



23.6.2017

NATIONAL PARLIAMENT REASONED OPINION ON SUBSIDIARITY

Subject: Reasoned opinion of the Polish Senate on the proposal for a regulation of the European Parliament and of the Council on the internal market for electricity (recast)
(COM(2016)0861 – C8-0492/2016 – 2016/0379(COD))

Under Article 6 of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, national parliaments may, within eight weeks of the date of transmission of a draft legislative act, send the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why they consider that the draft in question does not comply with the principle of subsidiarity.

The Senate of the Republic of Poland has sent the attached reasoned opinion on the aforementioned proposal for a directive.

Under Parliament's Rules of Procedure the Committee on Legal Affairs is responsible for matters relating to compliance with the subsidiarity principle.

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 regulation of the European Parliament and of the Council on the internal market for electricity (recast) COM(2016) 861

The Senate, after examination of the proposal for a regulation of the European Parliament and of the Council on the internal market for electricity (recast) – (COM(2016) 861), finds that the proposal is not compatible with the principle of subsidiarity 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 seek consensus on the establishment of common rules for the internal market in electricity at a higher level than the regional or national.

However, the Senate of the Republic of Poland takes the view that the proposed solution is not compatible with the principle of subsidiarity with regard to the treaty right of Member States to freely shape their own energy mix, technological neutrality and sovereign national energy policy. In particular, the complaints regarding the violation of the principle of subsidiarity concern:

- 1) the requirement to conduct a European assessment of generation adequacy;
- 2) the implementation of the technical requirements for the level of emissions (no more than 550 g CO₂/kWh) for generation units that could be covered by the energy market;
- 3) the obligation to participate in cross-border exchange between national markets;
- 4) the establishment and remit of regional operational centres.

At the same time, the Senate of the Republic of Poland points out that Article 194(2) of the Treaty on the Functioning of the European Union does not permit the violation of a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply.

The Senate of the Republic of Poland takes the view, furthermore, that the proposed regulation encroaches too deeply on the competences reserved to the Member States in terms of energy security policy, while at the same time leaving responsibility for risks to the system at the level of the Member States, which may in turn lead to a reduction in the level of security of energy supply in the individual Member States and the EU as a whole.

The Senate therefore concludes that the proposal for a regulation is in breach of the principle of subsidiarity.

SPEAKER OF THE SENATE

Stanisław KARCZEWSKI