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| date of receipt: | 15 July 2021 |
| To: | Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union |
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Delegations will find attached document SEC(2021) 558 .

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EUROPEAN COMMISSION

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# REGULATORY SCRUTINY BOARD OPINION

Proposal for a Directive of the European Parliament and of the Council

on energy efficiency (recast)

{COM(2021) 558}
{SWD(2021) 623}
{SWD(2021) 624}

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

# Opinion

**Title: Impact assessment / Revision of the Energy Efficiency Directive**

**Overall 2nd opinion: POSITIVE WITH RESERVATIONS**

**(A) Policy context**

To achieve climate neutrality by 2050, the Commission has proposed to reduce greenhouse gas emissions by at least 55% by 2030 compared to 1990. This impact assessment analyses how a revised Energy Efficiency Directive (EED) can contribute to this objective.

The EED establishes a common set of rules to promote higher energy efficiency. It currently aims to reduce energy use by at least 32.5% by 2030 (compared to 2007). According to the analysis supporting the 2020 Climate Target Plan (CTP), the increased climate ambitions would require to increase the 2030 energy efficiency target to at least 36-37%. This impact assessment examines options to do this in a cost-effective manner.

The revision of the EED is part of the 'Fit for 55' package of inter-related initiatives in the climate, energy and transport areas. Together, these will aim to deliver on the EU's increased climate ambition.

**(B) Summary of findings**

**The Board notes the improvements in the context and the description of the options.**

**However, the report still contains significant shortcomings, in particular as regards subsidiarity and proportionality. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:**

**(1) The report does not sufficiently justify the need for specific sectoral energy savings obligations. Their added-value to the global savings obligation and other Fit for 55 initiatives is unclear.**

**(2) The report does not sufficiently justify the introduction of further measures at the EU level for heating and cooling.**

**(3) The report does not provide clear evidence of the need for and added-value of the transport options. It is unclear how mandatory mobility planning for certain urban areas would be in line with the subsidiarity principle.**

**(4) The choice and feasibility of the preferred options for buildings needs further clarification. The subsidiarity assessment of the two public procurement options**

This opinion concerns a draft impact assessment which may differ from the final version.

**is deficient.**

**(5) The interplay between the measures included in the preferred options is unclear. Administrative burdens, compliance costs and circular economy impacts remain insufficiently assessed**.

**(C) What to improve**

(1) The rationale for proposing certain measures under this initiative is still not sufficiently clear. First, for the energy savings obligation, the report should strengthen the rationale behind the options to introduce specific sectoral shares. It should better justify why such energy saving shares are considered necessary for some sectors (i.e. for transport and vulnerable households) and not for others, and how they are in line with the economic energy savings potential of these sectors. It should specify the added value of such shares to the global savings obligation and other Fit for 55 initiatives impacting on these sectors. It should elaborate on the possible levels of such shares, assess their feasibility and how they would differ in impact (including at Member State level).

(2) Second, the report should better explain the need for further measures on district heating and cooling. It should specify what they would add to parallel initiatives, in particular the revisions of the Renewables Directive and the Effort Sharing Regulation. It should elaborate the assessment of these measures from a subsidiarity perspective. It should clarify why the problem of lack of follow-up to energy efficiency assessments in heating and cooling would be solved by introducing an obligation to include heat pumps in these assessments.

(3) Third, the report should better justify the inclusion of the transport options (mandatory requirements on urban mobility and banning of sales of new internal combustion engines). It should better explain how they were chosen and how they link to the problems. It should clarify why they are needed on top of the global targets and obligations set out in this initiative and the other Fit for 55 initiatives that will drive energy efficiency in this sector. It should provide a clearer assessment of how mandatory requirements in these areas would be in line with the subsidiarity and proportionality principles.

(4) Fourth, regarding buildings, the feasibility of implementing the option updating the renovation standards to nearly zero energy buildings in the public sector should be analysed further.

(5) Fifth, the report should review the subsidiarity assessment of the two public procurement options as they receive the same (neutral) score, despite being substantially different in terms of intrusiveness (guidance versus extension of energy efficient procurement obligation to all public bodies).

(6) The report should present how measures have different impacts across Member States.

(7) The report should better explain how the different measures that are part of the preferred options fit together and how they will jointly work to deliver on the energy efficiency target. It should clarify the interplay between the national indicative energy efficiency targets with the binding energy savings obligations, the energy efficiency first principle and the proposed mix of non-binding and mandatory provisions in some sectors. It should clarify how the national indicative energy efficiency targets would be set and if alternative methods for doing so have been considered. It should be clearer about where Member States may choose the way in which they meet their target and where they may not.

(8) The report should assess the possible circular economy impacts of the measures. It should assess the effects of accelerating the replacement rate of products and buildings on non-energy resource efficiency.

(9) Many measures of the preferred option come with significant increases in administrative burden and compliance costs, which remain insufficiently assessed. This makes the assessment of the proportionality of some measures challenging. The report should provide some quantitative estimates of the expected increases in compliance costs and administrative burdens, at least for the most costly measures. The preferred options should not include measures whose subsidiarity or proportionality have not been demonstrated.

(10) The different views of different stakeholder categories should be presented more transparently throughout the main report.

(11) The report should (re-)include the baseline option as a reference against which the performance of all considered options should be assessed.

The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables.

**(D) Conclusion**

**The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.**

| | |
|---|---|
| Full title | Revision of the Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency |
| Reference number | PLAN/2020/6834 |
| Submitted to RSB on | 30 April 2021 |
| Date of RSB meeting | Written procedure |

**ANNEX: Quantification tables extracted from the draft impact assessment report**

*The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.*

*If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.*

| *I. Overview of Benefits (total for all provisions) – Preferred Option* | | |
|---|---|---|
| ***Description*** | ***Amount*** | ***Comments*** |
| | ***Direct benefits*** | |
| Energy savings | Compared to REF: €23.09 billion €'15/year<br><br>Compared to MIX: €7.65 billion €'15/year | Average annual energy savings comparing MIX-MAX and REF scenarios. Of which: €5.42 billion/year in industry, €7.48 billion/year in Households, €6.64 billion/year in the Tertiary sector, €3.56 billion/year in Transport.<br>Average annual energy savings comparing MIX-MAX and MIX scenarios. Of which: €0.32 billion/year in industry, €2.08 billion/year in Households, €2.38 billion/year in the Tertiary sector, €0.03 billion/year in Transport. |
| Disutility costs | Compared to MIX: €6.35 billion €'15/year | Average annual Disutility costs (e.g., cost of foregone energy services due to higher prices) lower in MIX-MAX than in MIX. |
| Compliance cost reductions from Article 8 simplification | €225 million per year | Mainly business is the beneficiary as a result of avoided energy audits for small energy consuming businesses. There is a small reduction in public administration costs due to there being less audits to monitor. |
| | ***Indirect benefits*** | |
| Overall co-benefits for society | Based upon the COMBI project analysis these are expected to amount to around 50% of the value of the energy savings | The project assesses the co-benefits of energy savings on: human health; eco-systems: acidification, eutrophication, ozone exposure, crop loss; air pollution emissions; avoided GHG emissions; material footprint/resource impacts; energy cost savings/available income effect; productivity; gross employment/GDP; public budget; energy security.<br>To the degree possible it aims to quantify them, but this is only feasible for a subset of the impacts. |
| Reduced air pollution emissions and other environmental impacts | Estimated 9% reduction | Extrapolated on the basis of overall level of energy savings using the modelling results for MIX compared to REF (8.4% reduction) as the starting point. |

| *II. Overview of costs – Preferred option* | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | Citizens/Consumers | | Businesses | | Administrations | |
| | | One-off | Recurrent | One-off | Recurrent | One-off | Recurrent |
| **Overall targets** | Direct costs | Household investments €63.3 billion €'15 (Average annual investments comparing MIX-MAX and REF) | N/A | Industry investments €6.52 billion €'15 Tertiary investments €13.8 billion €'15 (Average annual investments comparing MIX-MAX and REF) | N/A | Setting up schemes | Monitoring and reporting |
| | Indirect costs | N/A | Disutility costs compared to REF: 12.02 billion €'15/year | N/A | N/A | N/A | N/A |
| **Public buildings** | Direct costs | N/A | N/A | N/A | N/A | Estimated at €8.8 billion per year through bottom up calculations. Includes all renovation costs, not only costs related to energy efficiency. Most of the renovation cost relate to keeping a building at use at a certain standard. | |
| | Indirect costs | N/A | N/A | N/A | N/A | | N/A |
| **Public procurement** | Direct costs | N/A | N/A | N/A | N/A | N/A | Additional effort for drafting tender documents |
| | Indirect costs | N/A | N/A | N/A | N/A | N/A | N/A |

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

# Opinion

**Title: Impact assessment / Revision of the Energy Efficiency Directive**

**Overall opinion: NEGATIVE**

**(A) Policy context**

To achieve climate neutrality by 2050, the Commission has proposed to reduce greenhouse gas emissions by at least 55% by 2030 compared to 1990. This impact assessment analyses how a revised Energy Efficiency Directive (EED) can contribute to this objective.

The EED establishes a common set of rules to promote higher energy efficiency. It currently aims to reduce energy use by at least 32.5% by 2030 (compared to 2007). According to the analysis supporting the 2020 Climate Target Plan (CTP), the increased climate ambitions would require to increase the 2030 energy efficiency target to at least 36-37%. This impact assessment examines options to do this in a cost-effective manner.

The revision of the EED is part of the 'Fit for 55' package of inter-related initiatives in the climate, energy and transport areas. Together, these will aim to deliver on the EU's increased climate ambition.

**(B) Summary of findings**

**The Board notes the useful additional information provided in advance of the meeting and the commitment to make changes to the report. It also notes the significant efforts to coordinate and ensure coherence across the 'Fit for 55' initiatives.**

**However, the Board gives a negative opinion, because the report contains the following significant shortcomings:**

**(1) The report lacks clarity on the precise content of the options, which does not allow for a proper assessment of their impacts, feasibility, EU value added and proportionality. It is unclear on which basis the different levels of ambition for specific options were chosen.**

**(2) Modelling results for the different levels of ambition are not sufficiently complemented by an analysis of impacts (qualitative or quantitative) of the specific measures.**

**(3) The links between the identified problems, objectives and options to achieve them are not sufficiently clear. They do not demonstrate that the proposed measures will be effective and proportionate.**

**(C) What to improve**

(1) The report should clearly define the scope of the initiative. It should specify how it aligns with the greenhouse gas reduction targets of the Climate Law, and how it follows or differs from the CTP modelling scenarios. On this basis, the report should make clear what are the open policy choices that this impact assessment aims to inform. The report should explain how the other 'Fit for 55' initiatives may affect the scope, choices or impacts of this initiative.

(2) The report should better explain the framework character of the EED and provide a clearer picture (especially in the options description) of where it supports separate pieces of (EU and national) sectoral legislation and how, and where it adds additional elements.

(3) The intervention logic of the initiative needs significant improvement.

(4) The report should clarify the precise content of the considered options. It should better link the measures listed under particular options to the identified problems. The various proposed choices, for example for target levels, should be better justified on the basis of modelling, expert opinions, stakeholder suggestions or any available evidence underpinning the feasibility of the proposals and ambition levels.

(5) On the basis of better defined options, the report should improve substantially the qualitative or quantitative assessment of the considered individual measures and better link these to the high-level results of the modelling. This should also help to identify the more critical measures from the less important ones.

(6) Options regulating heating and cooling, should be better justified from a subsidiarity and proportionality perspective. As most actions in this area are to be conducted locally, with little or no spill-over effects, the report should clarify the value added of harmonisation at EU level, especially when going beyond setting overall targets but also imposing specific measures.

(7) Given that one of the objectives of the initiative relates to energy poverty, the report should strengthen the impact analysis of the proposed measures in this respect. It should reflect diverse levels of income and energy prices across Member States. While measures to eliminate energy poverty are by virtue of subsidiarity in the hands of Member States, the report should clearly present the impacts of increased energy efficiency targets on energy poverty levels.

(8) The report should better reflect the views of different stakeholder groups, including dissenting and minority views throughout the report, including on the problem definition, construction of options and the choice of the preferred option(s).

(9) The report should improve the presentation of the estimated costs and benefits of the preferred option(s) and include a more comprehensive overview in Annex 3. As far as possible, the report should quantify the expected increase in administrative burden.

(10)The methodological section (in the annex), including methods, key assumptions, and baseline, should be harmonised as much as possible across all 'Fit for 55' initiatives. Key methodological elements and assumptions should be included concisely in the main report under the baseline section and the introduction to the options. The report should refer explicitly to uncertainties linked to the modelling. Where relevant, the methodological presentation should be adapted to this specific initiative.

*Some more technical comments have been sent directly to the author DG.*

| **(D) Conclusion**<br>**The DG must revise the report in accordance with the Board's findings and resubmit it for a final RSB opinion.** | |
|---|---|
| Full title | Revision of the Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency |
| Reference number | PLAN/2020/6834 |
| Submitted to RSB on | 11 March 2021 |
| Date of RSB meeting | 14 April 2021 |



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