so far never exercised its competence in the field of spatial planning, as is now foreseen in article 10 of the draft directive. Thought should be given to whether the EU should get involved in spatial planning and to how art. 10 could be redrafted so as not to prevent national measures that lead to greater energy efficiency than those measures that the Commission would impose at Union level. The subsidiarity principle would not prevent the Union from adopting more general requirements for national planning to indicate the locations of sites needing heating and cooling or combined production sites. In Finland, such planning is already extant under national legislation.

The Grand Committee agrees with the Commerce Committee's and Environment Committee's assessment that several of the compulsory measures proposed in the draft directive would not promote the objectives of the directive in a cost-effective manner, at least not in Finland. The measures already decided nationally lead to better results.

The Grand Committee underlines that future work on the directive should pay more attention to national specifics and local conditions such as climate, energy efficiency of existing building stock, national planning systems, population and habitation patterns, structure of energy markets, level of use of distance heating and effective combined production of heat and electricity. The rigid regulations proposed in the draft directive, which do not take national specifics into account, are likely to lead to the opposite of what is intended. In Finland, the draft directive in its current form would require a duplication of our existing, efficient planning systems. The strict requirements for building power plants of more than 20 MW heating capacity would make it more difficult for additional energy production capacity to reach the market.

Finally, the Grand Committee notes that the draft directive contains many problems of substance, which cannot be addressed in the procedure regulated by Protocol 2 of the TEU. These will be the subject of a separate opinion in the national scrutiny system. The opinion will be provided also to the European Commission.

The Grand Committee proposes that Parliament adopts a reasoned opinion stating that it finds Art 10 of the draft Energy Effectiveness Directive COM (2011) 370 contrary to the principle of subsidiarity on the grounds stated in the Grand Committee's report.