Investment projects in energy infrastructure: notification to the Commission

2013/0082(COD) - 20/03/2013 - Legislative proposal

PURPOSE: to establish a common framework for the notification to the Commission of investment projects in energy infrastructure in the European Union.

PROPOSED ACT: Regulation of the European Parliament and of the Council (replacing Regulation (EU, Euratom) No 617/2010).

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND : this proposal **follows the judgment of the European Court of Justice annulling** Council Regulation (EU, Euratom) No 617/2010 concerning the notification to the Commission of investment projects in energy infrastructure within the European Union and maintaining the effects of the Regulation until a new regulation has been adopted on the **appropriate legal basis.**

The Court's ruling of 6 September 2012 was decided after the European Parliament took legal

action against the Council in October 2010 contesting the legal basis used for the adoption of

Regulation 617/2010 and requesting the Court to annul it *(Case C-490/10).* The Council used

Articles 337 TFEU and 187 of the Euratom Treaty as the legal bases, on the grounds that the Regulation relates to the activity of collecting general information. **Following Parliament's request, the Court annulled Regulation 617/2010, but maintained its effects until a new regulation is adopted on the correct legal basis** within a reasonable period of time

Obtaining an overall picture of the development of investment in energy infrastructure in the Union is essential for the Commission to perform its tasks in the field of energy. In order to comply with the Court's judgement and to ensure continuity in the observation of investment projects in energy infrastructure, the Commission proposes a Regulation with the same content as the annulled Regulation and suggests a few adaptations, which are necessary due to the new legislative process.

IMPACT ASSESSMENT: given that an impact assessment was carried out when Regulation 617/2010 was proposed and that the content of the proposed regulation is the same as that of Regulation (EU, Euratom) No 617/2010, the Commission did not carry out a new impact assessment.

LEGAL BASIS: Article 194 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposed Regulation establishes **a common framework for the notification to the Commission of data and information on investment projects in energy infrastructure** in the petroleum, gas, electricity and bio-fuel sectors and related to carbon dioxide produced by these sectors.

The scope of this proposed regulation is identical to that of the annulled Regulation. Member States are required to notify the Commission every two years of data and information on investment projects concerning production, storage and transport of oil, natural gas, electricity (including electricity from renewable sources), biofuels and the capture and storage of carbon dioxide.

Investments to be notified to the Commission include: (i) projects both planned and under construction; (ii) transformation of existing infrastructure as well as (iii) decommissioning projects of a certain size, on a five-year horizon, in the territory of Member States, including interconnections with third countries. Undertakings concerned should be under an obligation to notify the Member State of the data and information in question.

The only modifications concern the **new legislative procedure** (ordinary legislative procedure), **the date for a review of the act** (31 December 2016 instead of 23 July 2015) and the **date for reporting**.

BUDGETARY IMPLICATIONS: the proposal will have a **limited** impact on the Community budget. Expenditure will cover information technology and, should the Commission so decide, purchasing of data and reimbursement of experts. There should be no direct impact on Member States' budgets.