



CAN EUROPE'S POSITION ON THE ENERGY EFFICIENCY DIRECTIVE REVIEW

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Climate Action Network (CAN) Europe is Europe's largest coalition working on climate and energy issues. With over 130 member organisations in more than 30 European countries - representing over 44 million citizens - CAN Europe works to prevent dangerous climate change and promote sustainable climate and energy policy in Europe.

SUMMARY

In November 2016, the European Commission presented a proposal to review the Energy Efficiency Directive (EED) with the aim of introducing an overarching energy efficiency target for 2030 and adjusting key provisions to a longer timeline.

The proposal will now be debated by the European Parliament as well as the Council of the European Union.

CAN Europe believes that the Commission's proposal on the EED review, as well as the rest of the legislative proposals of the Clean Energy for All package, is not consistent with the ambition of the Paris Agreement, which requires the immediate overhaul of EU climate and energy policies. Therefore CAN Europe calls the European Parliament and the Council to improve the proposed legislation by:

- Introducing an at least 40% energy savings target for 2030 to offer greater benefits to European citizens and help the EU enact the Paris Agreement;
- Supporting the Commission's proposal for a binding 2030 energy efficiency target at the EU level and strengthening it with national binding targets;
- Supporting the Commission's proposal to extend the provisions on the Energy Efficiency Obligation beyond 2020 (Article 7 of the EED) and strengthening it by:
 - Deleting the clause which allows the energy used in the transport sector to be excluded, when a Member State calculates its 1.5% objective
 - Removing the loopholes that weaken the level of ambition of the 1.5% objective, especially those that allow counting energy savings from actions implemented before 2014 and treating the energy sold to ETS industries as energy savings

- Excluding measures that incentivise new or upgraded fossil-fuel based heating systems from being eligible under Article 7 after 2020 in order to ensure compatibility with action needed under the Paris Agreement
- Introducing revision clauses to foresee the need to adjust the EU's 2030 policy framework, following future developments related to the revision of the EU's Nationally Determined Contribution (NDC) under the Paris Agreement.

The key point is that underpinning the energy efficiency policy framework through a dedicated mix of binding targets and policy measures will help mobilise the investments needed for the transition to a fully renewable and efficient energy system. This will reduce costs for consumers and businesses, and increase environmental, health, economic and geopolitical benefits.

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1. INTRODUCTION

On 30 November 2016, the European Commission presented its “Clean Energy Package for all Europeans” to enact the EU's 2030 climate and energy framework. The Package includes a proposal to review the Energy Efficiency Directive (EED), which sets an energy efficiency target for 2030 and adjusts key efficiency measures to the 2030 timeline.

The EED, adopted and entered into force in 2012, provides a real added value to the European legislative framework, because it provides the means to tap the major socio-economic benefits energy savings offer. For the first time, Member States had to set national energy efficiency targets for 2020 and report on progress to achieve them in a comparable and transparent way. Although the targets are indicative, this process increases accountability and allows assessing whether the EU is on track to meet its energy savings target.

The EED review presents a great opportunity to build on experience gained from its implementation and address some of its current weaknesses. A strengthened EED, leading to greater energy savings, will offer multiple benefits to European citizens such as greenhouse gas emission reductions, job creation, lower energy bills and improved health.

Overall, CAN Europe believes that the Commission’s proposal only partly addresses the weaknesses of the EED and therefore should be improved. The proposed amendments do not fully grasp the potential of energy efficiency to deliver deeper emission cuts and help the EU fulfil its commitments under the Paris Agreement.

This paper presents CAN Europe’s views on the shortcomings of the Commission’s EED review proposal and makes recommendations to the European Parliament and the Council on how to improve it.

2. A 40% BINDING ENERGY SAVINGS TARGET FOR 2030

Energy efficiency offers multiple benefits such as greenhouse gas (GHG) emission reductions, lower dependency on energy imports, job creation and improved health. The Impact Assessment accompanying the Commission’s proposal¹ shows that higher levels of ambition deliver significantly greater benefits (see Table 1 for increased benefits with different levels of ambition).

Table 1. Increase of benefits with higher levels of energy savings²

	30%	33%	35%	40%
Reduction in gas imports	12%	23%	29%	41%
GDP increase in 2030	0.39%	1.45%	2.08%	4.08%
Additional jobs	396.950	1.587.800	2.428.400	4.856.800
Savings in fossil fuel import bills (bn) for 2021-2030	69.6	147.3	199.3	287.5
Reduction in pollution control and health damage costs (bn/year)	4.5-8.3	15.2-28.4	19.9-36.6	30.4-55.9
Total GHG emissions reductions (% to 1990)	41%	43%	44%	47%

The European Commission is proposing an EU binding 30% energy efficiency target for 2030 (Article 1.1); however, it is clear that this option does not maximise the benefits for citizens and society. **CAN Europe**

¹ Impact Assessment accompanying the *Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/27/EU*, Brussels 30.11.2016, SWD (2016) 405 final

² Change compared to the benefits delivered under a level of ambition of 27% energy savings. Data are taken from Commission’s Impact Assessment accompanying the proposal to review the Energy Efficiency Directive.

recommends adopting a binding energy savings target of at least 40% to substantially improve EU energy security, create jobs and reduce pollution.

The need to increase the level of ambition is also supported by recent data on energy consumption trends, which show that EU efforts to reduce energy waste through energy efficiency policies are paying off³. In 2014, primary energy consumption was only 1.5% above the 2020 target, while for the first time final energy consumption was already 2% lower than the 2020 target. Largely thanks to its own efficiency policies, the EU is on track to achieve its 2020 target and **a 40% energy savings target is more than ever within reach.**

The EU needs to shift towards an energy system that is based on 100% environmentally sound renewable energy. This is possible only if energy use is reduced significantly. A strong and binding energy efficiency target, underpinned by binding policies and measures, will give regulatory certainty to investors to undertake the energy efficiency investments needed to make the energy transition happen.

- **Introduce a binding at least 40% energy savings EU target for 2030 to offer greater benefits to European citizens and help the EU enact the Paris Agreement (Amend Articles 1 and 3 of the EED review proposal)**

3. AN EU BINDING ENERGY SAVINGS TARGET BROKEN DOWN TO THE NATIONAL LEVEL

CAN Europe welcomes the proposal from the European Commission to set a 2030 binding target at the EU level. A binding target ensures commitment and accountability, and is a strong benchmark to assess progress in implementation. But to increase ownership of delivery, the overall target should also be distributed among the Member States on the basis of their economic and energy savings potentials. This, combined with the adoption of necessary policies and measures will lead to higher prioritisation of energy savings, stimulating greater level of ambition in fleshing out national energy efficiency measures and allocating more human and financial resources.

Unfortunately, **the Commission's proposal on the Governance Regulation⁴ requires Member States only to set national indicative contributions for 2030 and it does not firmly define what will happen**, if these contributions do not add up to the EU energy efficiency target. CAN Europe believes that binding national targets should be set right from the start. **At the very least, a safeguard should be included in the Governance regulation that allows binding national targets to be introduced at a later stage e.g. in the event the European Commission assesses that the national climate and energy plans are inadequate to deliver the EU energy efficiency target.** Overall, setting of targets, planning and reporting of measures, monitoring of compliance and corrective action if there is not sufficient progress to achieve the targets should be dealt with in a coherent manner.

Finally, it is paramount that revision provisions are introduced in all legislative files of the 2030 climate and energy framework, including the EED, to ensure the adjustment of the legislation, following any developments regarding the revision of the EU's National Determined Contribution (NDC) under the Paris Agreement.

³ Bertoldi, P., López-Lorente, J., Labanca, N., 2016; Energy Consumption and Energy Efficiency Trends in the EU-28 2000-2014; EUR 27972 EN; doi 10.2788/581574

⁴ Proposal for a Regulation of the European Parliament and of the Council on the Governance of the Energy Union amending amending Directive 94/22/EC, Directive 98/70/EC, Directive 2009/31/EC, Regulation (EC) No 663/2009, Regulation (EC) No 715/2009, Directive 2009/73/EC, Council Directive 2009/119/EC, Directive 2010/31/EU, Directive 2012/27/EU, Directive 2013/30/EU and Council Directive (EU) 2015/652 and repealing Regulation (EU) No 525/2013, Brussels 30.11.2016, COM (2016) 759 final

- Support the Commission’s proposal for an EU binding 2030 energy efficiency and complement it with binding national targets (Amend Art 1 & 3.4 of the EED review proposal, Amend Art 4 & 6 of Governance Regulation proposal)
- Introduce revision clauses in all legislative files of the 2030 climate and energy framework, including the EED, to ensure legislation is adjusted, following any developments regarding the revision to the EU's National Determined Contribution (NDC) under the Paris Agreement (Amend Article 24 of the EED)

4. ENERGY SAVINGS OBLIGATION⁵ – A STRONGER INSTRUMENT BUILDING ON LESSONS LEARNT FROM CURRENT IMPLEMENTATION

The adoption of the EED has reinforced the European legislative framework, helping create a level playing field among Member States. Time and resources are being invested into implementing energy efficiency measures, especially **under Article 7 of the EED, which sets a mandatory requirement for Member States to achieve 1.5% energy savings (of final energy sales) every year.** This provision was put in place to facilitate and accelerate the uptake of energy efficiency measures, such as home insulation, double glazed windows, more efficient appliances and heating systems. Article 7 is expected to deliver most of the energy savings of the EED until 2020⁶.

Member States can choose different ways to fulfil the requirements of Article 7. They can establish an Energy Efficiency Obligation (EEO) scheme. This is a mechanism under which national energy suppliers, distributors and/or energy retail companies are required to deliver the energy savings by providing energy services to the final consumers, facilitating the implementation of energy efficiency measures. **As such, EEO schemes are useful mechanisms because they contribute to energy companies gradually shifting their activities from simply supplying energy to delivering energy services, where profit margins are often higher.** As an alternative, Member States may choose to achieve the required energy savings by implementing other policies and measures at the national level such as financing schemes, taxes, voluntary agreements, training and education programmes. They can also combine the two options.

Article 7 has set in motion the implementation of national energy efficiency measures. According to a new evaluation study⁷ of the implementation of Article 7 prepared for the European Commission, one third of the planned measures are new and the majority of all actions to be taken are targeting the building sector. Fifteen Member States⁸ chose to develop an EEO to partially or fully achieve the savings required (before the EED was adopted only five EEOs existed). EEOs are also expected to deliver the largest share of the overall savings (34%), followed by financing schemes or grants (19%) and taxes (14%).

⁵ The title of Article 7 of the current EED is “Energy Efficiency Obligations Schemes”. Under the Commission’s proposal for the EED review the title of this provision changes to “Energy Savings Obligation” to better reflect the requirements for the both the energy efficiency obligations schemes and the alternative measures

⁶ European Commission, 2016. Memo on the new energy efficiency measures published together with the “Clean Energy Package for all Europeans” legislative proposals on 30 November 2016.

https://ec.europa.eu/energy/sites/ener/files/documents/technical_memo_energyefficiency.pdf

⁷ Ricardo Energy & Environment (2016) Study evaluating progress in the implementation of Article 7 of the Energy Efficiency Directive

⁸ Latest information from the 2017 energy efficiency progress report. European Commission, 2017, COM(2017) 56 final, Assessment of the progress made by Member States in 2014 towards the national energy efficiency targets for 2020 and towards the implementation of the Energy Efficiency Directive 2012/27/EU as required by Article 24 (3) of the Energy Efficiency Directive 2012/27/EU.

4.1 EXTENDING THE ENERGY SAVINGS OBLIGATION (ARTICLE 7 OF THE EED) BEYOND 2020

The implementation of the measures foreseen under Article 7 of the EED only started in 2014. As the EED stands today, the requirements of Article 7 will remain into force only until 2020. **Therefore, CAN Europe welcomes the proposal of the European Commission to extend the implementation of Article 7 beyond 2020 with a long term perspective to 2050.** This sends the right signal to Member States that they should rapidly advance with their efforts to ensure sound implementation. It also gives assurances to investors and other actors involved that market opportunities created under the energy savings obligations will continue.

- **Support the Commission's proposal on the extension of EED Article 7 to 2050, as it is one of the key delivery measures of the 2020 policy framework and should remain the EU efficiency flagship tool for 2030 and beyond (Article 7 of the EED review proposal)**

4.2 SAFEGUARDING THE INTEGRITY OF THE 1.5% ENERGY SAVINGS OBJECTIVE

Unfortunately, as the EED currently stands, the 1.5% energy savings objective of Article 7 is valid only on paper; in reality, Member States are allowed to reduce the amount of the energy savings to be delivered right from the start, through the use of different loopholes (in Article 7(1) and Article 7(2)). It has been estimated that the overall impact of these loopholes, which are used by almost all Member States, reduces the average savings by around a half, from 1.5% to only 0.75% end-use energy savings per year⁹. **The Commission's proposal does not address this issue, allowing Member States to continue the current flawed practise.**

First, countries can disregard the energy used in transport, when they calculate their 1.5% objective (i.e. how much energy they need to save each year). But at the same time, Member States are allowed to count the energy saved from measures implemented in the transport sector towards the delivery of the 1.5% objective. **Such an approach does not make sense and should not be allowed to continue after 2020, contrarily to what the Commission is currently proposing under the EED review.** The weak rationale behind allowing the exclusion of the energy used in transport from the calculations of the 1.5% objective after 2020 is also confirmed by the evaluation study on the implementation of Article 7¹⁰.

- **Delete the clause which allows the energy used in the transport sector to be excluded from the calculation of the 1.5% objective (Amend Article 7.1 of the EED review proposal)**

Secondly, countries are allowed to use exemptions to reduce the energy savings to be delivered by a maximum of 25%. For the implementation period between 2014 and 2020, these include:

- Phasing-in the 1.5% objective: 1% in 2014 and 2015, 1.25% in 2016 and 2017 and 1.5% in 2018, 2019 and 2020;
- Being able to treat a part or all of the energy used in ETS industries as energy savings for the purposes of achieving the objective of Article 7
- Counting energy savings resulting from actions that are not new but already implemented between the end of 2008 and the beginning of 2014 (early actions)
- Counting savings to be achieved in the energy transformation, distribution and transmission sectors

⁹ Rosenow, J., Leguijt, C., Pato, Z., Fawcett, T., Eyre, N. (2016): An ex-ante evaluation of the EU Energy Efficiency Directive - Article 7. *Economics of Energy & Environmental Policy* 5(2), p. 45-63

¹⁰ Ricardo Energy & Environment (2016) Study evaluating progress in the implementation of Article 7 of the Energy Efficiency Directive (page 54)

The experience so far has shown that Member States have mostly chosen the exemptions that involve the least possible effort. For example, the use of the phase-in of the 1.5% objective was used extensively, including by Member States with significant expertise in implementing energy efficiency measures. This is confirmed by the Article 7 evaluation study¹¹.

In the EED review proposal, the European Commission is proposing to delete the option of the phasing in of the 1.5% objective after 2020. **However, the other options that represent “statistical tricks”, i.e. allowing the energy sales in the ETS sector to be treated as energy savings and being able to count savings from actions implemented before the EED was even adopted, are still set to remain after 2020.** This means that most likely the current flawed practise will still be applied and Member States will keep using these options to reduce the savings they need to deliver under Article 7.

The European Commission is also proposing to include within the 25% provision the possibility to exclude from the calculation of the energy savings the energy generated on or in buildings for own use as a result of policy measures promoting new installation of renewable energy technologies after 2020. CAN Europe believes that this option is not to be compared to the “statistical tricks” mentioned above. The acceleration of the uptake of both renewable energy and energy efficiency measures is needed to decarbonise our energy system, as they are complementary to each other. However, the idea of bundling it together with the loopholes under the 25% provision is questionable. This is because Member States have used this provision only to reduce efforts on energy efficiency under Article 7 and therefore it has a clear negative connotation. The same applies for the option related to savings to be achieved in the energy transformation, distribution and transmission sectors, which are important for achieving the overall 2030 energy efficiency target of each Member State.

CAN Europe believes that the simplest and most straightforward way to deal with the loopholes is to delete Article 7.2 altogether.

- **Remove the loopholes that weaken the level of ambition of the 1.5% objective, especially those that allow counting energy savings from actions implemented before 2014 and treating the energy sold to ETS industries as energy savings (Amend Article 7.2 and Article 7.3 of the EED review proposal)**

4.3 PROMOTING ENERGY EFFICIENCY MEASURES IN LINE WITH THE EU’S LONG-TERM COMMITMENTS

Achieving the objectives of the Paris Agreement requires the reform of all climate and energy policies¹² of the EU, driving the fast deployment of sustainable energy solutions. In this context, the role of Article 7 is to accelerate the uptake of energy efficiency measures in the end use sectors. Reducing energy demand among final energy consumers is essential for the energy transition to a 100% sustainable renewable energy system. This is why, only measures that trigger end-use energy savings are eligible to count under the obligation of Article 7¹³.

¹¹ Ricardo Energy & Environment (2016) Study evaluating progress in the implementation of Article 7 of the Energy Efficiency Directive (page 54)

¹² In its most recent Emissions Gap report, UNEP recommends that all countries need to further reduce their projected 2030 emissions, after implementing Paris commitments, with another 25%, to achieve even the 2°C limit. UNEP, Emissions Gap Report, <http://web.unep.org/emissionsgap/>

¹³ This is already specified in the guidance note of the European Commission, which elaborates in more detail on how Article 7 should be implemented: European Commission, 2013, SWD(2013) 451, Guidance note on Directive 2012/27/EU on energy efficiency, Article 7: Energy efficiency obligation schemes.

This scope should be complemented with requirements that ensure that the implementation of Article 7 contributes to the gradual phase-out of fossil fuels. Therefore, the installation of new or upgraded fossil-fuel based heating systems should not be considered eligible and energy savings from these measures should not be counted under Article 7 after 2020. Furthermore, any measures taken in the building sector under Article 7 should pave the way for the implementation of Member States' long-term renovation strategies, which are required by the Energy Performance of Building Directive (EPBD) proposal and should also be in line with the EU's long-term commitments.

Taking into account the above, CAN Europe believes that the issue of eligibility should be further elaborated in the legislative proposal.

- **Exclude measures that incentivise new or upgraded fossil-fuel based heating systems from being eligible under Article 7 after 2020 (Amend Annex V of the EED review proposal)**
- **Ensure consistency between the measures taken in the building sector under Article 7 and the Member States' long-term renovation strategies, which are required by the EPBD proposal (Amend Annex V of the EED review proposal)**



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