

Comments on the proposal for a Directive on Energy Efficiency and Repealing Directives 2004/8/EC and 2006/32/EC (hereafter EED)

General:

Given the sheer size of the EU's stock of privately owned buildings, this area could potentially provide the lion's share for the energy savings to be achieved by 2020. Regarding those, the Energy Efficiency directive should put a much stronger focus on the building sector. If Europe is to meet its short and long-term energy, carbon and economic goals and wants to avoid lock-in effects, it needs a tripling of deep renovation rates from now up to 2020. This level must be kept until 2050.

Action must be taken now. Building capacity, technical know-how, support programmes etc. can take time and a clear understanding of how to move towards more comprehensive renovation programmes is essential. Sub-optimal renovations will, over the short-term, allow Member States to meet interim goals. However, over the long-term, projections have shown that this will make it much harder and more expensive to meet 2050 reduction targets. It is therefore not acceptable that the draft directive does not tackle this huge area in a clear and unambiguous manner.

Article 3: Energy efficiency targets

Binding energy saving targets particularly for the building sector would provide a clear long-term framework to politicians, real-estate developers, the construction industry and building owners / users. The Commission's approach to start from indicative targets, check the state of progress by 30th June 2014 and, if required, consider national binding targets at that point in time, will make it impossible for the construction industry to deliver by 2020 for the following reasons:

- Binding targets would be unlikely to apply before 2016.
- There is no indication which part of the targets would be allocated to the building sector.
- The construction supply chain is extremely fragmented consisting of micro-enterprises for more than 90%. It will take time to bring them all on track to ensure delivery of the target.
- The number of skilled construction workers would need to be increased significantly. In many countries, vocational training curricula include two to three years of courses. Hence additional skilled workers might not be available before 2019.

PU Europe is therefore convinced of the need to introduce mandatory targets from the application date of the directive. This position is also justified by the lack of effective binding measures in this directive. PU Europe deplores the lack of quantified national targets (effort sharing). Without those it will be impossible for Member States to set meaningful sectoral targets in relation to the 20% overall savings to be achieved at European level by 2020. PU Europe therefore proposes that a new annex XV be added specifying national energy efficiency targets in the way it was done for the Renewables directive.

The Impact Assessment related to this directive (SEC(2011) 779 final) identifies very different cost-effective savings potentials for the different final and supply side sectors. It must be avoided that Member States put the savings burden on sectors with a low potential but which are easy to regulate. The "remaining efforts" that need to be realised for each sector, as identified in the Impact Assessment, should be reflected in the composition of national targets.

This directive should encourage efficiency gains in industry but not put a cap on energy use. Industry has a crucial role to play in meeting Europe's energy targets in terms of providing products to achieve energy efficiency gains and use renewable energy sources. Industry must be allowed to grow to meet these requirements. PU Europe therefore proposes that any national requirements on industry should always be expressed in energy use per output unit.

Proposed redrafted version of article 3

Commission proposal	PU Europe proposal
<p>1. Member States shall set a national energy efficiency target expressed as an absolute level of primary energy consumption in 2020. When setting these targets, they shall take into account the Union's target of 20 % energy savings, the measures provided for in this Directive, the measures adopted to reach the national energy saving targets adopted pursuant to Article 4(1) of Directive 2006/32/EC and other measures to promote energy efficiency within Member States and at Union level.</p> <p>2. By 30 June 2014, the Commission shall assess whether the Union is likely to achieve its target of 20 % primary energy savings by 2020, requiring a reduction of EU primary energy consumption of 368 Mtoe in 2020, taking into account the sum of the national targets referred to in paragraph 1 and the evaluation referred to in Article 19(4).</p>	<p>1. Member States shall set a binding national energy efficiency target expressed as an absolute level of primary energy consumption in 2020 according to annex XV. When developing national measures, Member States shall take full account of the cost effective saving potentials of each of the final and supply side sectors as determined in document SEC(2011) 779 final.</p> <p>1a. Member States shall express possible sectoral targets for industry in energy use per output unit so as to avoid impeding industrial growth.</p> <p>2. By 31 December 2013, the Commission shall assess whether the Union is likely to achieve its target of 20 % primary energy savings by 2020, requiring a reduction of EU primary energy consumption of 368 Mtoe in 2020, taking into account the sum of the national targets referred to in paragraph 1 and the evaluation referred to in Article 19(4).</p>

Alternative:

If it is impossible to agree on binding national targets as proposed above, article 19 (7) should be strengthened (see below for alternative amendment on article 19(7)).

Alternative:

If it is impossible to agree on an annex to this directive specifying national targets (effort sharing), the Commission should be invited to present such a document together with the legislative proposal referred to in article 19(7) (see below for alternative amendment on article 19(7)).

Proposed alternative redrafted version of article 3

Commission proposal	PU Europe proposal
<p>1. Member States shall set a national energy efficiency target expressed as an absolute level of primary energy consumption in 2020. When setting these targets, they shall take into account the Union's target of 20 % energy savings, the measures provided for in this Directive, the measures adopted to reach the national energy saving targets adopted pursuant to Article 4(1) of Directive 2006/32/EC and other measures to promote energy efficiency within Member States and at Union level.</p> <p>2. By 30 June 2014, the Commission shall</p>	<p>1. Member States shall set a binding national energy efficiency target expressed as an absolute level of primary energy consumption in 2020. When setting these targets, they shall take into account the Union's target of 20 % energy savings, the measures provided for in this Directive, the measures adopted to reach the national energy saving targets adopted pursuant to Article 4(1) of Directive 2006/32/EC and other measures to promote energy efficiency within Member States and at Union level. When developing national measures, Member States shall take full account of the cost effective saving potentials of each of the final and supply side sectors as determined in document SEC(2011) 779 final.</p> <p>1a. Member States shall express possible sectoral targets for industry in energy use per output unit so as to avoid impeding industrial growth.</p> <p>2. By 31 December 2013, the Commission shall</p>

<p>assess whether the Union is likely to achieve its target of 20 % primary energy savings by 2020, requiring a reduction of EU primary energy consumption of 368 Mtoe in 2020, taking into account the sum of the national targets referred to in paragraph 1 and the evaluation referred to in Article 19(4).</p>	<p>assess whether the Union is likely to achieve its target of 20 % primary energy savings by 2020, requiring a reduction of EU primary energy consumption of 368 Mtoe in 2020, taking into account the sum of the national targets referred to in paragraph 1 and the evaluation referred to in Article 19(4).</p>
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Article 4: Public bodies

PU Europe welcomes the provision to lift the renovation rate of public buildings to 3%. It is however regrettable that this same article drastically reduces the potential savings from this 3% target:

- Renovating to meet at least the minimum energy performance requirements will lead to substantial lock-in effects and not use the full cost-effective savings potential. Buildings undergo major renovation every 30 years. Either the low efficiency level will persist during this period or additional measures are introduced to increase the building performance. The former would cement higher energy costs and the latter cause additional renovation costs.
- Buildings below 250 m² should not be excluded.
- PU Europe believes social housing should be included, but the proposed text remains unclear in this point.
- Linking the 3% renovation target to those buildings which do not meet the national minimum energy performance requirements would lead to a gradual decrease of the renovation rate to about 2.3% after 10 years. This is clearly not consistent with the long-term goal. The basis of the 3% rate should always be the total floor area.

The political environment is not favourable towards the introduction of a similar 3% renovation target for existing commercial and private buildings. PU Europe therefore proposes that Member States should at least draft roadmaps regarding the deep renovation of the complete building stock by 2050.

Proposed redrafted version of article 4

Commission proposal	PU Europe proposal
<p>Public Bodies 1. Without prejudice to Article 7 of Directive 2010/31/EU, Member States shall ensure that as from 1 January 2014, 3% of the total floor area owned by their public bodies is renovated each year to meet at least the minimum energy performance requirements set by the Member State concerned in application of Article 4 of Directive 2010/31/EU. The 3% rate shall be calculated on the total floor area of buildings with a total useful floor area over 250 m² owned by the public bodies of the Member State concerned that, on 1 January of each year, does not meet the national minimum energy performance requirements set in application of Article 4 of Directive 2010/31/EU. ... 3. For the purposes of paragraph 1, by 1 January 2014, Member States shall establish and make publicly available an inventory of buildings owned by their public bodies indicating: (a) the floor area in m²; and (b) the energy performance of each building. ...</p>	<p>Public, commercial and private buildings 1. Without prejudice to Article 7 of Directive 2010/31/EU, Member States shall ensure that as from 1 January 2014, 3% of the total floor area owned by their public bodies, including social housing, is renovated each year to meet at least cost-optimal efficiency levels set by the Member State concerned in application of Article 5 of Directive 2010/31/EU. ... Delete ... 5. Member States shall draw up national roadmaps to provide details about national strategies to reduce carbon emission of the</p>

	<p>building stock by 80% in 2050, compared to 1990 levels / existing levels of performance. These national roadmaps shall be adopted by 1 January 2014 (for public buildings), by 1 January 2015 (for commercial buildings), and by 1 January 2017 (for private buildings), and will also establish intermediary targets for average energy consumption of the building stock 2020, 2030 and 2040.</p> <p>6. For the purposes of paragraph 5, Member States shall establish an inventory of buildings, indicating:</p> <p>a. Floor area in m²</p> <p>b. the energy performance of each building including information about actual energy use when available.</p> <p>The inventory for buildings owned by public bodies shall be established by 1 January 2014, the one for commercial buildings by 1 January 2015 and the one for private buildings by 1 January 2016.</p> <p>7. The national roadmaps must be annexed in annual reports referred to in Article 19(1).</p>
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Article 5: Purchasing by public bodies and annex III

According to the Commission proposal, public authorities should only rent or purchase buildings that comply with the minimum energy performance requirements. This probably refers only to new rental or purchasing contracts and is therefore not ambitious.

As regards new buildings, the EED should follow the roadmap developed in the framework of directive 2010/31/EU (EPBD). As the EPBD remains vague regarding existing buildings, the EED should set more stringent requirements for this vast category. PU Europe recommends that, in addition to the Commission proposal, half of those buildings should have an Energy performance certificate class B.

Proposed redrafted version of Annex III

Commission proposal	PU Europe proposal
<p>ANNEX III</p> <p>Energy efficiency requirements for purchasing products, services and buildings by public bodies</p>	<p>ANNEX III</p> <p>Energy efficiency requirements for purchasing products, services and buildings by public bodies</p>
<p>Public bodies that purchase products, services or buildings shall:</p> <p>....</p> <p>f) purchase or rent only buildings that comply at least with the minimum energy performance requirements referred to in Article 4(1). Compliance with these requirements shall be verified by means of the energy performance certificates referred to in Article 11 of Directive 2010/31/EU.</p>	<p>Public bodies that purchase products, services or buildings shall:</p> <p>....</p> <p>f) purchase or rent only buildings that comply at least with the minimum energy performance requirements referred to in Article 4(1). From 1st January 2015, at least half of the existing buildings newly rented or purchased by public bodies should reach at least the energy performance class B. Compliance with these requirements shall be verified by means of the energy performance certificates referred to in Articles 10 and 11 of Directive 2010/31/EU.</p>

Article 6: Energy efficiency obligation schemes and annex V

When the Commission announced they would replace binding targets by binding measures, savings obligations were supposed to form the centrepiece. The current proposal is however very confusing and incomplete. It puts in place obligations but introduces an opt-out possibility for Member State provided

they take other measures leading to equivalent savings. As the energy efficiency obligations will not necessarily lead to real savings, alternative measures can have a very low ambition level, too.

Generally, when imposing savings obligations on energy utilities, the following needs to be considered:

- Utilities could indeed bring badly needed financing to the energy efficiency sector. However, they are unlikely to shift their core business to energy efficiency after having invested many billions of Euros in generation capacity with very long pay-back periods.
- Companies having control over energy supply should not be given the control over the energy efficiency sector without very strict conditions. The focus should be placed on an independent, innovative and competitive sector of small and large energy performance providers for whom energy efficiency forms the core business.
- Experience shows that utilities with an energy savings obligation prefer easy solutions to meet their quota at lowest cost. They do not have a holistic view on the building's cost-optimal savings potential. In practice, this leads to lock-in effects as, for example, the roof insulation will not be touched on for decades, even if installed far below cost-optimal levels.

The present Commission proposal includes a number of serious shortcomings:

- Paragraph 1 will not lead to any real energy savings and allows all obligated parties to sell more energy year after year.

Example:			
Sales in year 1:	100	Required savings in year 1:	0
Sales in year 2:	105	Required savings in year 2:	1.5
Sales in year 3:	110	Required savings in year 3:	1.575
Sales in year 4:	115	Required savings in year 4:	1.725

The saving obligations for each obligated party should be defined on the basis of its market share and each Member State's share in the required overall savings of 368 Mtoe in 2020.

- The EU's 2020 target calls for a 20% reduction in primary energy consumption. The amount of energy savings required from each obligated party should therefore be expressed in terms of primary energy demand.
- Whilst the Commission generally stresses the need of deep renovation, this proposal does not include any requirement in that sense. This will result into patchy measures without a long-term vision for each individual building.
- Annex V completely ignores energy saving measures for the building envelope (insulation, windows, doors), although they offer the highest savings potential and have the longest life time. This is in contradiction to the approach of directive 2010/31/EU (EPBD) and the principle of the *trias energetica*.
- Paragraph 5 (b) rightly allows obligated parties to (partially) count savings achieved by independent energy service providers towards their obligation. However, it fails to stipulate that those savings must go beyond business as usual scenarios.
- Paragraph 9: If a country has successful energy saving incentive schemes in place and energy efficiency obligations would not add any value, then the obligated actors should at least pay into an energy efficiency fund.

Proposed redrafted version of article 6

Commission proposal	PU Europe proposal
<p align="center">Article 6</p> <p align="center">Energy efficiency obligation schemes</p> <p>Each Member State shall set up an energy efficiency obligation scheme. This scheme shall ensure that either all energy distributors or all retail energy sales companies operating on the Member State's territory achieve annual energy savings equal to 1.5% of their energy sales, by volume, in the previous year in that Member State excluding energy used in transport. This amount of energy savings shall be achieved by the obligated parties among final customers.</p>	<p align="center">Article 6</p> <p align="center">Energy efficiency obligation schemes</p> <p>Each Member State shall set up an energy efficiency obligation scheme. This scheme shall ensure that either all energy distributors or all retail energy sales companies operating on the Member State's territory achieve annual energy savings leading to an annual 1.5% reduction in overall energy consumption compared to the business-as-usual scenario in that Member State excluding energy used in transport. This amount of energy savings shall be achieved by the obligated parties among final customers.</p>

<p>2. Member States shall express the amount of energy savings required from each obligated party in terms of either final or primary energy consumption. The method chosen for expressing the required amount of energy savings shall also be used for calculating the savings claimed by obligated parties. The conversion factors in Annex IV shall apply.</p> <p>3. Measures that target short-term savings, as defined in Annex V(1), shall not account for more than 10% of the amount of energy savings required from each obligated party and shall only be eligible to count towards the obligation laid down in paragraph 1 if combined with measures to which longer-term savings are attributed.</p> <p>...</p> <p>5. Within the energy efficiency obligation scheme, Member States may:</p> <p>...</p> <p>(b) permit obligated parties to count towards their obligation certified energy savings achieved by energy service providers or other third parties; in this case they shall establish an accreditation process that is clear, transparent and open to all market actors, and that aims at minimising the costs of certification;</p> <p>...</p> <p>9. As an alternative to paragraph 1, Member States may opt to take other measures to achieve energy savings among final customers. The annual amount of energy savings achieved through this approach shall be equivalent to the amount of energy savings required in paragraph 1.</p> <p>Member States opting for this option shall notify to the Commission, by 1 January 2013 at the latest, the alternative measures that they plan to adopt, including the rules on penalties referred to in Article 9, and demonstrating how they would achieve the required amount of savings. The Commission may refuse such measures or make suggestions for modifications in the 3 months following notification. In such cases, the alternative approach shall not be applied by the Member State concerned until the Commission expressly accepts the resubmitted or modified draft measures.</p> <p>...</p>	<p>Industrial users producing energy for their own needs shall be exempted from this requirement.</p> <p>2. Member States shall express the amount of energy savings required from each obligated party in terms of primary energy consumption. The method chosen for expressing the required amount of energy savings shall also be used for calculating the savings claimed by obligated parties. The conversion factors in Annex IV shall apply.</p> <p>3. Measures that target short-term savings, as defined in Annex V(1), shall not account for more than 10% of the amount of energy savings required from each obligated party and shall only be eligible to count towards the obligation laid down in paragraph 1 if combined with measures to which longer-term savings are attributed.</p> <p>Deep building renovation must account for at least 50% of energy savings required from each obligated party.</p> <p>...</p> <p>5. Within the energy efficiency obligation scheme, Member States may:</p> <p>...</p> <p>(b) permit obligated parties to count towards their obligation certified energy savings achieved by energy service providers or other third parties, provided these savings go beyond business-as-usual scenarios; in this case they shall establish an accreditation process that is clear, transparent and open to all market actors, and that aims at minimising the costs of certification;</p> <p>...</p> <p>9. As an alternative to paragraph 1, Member States may opt to require obligated parties to pay into energy efficiency funds, so as to contribute to the financing of energy saving measures among final customers. The annual amount of energy savings achieved through this approach shall be equivalent to the amount of energy savings required in paragraph 1.</p> <p>...</p>
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Proposed redrafted version of Annex V

Add chapter on life times of building envelope components (insulation, windows, doors).

Article 7: Energy audits and energy management systems

PU Europe is reluctant to support mandatory audits for large companies for the following reasons:

- Energy efficiency is already a reality in energy-intensive industries as it is simply an economic imperative to maintain competitiveness. The EU chemical industry has decreased energy intensity by 4.0% per year on average since 1995 and overall by 41% since 2003. New installations usually realise the maximum cost-effective savings potential.
- The cost-effective savings potential (referring to today's state of the art) has been largely exploited. CO₂ abatement costs per ton are therefore much higher in the manufacturing industry than they are in construction or transport.
- There is already a very comprehensive EU policy framework that serves as a constant additional incentive to become more energy-efficient, i.e. EU ETS, IED (IPPC), etc.
- The EED proposal to have one audit every three years would cause significant costs. Companies have to recover the costs of investment in new product lines. Their lifetimes by far exceed three years and the audits would not lead to any new results.
- If one leaves production lines apart and looks only at buildings, this article is in contradiction to the buildings performance certificates introduced by the EPBD, which have a period of validity of 10 years. They should be recognised.
- There is a real risk that energy intensive production is moved outside the EU. Already today, the EU is importing CO₂ via products and is exporting value-adding manufacturing jobs.
- Old private residential buildings should undergo at least one audit even if they are not sold or rented out, as they usually offer the highest cost-effective savings potential. Again, the buildings performance certificates introduced by the EPBD should be recognised.

Proposed redrafted version of article 7

Commission proposal	PU Europe proposal
<p style="text-align: center;">Article 7</p> <p>1. Member States shall promote the availability to all final customers of energy audits which are affordable and carried out in an independent manner by qualified or accredited experts. Member States shall develop programmes to encourage households and small and medium-sized enterprises to undergo energy audits. Member States shall bring to the attention of small and medium-sized enterprises concrete examples of how energy management systems could help their business.</p> <p>2. Member States shall ensure that enterprises not included in the second subparagraph of paragraph 1 are subject to an energy audit carried out in an independent and cost effective manner by qualified or accredited experts at the latest by 30 June 2014 and every three years from the date of the previous energy audit.</p> <p>3. Energy audits carried out in an independent manner resulting from energy management systems or implemented under voluntary agreements concluded between organisations of stakeholders and an appointed body and supervised by the Member State concerned or by the Commission, shall be considered as fulfilling the requirements of paragraph 2.</p> <p>...</p>	<p style="text-align: center;">Article 7</p> <p>1. Member States shall promote the availability to all final customers of energy audits which are affordable and carried out in an independent manner by qualified or accredited experts. Member States shall develop programmes to encourage households and small and medium-sized enterprises to undergo energy audits. Member States shall bring to the attention of small and medium-sized enterprises concrete examples of how energy management systems could help their business.</p> <p>2. Member States shall ensure that enterprises not included in the second subparagraph of paragraph 1 are subject to an energy audit carried out in an independent and cost effective manner by qualified or accredited experts at the latest by 30 June 2014 and every ten years from the date of the previous energy audit. Member States shall ensure that all private buildings older than 30 years are subject to an energy audit.</p> <p>3. Energy audits carried out in an independent manner resulting from energy management systems or implemented under voluntary agreements concluded between organisations of stakeholders and an appointed body and supervised by the Member State concerned or by the Commission, shall be considered as fulfilling the requirements of paragraph 2. Energy performance certificates issued according to article 11 of directive 2010/31/EU shall be recognised as far as the energy performance</p>

	<i>of residential and administrative buildings is concerned.</i> ...
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Article 19: Review and monitoring of implementation

With the introduction of binding national energy efficiency targets in article 3(1), article 19 needs to be slightly adjusted.

Proposed redrafted version of article 19

Commission proposal	PU Europe proposal
Article 19	Article 19
... 7. By 30 June 2014 the Commission shall submit the assessment referred to in Article 3(2) to the European Parliament and to the Council. <i>followed, if appropriate, by a legislative proposal laying down mandatory national targets.</i> 7. By 30 June 2014 the Commission shall submit the assessment referred to in Article 3(2) to the European Parliament and to the Council. ...

If it appears impossible to agree on mandatory national targets in article 3(1), article 19(7) should be strengthened on the basis of the initial proposal of DG ENER.

**Proposed alternative redrafted version of article 19
(if no mandatory national targets are introduced in article 3(1))**

Commission proposal	PU Europe proposal
Article 19	Article 19
... 7. <i>By 30 June 2014</i> the Commission shall submit the assessment referred to in Article 3(2) to the European Parliament and to the Council, followed, if appropriate, by a legislative proposal laying down mandatory national targets. 7. <i>By 31 December 2013</i> , the Commission shall submit the assessment referred to in Article 3(2) to the European Parliament and to the Council <i>as to whether the Union can confidently expect to achieve its target of 20% primary energy savings by 2020, taking into account the sum of the indicative national targets referred to in Article 3(1). This report shall be accompanied, if the assessment indicates that this is necessary,</i> by a legislative proposal laying down mandatory national targets. ...

If it appears impossible to agree on an annex specifying national savings targets, the legislative proposal referred to in article 19(7) should include an annex regarding effort sharing.

**Proposed second alternative redrafted version of article 19
(if no annex XV on effort sharing is included)**

Commission proposal	PU Europe proposal
Article 19	Article 19
... 7. <i>By 30 June 2014</i> the Commission shall submit the assessment referred to in Article 3(2) to the European Parliament and to the Council, followed, if appropriate, by a legislative proposal laying down mandatory national targets. 7. <i>By 31 December 2013</i> , the Commission shall submit the assessment referred to in Article 3(2) to the European Parliament and to the Council <i>as to whether the Union can confidently expect to achieve its target of 20% primary energy savings by 2020, taking into account the sum</i>

	<p><i>of the indicative national targets referred to in Article 3(1). This report shall be accompanied, if the assessment indicates that this is necessary, by a legislative proposal laying down mandatory national targets.</i></p> <p><i>This legislative proposal shall include clearly specified national energy savings targets.</i></p> <p>...</p>
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Brussels, 14th September 2011