



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 27.4.2004
COM(2004) 318 final

2004/0110 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2003/54/EC of the European Parliament and of the Council as regards the application of certain provisions in Estonia

(presented by the Commission)

EXPLANATORY MEMORANDUM

During the accession negotiations, Estonia invoked the specific characteristics of its electricity sector to request a transitional period for the application of Directive 96/92/EC of the European Parliament and of the Council concerning common rules for the internal market in electricity.

As referred to in Annex VI of 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 of 19 December 1996, an article relating to the gradual opening of the market.

Moreover the Council agreed to give further consideration to this specific situation beyond the abovementioned period and expressly recognised this in Declaration No 8 annexed to the Treaty of Accession.

In this declaration “the Union recognises in this respect the specific situation related to the restructuring of the oil shale sector which will require particular efforts until the end of 2012”.

For its part, Estonia undertook to gradually open the electricity market for non-household customers by that date.

Subsequent to the signature of the Treaty of Accession on 16 April 2003, there has been a substantial change in the legal position. Directive 2003/54/EC of the European Parliament and of the Council, which was adopted on 26 June 2003 and comes into force on 1 July 2004, will, among other things, speed up the opening of the electricity market.

Under Article 21(1)(b) of the new Directive, the opening of the market must be completed by 1 July 2004 for all non-household customers in order to achieve the complete opening provided for in Article 21(1) (c) by 1 July 2007.

In these new circumstances, Estonia transmitted by letter of 17 September 2003 a first formal request for adaptation based on Article 57 of the Treaty of Accession covering both the derogation granted which has to be adapted to cover the new Directive and a second request for a transitional period aimed at not applying Article 21(1) (b) on the opening of the market to non-household customers of Directive 2003/54/EC between 1 January 2009 and 31 December 2012.

These two requests are based on a credible restructuring plan for the oil shale sector extending until 31 December 2012.

At the request of the European Commission, Estonia indicated in a further letter of 5 December 2003 that it was planning to achieve the complete opening of the market provided for in Article 21(1) (c) by 31 December 2015.

In the light of these two requests, the Commission carried out an additional evaluation of the criteria used in the accession strategy.

Oil shale is the only real indigenous energy resource in Estonia and national production represents almost 84% of world production. 90% of the electricity produced in Estonia is from this solid fuel. It is therefore of great strategic importance for security of supply in Estonia.

However the sector requires a major reform, which is already under way, in order to make it more efficient.

Investments totalling €455 million will be required up to 2015, in particular to bring production installations up to Community environment standards and modernise the generation plants in Narva.

The investments already made and those planned in the oil shale sector have to be guaranteed for a period extending beyond 2008, which is possible only by means of a gradual introduction of competition.

The Commission considers that deferring the granting of a derogation for the period 2008-2012 would seriously affect the security of investments in generating plants, which would weaken security of supply in Estonia and would not allow the serious environmental problems created by these plants to be resolved. Moreover, there must be appropriate accompanying measures to take account of social aspects in the Narva region.

However, it is essential to continue to monitor developments which could arise in the Estonian market.

Since 1 July 1999, 10% of the market has been open. The market in Estonia could be 35% opened by 31 December 2008 and be fully open by 31 December 2012, which would be a more rapid process than that planned by Estonia (77% by 31 December 2012).

Among other things, the situation could change as regards ownership of the companies in that region. At present they are small and they could attempt to consolidate through a strategic partnership aimed at strengthening their market position.

For these reasons, the Commission does not consider it expedient to propose granting the derogation until 31 December 2015, but rather until the end of 2012 which will guarantee the abovementioned objectives while safeguarding the interests of the Union in seeing an internal market established in this region.

The European Parliament and the Council are requested to adopt this proposal from the Commission.

Proposal for a

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amending Directive 2003/54/EC of the European Parliament and of the Council as regards the application of certain provisions in Estonia

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 47(2), 55 and 95 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Economic and Social Committee²,

Having consulted the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty³,

Whereas:

- (1) During the accession negotiations, Estonia invoked the specific characteristics of its electricity sector to request a transitional period for the application of Directive 96/92/EC of the European Parliament and of the Council concerning common rules for the internal market in electricity⁴.
- (2) In Annex VI of the Act of Accession, it 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 market.
- (3) Declaration No 8 annexed to the Treaty of Accession recognised moreover that the specific situation relating to the restructuring of the oil shale sector in Estonia was going to require particular efforts until the end of 2012.
- (4) Subsequent to the signature of the Treaty of Accession, Directive 96/92/EC was replaced by Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity⁵, which has to be implemented by 1 July 2004 at the latest and which has the effect (Article 21) of speeding up the opening of the electricity market.

¹ OJ C

² OJ C

³ OJ C

⁴ OJ L 27, 30.1.1997, p. 20.

⁵ OJ L 176, 15.7.2003, p. 37.

- (5) By letter of 17 September 2003, Estonia transmitted a request aimed at not applying Article 21(1)(b) of Directive 2003/54/EC, on the opening of the market to non-household customers, until 31 December 2012. In a further letter of 5 December 2003, Estonia indicated that it was planning to achieve the complete opening of the market provided for in Article 21(1)(c) by 31 December 2015.
- (6) The request by Estonia is based on a credible restructuring plan for the oil shale sector extending until 31 December 2012.
- (7) Oil shale is the only real indigenous energy resource in Estonia and national production represents almost 84% of world production. 90% of the electricity produced in Estonia is from this solid fuel. It is therefore of great strategic importance for security of supply in Estonia.
- (8) The granting of a further derogation for the period 2009-2012 will guarantee security of investments in generating plants and security of supply in Estonia while allowing the serious environmental problems created by those plants to be resolved.
- (9) The request made by Estonia should be granted and Directive 2003/54/EC amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

The following paragraph 3 is hereby added to Article 26 of Directive 2003/54/EC:

“3. Estonia shall be granted a temporary derogation from the application of Article 21(1)(b) and (c) 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”.

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 1 July 2004. They shall forthwith communicate to the Commission the text of those measures.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President