

**OPINION  
OF THE SENATE OF THE REPUBLIC OF POLAND  
of 27 April, 2017**

**on the incompatibility with the principle of subsidiarity  
of the proposal for a Directive of the European Parliament and of the Council on  
common rules for the internal market in electricity (recast)**

**COM(2016) 864**

Having considered the proposal for a Directive of the European Parliament and of the Council on common rules for the internal market in electricity (recast) – COM(2016) 864, the Senate declares that the proposal is incompatible with the principle of subsidiarity as referred to in Article 5 (3) of the Treaty on European Union.

The Senate of the Republic of Poland does not deny the need to arrive at a consensus on the common rules for the internal market in electricity at a higher level than regional or national.

At the same time, the Senate of the Republic of Poland considers that the proposed solution is incompatible with the principle of subsidiarity inasmuch as the Member States have a treaty-based right to decide on their energy mix.

Furthermore, the Senate of the Republic of Poland is of the opinion that the proposed directive encroaches too far on the powers reserved to the Member States in the scope of energy security policy, by transferring the powers of regulatory authorities and Transmission System Operators to the supranational level, while leaving the responsibility for system hazards to Member States. As a result, this may reduce the energy security level in individual Member States and the EU as a whole.

Therefore, it should be recognised that the proposed regulation is in breach of the subsidiarity principle.