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Understanding energy efficiency in the European Commission's Clean Energy Package

Steering through the maze #7: A guide from the European Council for an Energy Efficient Economy



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To facilitate this, eceee provides evidence-based knowledge, analysis and information through its website, news service and seminars. eceee arranges conferences and workshops and takes an active part in the key European energy efficiency policy discussions.

One of eceee's principle events is the five-day Summer Study held in June every odd year. It attracts more than 400 participants from governments, industry, research institutes and citizen organisations. From 2012, eceee arranges a industrial efficiency conference every even year with more than 200 participants.

For more information about eceee, see www.eceee.org.

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Introduction

On 30 November 2016, the European Commission published its “Clean Energy For All Europeans” package, also known as the “Winter Package” ([COM\(2016\) 860 final](#)), which includes an overall Communication together with a series of legislative proposals, and accompanying documents. It is presented as an opportunity to speed up both the clean energy transition and economic growth and job creation.

The *Clean Energy for All Europeans* published on 30 November 2016 covers legislative and non-legislative proposals for energy efficiency, renewable energy, the design of the electricity market, security of supply and governance rules for the Energy Union. Furthermore, the Commission proposes a new way forward for Ecodesign ([COM\(2016\) 773 final](#)) as well as a strategy for connected and automated mobility ([COM\(2016\) 766 final](#)).

The package has three main goals: a) putting energy efficiency first, b) achieving global leadership in renewable energies, and c) providing a fair deal for consumers. The facilitating actions include, among others, initiatives to accelerate clean energy innovation, promote industry-led initiatives to foster competitiveness, and maximise Europe’s leadership in clean energy technology and services to help third countries achieve their policy goals. It includes both legislative changes and non-legislative initiatives such as the Smart Financing for Smart Buildings Initiative.

The Clean Energy Package is part of a holistic approach that started back in April 2014 with the suggestion of Poland’s then Prime Minister and now President of the European Council, Donald Tusk, that the EU should move towards a true European energy union. Following this, the European Commission published an “Energy Union Package” in February 2015 ([COM\(2015\) 80 final](#)) focusing on five dimensions: 1) energy security, 2) the internal energy market, 3) energy efficiency, 4) decarbonisation of the economy, and 5) research, innovation and competitiveness, thus going beyond the 2014’s proposal focused on the security of gas supplies.

The Energy Union is today one of the ten priorities of the current “Juncker Commission”, together with the December 2015 Paris Agreement, which was ratified by the EU on 4 October 2016.

The implementation of the strategy, and consequently the restructuring of the European energy system, requires a revision of several pieces of the EU legislation, following the ordinary legislative procedure. Under this procedure, the European Parliament and the Council each amend and adopt the text. After this twin-track process, the Parliament and the Council then need to agree a common text for the proposal to become law (see next chapter for further explanation).

In 2015 and 2016, the Commission also presented proposals on security of gas supply ([COM \(2016\) 52 final](#)), the EU emissions trading system ([COM \(2015\) 337 final](#)), and related rules on effort-sharing ([COM \(2016\) 482 final](#)), land use and forestry ([COM \(2016\) 479 final](#)), and a strategy on low-emission mobility ([COM \(2016\) 501 final](#)).

This report lets the reader understand the approval process related to energy efficiency, explaining the main elements of the process and the issues under review on the Energy Efficiency Directive (EED) and the Energy Performance of Buildings Directive (EPBD).

This report also provides an update on where we are in the approval process and when the final approval is expected.

The context

The Winter Package provides proposed new objectives to help the European Union meet its obligations under the 2015 Paris Climate Agreement. As the Communication stated,

the package “should be seen in the context of the EU leading the way towards a smarter and cleaner energy for all, to implement the Paris Agreement, fuel economic growth, spur investment and technological leadership, create new employment opportunities and enhance citizen's welfare.”¹

One of the major themes is “Energy Efficiency First” and this Maze guide will focus on energy efficiency aspects within the Winter Package. The primary focus will be on two of the Directives under revision – the Energy Efficiency Directive (EED) and the Energy Performance of Buildings Directive (EPBD) – that directly relate to energy efficiency. However, other Directives also deal with specific aspects of energy efficiency. Both Directives are key to meeting the savings targets of the EU and they are also the hotly contested. Several of the amendments that have been proposed by stakeholders such as the Council (of EU Member States) may have the effect of reducing the savings targets in practice, even if the nominal target is kept as proposed.

In October 2014 the EU Heads of State and Government agreed a non-binding indicative 2030 energy savings target of 27%, to be reviewed having in mind a level of 30%. The Commission has now proposed that the target should be increased to 30% and to make it binding.²

Overall the Commission proposed targets for 2030 are as follows:

- GHG emissions reduction by at least 40% by 2030;
- Energy efficiency target bindings at the EU level of 30% by 2030;
- Target of at least 27% for the share of renewable energy consumed in the EU in 2030.

Overview of Directives being revised

The Winter Package proposes a revision of eight existing Directives and Regulations, based on the results of a consultation process started in July 2015 by the Commission.

Table 1: Overview of directives being revised

Themes/Area	Proposals
Electricity market and consumers	<ul style="list-style-type: none"> • Proposal for a recast of the Internal Market Electricity Regulation (COM(2016) 861 final); • Proposal for a recast of the Internal Market Electricity Directive (COM(2016) 864 final); • Proposal for a recast of the European Agency for the Cooperation of Energy Regulators (ACER) Regulation (COM(2016) 863 final); • Proposal for a new Regulation on Risk-Preparedness in the Electricity Sector (COM(2016) 862);
Energy Efficiency Directive	<ul style="list-style-type: none"> • Proposal for a revised Energy Efficiency Directive (COM(2016) 761 final);
Energy Efficiency in Buildings	<ul style="list-style-type: none"> • Proposal for a revised Energy Performance of Buildings Directive (COM(2016) 765 final);
Renewables & bioenergy sustainability	<ul style="list-style-type: none"> • Proposal for a recast of the Renewable Energy Directive (COM(2016) 767 final);
Governance	<ul style="list-style-type: none"> • Proposal for a Regulation on the Governance of the Energy Union (COM(2016) 759 final).

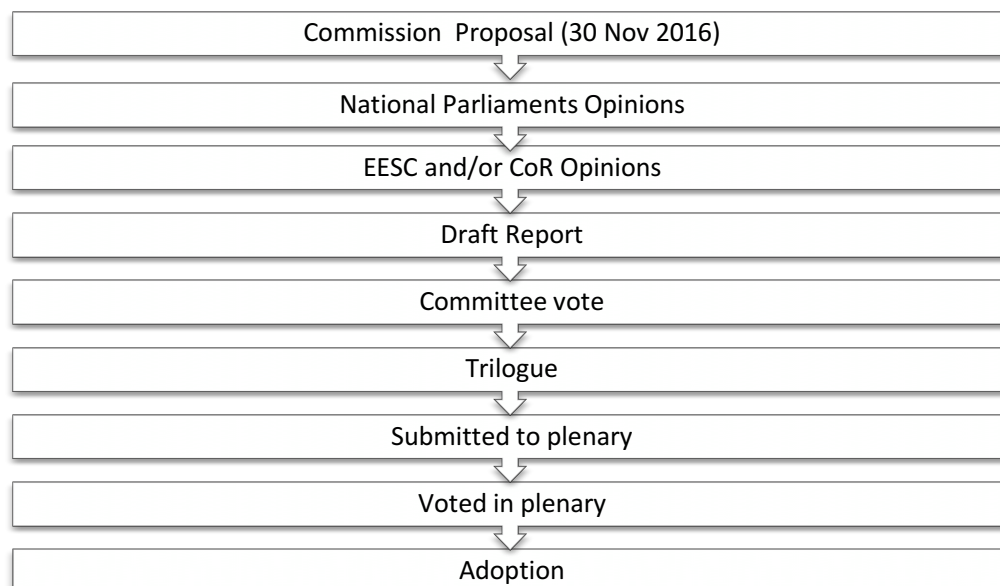
¹ Communication from the Commission, Clean Energy For All Europeans, **COM(2016) 860 final**, p. 4.

² The Communication states this: “The Commission has reviewed the EU's energy efficiency target, in line with the request by the European Council of October 2014, and considers that the EU should set a binding target at the EU level of 30% by 2030. Compared to the at least 27% target agreed in 2014, this increase is expected to translate into up to €70 billion of additional gross domestic products and 400.000 more jobs as well as a further reduction of the EU's fossil fuel import bill.” (p. 4).

The Maltese Presidency of the Council of the EU, which ran January-June 2017, focused on the proposals for the Energy Efficiency and Energy Performance of Buildings Directives. At the Energy Council on 26 June 2017 an outline agreement among Member States - a “general approach”³ was reached on both the Directives.

Meanwhile, on the other side of the twin track, the parliamentary process got underway.

Figure 1: Diagram summarising the parliamentary process



The Winter Package’s legislative Proposals follows the Ordinary Legislative Procedure, where the European Parliament⁴ and the Council need to agree on a common text for the Proposals to be adopted.

Understanding the approval process

To follow the approval process for both the EPBD and EED, it is important to have an overview of the entire process. The EU website⁵ provides the following overview.

How EU decisions are made

The EU’s standard decision-making procedure is known as 'Ordinary Legislative Procedure', formerly "co-decision". This means that the directly elected European Parliament has to approve EU legislation together with the Council (the governments of the 28 EU countries).

Drafting EU law

Before the Commission proposes new initiatives it assesses the potential economic, social and environmental consequences that they may have. It does this by preparing

³ A “general approach” is a political agreement adopted by the Council pending the first reading position of the Parliament. A general approach agreed in the Council can help to speed up the legislative procedure and even facilitate an agreement between the two institutions, as it gives the Parliament an indication of the Council's position prior to their first reading opinion. The Council's final position, however, cannot be adopted until the Parliament has delivered its own first reading opinion. (<http://www.consilium.europa.eu/en/council-eu/decision-making/>)

⁴ The Treaties do not set any time limit for the European Parliament to give its opinion. In practice, this phase lasts on average for 15 months if a first reading agreement is reached, but it can be longer (Slaughter and May p. 5).

⁵ https://europa.eu/european-union/eu-law/decision-making/procedures_en

'Impact assessments' which set out the advantages and disadvantages of possible policy options.

The Commission also consults interested and relevant parties such as non-governmental organisations, local authorities and representatives of industry and civil society. Groups of experts give advice on technical issues. In this way, the Commission ensures that legislative proposals correspond to the needs of those most concerned and avoid unnecessary red tape.

Citizens, businesses and organisations can participate in the consultation procedure via online public consultations.

National parliaments can formally express their reservations if they feel that it would be better to deal with an issue at national rather than EU level.

Review and adoption

The European Parliament and the Council review proposals by the Commission and propose amendments. If the Council and the Parliament cannot agree upon amendments, a second reading takes place.

In the second reading, the Parliament and Council can again propose amendments. Parliament has the power to block the proposed legislation if it cannot agree with the Council.

If the two institutions agree on amendments, the proposed legislation can be adopted. If they cannot agree, a conciliation committee tries to find a solution. Both the Council and the Parliament can block the legislative proposal at this final reading.

Figure 2: Snapshot diagram of the parliamentary process



Sessions of the European Parliament and some Council sessions can be watched live online.

How is legislation adopted?

- Ordinary legislative procedure (formerly known as 'Co-decision') [link - <http://www.europarl.europa.eu/aboutparliament/en/20150201PVL00004/Legislative-powers>] Step-by-step explanation of the ordinary legislative procedure – where the European Parliament passes laws jointly with the EU Council – and list of past laws subject to this method
- Official Rules of Procedure of the European Council [link - https://europa.eu/european-union/sites/europaeu/files/docs/body/rules_of_procedure_of_the_council_en.pdf] How the European Council operates
- European judicial cooperation in civil cases [link - https://e-justice.europa.eu/content_european_judicial_atlas_in_civil_matters-321-en.do] Cooperation between national courts in civil cases

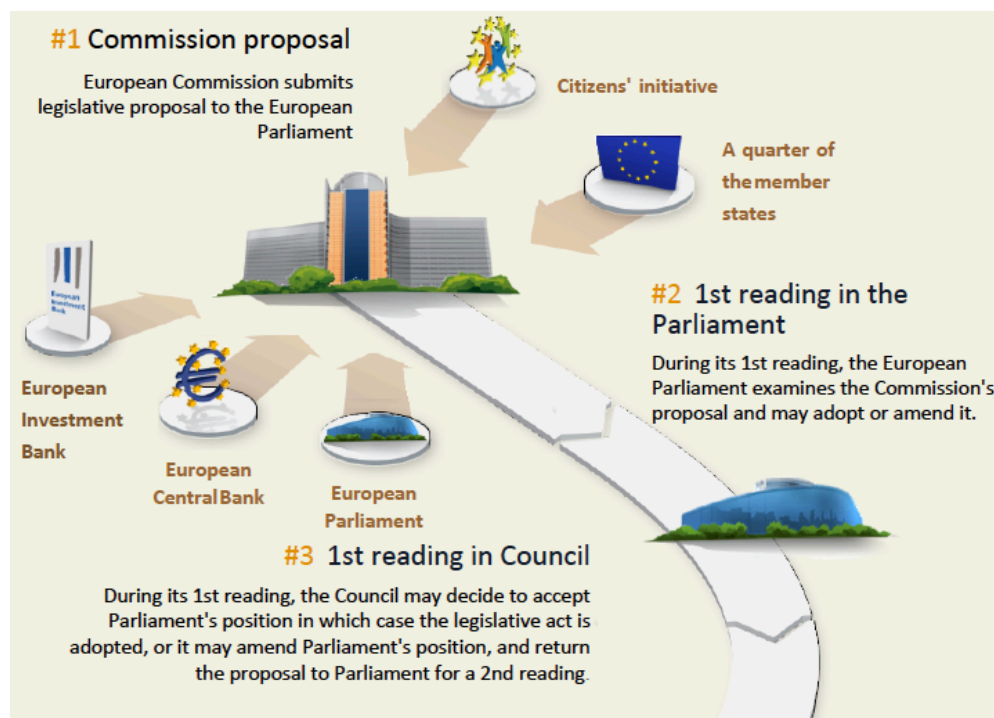
Where we are in the approval process (early September 2017):

The process gets somewhat more complicated. Fortunately, the EU website visually shows the process in an easy to follow manner. The entire process is in Annex 1. For the moment we show the start of the process.

The European Commission published the proposal on 30 November 2016.

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Figure 3: Initial Steps of the Approval Process⁶



The next sections describe what is happening in the approval process to both the Energy Efficiency Directive and the Energy Performance of Buildings Directive.

⁶ Source: <http://www.europarl.europa.eu/aboutparliament/en/20150201PVL00004/Legislative-powers>

The Energy Efficiency Directive (EED) proposal

Introduction

The proposal to amend the Energy Efficiency Directive (Directive 2012/27/EU) aims to bring it up to date with the 2030 energy and climate goals, while checking its effectiveness, simplifying and improving the text, and facilitating the implementation at the national level. The main changes introduced in the Proposal are the new binding 30% target for 2030, the extension of the energy savings requirement to 2030 as specified in Article 7, simplification and clarification of the requirements on how energy savings must be calculated, and the strengthening of the provision for Member States to include social requirements targeting households affected by energy poverty in their energy efficiency obligation schemes. Reporting requirements to the Commission will be submitted under the Integrated National Climate and Energy Plans laid down in the proposed Regulation on the Governance of the Energy Union, while provisions on the metering and billing of electricity will be regulated under the Internal Market legislation.

Articles being revised

The entire EED is not being revised. The Commission has proposed to amend only the following Articles:

- **Article 1** and **Article 3** of the Directive are amended to add the Union's 2030 binding 30 % energy efficiency target⁷;
- **Article 4**, which requires Member States to establish long-term strategies for mobilising investment in the renovation of their national building stock, will be removed from this Directive and added to the EPBD Directive;
- **Article 7** is amended to extend the obligation period beyond 2020 to 2030 and to make it clear that Member States can achieve the required energy savings through an energy efficiency obligation scheme, alternative measures, or a combination of both approaches⁸;
- **Article 9** on metering and **Article 10** on billing are amended to make them applicable only to gas while complementing them with new, similar and clear provisions applicable only to heating, cooling and domestic hot water supplied from central sources;
- The provisions of **Article 15(5)** and **15(8)** of the Directive on energy transformation, transmission and distribution are repealed so that new equivalent provisions can be included in the legislative proposals made under the Market Design Initiative. In the case of Article 15(8), this will be done in such a way as to ensure that the duties laid on Member States by these requirements are fully maintained;
- **Article 23** on delegated powers is amended to delete the current time limit on the delegation, replacing it with the standard five-year period set out in the common understanding of the European Parliament and the Council on delegated acts;
- **Article 24** will be amended by the legislative proposal on Energy Union Governance;
- A general review clause is added to **Article 24, paragraph 12**, under which the Commission must evaluate the Directive and submit a report to the European Parliament and Council by 28 February 2024, and then every five years;
- **Annex VII** is amended to ensure coherence with Articles 9 to 11; and

⁷ There are no national binding targets for the Member States, but their indicative national energy efficiency contributions for 2030 will be notified in Member States' Integrated National Energy and Climate Plans.

⁸ The calculation of the amount of savings required for the 2021 to 2030 period will continue to be based on annual energy sales to final customers averaged over the three years preceding the start of that obligation period. Member States may already include social requirements targeting households affected by energy poverty in their energy efficiency obligation schemes.

- The default primary energy factor (PEF) in **Annex IV** is amended to take into account technological advances. This could be amended through a Delegated act, but it is considered to be more appropriate to use this legal proposal to achieve the same end.

Impact Assessment

The European Commission published an impact assessment (IA) for each of the Directives. The IA for the EED ([SWD\(2016\) 405 final/2 PART 1/3](#)) states that the main problems are the absence of a defined level of energy efficiency ambition for 2030 in the Energy Efficiency Directive 2012/27/EU, its nature (binding or indicative) and the fact that under the existing framework of Article 7 (energy savings obligations) and Articles 9-11 (metering and billing) a substantial amount of economically viable energy savings will not be taken up. The absence of a long-term objective also reduces investors' confidence to invest in energy efficiency projects.

Input by the European Parliament and European Council

The proposal for the EED revision is being dealt with primarily by the Industry, Research and Energy Committee (ITRE Committee), with the Environment (ENVI) Committee providing an Opinion. The Rapporteur in ITRE is Adam Gierek from the S&D Parliamentary Group. Each of the other political groups has a shadow rapporteur.

The role of the Rapporteur is key to the process. S/he takes the lead in the discussions on the Commission's draft proposal and to present a report in committee consisting of amendments s/he wishes to make. The other MEPs on the committee then consider the rapporteur's report and contribute further amendments to the Commission's proposal.

Status of the legislative process

- On 21-22 June 2016, the ITRE Committee considered the draft report on the EED. The final date for filing amendments in the ITRE Committee was 28 June.
- On 26 June 2016, the European Council discussed the EED and agreed a General Approach.
- On 4 September, the European Parliament will consider amendments to the EED.
- On 7 September the ENVI committee of the European Parliament will vote on its Opinion on the EED
- On 28 November, the ITRE committee of the European Parliament will vote on the EED (Gierek report).
- The date of the European Parliament plenary vote on the EED has not yet been set but is likely to be in early 2018.

Major Outstanding Issues

In the Council, the General Approach agreed by Member States in June is much weaker than the Commission's proposal in a number of key articles. The Commission's proposal for a binding 30% EU target for energy efficiency is supported by Member States only as an *indicative target*. In Article 7 dealing with the annual energy saving target, Member States are seeking to expand the definition of savings that can be counted ('flexibility') while at the same time proposing a potential reduction in the annual savings rate from 1.5% to 1% from 2026.

This lowering of ambition is a major concern if "indicative" wins the day. The Article, with a binding target, plays a key role in keeping up the momentum for energy savings. The implications of lowering ambition are well described in a recent [ecee column](#) by Jan Rosenow of RAP following a [report](#) he recently published for RAP. As he writes, the watering down of the target, combined with proposed loopholes, threaten energy efficiency playing a key role in the EU meeting its Paris climate obligations.

In the European Parliament, the rapporteur has chosen, controversially, to largely rewrite the Commission's proposals and the definitions within the existing EED, arguing that

energy efficiency should be seen as efficiency of the energy supply system rather than as demand reduction.

ITRE Rapporteur Adam Gierek proposed doing away with long established and well-accepted definitions for energy efficiency and savings, which referred to the relationship between energy and energy services. The report ignores efficiency aspects on the consumer side, such as investing in building renovation, efficient appliances and mobility. It solely focuses on improving the ratio of final to primary energy, which means improving the conversion of primary into usable energy and moving away from 'inefficient' technologies, like PV and wind.

The process in the European Parliament is currently at the stage at which informal meetings are held between the rapporteur and the shadows from the different political groups to consider all the amendments that have been tabled and agree compromise text wherever possible. As only one shadows' meeting has taken place to date, it remains to be seen to what extent compromises incorporating the very individual approach of the rapporteur will be possible. Failure by MEPs to come up with a cohesive set of compromise amendments would weaken the Parliament's position when it comes to the trialogue negotiations with the Council and Commission.

The Energy Performance of Buildings Directive (EPBD) proposals

Introduction

The proposal from the Commission amends Directive 2010/31/EU on the energy performance of buildings. According to the proposal, the main objective is “to accelerate the cost-effective renovation of existing buildings, which represents a 'win-win' option for the EU economy as a whole.” Furthermore, the proposal states: “More specifically, it introduces building automation and control systems as an alternative to physical inspections, encourages the roll-out of the required infrastructure for e-mobility (with a focus on large commercial buildings and excluding public buildings and SMEs), and introduces a smartness indicator to assess the technological readiness of the building to interact with occupants and the grid and to manage themselves efficiently.”

Articles being revised

The entire EPBD is not being revised. The following Articles are currently being amended:

- The definition of technical building systems under **Article 2(3)** is extended to on-site electricity generation and on-site infrastructure for electro-mobility;
- The current **Article 4 EED** on long-term renovation strategies is moved to this Directive for greater consistency, and will include additionally the consideration of energy poverty issues, support for smart financing of building renovations and a vision for the decarbonisation of buildings by 2050, with specific milestones in 2030⁹;
- **Article 6** on new buildings is simplified by limiting it to the provision identified in the impact assessment as the most useful, i.e. the general obligation for new buildings to meet the minimum energy performance requirements;
- **Article 8** is updated to take into account the revised definition of technical building systems. A new paragraph introduces requirements as regards:
 - a. infrastructure for electro-mobility¹⁰;
 - b. reinforcing the use of building electronic monitoring, automation and control in order to streamline inspections; and
 - c. the introduction of a ‘smartness indicator’ rating the readiness of the building to adapt its operation to the needs of the occupant and of the grid, and to improve its performance;
- **Article 10** is updated to include two new provisions on using EPCs to assess savings from renovations financed with public support. These are to be assessed by comparing EPCs before and after renovation; and public buildings with a surface over a certain threshold must disclose their actual energy consumption;
- **Articles 14 and 15** on inspections are streamlined, while more effective approaches to regular inspections are implemented with the updated Article 14 and 15, and could be used instead to ensure that building performance is maintained and/or improved; and

⁹ The long-term building renovation strategies will become part of (and annexed to) the integrated national energy and climate plans and will be notified by Member States to the Commission by 1 January 2019 for the period post 2020 following the procedure set out in the Regulation on the Governance of the Energy Union. The strategy will cover the renovation of the national stock of residential and non-residential buildings;

¹⁰ New non-residential buildings with more than ten parking spaces, and non-residential buildings with more than ten parking spaces undergoing major renovation will have to equip one parking space per ten for electro-mobility. This will apply to all non-residential with more than ten parking spaces buildings as of 2025, including buildings where the installation of recharging points are sought under public procurement. New residential buildings with over ten parking spaces, and those undergoing major renovation, will have to put in place the pre-cabling for electric recharging. Member States will be able to choose to exempt buildings owned and occupied by SMEs, as well as public buildings covered by the Alternative Fuels Infrastructure Directive.

- **Annex I** is updated to improve transparency and consistency in the way energy performance is determined at national or regional level and to take into account the importance of the indoor environment.

Impact Assessment

The European Commission published an impact assessment for the EPBD proposal ([SWD\(2016\) 414 final](#)). The IA states that although the evaluation of the EPBD shows clear progress in improving the energy efficiency of the building sector, the basic problem is that a significant part of the potential for additional cost-effective energy savings by 2030 will not be realised under ‘business as usual’, as a large number of cost-effective investments in energy efficiency in buildings will not take place. The EU therefore should intervene now to support the removal of specific barriers to energy efficiency and renewable energy in buildings, which fall within the scope of the EPBD (specific aspects of preferred option are available at page 7 of IA).

Activities in the European Parliament

The proposal for the EPBD revision has been discussed in the Industry, Research and Energy Committee and amendments have been submitted. The Rapporteur is Mr. Bendt Bendtsen from the EPP Parliamentary Group. Each of the other political groups has a shadow rapporteur.

Status of the legislative process

- On 26 June 2016, the European Council discussed the EPBD and agreed a General Approach.
- On 10 July 2016 the ITRE Committee considered amendments on the EPBD.
- On 7 September the ENVI committee of the European Parliament will vote on its ENVI¹¹ amendments (the ENVI Opinion).
- On 11 October, the ITRE committee of the European Parliament will vote on the EPBD (Bendtsen report).
- 13–16 November, the plenary of the European Parliament will vote on the EPBD.
- Inter-institutional negotiations will start in late November 2017.

Major outstanding issues

The introduction of new Art. 2a on renovation strategies (previously EED Art. 4) has given MEPs an opportunity to propose amendments to strengthen the Commission’s text, in particular by emphasising the 2050 perspective and by introducing the concept of ‘building passports’. Several amendments seek to align the Commission’s wording on ‘decarbonised’ buildings more closely with the existing definition of ‘nearly zero energy building’ (nZEB). The Commission’s proposal, tucked away in Annex I, to force Member States to discount renewable energy supply into a building when calculating the building’s energy performance has not found favour with either MEPs or Member States.

If MEPs look likely to be more ambitious than the Commission in relation to the principle of ‘energy efficiency first’ in buildings, this is not the case with regard to the Commission’s new proposals on the provision of charging points for electric vehicles. MEPs would prefer the requirements for residential buildings to be limited to the installation of ducts for charging point cables rather than actual charging points. Since Member States are seeking to introduce a range of exemptions to the requirements for charging points, in both residential and non-residential buildings, it would appear that the Commission’s proposals on e-mobility will be watered down.

¹¹ [Environment, Public Health and Food Safety](#) Committees

Importance of energy efficiency in other proposed legislation

Energy efficiency plays an important role in the Commission's Winter Package according to the efficiency first principle, and thus is mentioned in several legislative proposals. The following sub-chapters briefly describe the importance of Energy Efficiency in the other proposed Directives.

Governance

The proposal on Governance [[COM\(2016\) 759 final](#)] aims at streamlining and integrating planning, reporting and monitoring obligations for Member States, thus creating the framework for Member States to successfully address and deliver the five dimensions of the Energy Union of energy security, internal energy market, energy efficiency, decarbonisation, research, innovation and competitiveness.

To ensure consistency and full coherence among climate and energy initiatives, the proposal has been prepared in parallel with the renewable energy, energy efficiency and market design proposals.

With regards to the energy efficiency dimension, the main points of the proposals are summarised as follows:

- Requirements to create and report the energy efficiency targets, policies and measures in the “*Integrated national energy and climate plans*” of the Member States (**Article 3**);
- Several cross-references to the EED and EPBD targets and objectives for 2030 (**Article 4, 6**);
- Guidelines for the submission of the integrated national energy and climate progress reports on energy efficiency every two years (*Article 19*);
- Assessment of the progress by the Commission based on the Integrated national energy and climate progress reports submitted by Member States (**Article 25**);
- Commission's additional measures at Union level to achieve the Energy Union objectives, if necessary (**Article 27**);
- Commission recommendations to Member States to ensure the achievements of the objectives of the Energy Union (**Article 28**).

Market design

The market design proposal [[COM\(2016\) 864 final](#)] establishes the general principles and the technical rules on energy market participation, as well as the rights and responsibilities among the market players. Both Electricity Regulation and Directive proposals aim at adapting the current market rules to new market realities and to ensure the security of supply by removing price distortions in the energy market, empowering consumers, and incentivising investments in the clean energy system.

Energy efficiency is emphasised in several Articles of the two proposals, in particular:

- Market rules have to deliver appropriate investment incentives for generation, storage, energy efficiency and demand response to guarantee security of supply (**Article 3 (1) of the Regulation**);
- Regulatory authorities shall include innovative measures to raise efficiencies, including energy efficiency, as eligible costs (**Article 16 (8) of the Regulation**);
- Member States shall consider energy efficiency, among others, when addressing resource adequacy (**Article 18 (3) of the Regulation**);
- Member States need to provide the necessary regulatory framework to incentivise distribution system operators to consider energy efficiency measures, among others, which may supplant the need to upgrade or replace electricity capacity (**Article 32 of the Directive**);
- The regulatory authority shall measure the performance of the TSOs and DSOs in relation to development of a smart grid that promotes energy efficiency and the integration of RES (**Article 59 of the Directive**);

- The proposals also encourage Member States to use energy efficiency measures to address energy poverty.

Renewable energy

The renewable energy proposal will re-cast the Directive and aims at adapting the framework for renewable energy development to ensure its share in the EU final energy consumption of at least 27% by 2030. The provisions address the potential of renewable energy in several sectors, namely the electricity (RES-E), heating and cooling (RES-H&C) and transport (RES-T), and will provide certainty and predictability to investors.

Energy efficiency will play a major role in the heating and cooling sector, in line with the provisions contained in the proposed EED and EPBD, and in particular provisions to promote efficient and competitive district heating and cooling as defined by Article 2(41) of the EED.

The main points for energy efficiency can be summarised as follows:

- Member States may take into consideration national measures relating to substantial increases in energy efficiency, and relating to cogeneration and to passive, low or zero-energy building, while introducing appropriate measures in national building regulations and codes to increase the share of renewable energy in the building sector (**Article 15 (5)**);
- Member States have to ensure that information on the net benefits, cost and efficiency of equipment and systems for the use of heating, cooling and electricity from renewable energy sources is made available by the supplier of the equipment or system or by the national competent authorities (**Article 18 (2)**);
- Member States may use the established structure under the national energy efficiency obligation schemes as in Article 7a of the EED, while ensuring the penetration of renewable energy in the heating and cooling sector (**Article 23 (4)**).

Non-legislative initiatives

The 30 November Communication included an Annex 1 on “Accelerating clean energy in buildings” ([COM\(2016\) 860 final](#)). As the Annex states: “the goal is to develop a comprehensive, integrated approach that puts energy efficiency first, contributes to the EU's global leadership in renewables and delivers a fair deal to consumers in a way that helps Member States to deliver their energy and climate targets for 2020 and 2030.”

The Annex states that complementing measures are needed to support the changes in the EED and the EPBD. Two initiatives are indicated: Smart Financing for Smart Buildings and the Construction sector.

Smart Finance for Smart Building Initiative

This initiative aims at mobilizing investments and further unlocks private financing. As reported in the Communication Annex 1, this initiative, in close cooperation with the European Investment Bank (EIB) and the Member States, “can unlock an additional EUR 10 billion of public and private funds until 2020 for energy efficiency and renewables”. The initiative includes three pillars:

- Pillar I: More effective use of public funding
- Pillar II: Aggregation and assistance for project development
- Pillar III: De-risking energy efficiency investments

Construction Initiative

The construction initiative aims at accelerating the modernisation of the construction sector, which will also boost growth and jobs in Europe. The initiative will look into the up-skilling of construction sector workers on energy efficiency and renewable energy technologies, promoting the circular economy in the built environment, improving the functioning of markets, encouraging the development of advanced technological products and processes through a public private partnership (PPP) on energy-efficient buildings and supporting the digitalisation of the sector.

Overview of reactions from selected stakeholders

There has been considerable reaction to the Winter Package in the form of press releases, position papers and briefings. While the following list is not exhaustive, it does represent most of the views that have been provided to date.

BPIE briefing: *The “Clean Energy for All Europeans” package*. Link [here](#)

BPIE/RAP analysis: *Assessing the European Union’s energy efficiency policy: Will the winter package deliver on ‘Efficiency First’?* Link [here](#)

CAN Europe – Link [here](#)

Coalition for Energy Savings: *Studies, briefings and position papers*. Link [here](#)

COGEN Europe: *EU Clean Energy Package: “Energy efficiency first” approach a step in the right direction*. Link [here](#)

eccee: *Winter package’s 30% binding target absolute minimum, welcomes support for Efficiency First principle*. Link [here](#)

Energy Advice Exchange: *Efficiency First means Consumers First: proposals for the Winter Package*. Link [here](#)

Eurelectric: *Key issues regarding the Energy Efficiency legislation review*. Link [here](#)

Eurelectric: *Clean Energy Package stimulates market integration and cost-efficient renewables – lacks consistency on market design and consumer empowerment*. Link [here](#)

Eurima – Link [here](#)

EuroACE: *How to Make the Most of It! Energy Efficiency Legislation in the ‘Clean Energy for All Europeans’ Package* Position Paper of EuroACE. Link [here](#)

Europe ASE: *Statement by the Board of Directors of the European Alliance to Save Energy (EU-ASE)*. Link [here](#)

European Builders Confederation, position on EPBD. Link [here](#)

European Builders Confederation, position on EED. Link [here](#)

European Copper Institute: *Energy Efficiency Industries Call Council and EP to Equip the Energy Efficiency Market with Ambitious Enabling Framework*. Link [here](#)

European Partnership for Energy and the Environment (EPEE): *Position paper on the EPBD, EED and RED reviews*. Link [here](#)

Glass for Europe: *Position paper, Making Europe’s buildings highly energy efficient*. Link [here](#)

Housing Europe: *What are the implications of the new set of EU energy legislative proposals on housing? Our analysis of the so called ‘Winter Package’*. Link [here](#)

Regulatory Assistance Project report *Assessing the European Council’s Proposal for Article 7 of the Energy Efficiency Directive* (link [here](#)) and an eccee column by Jan Rosenow: *Energy efficiency loopholes risk to Paris Agreement*. Link [here](#)

Louise Sunderland’s column on EID website: *Commission’s Winter Package: “consumers are the real drivers of the energy transition” but there is a blind spot in the role of the consumer*. Link [here](#)

Louise Sunderland’s column on eccee website: *What does the Winter Package do for building renovation?* Link [here](#)

WWF Europe: *Commission’s clean energy package still too dirty* Link [here](#)

The EU has graphically shown the approval process that was described above.

#1 Commission proposal
European Commission submits legislative proposal to the European Parliament

Citizens' initiative

A quarter of the member states

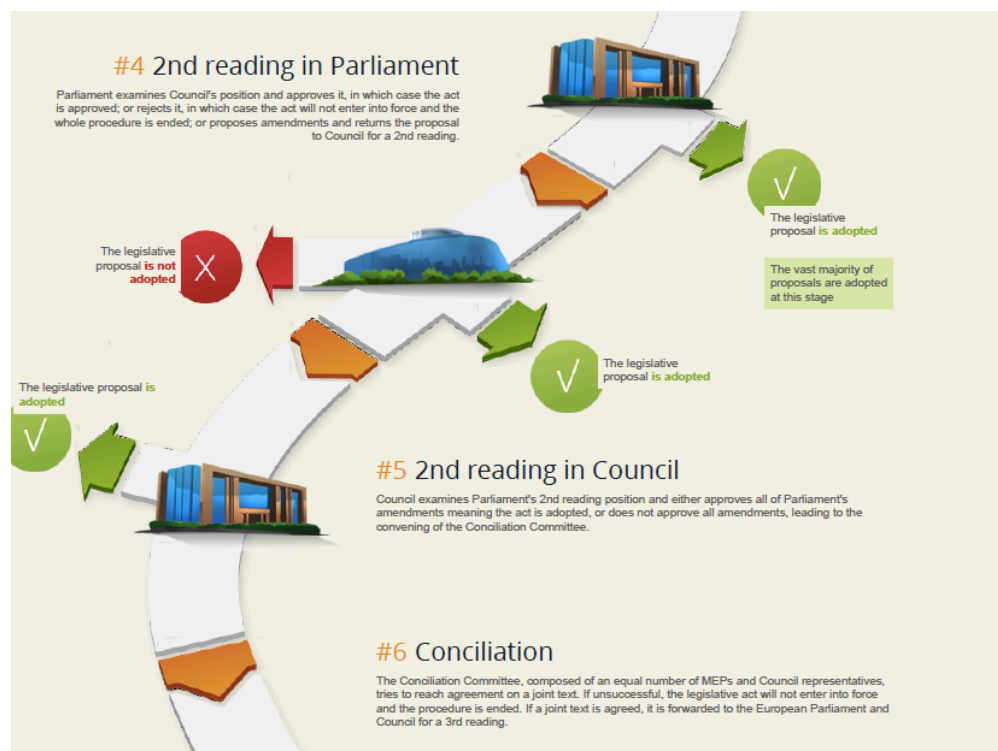
#2 1st reading in the Parliament
During its 1st reading, the European Parliament examines the Commission's proposal and may adopt or amend it.

European Investment Bank

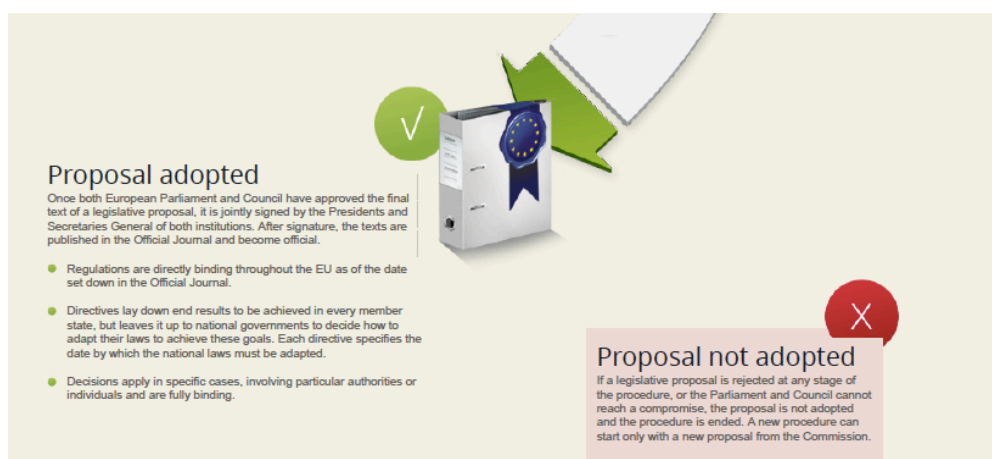
European Central Bank

European Parliament

#3 1st reading in Council
During its 1st reading, the Council may decide to accept Parliament's position in which case the legislative act is adopted, or it may amend Parliament's position, and return the proposal to Parliament for a 2nd reading.

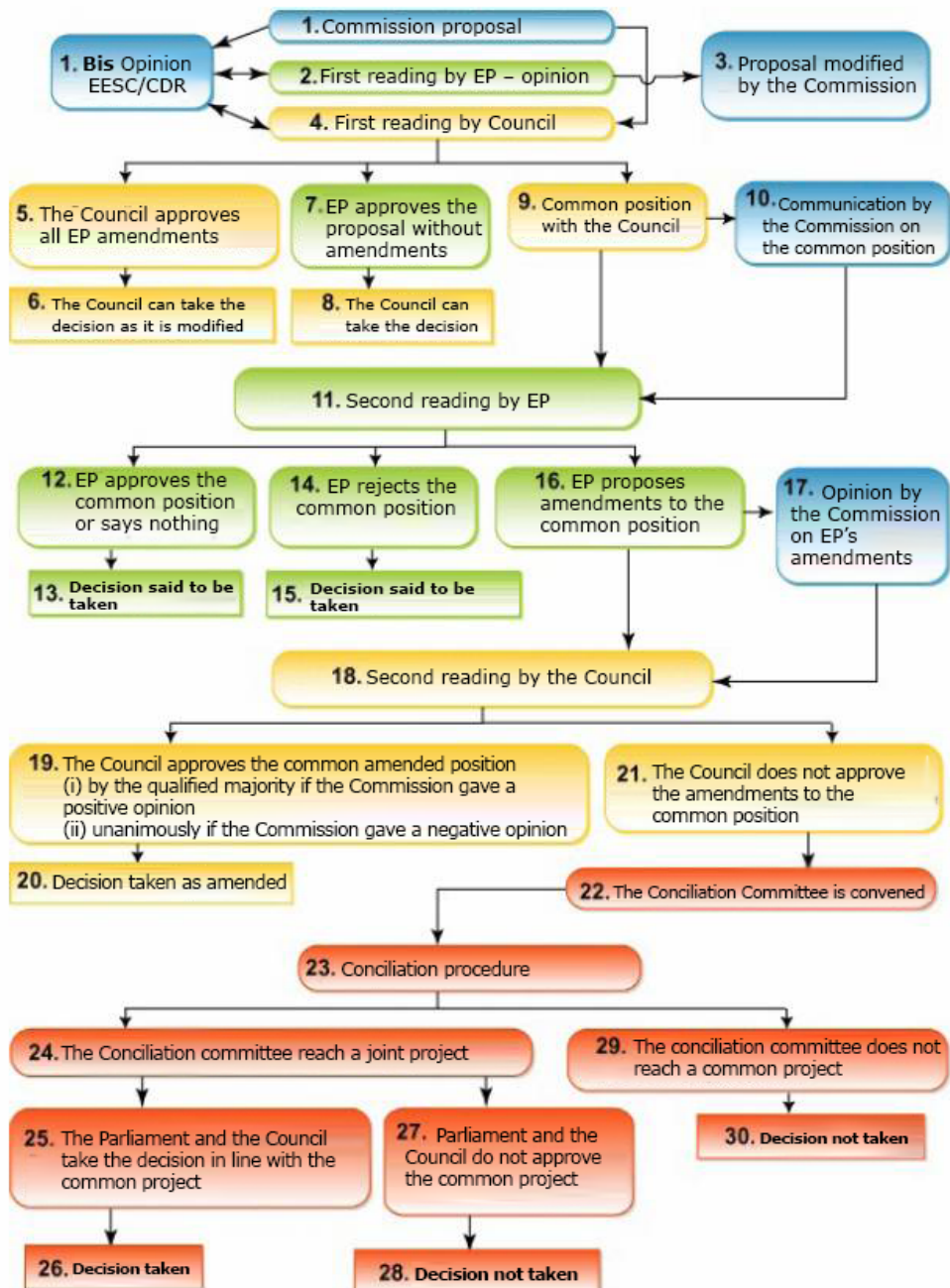


¹² <http://www.europarl.europa.eu/aboutparliament/en/20150201PVL00004/Legislative-powers>



There is a separate diagram that shows the entire decision-making flow¹³.

¹³ <http://elections-europeennes.robert-schuman.eu/en/le-pouvoir-legislatif/>



Annex 2: Importance of energy efficiency in other proposed directives

Governance

Proposal for a Regulation on the Governance of the Energy Union ([COM\(2016\) 759 final](#))

Article	Text
<p><i>Article 3</i></p> <p>Integrated national energy and climate plans</p>	<p>1. By 1 January 2019 and every ten years thereafter, each Member State shall notify to the Commission an integrated national energy and climate plan. The plans shall contain the elements set out in paragraph 2 and Annex I. The first plan shall cover the period from 2021 to 2030. The following plans shall cover the ten-year period immediately following the end of the period covered by the previous plan.</p> <p>2. The integrated national energy and climate plans shall consist of the following main sections:</p> <p>(b) a description of the national objectives, targets and contributions for each of the five dimensions of the Energy Union;</p> <p>(c) a description of the policies and measures foreseen to meet the corresponding objectives, targets and contributions set out under point (b);</p> <p>(d) a description of the current situation of the five dimensions of the Energy Union including with regard to the energy system and greenhouse gas emissions and removals as well as projections with regard to the objectives referred to in point (b) with already existing (implemented and adopted) policies and measures;</p> <p>(e) an assessment of the impacts of the planned policies and measures to meet the objectives referred to in point (b);</p> <p>(f) an annex, drawn up in accordance with the requirements and structure laid down in Annex II to this Regulation, setting out the Member State's methodologies and policy measures for achieving the energy savings requirement in accordance with Article 7 (a) and (b) and Annex IV of the Energy Efficiency Directive [as amended by proposal COM(2016)761].</p>
<p><i>Article 4</i></p> <p>National objectives, targets and contributions for each of the five dimensions of the Energy Union</p>	<p>Member States shall set out in their integrated national energy and climate plan the following main objectives, targets and contributions, as specified in Section A.2. of Annex I:</p> <p>b) as regards the dimension "Energy Efficiency":</p> <p>(1) the indicative national energy efficiency contribution to achieving the Union's binding energy efficiency target of 30% in 2030 as referred to in Article 1(1) and Article 3(4) of Directive 2012/27/EU [as amended by proposal COM(2016)761], based on either primary or final energy consumption, primary or final energy savings, or energy intensity;</p> <p>Member States shall express their contribution in terms of absolute level of primary energy consumption and final energy consumption in 2020 and 2030, with a linear trajectory for that contribution from 2021 onwards. They shall explain their</p>

	<p>underlying methodology and the conversion factors used;</p> <p>(2) the cumulative amount of energy savings to be achieved over the period 2021-2030 under Article 7 on energy saving obligations of Directive 2012/27/EU [as amended by proposal COM(2016)761];</p> <p>(3) the objectives for the long-term renovation of the national stock of residential and commercial buildings (both public and private);</p> <p>(4) the total floor area to be renovated or equivalent annual energy savings to be achieved from 2020 to 2030 under Article 5 of Directive 2012/27/EU on the renovation of central government buildings;</p> <p>(5) other national energy efficiency objectives, including long term targets or strategies and sectorial targets in areas such as transport, heating and cooling;</p>
<p><i>Article 6</i></p> <p>Member States' contribution setting process in the area of energy efficiency</p>	<p>When setting their indicative national energy efficiency contribution for 2030 and the last year of the period covered for the subsequent national plans pursuant to Article 4(b)(i), Member States shall ensure that:</p> <p>(a) the Union's 2020 energy consumption has to be no more than 1 483 Mtoe of primary energy and no more than 1 086 Mtoe of final energy, the Union's 2030 energy consumption has to be no more than 1 321 Mtoe of primary energy and no more than 987 Mtoe of final energy for the first ten-year period;</p> <p>(b) the Union's binding target for 2030 referred in Article 1 and 3 of Directive 2012/27/EU [as amended by proposal COM(2016)761] is met.</p> <p>In addition, Member States shall take into account:</p> <p>(a) the measures provided for in Directive 2012/27/EU;</p> <p>(b) other measures to promote energy efficiency within Member States and at Union level are taken into account.</p> <p>2. When setting their contribution referred in paragraph 1 Member States may take into account circumstances affecting primary and final energy consumption, such as:</p> <p>(a) remaining cost-effective energy-saving potential;</p> <p>(b) evolution and forecast of gross domestic product;</p> <p>(c) changes of energy imports and exports;</p> <p>(d) development of all sources of renewable energies, nuclear energy, carbon capture and storage; and</p> <p>(e) early actions.</p>
<p><i>Article 8</i></p> <p>Analytical basis of the integrated national energy and climate plans</p>	<p>2. Member States shall describe in their integrated national energy and climate plan their assessment, at national and where applicable regional level, of:</p> <p>(c) an assessment of interactions between existing (implemented and adopted) and planned policies and measures within a policy dimension and between existing (implemented and adopted) and</p>

	planned policies and measures of different dimensions for the first ten year period at least until the year 2030. Projections concerning security of supply, infrastructure and market integration shall be linked to robust energy efficiency scenarios.
<i>Article 9</i> Draft integrated national energy and climate plans	<p>2. The Commission may issue recommendations on the draft plans to Member States in accordance with Article 28. Those recommendations shall in particular set out:</p> <p>(a) the level of ambition of objectives, targets and contributions in view of collectively achieving the Energy Union objectives and notably the Union's 2030 targets for renewable energy and energy efficiency;</p>
<i>Article 19</i> Integrated reporting on energy efficiency	<p>Member States shall include in the integrated national energy and climate progress reports the information on the implementation of:</p> <p>(a) the implementation of the following national trajectories, objectives and targets: (1) the trajectory for primary and final energy consumption from 2020 to 2030 as the national energy savings contribution to achieving the Union-level 2030 target including underlying methodology;</p> <p>(2) objectives for the long-term renovation of the national stock of both public and private residential and commercial buildings;</p> <p>(3) if applicable, an update of other national objectives set out in the national plan;</p> <p>(b) the implementation of the following policies and measures:</p> <p>(1) implemented, adopted and planned policies, measures and programmes to achieve the indicative national energy efficiency contribution for 2030 as well as other objectives presented in Article 6, including planned measures and instruments (also of financial nature) to promote the energy performance of buildings, measures to utilise energy efficiency potentials of gas and electricity infrastructure and other measures to promote energy efficiency;</p> <p>(2) if applicable, market-based instruments that incentivise energy efficiency improvements, including but not limited to energy taxes, levies and allowances;</p> <p>(3) national energy efficiency obligation scheme and alternative measures pursuant to Article 7 of Directive 2012/27/EU [as amended by proposal COM(2016) 761] in accordance with Annex II of this Regulation;</p> <p>(4) long-term strategy for the renovation of the national stock of both public and private residential and commercial buildings, including policies and measures to stimulate cost-effective deep and staged deep renovation;</p> <p>(5) policy and measures to promote energy services in the public sector and measures to remove regulatory and non-regulatory barriers that impede the uptake of energy performance contracting and other energy efficiency service models;</p> <p>(6) regional cooperation in the area of energy efficiency, if applicable;</p>

	<p>(7) without prejudice to Articles 107 and 108 TFEU, financing measures, including Union support and the use of Union funds, in the area of energy efficiency at national level, if applicable;</p> <p>(c) additional information as set out in Part 2 of Annex VII.</p>
<p><i>Article 25</i> Assessment of progress</p>	<p>1. By 31 October 2021 and every second year thereafter the Commission shall assess, in particular on the basis of the integrated national energy and climate progress reports, of other information reported under this Regulation, of the indicators and of European statistics where available:</p> <p>(a) the progress made at Union level towards meeting the objectives of the Energy Union, including for the first ten-year period the Union's 2030 targets for energy and climate, notably in view of avoiding any gaps to the Union's 2030 targets for renewable energy and energy efficiency;</p> <p>(b) the progress made by each Member State towards meeting its targets, objectives and contributions and implementing the policies and measures set out in its integrated national energy and climate plan;</p> <p>(c) the overall impact of aviation on the global climate including through non-CO₂ emissions or effects, based on the emission data provided by Member States pursuant to Article 23, and improve that assessment by reference to scientific advancements and air traffic data, as appropriate.</p> <p>3. In the area of energy efficiency, as part of its assessment referred to in paragraph 1, the Commission shall assess progress towards collectively achieving a maximum energy consumption at Union level of 1 321 Mtoe of primary energy consumption and 987 Mtoe of final energy consumption in 2030 as referred to in Article 4(b)(1).</p>
<p><i>Article 27</i> Response to insufficient ambition of integrated national energy and climate plans and insufficient progress towards the Union's energy and climate targets and objectives</p>	<p>1. If, on the basis of its assessment of the integrated national energy and climate plans and their updates pursuant to Article 12, the Commission concludes that the targets, objectives and contributions of the national plans or their updates are insufficient for the collective achievement of the Energy Union objectives and, in particular, for the first ten-years period, for the Union's 2030 targets for renewable energy and energy efficiency, it shall take measures at Union level in order to ensure the collective achievement of those objectives and targets. With regard to renewable energy, such measures shall take into consideration the level of ambition of contributions to the Union's 2030 target by Member States set out in the national plans and their updates.</p> <p>2. If on the basis of its assessment pursuant to Article 25(1)(b), the Commission concludes that insufficient progress is made by a Member State towards meeting the targets, objectives and contributions or implementing the policies and measures set out in its integrated national climate and energy plan, it shall issue recommendations to the Member State concerned pursuant to Article 28. In issuing such recommendations, the Commission shall take into consideration ambitious early efforts by Member States to contribute to the Union's 2030 target for renewable</p>

	<p>energy.</p> <p>3. If, on the basis of its aggregate assessment of Member States' integrated national energy and climate progress reports pursuant to Article 25(1)(a) and supported by other information sources, as appropriate, the Commission concludes that the Union is at risk of not meeting the objectives of the Energy Union and, in particular, for the first ten-years period, the targets of the Union's 2030 Framework for Climate and Energy, it may issue recommendations to all Member States pursuant to Article 28 to mitigate such risk. The Commission shall, as appropriate, take measures at Union level in addition to the recommendations in order to ensure in particular the achievement of the Union's 2030 targets for renewable energy and energy efficiency. With regard to renewable energy, such measures shall take into consideration ambitious early efforts by Member States to contribute to the Union's 2030 target.</p> <p>5. If, in the area of energy efficiency, without prejudice to other measures at Union level pursuant to paragraph 3, the Commission concludes, based on its assessment pursuant to Article 25(1) and (3), in the year 2023 that progress towards collectively achieving the Union's energy efficiency target mentioned in the first sentence of Article 25(3) is insufficient, it shall take measures by the year 2024 in addition to those set out in Directive 2010/31/EU and Directive 2012/27/EU to ensure that the Union's binding 2030 energy efficiency targets are met. Such additional measures may in particular improve the energy efficiency of:</p> <p>(a) products, pursuant to Directive 2010/30/EU and Directive 2009/125/EC;</p> <p>(b) buildings, pursuant to Directive 2010/31/EU and Directive 2012/27/EU;</p> <p>(c) and transport.</p>
<p><i>Article 29</i></p> <p>State of the Energy Union report</p>	<p>1. By 31 October every year, the Commission shall submit to the European Parliament and to the Council a State of the Energy Union report.</p> <p>2. The State of the Energy Union report shall include, inter alia, the following elements:</p> <p>(h) energy efficiency obligation schemes as referred to in</p>
<p><i>Article 35</i></p> <p>Role of the European Environment Agency</p>	<p>The European Environment Agency shall assist the Commission in its work as regards the decarbonisation and energy efficiency dimensions to comply with Article 14, 15, 16, 17, 18, 19, 23, 24, 25, 29, 30, 31, 32 and 34 in accordance with its annual work programme.</p>

Market design

Proposal for a recast of the Internal Market Electricity Regulation (COM(2016) 861 final)

Article	Text
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<i>Article 3</i> Principles regarding the operation of electricity markets	Member States, national regulatory authorities, transmission system operators, distribution system operators, and market operators shall ensure that electricity markets are operated in accordance with the following principles: (f) market rules shall deliver appropriate investment incentives for generation, storage, energy efficiency and demand response to meet market needs and thus ensure security of supply;
<i>Article 16</i> Charges for access to networks	8. Regulatory authorities shall provide incentives to distribution system operators to procure services for the operation and development of their networks and integrate innovative solutions in the distribution systems. For that purpose regulatory authorities shall recognise as eligible and include all relevant costs in distribution tariffs and introduce performance targets in order to incentivise distribution system operators to raise efficiencies, including energy efficiency, in their networks.
<i>Article 18</i> Resource adequacy	3. Member States shall publish a timeline for adopting measures to eliminate any identified regulatory distortions. When addressing resource adequacy concerns Member States shall in particular consider removing regulatory distortions, enabling shortage pricing, developing interconnection, energy storage, demand side measures and energy efficiency.

Internal Market Electricity Directive

Proposal for a recast of the Internal Market Electricity Directive (COM(2016) 864 final)

Article	Text
<i>Article 32</i> Tasks of distribution system operators in the use of flexibility	<p>(!) Member States shall provide the necessary regulatory framework to allow and incentivise distribution system operators to procure services in order to improve efficiencies in the operation and development of the distribution system, including local congestion management. In particular, regulatory frameworks shall enable distribution system operators to procure services from resources such as distributed generation, demand response or storage and consider energy efficiency measures, which may supplant the need to upgrade or replace electricity capacity and which support the efficient and secure operation of the distribution system. Distribution system operators shall procure these services according to transparent, non-discriminatory and market based procedures.</p> <p>Distribution system operators shall define standardised market products for the services procured ensuring effective participation of all market participants including renewable energy sources, demand response, and aggregators. Distribution system operators shall exchange all necessary information and coordinate with transmission system operators in order to ensure the optimal utilisation of resources, ensure the secure and efficient operation of the system and facilitate market development.</p> <p>Distribution system operators shall be adequately remunerated for the procurement of such services in order to recover at least the corresponding expenses, including the necessary information</p>

	<p>and communication technologies expenses, including expenses which correspond to the necessary information and communication infrastructure.</p> <p>(2) The development of a distribution system shall be based on a transparent network development plan that distribution system operators shall submit every two years to the regulatory authority. The network development plan shall contain the planned investments for the next five to ten years, with particular emphasis on the main distribution infrastructure which is required in order to connect new generation capacity and new loads including re-charging points for electric vehicles. The network development plan shall also demonstrate the use of demand response, energy efficiency, energy storage facilities or other resources that distribution system operator is using as an alternative to system expansion.</p> <p>The regulatory authority shall consult all current or potential system users on the network development plan. The regulatory authority shall publish the result of the consultation process on the proposed investments.</p> <p>Member States may decide not to apply this obligation to integrated undertakings serving less than 100 000 connected consumers, or serving isolated systems.</p>
<p><i>Article 59</i></p> <p>Duties and powers of the regulatory authority</p>	<p>1. The regulatory authority shall have the following duties:</p> <p>(k) measuring the performance of the TSOs and DSOs in relation to the development of a smart grid that promotes energy efficiency and the integration of RES based on a limited set of Union-wide indicators, and publish a national report every 2 years, including recommendations for improvement where necessary;</p>

Renewable Energy

Proposal for a recast of the Renewable Energy Directive ([COM\(2016\) 767 final](#))

Article	Text
(35)	<p>To ensure that national measures for developing renewable heating and cooling are based on comprehensive mapping and analysis of the national renewable and waste energy potential and provide for increased integration of renewable energy and waste heat and cold sources, it is appropriate to require that Member States carry out an assessment of their national potential of renewable energy sources and the use of waste heat and cold for heating and cooling, in particular to facilitate mainstreaming renewable energy in heating and cooling installations and promote efficient and competitive district heating and cooling as defined by Article 2(41) of Directive 2012/27/EU. To ensure consistency with energy efficiency requirements for heating and cooling and reduce administrative burden this assessment should be included in the comprehensive assessments carried out and notified in accordance with Article 14 of Directive 2012/27/EU.</p>

(57)	Several Member States have implemented measures in the heating and cooling sector to reach their 2020 renewable energy target. However, in the absence of binding national targets post-2020, the remaining national incentives may not be sufficient to reach the long-term decarbonisation goals for 2030 and 2050. In order to be in line with such goals, reinforce investor certainty and foster the development of a Union-wide renewable heating and cooling market, while respecting the energy efficiency first principle, it is appropriate to encourage the effort of Member States in the supply of renewable heating and cooling to contribute to the progressive increase of the share of renewable energy. Given the fragmented nature of some heating and cooling markets, it is of utmost importance to ensure flexibility in designing such an effort. It is also important to ensure that a potential uptake of renewable heating and cooling does not have detrimental environmental side-effects.
(58)	District heating and cooling currently represents around 10% of the heat demand across the Union, with large discrepancies between Member States. The Commission's heating and cooling strategy has recognized the potential for decarbonisation of district heating through increased energy efficiency and renewable energy deployment.
<i>Article 15</i> Administrative procedures, regulations and codes	5. Member States shall introduce in their building regulations and codes appropriate measures in order to increase the share of all kinds of energy from renewable sources in the building sector. In establishing such measures or in their support schemes, Member States may take into account national measures relating to substantial increases in energy efficiency and relating to cogeneration and to passive, low or zero-energy buildings.
<i>Article 18</i> Information and training	2. Member States shall ensure that information on the net benefits, cost and energy efficiency of equipment and systems for the use of heating, cooling and electricity from renewable energy sources is made available either by the supplier of the equipment or system or by the national competent authorities.
<i>Article 23</i> Mainstreaming renewable energy in the heating and cooling installations	1. In order to facilitate the penetration of renewable energy in the heating and cooling sector, each Member State shall endeavour to increase the share of renewable energy supplied for heating and cooling by at least 1 percentage point (pp) every year, expressed in terms of national share of final energy consumption and calculated according to the methodology set out in Article 7. 2. Member States may designate and make public, on the basis of objective and non-discriminatory criteria, a list of measures and the implementing entities, such as fuel suppliers, which shall contribute to the increase set out in paragraph 1. 4. Member States may use the established structures under the national energy efficiency obligation schemes set out in Article 7a of Directive 2012/27/EU to implement and monitor the measures referred to in Paragraph 2.