



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 16 February 2012**

**6446/12**

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**Interinstitutional File:  
2011/0172 (COD)**

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**ENER 54  
ENV 107  
TRANS 41  
ECOFIN 146  
RECH 48  
CODEC 369**

**NOTE**

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from: General Secretariat of the Council  
to: Coreper

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No. Cion prop.: 12046/11 ENER 256 ENV 582 TRANS 201 ECOFIN 454 RECH 252  
CODEC 1102

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No. prev. doc.: 14980/2/11 REV 2 ENER 310 ENV 727 TRANS 254 ECOFIN 652 RECH 321  
CODEC 1578

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Subject: Proposal for a Directive of the European Parliament and of the Council on energy efficiency and repealing Directives 2004/8/EC and 2006/32/EC  
- Guidance for future work

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**I. STATE OF PLAY**

Based on the progress made on the proposed Energy Efficiency Directive during the last semester<sup>1</sup>, the Presidency has intensified the in-depth examination of the Directive in the Energy Working Party at its meetings on 10 and 26 January, and 7 and 17 February 2012. A revised draft, which continues to aim for upholding the fine balance of both the necessary level of ambition for measures to support the achievement of the EU 2020 20% energy efficiency objective and flexibility for Member States to engage in the most cost-efficient measures, was presented on 2 February (14980/2/11 REV 2). It essentially refines the concepts laid down so far in Articles 4, 6, 8 and 10.

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<sup>1</sup> see progress report 16165/11 to the TTE Council in November 2011 and 14980/1/11 REV 1 tabled last December.

The revised text also seeks to stabilise some areas of broad agreement on proposed approaches that may however require further fine tuning.

The Presidency informed Council (TTE - Energy) at its meeting on 14 February about the state of play (5355/12), including on the areas for which the Commission continues to point to what it sees as a reduction of the overall ambition compared to its original proposal. During the informal lunch debate Member States' commitment to the 2020 20% energy efficiency objective was reconfirmed, as was the willingness to reach early agreement on the proposed Directive on the basis of binding measures and a common methodology for the Member States' setting of indicative national energy efficiency targets and for the Commission's assessment of progress on energy efficiency at EU level.

Swift work in the context of the Energy Demand Management Committee for developing such a methodology for monitoring progress towards the 2020 target is ongoing and is planned to be finalised by the end of February. There is an expectation that this process can deliver the basis for an understanding on the way to measure and monitor overall EU progress towards the 20% objective under Article 3 of the Directive, if not with one ready-made concept, possibly through a set of viable options.

The outstanding issues listed in section II represent the main aspects and articles of the Directive for which both a clear position within Council needs to be established and on which it appears that the views materialising in the European Parliament may differ significantly. Before preparing for trilogues with the European Parliament side, without prejudice to negotiating mandates to be defined at a later stage, and pending the report of the European Parliament's Committee on Industry, Research and Energy expected to be adopted on 28 February, guidance by the Permanent Representatives Committee on these issues is therefore sought in order to facilitate further work and arrive at a clear Council position. At this stage, it is suggested to focus on key outstanding issues referred to in part A, while the other issues in parts B and C are listed for reference and in case delegations wish to express their views on these as well.

## **II. OUTSTANDING ISSUES**

### **A. Key outstanding issues:**

#### *Article 6*

Greater efficiency in energy use is a main objective of the Directive. The proposed provisions contained in Article 6 on achieving energy savings in end-use sectors through **energy efficiency obligation schemes**, or **alternative policy measures** with equivalent results, are set to trigger the lion's share (around one third) of additional energy savings to close up to the 20% objective. While a number of elements for greater clarity and flexibility to adapt to different national circumstances and policy choices have been included in the text, some essential aspects need clearing up. Clear guidance is required on whether, and under which circumstances, an understanding could be reached on the character, scope and level of the proposed **1.5% annual savings target** to be reached possibly in more than one step. At the same time, it appears crucial to define where the balance could be struck, both in terms of adequately measured equivalence and a level playing field, between the specific instrument of energy efficiency obligation schemes, and other policy measures such as incentives or fiscal instruments, without creating overcomplicated provisions.

#### *Article 4*

With the adoption of the Energy Efficiency Plan in June 2011 (7363/11), the Council pronounced itself in favour of **public authorities** leading the way in upgrading the **energy performance of their buildings**. Significant concerns remain however as to the feasibility and appropriateness of the proposed **3% annual renovation rate**, and it is not certain that the introduction of a focus on "central government" buildings and of an alternative approach to achieve equivalent improvements of the energy performance of such buildings is sufficient to alleviate delegations' concerns. Therefore, it is necessary to identify whether, and if so which, additional elements of clarification, flexibility or on financial aspects could help to design the provisions in a way that creates sufficient common ground, or whether more focus should be placed on alternative approaches.

### **B. Other issues:**

#### *Article 5*

The exact articulation and nature of requirements on **purchasing by public bodies**, also in the perspective of the ongoing revision of the Public Procurement Directive 2004/18/EC, needs further clarification.

### *Article 8*

On **Metering and informative billing**, it remains to be established whether reverting to the level of provisions already set in the Energy Services Directive 2006/32/EC, making the requirements clearly contingent on the way smart meters may be rolled out under internal energy market legislation, and possibly further addressing remaining difficulties with provisions on individual heat metering and cost allocation can secure broad agreement on this Article.

### *Article 10*

Concerning the **promotion of efficiency in heating and cooling**, the proposed approach for carrying out cost-benefit analyses on CHP potential both on a wider scale and for individual installations is welcomed in general, but a clearer view is necessary whether the now included decision element for follow-up on one of the analysed scenarios in the cost-benefit analyses and the related Annex VIIIbis are broadly acceptable, or whether further adjustments are necessary, including on connected definitions.

### *Article 12*

In relation to **energy transmission and distribution**, more conclusive considerations are needed on the role to be given to CHP in terms of access and dispatch, in particular in comparison with renewable energy sources, and on other elements contained in this Article, such as on tariff setting and the role of grid operators.

### *Article 19*

Finally, as for **review and monitoring**, timelines, dates and actual content of review and reporting will depend on the ultimate implementation date(s) and the operational provisions that will be laid down in the Directive, but an acceptable level of reporting obligations needs to be defined which avoids unnecessary administrative burdens.

### **C. Additional elements:**

Initial views would be welcome on the following elements which are likely to be included in the European Parliament's ITRE report:

- A longer-term perspective beyond 2020 to tap the energy saving potential of the existing building stock in the EU, a consideration also included in the Council conclusions on the Energy Efficiency Plan of June 2011;
- promotion of demand response;
- possible financing instruments.