

- ENERGY EFFICIENCY -

UPDATE ON THE IMPLEMENTATION OF DIRECTIVES 2006/32/EC AND 2010/30/EU INFORMATION ABOUT NEW WBIF WINDOW FOR INVESTMENTS IN ENERGY EFFICIENCY

1. BACKGROUND

Based on the three Ministerial Council decisions adopted in December 2009¹, September 2010² and October 2011³, the following energy efficiency directives became part of the Energy Community *acquis*:

1. **Directive 2006/32/EC** on energy end-use efficiency and energy services;
2. **Directive 2010/31/EU** on the energy performance of buildings;
3. **Directive 2010/30/EU** on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products, as well as set of implementing directives/delegated acts.

While the overall deadline for transposition of Directive 2010/31/EU is 30 September 2012, deadline for transposition of directives 2006/32/EC and 2010/30/EU was 31 December 2011. This report provides information on the status of implementation of these directives in the Energy Community.

On the other hand, implementation is strongly supported on regional level by the activities of the Energy Efficiency Task Force, as well as valuable support by the donors' community. Report provides overview of the key support programmes available for the Energy Community in the energy efficiency field, with particular emphasis on the new Energy Efficiency Window under Western Balkan Investment Framework, focused on investments in the public sector buildings and public services.

2. UPDATE ON THE IMPLEMENTATION OF DIRECTIVES 2006/32/EC AND 2010/30/EU

The Directive 2006/32/EC promotes improvement of energy efficiency in end use sectors. This includes adoption of the indicative energy savings target and National Energy Efficiency Action Plans (NEEAPs), promotion of exemplary role of the public sector, including energy efficient procurement, promotion of energy audits, procedures for monitoring and verification of energy savings, and other measures to promote energy efficiency and energy services.

¹Ministerial Council Decision 2009/05/MC-EnC of 18 December 2009 on the implementation of certain Directives on Energy Efficiency

²Ministerial Council Decision 2010/02/MC-EnC of 24 September 2010 amending Decision 2009/05/MC-EnC

³Ministerial Council Decision D/2011/03/MC-EnC of 06 October 2011 on adopting certain Delegated Regulations on energy related products

The Directive 2010/30/EU establishes a framework for labeling and consumer information regarding energy consumption for energy-related products, i.e. products which are likely to have a direct or indirect impact on the consumption of energy and on other potential resources during use.

In order to master the challenge to implement energy efficiency directives, a common form of the Road Map template was developed by the Energy Community Secretariat (ECS). In the context of the Energy Efficiency Task Force's Work Programme 2009-2010, the first version of road maps were prepared by mid 2010. The final sets of road maps were submitted by March 2011 and reflect the changes of the two recast Directives adopted by the Ministerial Council in 2010. The roadmaps were submitted by all "old" Contracting Parties, while in Moldova and Ukraine process of development is ongoing.

According to the Ministerial Council Decision of 2009 and Article 14(2) of the Directive 2006/32/EC, Contracting Parties shall submit their first NEEAPs to the ECS by 30 June 2010. All "old" Contracting Parties submitted their NEEAPs (in the case of Bosnia and Herzegovina draft NEEAP has been prepared and submitted). Due to their later accession to the Treaty, the NEEAPs for Moldova and Ukraine are still pending. In January 2011, Secretariat prepared the Report on the assessment of Contracting Parties' NEEAPs, as required by the Ministerial Council Decision of 2009 with respect to Directive 2006/32/EC. Summary report was also presented at the PHLG meeting in March 2011. The GIZ Open Regional Fund - Energy Efficiency, through the M&V&E regional project, provides significant support to Contracting Parties in development of methodology and tools for monitoring of implementation of NEEAPs, as well as verification and evaluation of the energy savings achieved.

The legislation and regulations which transpose the above mentioned directives have been adopted or under preparation in the Contracting Parties, as follows:

- Albania prepared in 2011 draft Energy Efficiency Law which transposes basic provisions of the above directives. It was improved based on the ECS comments received in March and June 2011. The new Energy Efficiency Law will, when adopted, repeal outdated Law on Energy Efficiency of 2005 and the Law on the Indication by Labeling and Standard Product Information of the Consumption of Energy and Other Resources by Household Appliances of 2009. However, adoption of the Energy Efficiency Law is still pending. Thus first priority for Albania should be adoption of the new Energy Efficiency Law and relevant regulation that is being prepared in parallel, as reported by Albanian authorities.
- Bosnia and Herzegovina has prepared the draft Energy Efficiency Laws on entities level, with national IPA technical assistance and ECS guidance and comments provided in August 2011. Currently these laws are under discussion in entities, with final adoption planned by May 2012. Bosnia and Herzegovina has prepared extensive roadmap for implementation of energy efficiency directives that lists all regulation to be prepared and adopted gradually by the end of 2012.
- Croatia has well developed legal and regulatory framework on energy efficiency, including recent adoption of several ordinances which comply with recast directives. The Act on Energy End-Use Efficiency of 2008 transposes Directive 2006/32/EC. In order to further implement Directive, several ordinances were recently adopted: the Ordinance on Energy Audits (2011), the Ordinance on Authorisations for Performing Energy Audits (2011) and the Ordinance on Treatment of Energy Efficiency Investments for Public Budget Users (2011). The Act on Public Procurement of 2007, as amended in 2008, determines energy efficiency as one of the possible criteria in public tenders. Public procurement guidelines on how to apply energy efficiency criteria still need to be developed. Croatia drafted and intends to adopt soon an Ordinance on the Unique Information System for Energy Efficiency. Annual

report on implementation of the 1st NEEAP was prepared, as well the 2nd NEEAP in July 2011, following the same deadlines as for the EU Member States. Energy labeling regulation has been applicable in Croatia since 2006. In order to comply with recast Directive 2010/30/EU and new delegated acts of 2010, Croatia adopted in September 2011 the Ordinance on indication by labeling and standard product information of the consumption of energy and other resources by energy-related products. Also, four technical ordinances on energy efficiency labeling of washing machines, dishwashers, refrigerating appliances and televisions (2011) were adopted at the same time.

- The Former Yugoslav Republic of Macedonia has made significant progress in 2011 toward implementation of energy efficiency *acquis*. The Energy Law (2011) includes extensive chapter on energy efficiency and establishes a good legal basis for development of secondary legislation. In August 2011, the government decree on indicative energy saving targets was adopted, in compliance with Annex I of the Directive 2006/32/EC. The Rulebook on indication by labeling of the consumption of energy and other resources by energy-related products was adopted in November 2011, and transposes Directive 2010/30/EU, implementing directives and four recent delegated acts⁴. The draft Rulebook on energy Audit was finalized in December 2011, and it is planned to be adopted very soon. Parts of this Rulebook are methodologies for measurement and verification of energy savings. Based on the NEEAP, Ministry of Economy drafted comprehensive National Programme for Energy Efficiency in Public Buildings. The Programme provides detailed planning of energy efficiency activities in public buildings, and indicates the strong commitment of public authorities to lead by example and achieve the national energy savings target.
- Moldova adopted the Energy Efficiency Law in July 2010 that transposes the main provisions of directives 2006/32/EC and 2010/30/EU. The Law also establishes the Agency for Energy Efficiency as the main implementing body, as well as an Energy Efficiency Fund. Following this, the Moldovan Government adopted the Decision on the Agency for Energy Efficiency in December 2010 and approved the Regulation on Organization and Functioning of the Agency for Energy Efficiency. The Agency was finally set up in 2011 and started operations, including development of the NEEAP and set of secondary legislation on energy efficiency based on the Energy Efficiency Law, including draft Energy Audit Regulation, draft Regulation on Energy Auditors' Certification, draft ESCO Regulation, and draft Operation Manual for Energy Efficiency Fund. Recently developed labeling regulation has been submitted to the Government for approval. Moldova needs in next period to step up with the adoption of prepared regulation.
- Montenegro adopted the Energy Efficiency Law in April 2010 that serves as a basis for the transposition of the energy efficiency *acquis*. ECS provided previously compliance review of the draft law in December 2009 and January 2010. Following the adoption of the new Law on Energy Efficiency, a package of by-laws was drafted by the Ministry of Economy. The following documents were adopted: the Methodology for Calculating Indicative Energy Savings Target and Decision on Determining Indicative Energy Savings Target (2011), Rulebook on the Content of the Report on Implementation of the Energy Efficiency Improvement Plan by Local Self-Government Units (2011), the Energy Efficiency Operating Plan of Public Administration Institutions for 2012 (2011), the Rulebook on Technical and Metrical Requirements and Certification Procedures for Validation of Meters of Energy Consumption (2011), the Rulebook on the Information System of Energy Consumption and on the Manner of Submission of Data on Annual Consumption of Energy (2012) and the Regulation on Determining Limit for Energy Consumption to Define Big Consumer, the

⁴ The fifth and most recent Delegated Regulation No 626/2011 with regard to energy labeling of air conditioners will be added in the Ordinance in the first half of 2012.

Content of the Energy Efficiency Improvement Plan and the Report on the Plan Implementation (2012). The Public Procurement Law (amended in August 2011) has introduced energy efficiency criteria in public procurement (related Procurement Guidelines to implement these criteria are under development). In order to fully implement directives 2006/32/EC and 2010/30/EU following documents were drafted and should be adopted swiftly in 2012: the Rulebook on Registration of Experts for Performing of Energy Audits and Certification of Buildings, the Rulebook on Energy Audit Performing, the Rulebook on Performing of the Energy Inspection of a Heating and AC Systems, and the Rulebook on Labeling of Energy-Related Products.

- Serbia has no currently legislation that transposes directives 2006/32/EC and 2010/30/EU. However, new Energy Law of 2011 has important chapter on the Energy Efficiency Agency that confirms its status as a special organization for performing energy efficiency activities in all energy consuming sectors. The new Public Procurement Law will include EE as one of the criteria in public procurement procedures. The Ministry of Infrastructure and Energy has drafted Law on Rational Use of Energy in 2011, but its adoption is still pending. The ECS has made several revisions of the draft Law (in February, July and September 2011) in order to ensure compliance with the Directives on energy efficiency. Adoption of the Law was also officially supported by ECS in September 2011, as major step forward in Serbia's compliance with the Energy Community Treaty and Ministerial Council Decisions on energy efficiency. Setting up of a dedicated Energy Efficiency Fund, as well as strengthening the role of the Serbian Energy Efficiency Agency, as proposed by the draft Law would be very beneficial. Ministry started with preparation of the Regulation on the labeling of energy-related products, with the aim to transpose directive 2010/30/EU and related implementing directives.
- Ukraine has currently in force outdated Law on Energy Conservation (1994) that stipulates general principles in the energy efficiency area. Most of them are either declarative or general. Energy management and audit schemes have been developed in Ukraine. The Technical Regulation for the Energy Labeling of Electrical Household Appliances was adopted in January 2010, including the implementing technical regulation for the labeling of household refrigerators, freezers and their combinations, washing machines, tumble driers, combined washer driers, dishwashers, household lamps, air conditioners and electric ovens.

This regulation was based on the old Energy Labeling Directive 92/75/EEC, and needs to be amended to include requirements of the recast Directive 2010/30/EU and delegated acts adopted by the Ministerial Council Decision in October 2011.

The draft Law on Efficient Utilization of Fuel and Energy Resources was prepared by the State Agency for Energy Efficiency and Energy Saving (SAEES), as central institution for the promotion of energy efficiency and renewable energy in Ukraine. SAEES reported that this Law transposes present directives 2006/32/EC and 2010/30/EU. However, it is strongly recommended to submit this law to the ECS to check compliance with energy efficiency *acquis*. State Target Economic Programme for Energy Efficiency and Development of Renewable Energy and Alternative Fuels Sector for 2010-2015 were approved in 2010. According to the Decision of the Cabinet of Ministers of Ukraine (August 2011), NEEAP should be developed by February 1st, 2011, but realization of this activity is still pending.

- UNMIK adopted Law on Energy Efficiency in 2011 which sets the legislative and institutional framework for energy efficiency, and represents the legal basis for further development/amendment of secondary legislation. It provides for the development of energy efficiency plans, obligatory energy efficiency measures in the public sector, energy management, energy auditing, as well as determining the role of different organizations dealing with energy efficiency, including the establishment of the Energy Efficiency Agency as the main implementing body. Based on the Regulation on internal regulation of the

Agency for Energy Efficiency (2011), the operational establishment is ongoing. The Administrative Instruction on energy audits, as well as the Regulation on establishment and functioning of the commission for certification of the energy auditors and managers has been in force since January 2012.

The Law on Public Procurement of 2010 introduces energy efficiency criteria in line with the Annex VI of Directive 2006/32/EC. Following advanced draft documents related to implementation of Directive 2006/32/EC have been prepared: Administrative Instruction on the Promotion of Energy End-Use Efficiency and Energy Services and Administrative Instruction on Procedures and Terms for the Preparation of Municipal Energy Efficiency Plans and Reports on their Implementation.

The Secretariat has been involved in the process of preparation of the Law and by-laws. The Administrative Instruction on Labeling of Electric Household Appliances was adopted in 2008, as well as the Technical Regulation on the Form and Content of the Label of Household Appliance Labels (2010). The transposition of the Directive 2010/30/EU and planned amendments of the existing technical regulation in line with the last Minister Council Decision October 2011 is ongoing.

In summary, all Contracting Parties made progress during 2010 and 2011 in transposition of the energy efficiency directives. Contracting Parties have clear plans for implementation (i.e. developed roadmaps, with the exception of Moldova and Ukraine). However, all Contracting Parties need to speed up a process of drafting and adoption of primary and secondary legislation as soon as possible, in order to achieve full transposition of directives 2006/32/EC and 2010/30/EU.

Finalization of activities for transposition of these directives in the first half of 2012 is visible for Croatia, the Former Yugoslav Republic of Macedonia, Moldova, Montenegro and UNMIK, while Albania, Bosnia and Herzegovina, Serbia and Ukraine should work more intensively in this direction. Beside efforts on national level, effective regional cooperation and involvement of all Contracting Parties in joint work (e.g. the Energy Efficiency Task Force) is equally important and represents an added value and a strong basis for the fulfilment of very demanding tasks in the area of energy efficiency in the Energy Community.

Equally important is continuation of cooperation and strengthening involvement in appropriate EU and other successful international projects and networks in the energy efficiency field, both on regional and national level (e.g. CA ESD, CA EPBD, BUILD UP etc.).

It is recommended that all Contracting Parties send draft documents to the ECS to provide useful comments and check compliance with energy efficiency *acquis*, and to provide expert support to respond to the concrete needs of the Contracting Parties, by working jointly with national experts and TA projects.

3. DIRECTIVE 2010/31/EU ON THE ENERGY PERFORMANCE OF BUILDINGS

As regards the Directive 2010/31/EU (EPBD), overall deadline for transposition is 30 September 2012. Based on the progress reports prepared by the Energy Efficiency Task Force, all Contracting Parties are progressing in transposition of this Directive.

However, EPBD is recognized as the most complex directive for implementation. In order to support the Contracting Parties to implement the EPBD, the Secretariat launched in May 2011 Study on Energy Efficiency in Buildings in the Contracting Parties of the Energy Community. The overall objective of the Study is to support governments in their efforts to meet their commitments under the Energy Community Treaty by assisting them to increase the

efficient use of energy in buildings and improve their energy performances, as well as for implementation of their NEEAPs with respect to buildings sector.

The project was finalized in February 2012 with the training workshop organized on 22 February 2012, where the Consultant (ENSI, Norway) presented the findings of the Study.

The Study provides comprehensive recommendations for all aspects of EPBD implementation, including: method to make appropriate buildings stocks inventory, define reference buildings for each building category, develop of a common methodology for national data base for climate parameters and calculate energy performance of buildings, rough assessment on the potential for energy savings and investments needed to harvest the potential. The study also results in an outline of the required secondary legislation and standards, as well as detailed Roadmap for implementation of the EPBD.

Activities in 2012 will be dedicated to timely implement EPBD, and will be based on Study recommendations. Contracting Parties need to put efforts and mobilize expertise on national level. Beside efforts on national level, effective regional cooperation and involvement of all Contracting Parties is necessary for timely and successful implementation. Secretariat will in parallel promote common activities and projects on regional level and coordinate donor assistance. The most recent regional project under development is related to the development of methodology and softer for calculation of the energy performance of buildings.

4. NEW WBIF WINDOW FOR INVESTMENTS IN ENERGY EFFICIENCY

Under the IPA Multi-beneficiary programme for 2012, the European Commission has allocated 20 million EUR for a new WBIF Energy Efficiency Window, which intends to support national governments in their efforts to meet the commitments under the Energy Community Treaty and to assist them in the implementation of the NEEAPs by securing stable financing of energy efficiency investments, with a focus on public buildings and the public services sector.

This is based on the findings of the “Study on Financing Options to Implement National Energy Efficiency Action Plans in the Western Balkans”⁵ as well as conclusions of the report “Review of Financial Support Facilities Available for Energy Efficiency and Renewable Energy in the Western Balkans” done by the IFI Coordination Office under the WBIF Policy and Strategy Discussions (www.wbif.eu/Energy/Documents). Future grant funding and loan financing need to be as well in compliance and support regulatory reforms on energy efficiency, promoted by the Energy Community.

ECS has played an important role along the whole programming phase and helped streamline the design of this Window on behalf of the beneficiary countries. At the 5th meeting of the WBIF Steering Committee held on 6-7 December 2011, it was recommended that the ECS be given the mandate to coordinate the preparation of any applications with the support of National IPA Coordinators (NIPACs) and IFIs under the new WBIF Energy Efficiency Window.

Consequently, ECS engaged intensively in coordinating and communicating with the national experts from the Energy Efficiency Task Force, NIPACs and the interested IFIs, especially EBRD.

Following a screening and assessment phase, the WBIF Project Financiers' Group (PFG) will submit for approval the selected applications to next WBIF Steering Committee to be held in June 2012. After that implementation phase may start. As future implementation projects under the WBIF Energy Efficiency Window may also include municipalities as beneficiaries, strong

⁵The Study was concluded by DG ENLARG in December 2011. It was presented to the beneficiaries (WB Contracting Parties) during the EETF meeting held on 30 November 2011.

cooperation and cooperation between central and local authorities will be very beneficial. On the other hand, ECS promotes stronger communication and cooperation on regional level with Network of Associations of Local Authorities (NALAS), especially between the two Task Forces on energy efficiency.

At the last meeting of the Energy Efficiency Task Force held in Vienna on 21 February 2012, the Task Force confirmed that the planned WBIF Energy Efficiency Window closely correlates with the needs of Contracting Parties and will be fully supported and promoted at national level, as well as by the activities planned under EETF Work programme for 2012.

5. CONCLUSIONS

All Contracting Parties made progress during 2010 and 2011 in transposition of the energy efficiency directives. Finalization of activities for transposition of Directives 2006/32/EC and 2010/30/EU in the first half of 2012 is visible for Croatia, the Former Yugoslav Republic of Macedonia, Moldova, Montenegro and UNMIK, while Albania, Bosnia and Herzegovina, Serbia and Ukraine should work more strongly in this direction.

Secretariat will follow especially the less progressing Contracting Parties during 2012. Urgent priority should be finalisation and adoption of missing NEEAPs in Bosnia and Herzegovina, Moldova and Ukraine, as well as of existing draft legislation and regulation.

It is recommended that all Contracting Parties share draft documents with Secretariat to provide useful comments and check compliance with energy efficiency *acquis*, and to provide expert support to respond to the concrete needs of the Contracting Parties, by working jointly with national experts and TA projects.

Beside efforts on national level, effective regional cooperation and involvement of all Contracting Parties in joint work (e.g. the Energy Efficiency Task Force) is equally important and represents an added value and a strong basis for the fulfilment of very demanding tasks in the area of energy efficiency in the Energy Community.

The Energy Community has played an important role in the 2012 IPA regional programming, particularly in the design of the new WBIF EE Window and encouraged cooperation of the Commission with the EE Task Force to raise awareness of existing financing mechanisms, as well as further streamline financial support for NEEAPs implementation.

Implementation of the energy efficiency directives and the NEEAPs require significant mobilisation of human and financial resources. Support activities by donor community (EU, GIZ ORF – Energy Efficiency, USAID/SYNENERGY, SIDA and others bilateral TA projects), are highly appreciated and equally promoted, especially in the areas of transposition of EU directives, as well as preparation, implementation and monitoring of NEEAPs. The donors repeated their willingness to continue to provide tailored support on regional and national level. The work of the Energy Efficiency Task Force has been also recognized as valuable input to donor community for designing their regional assistance programmes.