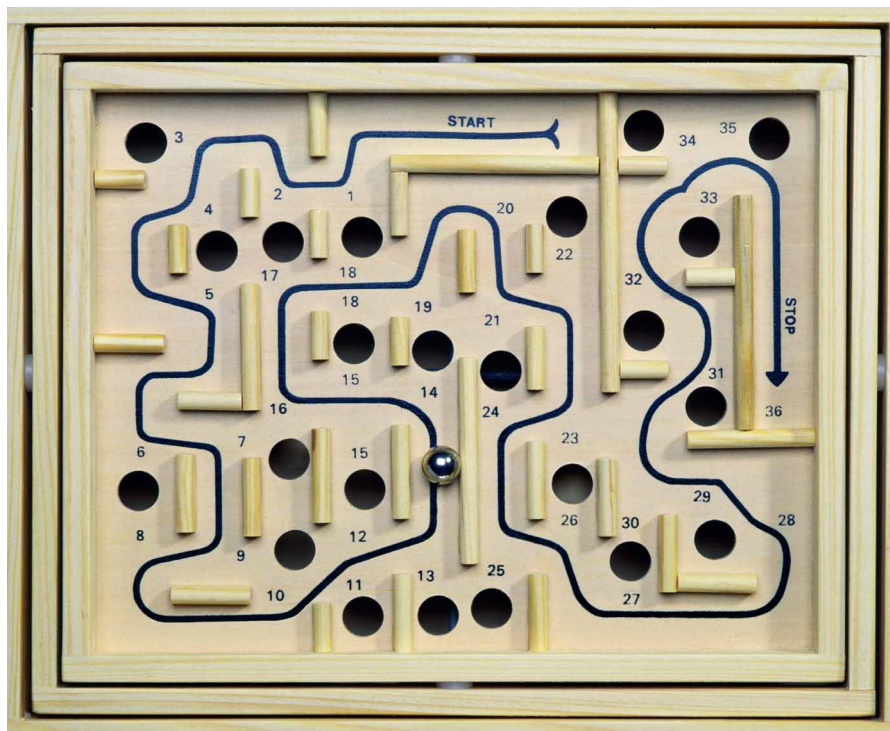




european  
council for an  
energy efficient  
economy

# Steering through the maze # 5

**Your eceee guide to following the approval  
process of the proposed Energy Efficiency  
Directive**



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18 July 2011

### **About the European Council for an Energy Efficient Economy (ecee)**

**ecee** is a non-profit, membership-based European NGO. The goal of ecee is to stimulate energy efficiency through information exchange and co-operation. To facilitate this, ecee provides an information service through its website and e-mail newsletter, arranges workshops and conferences, and takes active part in the European Policy making process.

One of ecee's principal events is the Summer Study, held for five days every odd year in the early summer. The Summer Study attracts about 400 participants from a wide range of backgrounds. ecee and its summer study offer governments, industry, research institutes and citizen organisations a unique resource of evidence-based knowledge and access to reliable information.



## Steering through the Maze #5

# Your eceee guide to following the approval process of the proposed Energy Efficiency Directive

18 July 2011

### Introduction

The purpose of this maze guide is to help a wide audience in Europe understand what is happening with the proposal for a new Energy Efficiency Directive [COM(2011) 370 final]<sup>1</sup> and understand the complex process from proposal to final adoption. For most people, other than the policy analysts and decision-makers who follow this daily, the path is confusing and not even entirely obvious when reading press reports. Also, the approval process has changed somewhat, since the Lisbon Treaty came into effect. A summary of the process is set out below.

eceee expects to revise the maze guide in the early autumn as the process develops.

### The proposed Directive and its context

The European Commission published its proposal for an Energy Efficiency Directive on June 22, 2011. The proposed EED will repeal two existing Directives: the Cogeneration Directive (2004/8/EC) and the Energy Services Directive (2006/32/EC).

The draft Directive follows the publication of the Energy Efficiency Plan (EEP) published in March 2011 [COM (2011) 109 final].<sup>2</sup> (See fact box below.) The Plan's purpose is to provide ideas on how to contribute towards the European Union meeting its indicative energy savings target of 20% by 2020. The Plan covers all sectors except transport, which was subsequently dealt with in a separate White Paper. The Plan covers not only demand-side energy efficiency but also considers the generation of heat and electricity as well as electricity and gas networks.

The publication of the proposed Directive also follows a so-called impact assessment. Excerpts from the impact assessment are presented in another fact box below.

### *Main elements of the proposal for an Energy Efficiency Directive*

In the presentation of the draft Directive, the Commission acknowledges that energy efficiency is the first-choice policy tool to address energy security, competitiveness and sustainability. However, the Commission also says that “despite its crucial benefits for Europe” and the comprehensive European policies and measures combined with “national intentions”, Europe is not on track to deliver on the energy efficiency targets for 2020.

The Commission's latest estimations, which take into account the national energy efficiency targets for 2020 that Member States have set in the context of the Europe 2020 strategy, indicate that the EU will achieve only half of the 20 % target by 2020. The main purpose of the proposal for a new Directive is thus to “make a significant contribution to meeting the EU's 2020 energy efficiency target.”

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<sup>1</sup> Also published was the Impact Assessment, [SEC(2011)779 final, 22/06/2011] and an executive summary thereof, [SEC(2011)780 final, 22/06/2011]

<sup>2</sup> See also eceee's policy pages and the specific EEP page at <http://www.eceee.org/Policy>

The contents of the proposed Directive are presented below as a condensed summary. Please note that ecee is currently not attempting to analyse the contents, or to compare it with the Directives it is intended to replace.

#### *The issue of binding targets*

Binding (national) energy efficiency targets have been discussed in the energy policy community with increasing intensity in the period leading up to the publication of the draft Directive. The Commission followed up on its declared intentions in the Energy Efficiency Plan and stated explicitly that it chose to propose “binding measures” instead of binding national targets. The Commission will review progress in 2013 and intends to propose legally binding targets in 2014 for all MSs if it appears the 20% target will not be achieved.

#### *The role of energy companies (energy distributors or retail sales companies)*

- Each Member State should establish an energy efficiency obligation scheme. There will be a legal obligation to establish energy saving schemes in all MSs. Energy companies will be obliged to save every year 1.5 % of their energy sales, by volume, through the implementation of energy efficiency measures such as improving the efficiency of the heating system, installing double glazed windows or insulating roofs, among final energy customers. The definition of the measures are yet to be worked out.
- However, Member States are given the option to introduce alternative measures than an efficiency obligation scheme to achieve savings among final customers. The savings must be equivalent to the target as set out in the obligation scheme.

#### *Public sector to lead by example*

- The public sector will be required to renovate 3% of their building stock by floor area annually to cost optimal levels. Buildings need to have a useful area larger than 250 sq. m. in order to be covered by this requirement. This only pertains to buildings that the public sector owns and not to buildings that are rented. (It should be noted that no other renovation obligation outside the public sector is proposed).
- Public sector entities should also purchase products, services and buildings with high energy performance.
- Local energy efficiency plans should be established as well as introduction of energy management schemes.
- More systematic use of energy performance contracting should be used to overcome public entities’ lack of capital and resources to undertake large-scale renovation projects.

#### *Consumer information*

- Billing of energy consumption should be based on the actual consumption well reflecting data from the metering. There should be easy and free-of-charge real-time and historical consumption based on smart metering.
- Metering should be made for individual households.

#### *Industry*

- There should be incentives for SMEs (small and medium sized enterprises) to undergo energy audits.
- Systems to disseminate best practices that benefit SMEs should be set up.
- Large companies will be required to make an audit of their energy consumption in order to identify the potential for reduced energy consumption coupled with a requirement to introduce energy management schemes.

#### *Improvements in energy generation, transformation and distribution*

- The directive calls for improving the efficiency in energy generation. This includes recovery of waste heat both from power plants and industrial premises.

- Monitoring of efficiency levels of new energy generation capacities on a national level.
- National heat and cooling plans should be established as a basis for a sound planning of efficient heating and cooling infrastructures.

**Fact Box:**

***Some highlights of the March 2011 Energy Efficiency Plan***

The Energy Efficiency Plan provides a vision and proposes selected measures for improving energy efficiency to 2020, many of the ideas of which came back as legislative proposals in the EED proposal. It is important, however, to review the main elements described in the Plan.

*Targets:* The plan proposes a two step approach to target setting: first allow MS to set their own indicative targets via the Europe 2020 National Reform Programme process. The Commission will evaluate progress towards the achievement of the overall EU target in 2013 and propose legally binding targets for all MSs if it appears the 20% target will not be achieved.

*Public Sector:* The Plan proposes the Public Sector to set an example, since it owns or occupies an estimated 12% (by area) of the entire EU building stock. The plan wants the renovation rate to be doubled to at least 3 % per year and the refurbishment should bring buildings up to the level of the best 10% of the national building stock. The Commission is also proposing energy efficiency standards to be incorporated more fully into public procurement.

*Buildings:* The Commission calls for Energy Service Companies (ESCOs) to play a more important role in both the private and public sectors. There will be legislative proposals to increase their role. This is the third time the Commission has had legislation to promote energy performance contracting. The first time was in 1993 in the SAVE Directive (Council Directive 93/76). The second time was in 2006 in the Energy Services Directive. It is, however, unclear how the role of ESCOs, acting in competitive markets, can be strengthened with further legislation, beyond requirements for Member States to provide market overviews and to establish lists of accredited energy service providers and model contracts. The Plan also supports improving training for architects, engineers, auditors and others because energy efficient building solutions are often technically demanding.

*Energy Suppliers Obligations:* The EEP announced that all MS should be required to establish some form of national energy savings obligations (also known as White Certificates in some MSs) on energy supply companies, appropriate for national circumstances. The stated objective of his obligation is to stimulate energy suppliers to change their business model from retailing energy towards offering energy services.

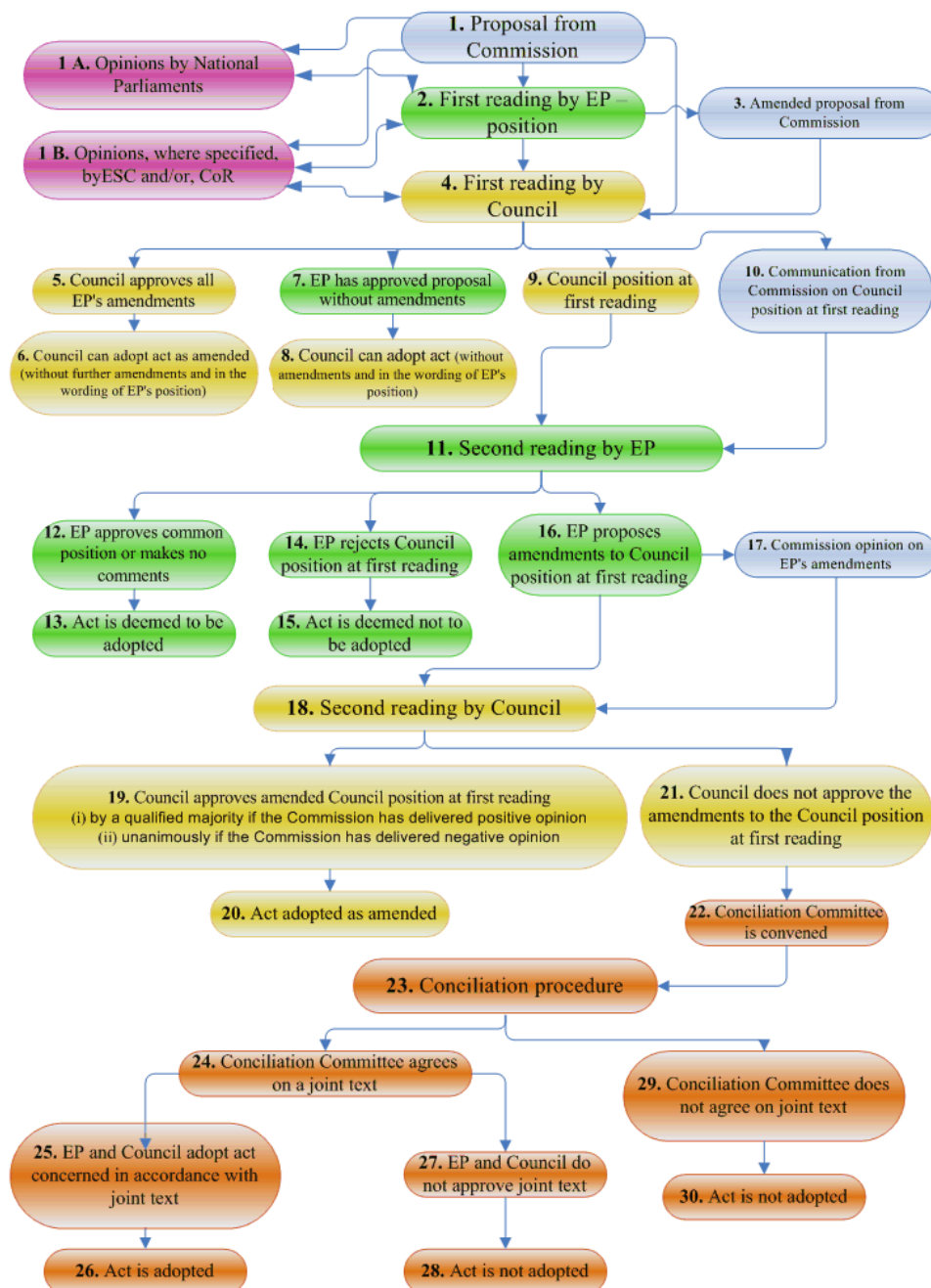
*Co-generation – Efficient generation of heat and electricity:* The Commission will consider requiring new and existing installations to meet best available technology (BAT); greater promotion of CHP including priority grid access. Separately, grid regulators should take into account energy efficiency, including prioritising energy efficiency in regulations, tariffs and codes.

*Industry:* The EEP stresses that obstacles to investment are most acute for small and medium sized enterprises and the EEP encourages MS to undertake specific initiatives. The Commission will propose that regular energy audits be made mandatory for large companies. Furthermore, it will investigate whether Ecodesign requirements would be suitable for standard industrial equipment, including equipment traditionally used in industrial processes.

The EEP also goes into financing issues, promoting smart meters and smart grids, expanding the National Energy Efficiency Action Plans to cover the entire energy chain and not just energy demand. Furthermore it states that the existing Energy Services and Combined Heat and Power Directives will be revised.

## The Co-decision Legislative Procedure explained

The diagram below shows the complex nature of the EU ordinary legislative procedure, called co-decision<sup>3</sup>. This has been revised since the adoption of the Lisbon Treaty. Now, the co-decision procedure is even more firmly established as the ordinary legislative process central to the Community's decision-making system. It is based on the principle of parity, meaning that neither the European Parliament nor the Council may adopt legislation without the other's assent. A written description of the co-decision procedure is available at [http://ec.europa.eu/codecision/stepbystep/text/index\\_en.htm](http://ec.europa.eu/codecision/stepbystep/text/index_en.htm)



<sup>3</sup> [http://ec.europa.eu/codecision/stepbystep/diagram\\_en.htm](http://ec.europa.eu/codecision/stepbystep/diagram_en.htm)

**Fact box:**

***Some edited excerpts from the Impact Assessment***

As is required, an impact assessment was undertaken to assess the impacts on Member States of different possible measures, and to identify and justify the appropriate measures to be proposed in the Directive. The impact assessment was undertaken during the preparation of the draft Directive. Some excerpts from the important parts are:

- The analysis concluded that there is no need to propose binding national targets at the present moment.
- If an evaluation in 2013 shows that this approach endangers reaching the overall European 20% energy efficiency target, a move towards binding national targets needs to be made.
- The energy savings obligation is a key to increase the uptake of energy efficiency measures and support the development of energy services market. Thus it is suggested that national energy saving obligation schemes are introduced which will aim at an annual final energy reduction of 1.5%. It is appropriate for the obligation to be placed by MS on their energy utilities (suppliers or distributors), since these entities dispose of information about the energy consumption of their clients.
- The public sector could be an important actor in stimulating market transformation towards more efficient products, buildings and services because of the high volume of public spending. Therefore, two measures are proposed. First, 3% of the buildings owned by public bodies should be renovated annually to cost-optimal levels. This would not lead to especially high energy savings (approx. 9 Mtoe) but is taken forward as they have high visibility in public life. Second, public bodies purchasing high energy performance products and buildings based on the available energy labels and certificates will drive the market forward. This would lead to a direct impact of 9-18 Mtoe saved in 2020.
- Information on actual energy consumption provided to households and companies on a frequent basis through their energy bills and on the savings possibilities for large companies through energy audits are both important for reducing the information gap that is one of the barriers to efficiency.
- To support more efficient energy generation, transmission and distribution it is proposed that a number of regulatory measures be brought forward. These include measures to ensure that surplus heat from power generation and industrial processes and other waste-to-energy sources are used first to satisfy heat demand in buildings and businesses and that primary energy fuel is used more efficiently.
- In addition, energy network regulators should be required to design tariffs and network regulations that would enable energy efficient solutions and technologies to be offered to consumers.
- The instrument mix put forward will contain a number of overlaps and interactions. The modeling of the whole package showed that primary energy demand in 2020 will be reduced by between 19.7% and 20.9% compared to the PRIMES 2007 baseline projection while final demand decreases by 15.6% to 19.5% in 2020. The sectors reducing demand most are transport and residential. Reductions are substantial in the tertiary sector, too, due to improved appliances and improved heating and cooling. Generation efficiency also improves and some of the measures to reduce final energy demand lead to lower electricity consumption and thus lower production.

**Where we are in the approval process**

This section will be revised on a regular basis, following significant milestones for the approval process.

**Commission**

The Commission published the draft Directive on June 22nd, 2011. It has created a webpage for the draft Directive that includes all the relevant documents, the impact



assessment, a citizen's summary, a Powerpoint presentation and a press release. Various press materials are also available in official languages. (for further information, see [http://ec.europa.eu/energy/efficiency/eed/eed\\_en.htm](http://ec.europa.eu/energy/efficiency/eed/eed_en.htm))

### ***European Parliament***

ITRE committee has not yet set up any meetings to date that deal specifically with the Directive. However, Mr. Claude Turmes, from the Group of the Greens/European Free Alliance, has been named rapporteur. He convened an energy efficiency stakeholders meeting on 12 July to structure input into his writing of the draft report, which he wants to have ready by 15 September.

### ***Presidency and Council***

The Council Energy Working Party (EWP) will most likely meet three more times in July (following an initial exchange on July 1) to exchange views on the draft Directive. Delegations are to provide written comments by July 20th, although an extension of the deadline is likely. Following the discussions and the submissions, the Presidency will prepare a summary of the written submissions. To reflect the progress made in the discussions in the EWP meetings in July, the usual annotated version of the text of the proposal will be made available by the Council secretariat. The summary of written comments will most likely be available first in September.

### **Positions of selected organisations regarding the proposed directive**

There are many concerns about the Directive compared to earlier versions. These main concerns centre around targets and the reporting procedures and measurement and verification tools used by the Member States for energy savings, the review date of the Directive to see if it is in line with achieving 2020 targets, the relationship with the Emissions Trading System (ETS), the "opt-out" possibility from the supplier obligation, the lack of quality controls and default values for buildings in the supplier obligation proposal or in its annexes and the lack of measures to ensure financing for energy efficiency investments. Essentially, there is broad scepticism that the Directive will come close to achieving the desired objectives. Also, there is concern that the Commission and Council may "rush" a decision to achieve a sub-optimal Political Agreement on the Directive proposal, not fully taking into account the position of the European Parliament, its amendments or not fully addressing an Amended Proposal from the Commission, will make a First Reading Agreement more difficult to reach.

Below are initial comments from the major stakeholders following the process and intervening when appropriate. As views develop, they will be added to this Maze report.

### ***Cross-sectoral organisations***

*Coalition for Energy Savings* [<http://energycoalition.eu/>]

The Coalition for Energy Savings brings together business, professional and civil society associations. e3ee is a member of the Coalition as well as a member of the Steering Committee. The Coalition's purpose is to make the case for a European energy policy that places a much greater, more meaningful emphasis on energy efficiency and savings.

The Coalition for Energy Savings calls on the European Parliament and Member States not to give up on the 20% energy savings commitment by 2020. The draft Directive must be substantially strengthened if Europe is to realise the huge potential of energy efficiency for the climate, the economy, and society. The lack of a clear process for the planned review in 2014 is also worrying to the Coalition, since it may mean that the decision on the introduction of binding targets could be deferred until the next European Commission.



*EU-ASE [www.euase.eu]*

Today's proposal is halfhearted. The European Commission did not fulfill its commitment to replace binding targets with binding measures and has missed out a huge opportunity to save significant amounts of energy and money – at a time when we need both the most.

***Industry bodies***

*EuroACE [www.euroace.org]*

EuroACE, the European association representing companies in the energy efficiency in buildings sector, cautiously welcomes the Commission's publication of the Energy Efficiency Directive. However, EuroACE is concerned about the lack of long term strategic vision in the proposals.

*Eurima [www.eurima.org]*

Eurima, the European Insulation Manufacturers Association, thinks that the proposal for a Directive on Energy Efficiency, adopted today by the European Commission, has developed into a disappointing enumeration of individual measures while failing to contribute to a long-term vision on the strategic role of energy efficiency in future EU energy and resource policy.

*COGEN-Europe and others [http://www.cogeneurope.eu]*

COGEN Europe, CIAA, CEPI and Cerame-Unie, fully support the Commission in identifying the need for priority of dispatch, increasing transparency across tariffs, priority of grid access and standardisation of grid connection for cogeneration. These are key business enablers creating a reasonable operating environment and a well structured "level playing field" for clean efficient co-generators. By maintaining the methodology and the intention of the original CHP Directive 2004/08/EC, the new Directive provides continuity for existing and new investors which is welcomed by those planning and investing in energy efficiency for the long term.

*Glass for Europe (www.glassforeurope.com)*

Glass for Europe deplores the lack of ambition emanating from the Commission proposal for an Energy Efficiency Directive released earlier today. Although the political objective of increasing Europe's rational use of energy by way of reducing energy demand in key sectors such as buildings is very much welcome, the measures laid down in the proposal are clearly insufficient for the EU to achieve its current target of saving 20% of energy consumption by 2020.

*Eurelectric (www2.eurelectric.org)*

The Union of the Electricity Industry can already identify some preliminary areas of concern and ambiguity:

*Administrative burden:* The proposal adds further uncertainties in permitting and authorisation procedures, potentially deterring investments and resulting in additional costs to meet the EU's energy-climate targets.

*Inconsistency with the third liberalisation package:* Many provisions (e.g. on smart metering/billing) contradict the EU legislation currently under implementation, creating further uncertainties for the sector.



*Subsidiarity in delivering energy savings:* Market mechanisms can create financial incentives for energy savings and can thus play an important role in meeting national energy efficiency targets. But the conditions required to deliver energy savings vary between and even within member states. We therefore welcome the proposal's flexible approach allowing member states to develop alternatives to the suggested obligation scheme.

### ***Non-governmental organisations***

#### *European Environmental Bureau [www.eeb.org]*

The EEB today welcomed the European Commission's proposed Directive on Energy Efficiency as a useful step towards an energy efficient Europe. The green group warned however that stronger policy action was needed in view of the fact that Europe is expected to miss its 20% energy savings target for 2020 by about half, and that the Directive alone would not get the EU back on track to that target.

...

The lynchpin of the package, the Energy Efficiency Obligation Scheme, sets a savings target on 'all energy distributors or all retail energy sales companies', based upon a percentage of their market share.

However, the EEB says the scheme as it is proposed lacks a clear definition and is limited in scope, missing out on other vast potential of savings, including deep renovations of the existing buildings. [1]

The EEB is also concerned that the Directive lacks any attention to the largest barrier: financing.

#### *WWF (www.wwf.eu)*

Today the European Commission presented its disappointing proposal for an Energy Efficiency Directive, which should have ensured that the EU reduces its use (and waste) of energy by 20% by 2020. Unfortunately the Commission suggested no binding targets but only very few additional measures to the existing framework, which - if adopted in current form - will make it unlikely for Member States to reach a beneficial level of energy savings.

#### *CAN Europe (www.climnet.org)*

Long-overdue proposals for reducing Europe's energy use must be strengthened considerably if they are to achieve the goal of cutting consumption by 20 per cent by 2020.

Coherence with other EU policies must also be assured. After years with only a non-binding target for energy efficiency and a patchwork of weak, poorly implemented laws, a new Draft Energy Efficiency Directive unveiled today by the European Commission is intended to close the gap to the 20pc target - which the EU is currently set to miss by at least half.

But NGOs warn that Parliament and the Environment Council must work hard to toughen-up the proposals which postpone a decision on whether the target should be made binding until 2014.

#### *CECODHAS (http://www.housingeurope.eu/news/1938)*

The proposed directive includes a binding 3% annual refurbishment rate for public buildings. CECODHAS Housing Europe is very sceptical about the 3% target which is impossible to deliver without clarifying the additional means that will be available. While public, cooperative



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housing providers within CECODHAS Housing Europe have always been committed to renovate their stock, social and public housing providers cannot assess the impact of such a proposal on the social housing stock before that the Energy performance in building directive (EPBD) is fully transposed in each Member States, the directive proposing to target the building which are not meeting the minimum energy requirements defined by the EPBD.

However, what we do know is that, unlike local authorities, social landlords can not finance the refurbishment by increase the rents or raising new taxes and since the directive has literally deleted the reference about the funding of such measures (there is for instance no mention any more on national energy efficiency funds), public bodies managing social housing will be confronted with a funding gap problem.

The overall effectiveness of the proposed Directive as it stands is therefore put into question.

*Friends of the Earth Europe (www.foeeurope.org)*

Brook Riley, climate justice and energy campaigner for Friends of the Earth Europe, commented: “Frankly, the European Commission is fooling itself if it believes the energy efficiency directive will deliver the 20% savings target. Its own internal analyses show that only a binding target will suffice. Instead of showing leadership the European Commission is giving in to industry scaremongering and pandering to the lack of understanding among national governments. This directive is set up to fail.”

### **Next Steps**

The draft proposal has just been published. Members of the Coalition for Energy Savings have been meeting regularly to develop positions. This would also be true for other organisations.

eccee also has a web page dedicated to the Directive. That will be regularly updated to provide links to positions or analyses.

This Maze report will be updated on a regular basis as events unfold.