

Question for written answer E-003428/2026
to the Commission
Rule 144
Barbara Bonte (PfE)

Subject: Legal basis for tax provisions relating to electricity and natural gas

On 17 July 2026, the Commission proposed COM(2026) 600, amending Regulation (EU) 2019/943 on the internal market for electricity. The legal basis cited by the Commission is Article 194(2) TFEU, which renders the ordinary legislative procedure and qualified majority voting by the Council applicable.

However, the proposed Article 18c obliges Member States to apply a tax differential between electricity and natural gas, whereby electricity must not be taxed more heavily than natural gas. The Commission recognises that the proposal contains fiscal measures, but it regards these as secondary to the energy targets.

Article 194(3) TFEU, on the other hand, provides that measures that are primarily of a fiscal nature require adoption by the Council by a unanimous decision.

1. On the basis of what legal criteria does the Commission conclude that Article 18c is not primarily of a fiscal nature within the meaning of Article 194(3) TFEU?
2. How does the Commission reconcile this direct interference in the taxation of electricity and natural gas with the fiscal powers of Member States?
3. Why does the Commission consider that Article 194(3) TFEU and the unanimity requirement laid down in it do not apply to Article 18c?

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