



Council of the  
European Union

Brussels, 12 June 2017  
(OR. en)

9401/17

LIMITE

ENER 242  
ENV 522  
TRANS 189  
ECOFIN 428  
RECH 198  
CODEC 847

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**Interinstitutional File:  
2016/0376 (COD)**

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#### **NOTE**

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	15091/16 ENER 413 ENV 754 TRANS 473 ECOFIN1149 RECH 340 IA 124 CODEC 1789 ADD 1 - 13
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2012/27/EU on energy efficiency - General approach

#### **I. INTRODUCTION**

1. The Commission presented the above-mentioned proposal on 30 November 2016, as part of the Clean Energy Package. The objective of the proposal is to ensure the continuation of EU energy efficiency policy with a view to the 2030 climate and energy policy framework. In particular, based on the review clause of the indicative 27 % EU energy efficiency target in the European Council conclusions of 23-24 October 2014 on the EU climate and energy policy framework, the Commission proposes a binding EU energy efficiency target of 30%.

2. On other aspects the revision of the Energy Efficiency Directive aims to ensure continuation of current policy measures until 2030 and to improve the existing provisions based on implementation experience. It is proposed to extend the annual energy savings obligation of 1.5% until 2030, and count as eligible savings only new policy measures and new actions post-2020. In order to enable tailor-made policies that take account of national specificities, alternative measures are recognised at an equal footing with energy efficiency obligation schemes, and the obligation of taking into account energy poverty in both instruments is introduced. In addition, the proposal improves metering and billing obligations for the benefit of final users of heating and cooling, so that they receive accurate information on their individual energy consumption.
3. The examination of the proposal started in January 2017 under the Maltese Presidency. The Commission presented its proposal and the related impact assessment, followed by an exchange of views. In relation to the impact assessment delegations inquired in detail how the Commission analysed the effect of raise in the energy efficiency target on the Emission Trading System, and criticised certain aspects of the underlying macroeconomic model, based on which the nature and level of the targets has been assessed. Several delegations expressed the view that Article 8 of the Directive should have also been included in the impact assessment and requested its revision. A number of delegations underlined the strong links to the governance process and emphasised the need to maintain a global view of the Clean Energy Package when discussing individual proposals.

## **II. MAIN CONCERNS OF DELEGATIONS**

### **Overall EU energy efficiency target**

4. Overall, delegations supported the Commission proposal and the need to define a clear energy efficiency policy framework for the 2020-2030 period. One of the main issues concerns the level and nature of the overall EU energy efficiency target, where Member States have diverging positions. Several delegations argued for an indicative target instead of a binding one, and closer to the conclusions of the European Council which sets out an indicative 27% energy efficiency target. At the same time, a number of other delegations expressed support for a binding 30 % target as proposed by the Commission. It was generally agreed that a decision on the overall EU target requires high-level political consideration and should be submitted to Ministers.

### **Energy savings obligation**

5. During the detailed examination of the articles, the majority of delegations also voiced concerns about achieving the 1,5% energy saving obligation in Article 7 of the Directive, and considered the existing flexibilities in counting as insufficient for defining the most suitable implementation policies which take into account national specificities. In order to address these concerns and provide the desired flexibility without decreasing the level of ambition, the Presidency introduced several compromise proposals in the text.
6. Despite these compromise proposals, at the latest discussion at the Energy Working Party on 30 May, several delegations continued to express reservations on the high level of ambition for the energy saving obligation, and the need for even more flexibility to reach the savings objectives. Notably, the possibility to count long-term measures and early action towards the 2030 savings obligation, the possibility to count small-scale renewables and the simplification of methodologies were raised. Opposing these views, a number of other delegations see the possible further flexibilities as a significant and unacceptable decrease in the ambition level of the proposal.

7. The attached Presidency compromise makes a further attempt to strike a balance between ambition and flexibility. It reintroduces the 1.5 % savings obligation, and establishes a mid-term review in 2024 in order to assess whether the 1.5% should be reduced in the second half of the decade, from 2026-2030. This is coupled with additional flexibility in the counting of on-site renewables towards the savings (Annex V, point 2, (dd)) and the reinsertion of the possibility for counting energy savings in a given year towards any of the four previous or three following years (Article 7(4b)). The objective for Coreper is to examine the Presidency text and agree on a compromise for Article 7 that could be acceptable to the majority of delegations. Detailed discussions at ministerial level on this technical topic should be kept to the minimum.

### **III. OTHER CONCERNS**

8. Several delegations commented on the lack of clarity regarding the metering and billing provisions and considered the related administrative and financial burden to be disproportionate. Some delegations also raised concerns over the potential negative effect of these obligations on their rental markets. The provisions and the corresponding recital have been streamlined and clarified to take these concerns into account.
9. Further to the criticism of several Member States, the obligation to take energy poverty into account when designing energy efficiency obligation schemes has also been modified. It is reformulated in a more general sense and aligned to the similar compromise in the proposal on the Directive on the energy performance of buildings (Article 7(6a)).<sup>1</sup>

On the above two issues the compromise proposals should accommodate delegations' concerns.

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<sup>1</sup> doc. 9988/17.

10. The general approach on this proposal would set the Council's provisional position, and form the basis for the preparations for the negotiations with the European Parliament. In this context it should be underlined that, given the interlinkages with the legislative proposal on Governance, the provisions agreed in the general approach on the Energy Efficiency Directive should be reflected in the proposal on Governance. At the same time, some provisions of the general approach on the Energy Efficiency Directive may be revisited at a later stage in light of the outcome of the discussions on the Governance proposal.

The changes compared to the previous document (doc. 6388/3/17 REV 3) are highlighted by **bold underlined**. Some recitals have been adapted to reflect the changes in the substantive provisions.

The Commission reserves its position on the entire compromise proposal at this stage of the procedure.

All delegations have a scrutiny reservation on the text.

11. The European Parliament's ITRE Committee appointed Adam Gierek (S&D) as rapporteur and is expected to adopt its opinion in November 2017. The European Economic and Social Committee has delivered its opinion on 26 April 2017, while the Committee of the Regions is expected to deliver its opinion on 13 July 2017.

#### **IV. CONCLUSION**

12. Coreper is invited to examine the compromise proposal, solve the outstanding issues and forward the Presidency compromise to the TTE (Energy) Council to reach a general approach Council at its meeting on 26 June.

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Directive 2012/27/EU on energy efficiency**

(Text with EEA relevance)

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(2) 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>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

- (1) Moderation of energy demand is one of the five dimensions of the Energy Union Strategy adopted on 25 February 2015. Improving energy efficiency will benefit the environment, reduce greenhouse gas emissions, improve energy security by reducing dependence on energy imports from outside the Union, cut energy costs for households and companies, help alleviate energy poverty and lead to increased jobs and economy-wide economic activity. This is in line with the Union commitments made in the framework of the Energy Union and global climate agenda established by the Paris Agreement of December 2015 by the Parties of the United Nation Framework Convention on Climate Change.
- (2) Directive 2012/27/EU of the European Parliament and of the Council<sup>1</sup> is an element to progress towards the Energy Union, under which energy efficiency should be treated as an energy source in its own right. The 'energy efficiency first' principle should be taken into account when setting new rules for the supply side and other policy areas. The Commission should ensure that energy efficiency and demand side response can compete on equal terms with generation capacity. Energy efficiency needs to be considered whenever energy system relevant planning or financing decisions are taken. Energy efficiency improvements need to be realised whenever it is more cost-effective than equivalent supply-side solutions. This should help to exploit the multiple benefits of energy efficiency for Europe's society, in particular for citizens and businesses.
- (3) The European Council of October 2014 set a 27 % energy efficiency target for 2030, to be reviewed by 2020 'having in mind an Union level of 30 %'. In December 2015, the European Parliament called upon the Commission to also assess the viability of a 40 % energy efficiency target for the same timeframe. It is therefore appropriate to review and consequently amend the Directive to adapt it to the 2030 perspective.

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<sup>1</sup> Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

- (4) There are no binding targets at national level in the 2030 perspective. The need for the Union to achieve its energy efficiency targets at EU level, expressed in primary and final energy consumption, in 2020 and 2030 should be clearly set out in the form of a binding 30 % target. This clarification at Union level should not restrict Member States as their freedom is kept to set their national contributions based on either primary or final energy consumption, primary or final energy savings, or energy intensity. Member States should set their national indicative energy efficiency contributions taking into account that the Union's 2030 energy consumption has to be no more than 1 321 Mtoe of primary energy and/or no more than 987 Mtoe of final energy. This means that primary energy consumption should be reduced by 23 % and final energy consumption should be reduced by 17 % in the Union compared to 2005 levels. A regular evaluation of progress towards the achievement of the Union 2030 target is necessary and is provided for in the legislative proposal on Energy Union Governance.
- (5) The obligation on Member States to establish long-term strategies for mobilising investment in the renovation of their national building stock and notify them to the Commission should be removed from Directive 2012/27/EU and added to Directive 2010/31/EU of the European Parliament and of the Council<sup>1</sup> where it fits with long term plans for nearly zero energy buildings and the decarbonisation of buildings.
- (6) In view of the climate and energy framework for 2030 the energy savings obligation should be extended beyond 2020. Extending the commitment period beyond 2020 would create greater stability for investors and thus encourage long term investments and long term energy efficiency measures, such as the renovation of buildings.

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<sup>1</sup> Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153, 18.6.2010, p. 13).



- (7) Member States are required to achieve a cumulative end-use savings requirement for the entire obligation period, equivalent to 'new' savings of 1.5 % of annual energy sales. This requirement could be met by new policy measures that are adopted during the new obligation period from 1 January 2021 to 31 December 2030 or by new individual actions as a result of policy measures adopted during or before the previous period, but in respect of which the individual actions that trigger energy savings are actually introduced during the new period.
- (8) Long term energy efficiency measures will continue delivering energy savings after 2020 but in order to contribute to the next Union 2030 energy efficiency target, those measures should deliver new savings after 2020. On the other hand, energy savings achieved after 31 December 2020 may not count towards the cumulative savings amount required for the period from 1 January 2014 to 31 December 2020.
- (9) New savings should be additional to business as usual, so that savings that would have occurred in any event may not be claimed. In order to calculate the impact of measures introduced only net savings, measured as the change of energy consumption that is directly attributable to the energy efficiency measure in question, may be counted. To calculate net savings Member States should establish a baseline scenario of how the situation would evolve in the absence of the policy in question. The policy intervention should be evaluated against this defined baseline. Member States should take into account that other policy interventions may be undertaken in the same time frame which may also have an impact on energy savings, so that not all changes observed since the introduction of the policy intervention being evaluated can be attributed to that policy measure only. The actions of the obligated, participating or entrusted party should actually contribute to the achievement of the savings claimed to ensure the fulfilment of the materiality requirement.

- (10) Energy savings which result from the implementation of Union legislation may not be claimed unless the measure in question goes beyond the minimum required by the Union legislation in question, whether by setting more ambitious energy efficiency requirements at national level or increasing the take up of the measure. Recognising that renovation of buildings is an essential and long term element in increasing energy savings, it is necessary to clarify that all energy savings stemming from measures promoting the renovation of existing buildings can be claimed if they are additional to developments that would have happened in the absence of the policy measure and if the Member State demonstrates that the obligated, participating or entrusted party has actually contributed to the achievement of the savings claimed from the measure in question. ~~For this purpose,~~ Renovation should be understood to cover the renovation of buildings, the building envelope and building elements including technical building systems. Installation of individual equipment on its own is not considered a 'system'.
- (11) In accordance with the Energy Union Strategy and the principles of better regulation, monitoring and verification rules should be given greater prominence, including the requirement to check a statistically representative sample of measures. References to 'a statistically significant proportion and representative sample' should be understood as requiring the establishment of a subset of a statistical population (of energy saving measures) in such a way that it accurately reflects the entire population in question (all energy saving measures), and thus allows drawing reasonable conclusions regarding confidence in the totality of measures.

- (12) Improvements to the energy efficiency of buildings should benefit in particular consumers affected by energy poverty. Member States can already require obligated parties to include social aims in energy saving measures, in relation to energy poverty, and this possibility should now be extended to alternative measures and transformed into an obligation while leaving full flexibility to Member States with regard to the size, scope and content of such measures. In line with Article 9 of the Treaty, the Union's energy efficiency policies should be inclusive and therefore also ensure accessibility of energy efficiency measures for energy poor consumers.
- (13) Energy generated on or in buildings from renewable energy technologies reduces the supplied fossil energy. The reduction of energy consumption and the use of energy from renewable sources in the buildings sector are important measures to reduce the Union's energy dependency and greenhouse gas emissions, especially in view of ambitious climate and energy objectives set for 2030 as well as the global commitment made in the Conference of the Parties of the United Nation Framework Convention on Climate Change (COP21) held in Paris in December 2015. For the purposes of the energy savings obligation in Article 7 Member States should therefore be able to take into account energy savings from renewable energy generated on or in buildings for own use into account to satisfy their energy savings requirements.

- (14) As part of the measures set out in the Commission's Communication New Deal for Energy Consumers, in the context of the Energy Union and the Heating and Cooling strategy, consumers' minimum rights to clear and timely information about their energy consumption need to be strengthened. Articles 9 to 11 and Annex VII of Directive 2012/27/EU should be amended to provide for frequent and enhanced feedback on energy consumption, when this is technically feasible and cost-efficient in view of the measurement devices in place. It should be clarified that whether sub-metering is cost-efficient or not depends on whether the related costs are proportionate in relation to the potential energy savings **and that the assessment thereof may take into account the effect of other concrete, planned measures in a given building, such as a forthcoming renovation.** It should also be clarified that rights relating to billing and billing or consumption information apply for consumers of heating, cooling or hot water supplied from a central source even where they have no direct, individual contractual relationship with an energy supplier. The definition of the term 'final customer' may be understood to include only natural or legal persons purchasing energy based on a direct, individual contract with an energy supplier. Therefore, for the purposes of these provisions, the term 'final user'-should be introduced to refer to a broader group of consumers. The term 'final user' should, in addition to final customers purchasing heating, cooling or hot water for their own use, cover also occupants of individual units of multi-apartment or multi-purpose buildings where such units are supplied from a central source and where the occupants have no direct or individual contract with the energy supplier. The term 'sub-metering' should refer to measuring consumption in individual units of such buildings. By 1 January 2020 newly installed heat meters and heat cost allocators should be remotely readable to ensure cost-effective, frequent provision of consumption information. The new Article 9a is intended to apply only to heating, cooling and hot water supplied from a central source. Member States are free to decide whether walk-by/drive-by technologies shall be considered remotely readable or not. Remotely readable devices do not require access to individual apartments or units to be read.

**(14a) To ensure transparency of accounting for individual consumption of thermal energy and thereby facilitate the implementation of sub-metering, Member States should make public any applicable national rules on the allocation of the cost of heating, cooling and hot water consumption in multi-apartment and multi-purpose buildings. In addition to transparency, Member States may wish to consider taking measures to strengthen competition in the provision of sub-metering services and thereby help ensure that any costs borne by final users are reasonable.**

- (15) Certain provisions of Article 15 of Directive 2012/27/EU on energy transformation, transmission and distribution should be repealed-. The review of the *acquis* in the energy field may result in Member States' obligations under the different energy related acts being structured differently. This restructuring should not affect Member States' obligation to comply with the substantive requirements of Directive 2012/27/EU which may be reintroduced, completely or partially, in other acts.
- (16) Reflecting technological progress and the growing share of renewable energy sources in the electricity generation sector, the default coefficient for savings in kWh electricity should be reviewed in order to reflect changes in the primary energy factor (PEF) for electricity. Calculations of the PEF for electricity are based on annual average values. The Physical energy content accounting method is used for nuclear electricity and heat generation and the Technical conversion efficiency method is used for electricity and heat generation from fossil fuels and biomass. For non-combustible renewable energy, the method is the direct equivalent based on the Total primary energy approach. To calculate the primary energy share for electricity in CHP the method set out in Annex II of Directive 2012/27/EU is applied. An average market position is used rather than a marginal one. Conversion efficiencies are assumed to be 100 % for non-combustible renewables, 10 % for geothermal power stations and 33 % for nuclear power stations. Total efficiency for cogeneration is calculated based on the most recent data from Eurostat. As for system boundaries the PEF is 1 for all energy sources. Calculations are based on the most recent version of the PRIMES Reference Scenario. The PEF value is based on the projection for 2020. The analysis covers the EU Member States and Norway. The dataset for Norway is based on ENTSO-E data.

- (17) In order to ensure that the Annexes to the Directive and the harmonised efficiency reference values referred to in Article 14(10) can be updated, it is necessary to extend the delegation of powers granted to the Commission.
- (18) In order to be able to evaluate the effectiveness of Directive 2012/27/EU, a requirement for a general review of the Directive and a report to the European Parliament and the Council by 28 February 2024 should be introduced.
- (19) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents<sup>1</sup>, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (20) Directive 2012/27/EU should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

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<sup>1</sup> OJ C 369, 17.12.2011, p. 14.

## *Article 1*

Directive 2012/27/EU is amended as follows:

- (1) In Article 1, paragraph 1 is replaced by the following:

‘1. This Directive establishes a common framework of measures to promote energy efficiency within the Union in order to ensure that the Union’s 2020 20 % headline targets and its 2030 **[30 % binding/indicative]** headline targets on energy efficiency are met and paves the way for further energy efficiency improvements beyond those dates. It lays down rules designed to remove barriers in the energy market and overcome market failures that impede efficiency in the supply and use of energy, and provides for the establishment of indicative national energy efficiency targets and contributions for 2020 and 2030.’;

- (2) Article 3 is replaced by the following:

### ‘Article 3

#### **Energy efficiency targets**

1. Each Member State shall set an indicative national energy efficiency target for 2020, based on either primary or final energy consumption, primary or final energy savings, or energy intensity. Member States shall notify those targets to the Commission in accordance with Article 24(1) and Annex XIV Part 1. When doing so, they shall also express those targets in terms of an absolute level of primary energy consumption and final energy consumption in 2020 and shall explain how, and on the basis of which data, this has been calculated.

When setting those targets, Member States shall take into account:

- (a) that the Union’s 2020 energy consumption has to be no more than 1 483 Mtoe of primary energy **or** no more than 1 086 Mtoe of final energy;
- (b) the measures provided for in this Directive;

- (c) the measures adopted to reach the national energy saving targets adopted pursuant to Article 4(1) of Directive 2006/32/EC; and
- (d) other measures to promote energy efficiency within Member States and at Union level.

When setting those targets, Member States may also take into account national circumstances affecting primary energy consumption, such as:

- (a) remaining cost-effective energy-saving potential;
- (b) GDP evolution and forecast;
- (c) changes of energy imports and exports;
- (d) development of all sources of renewable energies, nuclear energy, carbon capture and storage; and
- (e) early action.

2. By 30 June 2014, the Commission shall assess progress achieved and whether the Union is likely to achieve energy consumption of no more than 1 483 Mtoe of primary energy and/or no more than 1 086 Mtoe of final energy in 2020.

3. In carrying out the review referred to in paragraph 2, the Commission shall:

- (a) sum the national indicative energy efficiency targets reported by Member States;
- (b) assess whether the sum of those targets can be considered a reliable guide to whether the Union as a whole is on track, taking into account the evaluation of the first annual report in accordance with Article 24(1), and the evaluation of the National Energy Efficiency Action Plans in accordance with Article 24(2);



- (c) take into account complementary analysis arising from:
  - (i) an assessment of progress in energy consumption, and in energy consumption in relation to economic activity, at Union level, including progress in the efficiency of energy supply in Member States that have based their national indicative targets on final energy consumption or final energy savings, including progress due to these Member States' compliance with Chapter III of this Directive;
  - (ii) results from modelling exercises in relation to future trends in energy consumption at Union level.
- (d) compare the results under points (a) to (c) with the quantity of energy consumption that would be needed to achieve energy consumption of no more than 1 483 Mtoe of primary energy and/or no more than 1 086 Mtoe of final energy in 2020.

3a. By 31 October 2022, the Commission shall assess whether the Union has achieved its 2020 headline targets.

4. Each Member State shall set indicative national energy efficiency contributions towards the Union's 2030 target referred to in Article 1 paragraph 1 in accordance with Articles [4] and [6] of Regulation (EU) XX/20XX [Governance of the Energy Union]. When setting those contributions, Member States shall take into account that the Union's 2030 energy consumption has to be no more than 1 321 Mtoe of primary energy and/or no more than 987 Mtoe of final energy. Member States shall notify those contributions to the Commission as part of their integrated national energy and climate plans in accordance with the procedure pursuant to Articles [3] and [7] to [11] of Regulation (EU) XX/20XX [Governance of the Energy Union].';

(3) Article 7 is replaced by the following:

‘Article 7

**Energy savings obligation**

1. Member States shall achieve cumulative end-use energy savings at least equivalent to:

- (a) new savings each year from 1 January 2014 to 31 December 2020 of 1.5 % of annual energy sales to final customers by volume, averaged over the most recent three-year period prior to 1 January 2013;
- (b) new savings each year from 1 January 2021 to 31 December 2030 of ~~1.4%~~ **1.5%** of annual energy sales to final customers by volume, averaged over the most recent three-year period prior to 1 January 2020.

For the purposes of point (b), and without prejudice to paragraphs 2 and 3, Member States may count energy savings that stem from policy measures, provided that those measures result in

- (i) new individual actions that are undertaken after 31 December 2020; or
- (ii) individual actions undertaken after 1 January 2014 and before 31 December 2020 with lifetimes of 23 years or more.

The sales of energy, by volume, used in transport may be partially or fully excluded from these calculations.

Member States shall decide how the calculated quantity of new savings is to be phased over each period referred to in points (a) and (b) as long as the required total cumulative savings have been achieved by the end of each period.

2. Subject to paragraph 3, each Member State may:
- (a) carry out the calculation required by point (a) of paragraph 1 using values of 1 % in 2014 and 2015; 1.25 % in 2016 and 2017; and 1.5 % in 2018, 2019 and 2020;
  - (b) exclude from the calculation all or part of the sales, by volume, of energy used in industrial activities listed in Annex I to Directive 2003/87/EC;
  - (c) allow energy savings achieved in the energy transformation, distribution and transmission sectors, including efficient district heating and cooling infrastructure, as a result of implementing the requirements set out in Article 14(4), point (b) of Article 14(5) and Article 15(1) to (6) and (9), to be counted towards the amount of energy savings required under paragraph 1;
  - (d) count energy savings resulting from individual actions newly implemented since 31 December 2008 that continue to have an impact in 2020 and beyond and which can be measured and verified, towards the amount of energy savings referred to in paragraph 1;
3. All the options chosen under paragraph 2 taken together must amount to no more than 25 % of the amount of energy savings referred to in paragraph 1. Member States shall apply and calculate the effect of the options chosen for the periods referred to in points (a) and (b) of paragraph 1 separately:
- (a) for the calculation of the amount of energy savings required for the period referred to in point (a) of paragraph 1 Member States may make use of points (a), (b), (c) and (d) of paragraph 2;
  - (b) for the calculation of the amount of energy savings required for the period referred to in point (b) of paragraph 1 Member States may make use of points (b), (c) and (d) of paragraph 2, provided individual actions in the meaning of point (d) continue to have a verifiable and measurable impact after 31 December 2020.

4. Energy savings achieved after 31 December 2020 may not count towards the cumulative savings amount required for the period from 1 January 2014 to 31 December 2020.

4a. Member States that exceed the cumulative energy savings amount required from 1 January 2014 to 31 December 2020 may count any excess savings towards the cumulative energy savings amount required for the period to 31 December 2030.

**4b. Member States may allow obligated parties to count savings obtained in a given year as if they had instead been obtained in any of the four previous or three following years as long as this is not beyond the end of the obligation periods set out in paragraph 1.**

5. Member States shall ensure that savings resulting from policy measures referred to in Articles 7a and 7b and Article 20(6) are calculated in accordance with Annex V.

6. Member States shall achieve the required amount of savings under paragraph 1 either by establishing an energy efficiency obligation scheme referred to in Article 7a or by adopting alternative measures referred to in Article 7b. Member States may combine an energy efficiency obligation scheme with alternative policy measures.

**6a. In designing policy measures referred to in Article 7a and 7b, Member States shall take into account the need to alleviate energy poverty, in accordance with the criteria defined by Member States and taking into account their existing practices in this field.<sup>1</sup>**

7. Member States shall demonstrate that where there is an overlap in the impact of policy measures or individual actions, there is no double counting of energy savings.’;

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<sup>1</sup> Subject to the outcome of the discussions on Directive [XXXX] on common rules for the internal market in electricity, Article 29 of that Directive may be cross-referenced.

**8. By 30 June 2024, the Commission shall assess progress achieved towards the headline targets set out in Article 3(4) and whether in the light of this assessment the value laid down in paragraph 1(b) should be reduced for the period from 2026-2030. If appropriate, the Commission shall submit a legislative proposal to this end.**

(4) The following Articles 7a and 7b are inserted:

‘Article 7a

**Energy efficiency obligation schemes**

1. Where Member States decide to fulfil their obligations to achieve the amount of savings required under Article 7 (1) by way of an energy efficiency obligation scheme they shall ensure that obligated parties referred to in paragraph 2 operating in each Member State’s territory achieve, without prejudice to Article 7(2), the cumulative end-use energy savings requirement set out in Article 7(1).
2. Member States shall designate, on the basis of objective and non-discriminatory criteria, obligated parties among energy distributors and/or retail energy sales companies operating in its territory and may include transport fuel distributors or transport fuel retailers operating in its territory. The amount of energy savings needed to fulfil the obligation shall be achieved by the obligated parties among final customers, designated by the Member State, independently of the calculation made pursuant to Article 7(1), or, if Member States so decide, through certified savings stemming from other parties as described in point (b) of paragraph 5.
3. Member States shall express the amount of energy savings required of each obligated party in terms of either final or primary energy consumption. The method chosen to express the amount of energy savings required shall also be used to calculate the savings claimed by obligated parties. The conversion factors set out in Annex IV shall apply.

4. Member States shall put in place measurement, control and verification systems under which at least a statistically significant proportion and representative sample of the energy efficiency improvement measures put in place by the obligated parties is verified. This measurement, control and verification shall be conducted independently of the obligated parties.
5. Within the energy efficiency obligation scheme, Member States:
- ~~(a) shall take into account the need to alleviate energy poverty, in accordance with the criteria defined by Member States [pursuant to Article 29 of Directive XXXX on common rules for the internal market in electricity], and taking into account their existing practices in this field;~~
  - (b) may permit obligated parties to count towards their obligation certified energy savings achieved by energy service providers or other third parties including when obligated parties promote measures through other State-approved bodies or through public authorities that may or may not involve formal partnerships and may be in combination with other sources of finance. Where Member States so permit, they shall ensure that an approval process is in place which is clear, transparent and open to all market actors, and which aims at minimising the costs of certification;
6. Once a year, Member States shall publish the energy savings achieved by each obligated party, or each sub-category of obligated party, and in total under the scheme.

#### Article 7b

#### Alternative policy measures

1. Where Member States decide to fulfil their obligations to achieve the savings required under Article 7(1) by way of alternative policy measures they shall ensure that the energy savings required under Article 7(1) are achieved among final customers.

~~2. In designing alternative policy measures to achieve energy savings, Member States shall take into account the need to alleviate energy poverty, in accordance with the criteria defined by Member States [pursuant to Article 29 of [Directive XXXX on common rules for the internal market in electricity], and taking into account their existing practices in this field.~~

3. For all measures other than those relating to taxation measures, Member States shall put in place measurement, control and verification systems under which at least a statistically significant proportion and representative sample of the energy efficiency improvement measures put in place by the participating or entrusted parties is verified. This measurement, control and verification shall be conducted independently of the participating or entrusted parties.’;

(5) Article 9 is amended as follows:

(a) the title is replaced by the following:

‘Metering for gas’;

(b) in paragraph 1, the first subparagraph is replaced by the following:

‘Member States shall ensure that, in so far as it is technically possible, financially reasonable and proportionate in relation to the potential energy savings, final customers for natural gas are provided with competitively priced individual meters that accurately reflect the final customer's actual energy consumption and that provide information on actual time of use.’;

(c) paragraph 2 is amended as follows;

(i) the introductory phrase is replaced by the following:

‘Where, and to the extent that, Member States implement intelligent metering systems and roll out smart meters for natural gas in accordance with Directive 2009/73/EC.’;

(ii) points(c) and (d) are deleted;

(d) paragraph 3 is deleted;

(6) the following Articles 9a, 9b and 9c are inserted:

*‘Article 9a*

**Metering for heating, cooling and domestic hot water**

1. Member States shall ensure that final customers for district heating, district cooling and domestic hot water are provided with competitively priced meters that accurately reflect the final customer’s actual energy consumption.

Where heating, cooling or hot water are supplied to a building from a central source servicing multiple buildings or from a district heating, or cooling network, a meter shall be installed at the heat exchanger or point of delivery.

**'Article 9b**

**Sub-metering and cost allocation for heating, cooling and domestic hot water**

1. In multi-apartment and multi-purpose buildings with a central heating or cooling source or supplied from district heating and cooling systems, individual meters shall be installed to measure the consumption of heat or cooling or hot water for each building unit, where technically feasible and cost effective in terms of being proportionate in relation to the potential energy savings.



Where the use of individual meters is not technically feasible or where it is not cost-efficient to measure heating in each building unit, individual heat cost allocators shall be used to measure heat consumption at each radiator unless it is shown by the Member State in question that the installation of such heat cost allocators would not be cost efficient. In those cases, alternative cost-efficient methods of heat consumption measurement may be considered. The general criteria, methodologies and/or procedures to determine technical non-feasibility and non-cost effectiveness shall be clearly set out and published by each Member State.

2. In new multi-apartment buildings and in the residential part of new multi-purpose buildings, where these have a central heating source for hot water or are supplied from district heating systems, individual meters shall, notwithstanding paragraph 1, be provided for hot water.

3. Where multi-apartment and multi-purpose buildings are supplied from district heating or cooling, or where own common heating or cooling systems for such buildings are prevalent, Member States shall make public in a transparent way any applicable national rules on the allocation of the cost of heating, cooling and hot water consumption in such buildings to ensure transparency and accuracy of accounting for individual consumption.-Where appropriate, such rules shall include guidelines on the way to allocate cost for heat and /or hot water that is used as follows.

- (a) hot water for domestic needs;
- (b) heat radiated from the building installation and for the purpose of heating the common areas (where staircases and corridors are equipped with radiators);
- (c) for the purpose of heating apartments.

## **'Article 9c**

### **Remote reading requirement**

1. For the purposes of Articles 9a and 9b, meters and heat cost allocators installed on or after 1 January 2020 [or the transposition date if that date is later] shall be remotely readable devices. The conditions of technical feasibility and cost effectiveness set out in the first and second subparagraphs of Article 9b(1) shall continue to apply.

2. Meters and heat cost allocators that have already been installed but which are not remotely readable shall be provided with this capability or be replaced with remotely readable devices by xxxx [ten years after the entry into force of this Directive], except where the Member State in question shows that this is not cost-efficient.' ;

(7) Article 10 is amended as follows:

(a) the title is replaced by the following:

‘Billing information for gas’;

(b) the first sub-paragraph of paragraph 1 is replaced by the following:

‘1. Where final customers do not have smart meters as referred to in Directive 2009/73/EC, Member States shall ensure, by 31 December 2014, that billing information is accurate and based on actual consumption, in accordance with point 1.1 of Annex VII, for gas, where this is technically possible and economically justified.’;

(c) in paragraph 2 the first subparagraph is replaced by the following: ’

‘Meters installed in accordance with Directive 2009/73/EC shall enable accurate billing information based on actual consumption. Member States shall ensure that final customers have the possibility of easy access to complementary information on historical consumption allowing detailed self-checks.’;

- (8) the following Article 10a is inserted:

*'Article 10a*

**Billing and consumption information for heating, cooling and domestic hot water**

1. Member States shall ensure that, where meters or heat cost allocators are installed, billing and consumption information is accurate and based on actual consumption or heat cost allocator readings, in accordance with points 1 and 2 of Annex VIIa for all final users, that is to say, for natural or legal persons purchasing heating, cooling or hot water for their own end use, or natural or legal persons occupying an individual building or a unit in a multi-apartment or multi-purpose building supplied with heating, cooling or hot water from a central source who has no direct or individual contract with the energy supplier.

This obligation may, where a Member State so provides, and except in the case of sub-metered consumption based on heat cost allocators under Article 9b, be fulfilled by a system of regular self-reading by the final customer or final user whereby they communicate readings from their meter. Only in cases where the final customer or final user has not provided a meter reading for a given billing interval shall billing be based on estimated consumption or a flat rate.

Member States shall decide who should be responsible for providing the information referred to in paragraph 1 to those final users that have no direct or individual contract with an energy supplier.

2. Member States:

- (a) shall require that, if information on the energy billing and historical consumption or heat cost allocator readings of final users is available, it be made available upon request by the final user, to an energy service provider designated by the final user;

- (b) shall ensure that final customers are offered the option of electronic billing information and bills and that they receive, on request, a clear and understandable explanation of how their bill was drawn up, especially where bills are not based on actual consumption;
- (c) shall ensure that appropriate information is provided with the bill based on actual consumption or heat cost allocator readings to all final users in accordance with point 3 of Annex VIIa;
- (d) may provide that, at the request of the final customer, the provision of billing information shall not be considered to constitute a request for payment. In such cases, Member States shall ensure flexible arrangements for actual payment are offered.';

(9) Article 11 is amended as follows:

- (a) the title is replaced by the following:

‘Cost of access to metering and billing information for gas’;

- (b) paragraph 2 is deleted;

(10) the following Article 11a is inserted:

*‘Article 11a*

**Cost of access to metering and billing and consumption information for heating, cooling and domestic hot water**

1. Member States shall ensure that final users receive all their bills and billing information for energy consumption free of charge and that final users also have access to their consumption data in an appropriate way and free of charge.

2. Notwithstanding paragraph 1, the distribution of costs of billing information for the individual consumption of heating, cooling and hot water in multi-apartment and multi-purpose buildings pursuant to Article 9b shall be carried out on a non-profit basis. Costs resulting from the assignment of this task to a third party, such as a service provider or the local energy supplier, covering the measuring, allocation and accounting for actual individual consumption in such buildings, may be passed onto the final users to the extent that such costs are reasonable.’;

**3. In order to ensure reasonable costs for sub-metering services as referred to in paragraph 2, Member States may stimulate competition in this service sector by taking appropriate measures, such as recommending or otherwise promoting the use of tendering and/or the use of interoperable devices facilitating switching between service providers.**

(11) Article 15 is amended as follows:

(a) paragraph (5) is amended as follows:

(i) the first and the second subparagraphs are deleted;

(ii) the third subparagraph is replaced by the following:

‘Transmission system operators and distribution system operators shall comply with the requirements set out in Annex XII.’;

(b) paragraph 8 is deleted;

(11a) In Article 20(6) the reference to Article 7(1) is amended to Article 7a.

(12) Article 23 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. The power to adopt delegated acts referred to in Article 22 shall be conferred on the Commission for a period of five years from 4 December 2017. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five year period. The delegation of power shall be tacitly extended for periods of identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.’;

(b) the following paragraph 4 is added:

‘(4). Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.’

(c) paragraphs 4 **and 5** **is are respectively** renumbered as paragraphs 5 **and 6**’;

(13) in Article 24 the following paragraph 12 is added:

‘12. The Commission shall evaluate this Directive by 28 February 2024 at the latest, and every five years thereafter, and shall submit a report to the European Parliament and the Council. That report shall, in particular, examine whether to change the final date laid down in Article 7(1)(b) **and whether to adapt the requirements and the alternative approach laid down in Article 5 after 2030**. That report shall be accompanied, if appropriate, by proposals for further measures.’;

(14) the annexes are amended in accordance with the Annex to this Directive.

## *Article 2*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by XXXX [*Please insert the date 24 months following the date of entry into force*] at the latest. They shall immediately communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

## *Article 3*

This Directive shall enter into force on the twentieth 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*

**ANNEX**

to the Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE  
COUNCIL amending Directive 2012/27/EU on energy efficiency

**ANNEX**

1. Annexes IV and V are amended as follows:
  - (a) in Annex IV, footnote 3 is replaced by the following: ‘(3) Applicable when energy savings are calculated in primary energy terms using a bottom-up approach based on final energy consumption. For savings in kWh electricity Member States may apply a default coefficient of 2,0. Member States may apply a different coefficient provided they can justify it.’.
  - (b) Annex V is replaced by the following:

*‘Annex V*

**Common methods and principles for calculating the impact of energy efficiency  
obligation schemes or other policy measures under Articles 7(1) and (2), Articles 7a  
and 7b and Article 20(6):**

1. Methods for calculating energy savings other than those arising from taxation measures for the purposes of Articles 7(1) and (2), Articles 7a and 7b and Article 20(6).

Obligated, participating or entrusted parties, or implementing public authorities, may use the following methods for calculating energy savings:

- (a) deemed savings, by reference to the results of previous independently monitored energy improvements in similar installations. The generic approach is termed ‘ex-ante’;



- (b) metered savings, whereby the savings from the installation of a measure, or package of measures, are determined by recording the actual reduction in energy use, taking due account of factors such as additionality, occupancy, production levels and the weather which may affect consumption. The generic approach is termed ‘ex-post’;
  - (c) scaled savings, whereby engineering estimates of savings are used. This approach may only be used where establishing robust measured data for a specific installation is difficult or disproportionately expensive, e.g. replacing a compressor or electric motor with a different kWh rating than that for which independent information on savings has been measured, or where those estimates are carried out on the basis of nationally established methodologies and benchmarks by qualified or accredited experts that are independent of the obligated, participating or entrusted parties involved;
  - (d) surveyed savings, where consumers’ response to advice, information campaigns, labelling or certification schemes or smart metering is determined. This approach may only be used for savings resulting from changes in consumer behaviour.
2. In determining the energy savings for an energy efficiency measure for the purposes of Articles 7(1) and (2), Articles 7a and 7b and Article 20(6) the following principles apply:
- (a) the savings must be shown to be additional to those that would have occurred in any event without the activity of the obligated, participating or entrusted parties and/or implementing authorities. To determine what savings can be claimed as additional Member States shall take into account how energy use and demand would evolve in the absence of the policy measure in question;

- (b) savings resulting from the implementation of mandatory Union legislation are considered as savings that would have occurred in any event, and thus may not be claimed under paragraph 1 of Article 7, except for savings related to **minimum energy performance requirements for new buildings and** the renovation of existing buildings provided the materiality criterion referred to in part 3(h) is ensured;
- (c) credit may only be given for savings exceeding the following levels:
  - (i) Union emission performance standards for new passenger cars and new light commercial vehicles following the implementation of Regulation (EC) No 443/2009 of the European Parliament and of the Council<sup>1</sup> and Regulation (EU) No 510/2011 of the European Parliament and of the Council<sup>2</sup>;
  - (ii) Union requirements relating to the removal from the market of certain energy related products following the implementation of implementing measures under Directive 2009/125/EC.
- (d) policies which aim at encouraging higher energy efficiency of products, equipment, buildings and building elements, processes or markets are permitted;

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<sup>1</sup> Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO<sub>2</sub> emissions from light-duty vehicles (OJ L 140, 5.6.2009, p.1).

<sup>2</sup> Regulation (EU) No 510/2011 of the European Parliament and of the Council of 11 May 2011 setting emission performance standards for new light commercial vehicles as part of the Union's integrated approach to reduce CO<sub>2</sub> emissions from light-duty vehicles OJ L 145, 31.5.2011, p.1).

- (dd) energy savings resulting from policy measures promoting the installation of small-scale renewable energy technologies ~~on or in buildings are eligible, in so far as these contribute towards a reduction in energy sales to final customers in the building and to the extent of the volume of primary energy saved, provided~~ **on or in buildings can be taken into account towards the fulfilment of energy savings requirements under Article 7(1). In addition, in the case of policy measures introduced for the purposes of Article 7(1)(b), a maximum of 15% of the renewable energy generated in or on buildings for own use can also be taken into account. In both cases** the calculation of savings ~~complies~~ **shall comply** with the requirements of this Annex.
- (e) for policies that accelerate the uptake of more efficient products and vehicles, full credit may be claimed provided it is shown that the uptake takes place before the expiry of the average expected product or vehicle lifetime, or before the product or vehicle would usually be replaced, and savings are only claimed for the period until the expiry of the average expected lifetime of the product or vehicle to be replaced;
- (f) in promoting the uptake of energy efficiency measures, Member States shall where relevant, ensure that quality standards for products, services and installation of measures are maintained or introduced where such standards do not exist;
- (g) to account for climatic variations between regions, Member States may choose to adjust the savings to a standard value or to accord different energy savings in accordance with temperature variations between regions;

- (h) the calculation of energy savings shall take into account the lifetime of measures. This may be done by counting the savings each individual action will achieve between its implementation date and 31 December 2020 or 31 December 2030 as appropriate. Alternatively, Member States may adopt another method that is estimated to achieve at least the same total quantity of savings. When using other methods, Member States shall ensure that the total amount of energy savings calculated using these other methods does not exceed the amount of energy savings that would have been the result of their calculation when counting the savings each individual action will achieve between its implementation date and 31 December 2020 or 31 December 2030 as appropriate.
3. Member States shall ensure that the following requirements for policy measures taken pursuant to Article 7b and Article 20(6) are met:
- (a) policy measures and individual actions produce verifiable end use energy savings;
  - (b) the responsibility of each participating party, entrusted party or implementing public authority, as relevant, is clearly defined;
  - (c) the energy savings that are achieved or are to be achieved are determined in a transparent manner;
  - (d) the amount of energy savings required or to be achieved by the policy measure is expressed in either final or primary energy consumption, using the conversion factors set out in Annex IV;
  - (e) an annual report on the energy savings achieved by entrusted, participating parties and implementing authorities be provided, unless not feasible, and made publicly available as well as data on the annual trend of energy savings;

- (f) results are monitored and appropriate measures are taken if progress is not satisfactory;
  - (g) the savings from an individual action may not be claimed by more than one party;
  - (h) the activities of the participating party, entrusted party or implementing public authority are shown to be material to the achievement of the claimed savings.
4. In determining the energy saving from taxation related policy measures introduced under Article 7b, the following principles shall apply:
- (a) credit shall only be given for energy savings from taxation measures exceeding the minimum levels of taxation applicable to fuels as required in Council Directive 2003/96/EC<sup>1</sup> or in Council Directive 2006/112/EC<sup>2</sup>;
  - (b) price elasticities for the calculation of the impact of the (energy) taxation measures must represent the short and long term responsiveness of energy demand to price changes, and shall be estimated on the basis of recent and representative official data sources;
  - (c) the energy savings from accompanying taxation policy instruments, including fiscal incentives or payment to a fund, shall be accounted separately.

5. Notification of methodology

Member States shall notify to the Commission their proposed detailed methodology for the operation of the energy efficiency obligation schemes and alternative measures referred to in Articles 7a and 7b and Article 20(6). Except in the case of taxes, such notification shall include details of:

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<sup>1</sup> Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).

<sup>2</sup> Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

- (a) the level of the energy savings requirement or expected savings to be achieved over the whole period from 1 January 2021 to 31 December 2030;
- (b) the obligated, participating or entrusted parties, or implementing public authorities;
- (c) target sectors;
- (d) policy measures and individual actions foreseen by the policy measure, including the expected total cumulative amount of savings per each measure;
- (e) the duration of the obligation period for the energy efficiency obligation scheme;
- (f) the actions foreseen by the policy measure;
- (g) the calculation methodology, including how additionality and materiality have been determined and which methodologies and benchmarks are used for deemed and scaled savings;
- (h) the lifetimes of measures and how they are calculated or what they are based upon;
- (i) the approach taken to address climatic variations within the Member State;
- (j) the monitoring and verification systems for measures under Articles 7a and 7b and how the independence of these from the obligated, participating or entrusted parties is ensured;
- (k) in the case of taxes, the notification shall include details of:
  - (i) target sectors and segment of taxpayers;
  - (ii) implementing public authority;
  - (iii) expected savings to be achieved;

- (iv) duration of the taxation measure; and
- (v) calculation methodology, including which price elasticities are used and how they have been established.’;

2. Annex VII is amended as follows:

(a) the title is replaced by the following:

‘Minimum requirements for billing and billing information based on actual consumption of gas’;

(b) the following Annex VIIa is inserted:

*‘Annex VIIa*

**Minimum requirements for billing and consumption information for heating, cooling and hot water**

1. Billing based on actual consumption or heat cost allocator readings

In order to enable final users to regulate their own energy consumption, billing shall take place on the basis of actual consumption or heat cost allocator readings at least once per year.

2. Minimum frequency of billing or consumption information

As of [XXX date of transposition] where remotely readable meters or heat cost allocators have been installed, billing or consumption information based on actual consumption or heat cost allocator readings shall be made available at least quarterly upon request or where final customers have opted to receive electronic billing, or else twice yearly.

As of 1 January 2022, where remotely readable meters or heat cost allocators have been installed, billing or consumption information based on actual consumption or heat cost allocator readings shall be made available at least **every second** monthly. Heating and cooling may be exempted from this outside the heating/cooling seasons.

3. Minimum information contained in the bill based on actual consumption or heat cost allocator readings

Member States shall ensure that the following information is made available to final users in clear and understandable terms in or with their bills **based on actual consumption or heat cost allocator readings**:

- (a) current actual prices and actual consumption or total heat cost and heat cost allocator readings;
- (b) information on the fuel mix used, including for final users supplied by district heating or district cooling;
- (c) comparisons of the final users current energy consumption with consumption for the same period in the previous year, in graphic form, climate corrected for heating and cooling;
- (d) contact information for final customers' organisations, energy agencies or similar bodies, including website addresses, from which information may be obtained on available energy efficiency improvement measures, comparative end-user profiles and objective technical specifications for energy-using equipment.

In addition, Member States shall ensure that comparisons with an average normalised or benchmarked final user in the same user category are made available to final users in clear and understandable terms, in, with or signposted to within, their bills **based on actual consumption or heat cost allocator readings**.