The Coalition for ENERGY SAVINGS

October 2022

ENERGY EFFICIENCY DIRECTIVE TRILOGUES: SAVE ENERGY FOR AN INDEPENDENT, INCLUSIVE & CLIMATE NEUTRAL EU

Overview of EU institutions' positions on the EED recast

Consumers, businesses, cities and many countries are taking emergency measures to cut their energy use as to reduce their bills and avoid energy rationing ahead of this winter. But these short term efforts are not enough. **The European Union (EU) must help them by providing a structural answer to skyrocketing energy prices and the energy security challenge.**

A strong Energy Efficiency Directive (EED) is the opportunity to put in place a legislative framework that accelerates energy savings in the EU in a well-planned and sustained way. Legislators need to take the EED trilogues very seriously: they must send the signal to EU citizens that, beyond energy sobriety, **energy efficiency is the way to go to save energy, lower bills and ensure an independent, inclusive, and climate neutral EU.**

In October, inter-institutional negotiations on the recast of the EED will start. The European Parliament, led by Niels Fuglsang (S&D, Denmark), adopted its position on the 14th of September 2022, while the Council agreed on its general approach on the 27th of June 2022; the Czech Presidency aims at concluding the negotiations before the end of this year.

This briefing provides a **summary of the key points at stake** during trilogue negotiations and the Coalition's recommendations to ensure an ambitious revision of the EED.

The 2030 energy efficiency target (Article 1-4)

Level of the target:

EUROPEAN COMMISSION

As part of its REPowerEU plan, the European Commission amended its own EED proposal included in the Fit for 55 Package and suggested **increasing the 2030 energy efficiency target from the original 9% it had proposed in July 2021 to 13% (PRIMES 2020).** This increase was supported by a complementary modelling showing that going beyond 9% is economically feasible given the rise in energy prices and the imperative of reducing Russian fossil fuel imports.

In its amended proposal, the European Commission sets the level of the 2030 energy efficiency target at a 13% reduction of energy consumption, both for final and primary energy consumption, compared to projections made with the PRIMES 2020 reference scenario.[1] **The PRIMES 2020 reference scenario provides an up-to-date projection of energy use in 2030** compared to the old reference scenario, PRIMES 2007, on which the current 2030 energy efficiency target is defined.

COUNCIL OF THE EU

The Council's general approach **limits the energy efficiency target to the original Commission's proposal of 9% (based on PRIMES 2020), before REPowerEU**. However, Member States did not discuss whether to increase the ambition of the 2030 energy efficiency target in line with the amended proposal, but decided to address this point directly in the trilogues with the European Parliament.

EUROPEAN PARLIAMENT

The Parliament supported with a cross-party majority an increase of the 2030 energy efficiency target to at least 14.5% (PRIMES 2020) for both primary and final energy. However, the Parliament text reverts back to the old PRIMES 2007 baseline, which means using outdated projections that do not take into account the evolution of the EU legal framework, including the adoption and implementation of the Clean Energy Package and the changes in the EU energy system over the last 15 years.

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To structurally solve the energy security and high prices crises, an acceleration of energy savings is required. A recent study shows that the cost-effective energy saving potential stands at least at 19% for Europe, hence the EU institutions are supporting levels of ambitions that are clearly below what is technically feasible and economically viable. For this reason, **a 2030 energy efficiency target of at least 14.5% is the bare minimum to provide an adequate answer to high energy bills.**

Finally, **the Coalition strongly advises to stick to the PRIMES 2020 reference scenario**, which provides a much more accurate and reliable baseline to set the 2030 energy efficiency target.

1. For more information regarding the functioning of the energy efficiency target, consult the Coalition's guide to the 2030 energy efficiency target.

Figure 1: EU 2030 energy efficiency target levels: current EED target, position of co-legislators and cost-effective energy savings potential (primary energy).

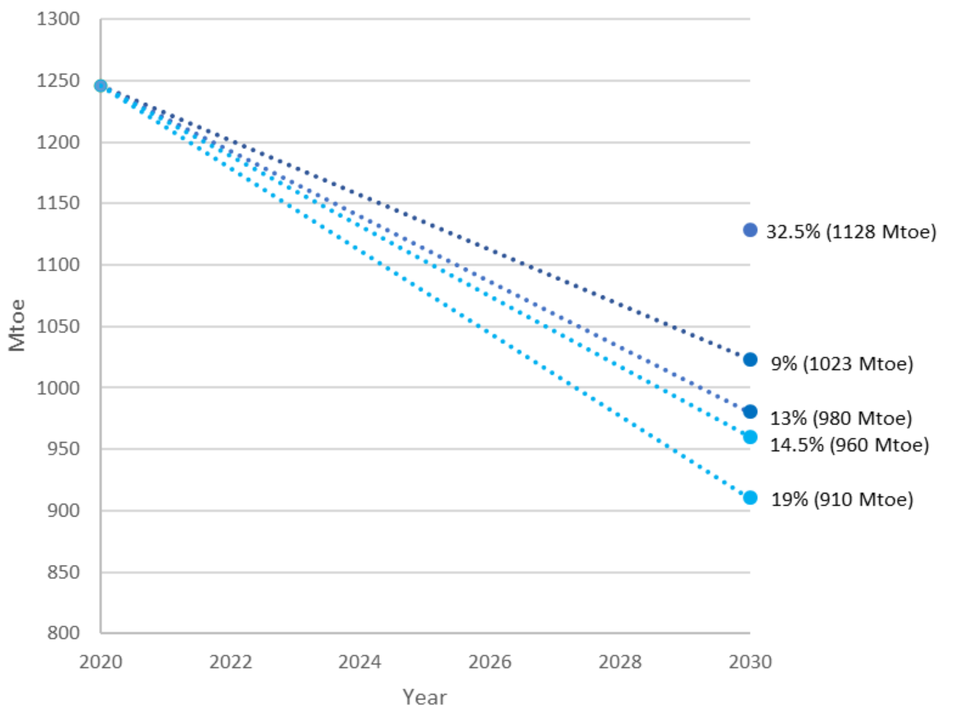
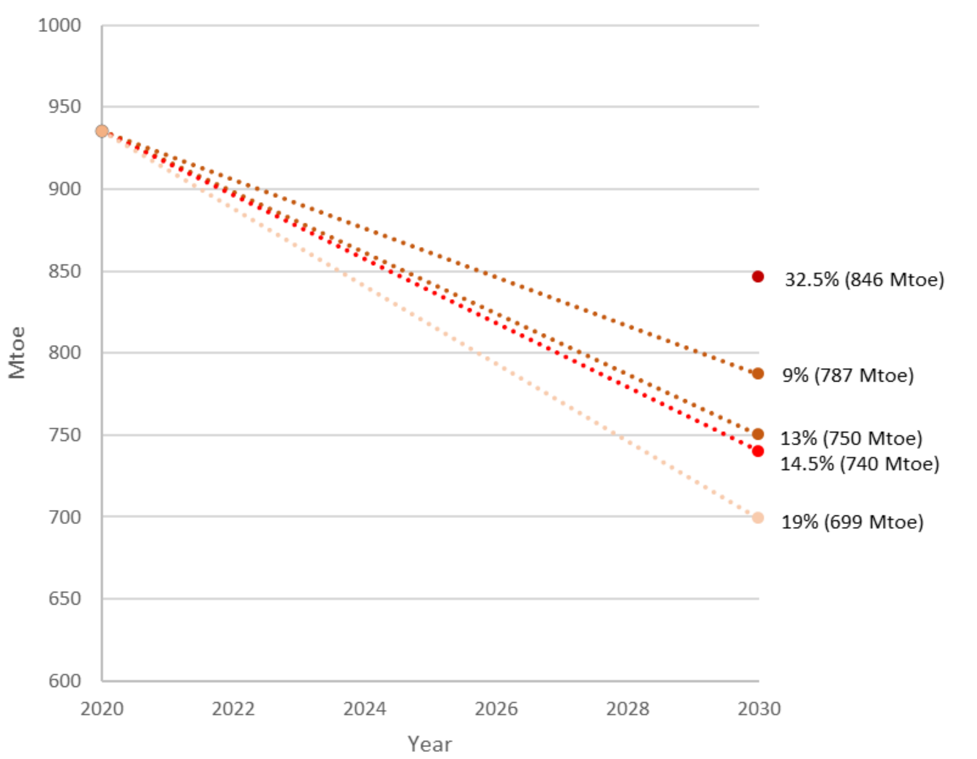


Figure 2: EU 2030 energy efficiency target levels: current EED target, position of co-legislators and cost-effective energy savings potential (final energy).



The 2030 energy efficiency target (Article 1-4)

Governance of the target:

EUROPEAN COMMISSION

The Commission suggests **making the EU 2030 headline target binding for both primary and final energy; coherently, national contributions must be expressed in both primary and final energy but are kept indicative.** To set their contributions, Member States are required to apply a formula (in Annex I) that provides a benchmark. However, only the use of the formula is binding, not its result, and Member States can still deviate from it by taking into account national circumstances. This could lead to a situation where the sum of the national contributions does not add up to the level of the binding 2030 EU energy efficiency target.

Member States must also notify the Commission their indicative trajectories that outline the path to achieve their national contributions, these are the basis for the Commission to assess national progress and request Member States to take corrective actions if needed within one year ("gap filler mechanism").

COUNCIL OF THE EU

The Council's general approach **weakens the Commission's proposal by agreeing only to a binding 2030 EU energy efficiency target for final energy, but not for primary energy.** This deprioritises system efficiency and lowers the incentive to support more efficient energy sources in the national energy mix. The Council also agreed on a weak governance system by i) confirming indicative national contributions, ii) leaving Member States free to decide whether to apply the formula or not, and iii) allowing the possibility to deviate from the formula's result. The general approach also limits the triggering of the "gap filler mechanism" to Member States that are above their trajectory for final energy consumption (in line with an indicative primary energy target).

On the positive side, **the Council introduced a robust and detailed mechanism to ensure that there is no gap between the sum of all national contributions in final energy and the EU 2030 binding energy efficiency target (expressed in final energy).** First, the Council text allows Member States to deviate from the formula's result by a maximum of 2.5%. Second, if the sum of contributions shows a gap, the Commission is empowered to request Member States that pledged lower than the result of the formula to adopt a corrected indicative national contribution (defined on the basis of specific criteria, including 2019 GDP). This is the "gap avoider mechanism".

EUROPEAN PARLIAMENT

The Parliament confirms the Commission's proposal of a binding EU 2030 energy efficiency target (both for primary and final energy), and supports **making national contributions binding on Member States.** The text also allows deviation from the formula's result and introduces a different "gap avoider mechanism", which is however less developed than the one proposed by the Council as the Commission would only propose to Member States a corrected national energy efficiency contribution. The Parliament also proposes a more binding trajectory for national contributions compared to the Commission's proposal through the addition of two milestones in 2025 and 2027 as a basis for the triggering of the "gap filler mechanism".

COALITION FOR ENERGY SAVINGS

The Coalition welcomes the Commission's proposal and Parliament's position to make the EU energy efficiency target binding for both primary and final energy consumption. In addition, we strongly **support the position of the Parliament to set binding national contributions for Member States and two milestones in their trajectories.** To calculate the national contributions, the Coalition would have favoured making the result of the formula in Annex I binding on Member States. In the absence of such a proposal for trilogues, we **support the "gap avoider mechanism" introduced by the Council** (however, this should be applied to primary energy also, not just final energy).

EUROPEAN COMMISSION

The Commission's proposal positively introduces a new article to provide a legal basis to the Energy Efficiency First principle.[2] It **requires Member States to ensure that energy efficiency solutions are taken into account in the planning, policy and major investment decisions** related to the energy system and non-energy sectors that have an impact on energy consumption, including water cycles.

To identify what is a major investment decision, the Commission provides indicative thresholds (recital 14) above which the principle will have to be applied (investment over 50 million and over 75 million for transport infrastructure projects). The provision also requires Member States to promote and ensure the application of cost-benefit analyses, which includes the assessment of the wider benefits of energy efficiency improvements. Member States must also report on the application of the principle in their National Energy and Climate Plans (NECPs).

COUNCIL OF THE EU

The Council's general approach **weakens the Commission's proposal by increasing the thresholds to define major investment decisions to 150 million and 250 million for transport infrastructure projects.** Those thresholds, which trigger the application of the principle, are made mandatory as they are moved from the recital directly in Article 3. The Council also adds that Member States may take into account the Commission's recommendations on the Energy Efficiency First principle.

EUROPEAN PARLIAMENT

The Parliament increases the reliability of the application of the principle by clarifying that energy efficiency solutions also encompass demand-side resources and system flexibilities and that the principle must be assessed (and not anymore "taken into account" as per Commission's proposal) not only in the planning but also in the design of policy and major investment decisions. However, **the Parliament position does not amend the thresholds set in the Commission's proposal.**

The Parliament also requires to develop, apply and make publicly available a cost-benefit methodology that allows the proper assessment of the wider benefits of energy efficiency solutions.

The text also mandates Member States to report additional elements on the application of the principle, as for instance a list of actions taken to remove any unnecessary regulatory or non-regulatory barriers to the implementation of demand-side solutions.

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The Coalition strongly supports the strengthening of Article 3 proposed by the European Parliament. However, to maximize the number of projects to which the principle must be applied, the thresholds proposed by the Commission, the European Parliament and even more the Council, are too high and should be lowered.

2. To know more: Energy efficiency first principle (europa.eu)

The exemplary role of the public sector

Public sector leading on energy efficiency (Article 5)

EUROPEAN COMMISSION

The EED recast proposal introduces a new obligation for the public sector to **reduce the total final energy consumption of all public bodies combined by at least 1.7% each year** compared to their energy consumption of the two years prior to the entry to force of the Directive. To that end, Member States must include a list of the public bodies covered by this requirement in their NECPs.

COUNCIL OF THE EU

The general approach weakens the Commission's proposal on different aspects. First, it **makes the obligation to reduce energy consumption in the public sector voluntary for the first four years (until 2028)**, as the energy reduction objective becomes indicative. Second, it allows Member States to exclude the energy consumption of armed forces or public transport, if they increase their annual objective to 1.9% per year. Finally, public bodies of smaller local authorities are excluded from the obligation until 31 December 2026, if under 50,000 inhabitants, or until 31 December 2029, if under 5,000 inhabitants.

EUROPEAN PARLIAMENT

The Parliament's position **positively increases the public sector obligation to 2% each year** and clarifies that all public bodies must be covered. It also adds, among others, that Member States must promote public transport and provide technical and financial support to public bodies, while encouraging them to take into account the wider benefits of energy savings.

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With public bodies representing between 5% to 10%[3] of the EU energy consumption, the public sector can lead by example and contribute to save energy across sectors, including transport, healthcare, public buildings and installation of efficient heating and cooling systems, water management and wastewater treatment, public lighting or infrastructure planning.

The Coalition strongly supports the increased ambition for Article 5 proposed by the Parliament as a way to reduce public authorities' bills and improve citizens' well-being. To this end, the Coalition also shares the Parliament's position that Member States must support public bodies to plan and act on a reduction of their energy use, to fulfill their exemplary role.

3. See SWD(2021) P 17, section 2.2.2.

The exemplary role of the public sector

Exemplary role of public bodies' buildings (Article 6)

EUROPEAN COMMISSION

The EED recast proposal **mandates that at least 3% of the total floor area of heated and/or cooled buildings owned by public bodies must be renovated each year to achieve Nearly-Zero Energy Buildings (NZEB) levels.** For buildings that are only occupied, the Commission's proposal suggests public bodies to encourage owners to renovate to NZEB levels and to aim at occupying NZEB buildings when concluding new rental agreements.

COUNCIL OF THE EU

The Council weakens the Commission's proposal by allowing Member States to i) exclude social housing from the renovation requirement, ii) renovate certain types of buildings (as historic buildings or buildings of armed forces) to a lower level of performance than NZEB, and iii) count the surplus of renovations achieved in one year in the three following years. In addition, **the Council introduces an alternative approach to the 3% renovation requirement to NZEB levels.** It requires Member States to introduce a Building Renovation Passport for at least 3% of buildings owned by public bodies and to renovate those to NZEB levels by 2040 at the latest. Member States using the alternative approach must achieve an equivalent level of energy savings as the default approach every year.

EUROPEAN PARLIAMENT

The Parliament proposes to **increase the scope of the 3% renovation requirement to buildings occupied by public bodies (either newly occupied or when reaching a trigger point) and buildings for social purposes**, on top of buildings owned by public bodies. Those buildings must be renovated either to NZEB or the new Zero-Emission Building standard, in line with the recast of the Energy Performance of Buildings Directive (EPBD). For buildings occupied (other than new contracts or undergoing renovations at a trigger point), the public body shall encourage the owner to renovate, to set up an energy management system or an energy performance contract.

Similarly to the Council, the Parliament would allow the possibility to exclude social housing from the energy renovation requirement, to refurbish at lower levels of performance certain types of buildings (as historic buildings) and to count a surplus of renovations achieved in one year during the following years.

COALITION FOR ENERGY SAVINGS

The Coalition backs the extension of the renovation requirement for public buildings proposed by the Parliament and the possibility to renovate to the ZEB standard. However, **we urge co-legislators not to exclude social housing and to avoid re-introducing an alternative approach to the renovation requirement**, as it would delay renovations at the national level and go against the objective of enhancing the exemplary role of public bodies (also in light of achieving the objectives of the Renovation Wave, such as tackling energy poverty).

The Energy Savings Obligation (Article 8-9-10)

Level of the annual rate

EUROPEAN COMMISSION

The EED recast proposal **raises the annual rate of the Energy Savings Obligation** (the obligation to deliver end-use energy savings annually either through an energy efficiency obligation scheme or through alternative national policy measures) **from the current 0.8% to 1.5% from 2024 onwards**. The level of obligation is calculated based on the average energy consumption over the three-year period prior to 1 January 2020.

COUNCIL OF THE EU

The general approach **weakens the Commission's proposal by introducing a phase-in approach of the annual rate**. It is first set to 1.1% from 2024 to 2026, then at 1.3% from 2026 to 2028 and finally at 1.5% from 2028 onwards. This amounts to 11% fewer savings delivered over the period compared to the Commission's proposal.[4] In addition, a derogation for Cyprus and Malta is re-introduced; those Member States must only achieve 0.45% of energy savings every year (Cyprus and Malta have a similar exemption in the current EED).

EUROPEAN PARLIAMENT

The Parliament **positively increases the rate of the annual energy saving obligation from 1.5% to 2% from 2024 onwards**, which amounts to 22% more savings delivered over the period compared to the Commission's proposal.[4] This increased ambition is crucial to achieve a higher 2030 energy efficiency target and reflects a recommendation of the EU Save Energy plan, included in the REPowerEU package, inviting co-legislators to "increase the ambition of national energy savings obligation".

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The Coalition strongly supports the Parliament's position to increase the annual energy savings obligation from 1.5% to 2%, setting Article 8 as the central tool of the EED to deliver substantial energy savings which contributes to the achievement of a higher 2030 energy efficiency target.

4. See the Regulatory Assistance Project Paper: Boosting the EU energy savings obligation

Rules on ringfencing and eligibility of savings

EUROPEAN COMMISSION

The Commission's proposal requires Member States to achieve a share of the annual energy savings among people affected by energy poverty, vulnerable customers and, where applicable, people living in social housing. This share must be equal either to the share of people in energy poverty reported by Member States in their NECPs (option 1) or, if not provided, to the average of three Eurostat indicators (option 2).[5]

Additionally, the Commission's proposal **introduced several changes to the rules for the savings that can be reported to fulfill the energy savings obligation**, while maintaining the robust functioning of the tool (with the savings having to be consistent with the additionality and materiality principles). Namely, the EED recast proposal excludes energy savings stemming from fossil fuel combustion and clarifies that the reported savings must be additional to the ones induced by the Emission Trading System (ETS).

COUNCIL OF THE EU

In the Council's general approach, the ringfencing for energy poverty is extended to "financially weak households". The Council also **introduces an exemption to the fossil fuel exclusion**, by allowing to count energy savings resulting from fossil fuel combustion in energy-intensive enterprises in the industry sector under certain cumulative conditions, such as that the efficiency improvements should follow an energy audit's recommendation under Article 11 EED recast or that the payback time of this improvement should be of five years or less. Finally, in the general approach, **savings stemming from EU level and national level ETSs can also be counted**, contrary to the Commission's proposal, if complementary policy measures have been implemented.

EUROPEAN PARLIAMENT

The Parliament's position clarifies that the energy poverty ringfencing should also include low-income households and improves the methodological soundness of the criteria to set Member States' ringfencing (option 2), while also asking Member States to consider those criteria when reporting on the share of people affected by energy poverty in their NECPs (option 1).

The Parliament **introduces an exemption to the fossil fuel exclusion, which is wider than the one proposed by the Council.** It allows Member States to account for fossil fuel savings up to a maximum of one-fourth of the total annual rate (0.5% out of 2%) until June 2028 for all sectors, excluding energy savings resulting from the combustion of fossil fuels in residential buildings.

COALITION FOR ENERGY SAVINGS

The Coalition welcomes the inclusion of low-income households in the scope of the obligation and the strengthening of the methodology to set the energy poverty ringfencing proposed by the European Parliament. In addition, we support the Commission's proposal to exclude both the energy savings resulting from the direct combustion of fossil fuels and the ones resulting from the ETS.

5. To know more : https://socialwatt.eu/sites/default/files/news/Policy Brief EP and EEOSs ENSMOV.pdf
6. To know more about the functioning of the Energy Savings Obligation, consult the Commission's guidelines for Member States on transposing this Article

EUROPEAN COMMISSION

The EED recast proposal positively identifies energy management systems as the tool that enterprises with large energy consumption (above 100 TJ) must put in place to save energy during their operations. **For enterprises with a lower consumption (above 10 TJ), carrying out an energy audit remains compulsory unless they choose to put in place an energy management system.** The results of the energy audit must be transmitted to the management of the enterprise.

COUNCIL OF THE EU

The Council's general approach confirms the key elements of the Commission's proposal. It positively adds that enterprises that have an energy consumption above 100 TJ and above 10 TJ shall transmit this information to the national authorities in charge of the implementation of this article.

EUROPEAN PARLIAMENT

The Parliament's text proposes to **lower the threshold for the mandatory implementation of an energy management system** from 100 TJ to 70 TJ and **for a company to undergo an energy audit** from 10 TJ to 6 TJ, as from 1 January 2027 (the Commission's proposed thresholds are maintained from 2024 to 2027). The Parliament also proposes to require that those energy audits encompass clear recommendations, including feasible implementation plans and the cost and payback period for each recommended energy efficiency action. **When the recommendations suggest energy efficiency measures with a payback time shorter than three years, their implementation becomes mandatory for companies.** The monitoring of water consumption and its related energy consumption is also encouraged.

COALITION FOR ENERGY SAVINGS

The Coalition strongly supports the reduction of the thresholds to implement an energy management system and to undergo an energy audit proposed by the Parliament as well as the obligation to implement the recommendations stemming from an energy audit, if the payback period is of no more than three years.

The **Coalition for Energy Savings** strives to make energy efficiency and savings the first consideration of energy policies and the driving force towards a secure, sustainable and competitive European Union. Its membership unites businesses, local authorities, energy agencies, energy communities and civil society organisations in pursuit of this goal.

Coalition members represent:
- more than 500 associations, 200 companies, 1,500 cooperatives
- 15 million supporters and 1 million citizens as members of cooperatives
- 2,500 cities and towns in 30 countries in Europe

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The coalition for energy savings
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