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## INFORMATION NOTE

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From: General Secretariat of the Council

To: Permanent Representatives Committee/Council

Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL Repealing Regulation (EU) No 256/2014 of the European Parliament and of the Council concerning the notification to the Commission of investment projects in energy infrastructure within the European Union  
– Outcome of the European Parliament's first reading  
(Strasbourg, 2 to 5 July 2018)

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### I. INTRODUCTION

The rapporteur, Barbara KAPPEL (ENF, AT), presented a report on behalf of the Committee on Industry, Research and Energy, aiming at taking over the Commission proposal for a Regulation of the European Parliament and of the Council repealing Regulation (EU) No 256/2014 of the European Parliament and of the Council concerning the notification to the Commission of investment projects in energy infrastructure within the European Union.

## **II. VOTE**

The Parliament adopted its first-reading position on 3 July 2018 by taking over the Commission proposal. This position is contained in its legislative resolution as set out in the Annex hereto.

On 27 June 2018, the Permanent Representatives Committee had approved the Commission's proposal without amendments. The Council should therefore be in a position to approve the European Parliament's position. The legislative act would then be adopted in the wording which corresponds to the European Parliament's position.

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(3 July 2018)

## **Notification of investment projects in energy infrastructure: repeal \*\*\*I**

**European Parliament legislative resolution of 3 July 2018 on the proposal for a regulation of the European Parliament and of the Council repealing Regulation (EU) No 256/2014 of the European Parliament and of the Council concerning the notification to the Commission of investment projects in energy infrastructure within the European Union (COM(2017)0769 – C8-0448/2017 – 2017/0347(COD))**

### **(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2017)0769),
  - having regard to Article 294(2) and Article 194 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0448/2017),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of 14 February 2018<sup>1</sup>,
  - after consulting the Committee of the Regions,
  - having regard to the undertaking given by the Council representative by letter of 27 June 2018 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Industry, Research and Energy (A8-0211/2018),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>1</sup> OJ C 227, 28.6.2018, p. 103.

**Position of the European Parliament adopted at first reading on 3 July 2018 with a view to the adoption of Regulation (EU) 2018/... of the European Parliament and of the Council repealing Regulation (EU) No 256/2014 concerning the notification to the Commission of investment projects in energy infrastructure within the European Union**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>2</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure<sup>3</sup>,

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<sup>2</sup> OJ C 227, 28.6.2018, p. 103.

<sup>3</sup> Position of the European Parliament of 3 July 2018.

Whereas:

- (1) The European Parliament, the Council and the Commission agreed to cooperate in order to update and simplify Union legislation by means of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>4</sup>.
- (2) In order to clean-up and reduce the volume of Union legislation, it is necessary to identify legislation that is obsolete or no longer fit for purpose. Repealing such legislation keeps the legislative framework transparent, clear and easy to use.
- (3) Regulation (EU) No 256/2014 of the European Parliament and of the Council<sup>5</sup> requires Member States to notify the Commission of investment projects on which construction or decommissioning work has started or on which a final investment decision has been taken.
- (4) The obligations under Regulation (EU) No 256/2014 concerning the notification of investment projects, and certain information and data relating to such notification, were previously laid down in Council Regulation (EU, Euratom) No 617/2010<sup>6</sup>. The Court of Justice annulled Regulation (EU, Euratom) No 617/2010<sup>7</sup>, holding that it should have been adopted on another legal basis, but its effects were maintained until Regulation (EU) No 256/2014 entered into force.

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<sup>4</sup> OJ L 123, 12.5.2016, p. 1.

<sup>5</sup> Regulation (EU) No 256/2014 of the European Parliament and of the Council of 26 February 2014 concerning the notification to the Commission of investment projects in energy infrastructure within the European Union, replacing Council Regulation (EU, Euratom) No 617/2010 and repealing Council Regulation (EC) No 736/96 (OJ L 84, 20.3.2014, p. 61).

<sup>6</sup> Council Regulation (EU, Euratom) No 617/2010 of 24 June 2010 concerning the notification to the Commission of investment projects in energy infrastructure within the European Union and repealing Regulation (EC) No 736/96 (OJ L 180, 15.7.2010, p. 7).

<sup>7</sup> Judgment of the Court of Justice of 6 September 2012 in Case C-490/10, Parliament v Council, ECLI:EU:C:2012:525.

- (5) Regulation (EU, Euratom) No 617/2010 was intended to provide the Commission with data and information on planned developments in production, transmission and storage capacities as well as on projects in the energy sectors. It was intended to give the Commission an overall picture of the development of investment in energy infrastructure in the Union.
- (6) Since the creation of the obligations laid down in Regulation (EU, Euratom) No 617/2010 and Regulation (EU) No 256/2014, there have been three reporting exercises, in 2011, 2013 and 2015. Furthermore, the Commission arranged for an external study to be undertaken following three reporting exercises by Member States which took place under Regulation (EU) No 256/2014. Consequently, enough time has elapsed and sufficient experience has been gained for the Commission to be able to carry out an evidence-based critical analysis of whether Regulation (EU) No 256/2014 has delivered the expected results.

- (7) In 2016, the Commission carried out the review provided for in Article 11 of Regulation (EU) No 256/2014, including a stakeholder consultation covering all planning and reporting obligations in the energy sector. The Commission came to the conclusion that there were significant overlaps between Member States' reporting obligations under Regulation (EU) No 256/2014 and Member States' obligations to report to the European network of transmission system operators for electricity ('ENTSO-E') and the European network for transmission system operators for gas ('ENTSO-G'). It also became apparent that the quality and appropriateness of the information and data received were often poor, and that this information and data had become available to the Commission via other sources, such as the European network of transmission system operators ('ENTSOs'), the ten-year network development plans ('TYNDPs'), the annual reports of Transmission System Operators and utility companies, and national development plans. Furthermore, it was noted that the Commission has direct access to market data via its Energy Market Observation System ('EMOS').

- (8) Regulation (EU) No 256/2014 has therefore not delivered the expected results in terms of quantity, quality and appropriateness of data and information received by the Commission.
- (9) Regulation (EU) No 256/2014 should therefore be repealed,

HAVE ADOPTED THIS REGULATION:



*Article 1*

Regulation (EU) No 256/2014 is repealed.

*Article 2*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

*For the European Parliament*

*For the Council*

*The President*

*The President*

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