Electricity market: application of certain provisions to Estonia

2007/0141(COD) - 16/07/2007 - Legislative proposal

PURPOSE: to grant to Estonia certain derogations from the provisions of Directive 2003/54/EC and accordingly, amend that Directive.

PROPOSED ACT: Directive of the European Parliament and of the Council.

CONTENT: by the Act of Accession, Estonia was granted a transitional period until 31 December 2008 for the application of Article 19(2) of Directive 96/92/EC, relating to the gradual opening of the electricity market. Following an exchange of information, on 28 June 2004 the Council adopted Directive 2004/85 /EC amending Directive 2003/54/EC as regards the application of certain provisions to Estonia, which granted the requested extended derogation until 31 December 2012.

By judgment of 26 November 2006, the Court of Justice partially annulled Directive 2004/85/EC. That partial annulment was not motivated by reasons concerning the substance of Directive 2004/85/EC, but was due to the choice of legal basis by the Council (Article 57 of the Treaty of Accession instead of Article 95 of the EC Treaty). Since the reasons for granting Estonia a derogation from the application of Article 21(1)(b) and (c) (market opening) of Directive 2003/54/EC going beyond 31 December 2008 remain valid, that Directive should be amended accordingly, with the same wording as in Directive 2004 /85/EC but on the appropriate legal basis.

This proposal provides that Estonia shall be granted a temporary derogation from the application of Article 21(1)(b) and (c) of directive 2003/54/EC until 31 December 2012. Estonia shall take the measures necessary to ensure the opening of its electricity market. This shall be carried out gradually over the reference period with the aim of complete opening of the market by 1 January 2013. On 1 January 2009, the opening of the market must represent at least 35% of consumption. Estonia shall communicate annually to the Commission the consumption thresholds extending eligibility to final customers.

The proposal cites Articles 47(2), Article 55 and Article 95 of the EC Treaty.