

Energy Efficiency Directive in the Energy Community

Justification Note

1. Background

The Energy Efficiency Directive (EED) 2012/27/EU was adopted on 25 October 2012, repealing the Energy Services Directive (ESD – 2006/32/EC) as well as the Cogeneration Directive (2004/8/EC), and is to be transposed by all Member States (MS) by 30 June 2014.

The new EED Directive establishes a common framework of measures for the promotion of energy efficiency within the Union in order to ensure the achievement of the Union's 2020 20 % headline target on energy efficiency and to pave the way for further energy efficiency improvements beyond that date.

It lays down rules designed to remove barriers in the energy market and overcome market failures that impede efficiency in the supply and use of energy, and provides for the establishment of indicative national energy efficiency targets for 2020.

It amends two directives: the eco-design Directive 200/125/EC and the Labeling Directive 2010/30/EU recast. It also repeals Directives 2004/8/EC on promotion of cogeneration, and 2006/32/EC on energy end use efficiency and energy services (ESD).

The Energy Community has incorporated the ESD in December 2009 with a transposition deadline of December 2011 and the recast Labeling Directive in September 2010, with the same transposition deadline, December 2011. The Energy Community has never incorporated the cogeneration or the eco-design directives. It has, however, incorporated Directive 2010/31/EU on the energy performance of buildings (EPBD), which is not affected by the EED.

Having in view that EED repeals ESD, it is very appropriate to take up the Energy Efficiency Directive, instead of continuing with the implementation of the ESD.

The Ministerial Council adopted in October 2013 a Recommendation for the transposition of the Energy Efficiency Directive with certain adaptations proposed and recommended that an impact assessment is conducted to be able to see the effects of the proposed Directive and its adaptations in the Energy Community.

Such a study was conducted in 2014 and the present adaptations took into account the Impact Assessment Study's recommendations.

2. Articles proposed for significant adaptation

The Impact assessment study focused on the adaptations proposed in the Ministerial Council Recommendation for Articles 3, 5, 7 and 14 and quantified the impact of various options, making recommendations for the most appropriate option. These are presented below:

Article 3: Energy efficiency targets

The Directive requires the EU MS to set an “indicative national energy efficiency target” taking into account that the Union’s 2020 energy consumption has to be no more than 1 474 Mtoe of primary energy or no more than 1 078 Mtoe of final energy; these are figures deriving from the EU 2020 goals.

The Energy Community has not set any such capped energy consumption goals, at the Community level, similar to the European Union, and therefore it would be impossible to follow the same model. Moreover, very recently, in October 2014, the European Council adopted an indicative target at the EU level of at least 27% is set for improving energy efficiency in 2030 compared to projections of future energy consumption based on the current criteria.

The time horizon in the EED was set to 2020 because of the EU goals (20, 20, 20 by 2020). Nevertheless, Energy Community is not bound by the same goals, and started this process of adoption two years later than the EU, therefore it needs to set its own target timeline, which is proposed for 2025, and respectively 2030.

Following this example, the Secretariat proposed to set a single, national, indicative energy saving target of **18% by 2025, and respectively 25% by 2030**, from the final energy consumption. These targets were also recommended by the Impact Assessment Study, while other, more ambitious ones 19% by 2025 and 27% by 2030, respectively 20% by 2020 and 30% by 2030 appeared to be much too costly for the Energy Community.

Article 5: Building renovation

EED imposes the obligation that 3% of the total floor area of heated and/or cooled buildings owned and occupied by its central government is renovated each year to meet at least the minimum energy performance requirements that it has set in application of Article 4 of Directive 2010/31/EU.

The Impact Assessment study analysed the costs and benefits of two options: (a) 2% per year, respectively (b) 3% per year of the total floor to be renovated per year, and recommended the renovation rate of 2% per year, as being the most cost effective and implementable for the Energy Community.

The reason for that is the following: in many CPs of the Western Balkans, the public buildings retrofit started in the past 5-6 years with IFIs loans given to the Government (e.g. Serbia, Montenegro, FYR of Macedonia); although this is a good start, it is most probable not sustainable, especially at present times when public budgets are very tight and the level of indebtedness is medium to high in most CPs; the second and more market oriented alternative is to use third party financing and energy service providers for the buildings retrofit; nevertheless, the market for ESCOs and energy services is not yet so developed and therefore the large majority of retrofits would still have to rely on public funds in the early stage of the EED implementation.

In the EU MS, funding of these measures can be done with sizeable structural and cohesion funds, while the Energy Community has no such large funds available for similar investments. Therefore, the Western Balkan CPs need to be able to use a significant amount of funds from the IPA II framework dedicated to this aim, while the non-IPA countries (Moldova and Ukraine) will need to get these from Neighbourhood Investment Fund, or similar. The eligibility of these measures in the

both national IPA II funding or similar instruments for the Eastern Partnership countries is still to be clarified.

Article 7: Energy Efficiency Obligation Schemes

Energy Efficiency Obligations existed also in the ESD as only one of the options provided to ensure that energy utilities provide energy savings in end-use sectors; nevertheless, the present provisions on this topic in the ESD have had a limited impact on energy savings and were difficult to implement due to their broad and generic character (EU analysis).

Under the EED, Article 7 requires that “Each Member State shall set up an energy efficiency obligation scheme. That scheme shall ensure that energy distributors and/or retail energy sales companies that are designated as obligated parties under paragraph 4 operating in each Member State’s territory achieve a cumulative end-use energy savings target by 31 December 2020, without prejudice to paragraph 2. The target shall be at least equivalent to achieving new savings each year from 1 January 2014 to 31 December 2020 of 1.5 % of the annual energy sales to final customers of all energy distributors or all retail energy sales companies by volume, averaged over the most recent three-year period prior to 1 January 2013. The sales of energy, by volume, used in transport may be partially or fully excluded from this calculation”.

Although, initially the Secretariat proposed a two stage approach: namely to introduce a gradual savings target equivalent to 1.0% /year for the period 2016-2025, and respectively to 1.5 %/year between 2025 and 2030, of the annual sales by volume. This proposal is also justified by the fact that the EU MS are allowed to exclude from calculation of the annual energy sales all or part of the sales, by volume of the energy used in industrial activities listed in Annex I to Directive 2003/87/EC (the ETS Directive); the Contracting Parties are not participating in the ETS, therefore they are not allowed to deduct these sale volume.

Nevertheless, the Consultant recommended to preserve the same approach as it is in the Directive, arguing that the incremental cost of adopting the **1.5%** savings level per year is considered justifiable given the increased savings achieved. Moreover, the Directive also foresees that “alternative” measures, such as policy measures may also be taken to contribute to the savings next to utility obligations.

Article 14: Promotion of efficiency in heating and cooling

Paragraph 1: As the Energy Community did not transpose the “old” cogeneration Directive, it would need significant effort to carry out a comprehensive assessment for the potential for the application of high – efficiency cogeneration and efficient district heating and cooling. Therefore a later deadline (30 March 2018) is proposed for the comprehensive assessment.

Paragraph 5: Contracting Parties shall ensure that a cost-benefit analysis in accordance with Part 2 of Annex IX is carried out when, after 30 September 2016.

- (a) a new thermal electricity generation installation with a total thermal input exceeding 20 MW is planned, in order to assess the cost and benefits of providing for the operation of the installation as a high-efficiency cogeneration installation;
- (b) an existing thermal electricity generation installation with a total thermal input exceeding 20 MW is substantially refurbished, in order to assess the cost and benefits of converting it to high-efficiency cogeneration;

Initially, the Secretariat believed that the threshold of 20 MW thermal input may be too low for the Contracting Parties (CPs); in the EED, this threshold was aligned with the one for the EU ETS scheme, to which the CPs are not party. Therefore, in the Recommendation it proposed a higher threshold of 50 MW (as in the Large Combustion Plants Directive). Nevertheless, the Impact Assessment Study recommended to preserve the Directives threshold of 20 MW thermal power input, with the justification that most of the opportunities for co generation are in the range 20 – 50 MW and therefore, a higher threshold will lead to missing these business opportunities.

3. Further adaptations required

Furthermore, individual deadlines per articles, as well as the general one for the EED transposition were adapted to reflect the expected date of EED adoption in the Energy Community, as well as a realistic timetable for implementation. The same approach was taken for the institutional adaptations, in which the European Commission was substituted where appropriate by the Energy Community Secretariat. Some articles were not applicable and hence were taken out and also some Annexes were adapted in line with the main body of the Directive. These adaptations are all reflected in the Table attached.