



7.2.2017

## **NATIONAL PARLIAMENT REASONED OPINION ON SUBSIDIARITY**

**Subject:** Reasoned opinion of the Senate of the Kingdom of the Netherlands on the proposal for a directive of the European Parliament and of the Council amending Directive 2010/31/EU on the energy performance of buildings (COM(2016)0765 – C8-0499/2016 – 2016/0381(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 Kingdom of the Netherlands has sent the attached reasoned opinion on the above proposal for a directive to Parliament.

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

The President of the European Commission  
Mr Jean-Claude Juncker  
B-1049 Brussels  
Belgium

Date: 25 January 2017  
Subject: Reasoned opinion on the subsidiarity of the proposal for a directive of the European Parliament and of the Council amending Directive 2010/31/EU on the energy performance of buildings (COM/2016/0765)  
Our reference: 160540.01u

Dear Mr Juncker,

The Senate of the States-General has reviewed the above proposal in the light of the principle of subsidiarity in accordance with the prescribed procedure, applying Article 5 of the Treaty on European Union and Protocol No 2 to the Lisbon Treaty concerning the application of the principles of subsidiarity and proportionality.

This letter serves to inform you of the opinion of the Senate of the States-General. Identical copies have been sent to the Council, the European Parliament and the Netherlands Government.

#### **Position statement**

In the opinion of the Senate, the above proposal does not comply with the principle of subsidiarity. It is appropriate for the European Union to push for reductions in CO<sub>2</sub> emissions. However, because, in this context, powers are shared between the European Union and the Member State, it would be logical to leave it to the discretion of Member States to decide details of how to attain the objectives. Although European cooperation in the area of energy saving can be beneficial, the Senate firmly believes that, when it comes to the details of implementation, there is scope for national decision-making in order to take account of local conditions and developments. In this light, it is the view of the Senate that a detailed instruction on the implementation of the measures is unnecessary and undesirable. For example, the stipulation of the required number of parking spaces with charging facilities is a rigid measure that leaves no room for national interpretation. Moreover, the proposal introduces a new label, details of which may be decided by the Commission at its discretion, but which also brings with it many uncertainties at this stage, while its costs and benefits are as yet unclear.

This subsidiarity test is all the more pressing because the respective Member States have already developed long-term policies and, over the past few years, have translated this into covenants and legislation. It is not in the interests of the CO<sub>2</sub> reduction targets to undermine – or even partially dismantle – the assurances that this long-term policy currently offers the public and the business community

## **Explanation**

The Netherlands Government's National Energy Agreement is a comprehensive programme that has been designed to meet the European energy-saving and CO<sub>2</sub> reduction targets. This agreement was signed in September 2013 by more than forty organisations. Its targets are energy savings of 100 petajoules by 2020, an increase in the share of renewables to 14% in 2020 and 16% in 2023, and 15 000 new full-time jobs. It contains agreements inter alia on rendering the built environment more sustainable, energy saving in industry, upscaling renewables, local energy generation, the energy transmission network, emissions trading, mobility and transport. Where parties fail to comply sufficiently with the Energy Agreement, for example by meeting targets for rendering social housing sustainable, the government does not hesitate to adopt additional regulations.

The aforementioned Commission proposals are intended to achieve the same targets. However, the Commission translates these targets into highly detailed provisions, such as the number of charging points for electric vehicles, a 'smartness indicator', compliance with energy label provisions, and the provision on energy performance of technical building systems.

The Senate believes that it is against European interests to put the National Energy Agreement – which is widely supported by government authorities, the business community and nongovernmental organisations – at risk. Various provisions that are set out in the proposal have been in place in the Netherlands for a long time already, but there they are the result of agreements and covenants, and not the rigid regulation that the Commission is proposing.

Yours sincerely,  
A. Broekers-Knol