



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 2 October 2012

**Interinstitutional File:
2011/0172 (COD)**

**13917/12
ADD 1 REV 3**

**CODEC 2167
ENER 378
ENV 712
TRANS 300
ECOFIN 783
RECH 341
OC 507**

REVISED ADDENDUM TO THE "I/A" ITEM NOTE

from : General Secretariat of the Council
to : COREPER / COUNCIL

No. Cion prop.: 12046/11 ENER 256 ENV 582 TRANS 201 ECOFIN 454 RECH 252 CODEC 1102

Subject : Proposal for a Directive of the European Parliament and of the Council on energy efficiency and repealing Directives 2004/8/EC and 2006/32/EC (**first reading**)
- Adoption of the legislative act (LA + S)
=Statements
COMMON GUIDELINES
Consultation deadline: 2.10.2012

Statement by the European Parliament, the Council and the Commission on the exemplary role of their buildings in the context of the Energy Efficiency Directive

The European Parliament, the Council and the Commission declare that, due to the high visibility of their buildings and the leading role they should play with regard to their buildings' energy performance, they will, without prejudice to applicable budgetary and procurement rules, undertake to apply the same requirements to the buildings they own and occupy as those applicable to the buildings of Member States' central government under Articles 5 and 6 of Directive 2012/XX/EU of the European Parliament and of the Council on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC.

Commission statement in relation to energy audits

As explained in its Communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of Regions on EU State Aid Modernisation (COM(2012) 209 final of 8.5.2012), the Commission has identified the Union Guidelines on State Aid for Environmental Protection as one of the instruments which can contribute to the Europe 2020 Growth Strategy and objectives and which may be revised by the end of 2013. In such context, the Commission may verify that the future rules on State Aid for Environmental Protection continue to promote in an optimal way sustainable growth, inter alia through promotion of energy efficiency in line with the objectives of the present Directive.

Commission statement in relation to Union ETS

In the light of the need to maintain the incentives in the Union's Emissions Trading Scheme the Commission undertakes:

- to urgently present the first report pursuant to Article 10(5) of Directive 2003/87/EC on the carbon market accompanied by a review of the auction time profile of phase 3
- to examine in this report options, including among others permanent withholding of the necessary amount of allowances, for action with a view to adopting as soon as possible further appropriate structural measures to strengthen the ETS during phase 3, and make it more effective.

Statement by Finland

Finland has for decades worked systematically in order to improve energy efficiency. Due to Finland's climatic conditions and high share of energy intensive industries energy efficiency is a necessity. Finland's second National Energy Efficiency Action Plan, adopted in June 2011 compiled the ongoing energy policy measures and actions. Thanks to these measures Finland will before 2016 exceed the 9 % target, set by the Energy Services Directive (ESD).

Finland has underlined that the Energy Efficiency Directive (EED) should have taken into account, without restrictions, the early actions since 2008 taken by Member States with the aim of meeting the targets laid down by the ESD. Finland considers that neglecting the savings that the Member States have already achieved through ESD is not the fairest way forward. According to Finland locally produced renewable energy which reduces the amount of energy purchased, is to be regarded as energy saving also within the framework of the EED, being clearly such a saving from the end-user's viewpoint.

The EED's broad scope, large number of individual obligations and stringent timelines are a challenge not only to the Member States, but to the Commission as well. Finland fears that problems might emerge as far as compliance costs, including administrative burden, and general acceptance by the target groups is concerned. The Commission should ensure that the extensive calculation, verification, monitoring and reporting regime is kept at reasonable level.

Finland is also looking forward to hearing whether and how the EU institutions themselves intend to fulfill the Directive's obligations to public bodies, within the timelines set.

Statement by Portugal

Portugal has during the past years achieved good results in terms of development of energy efficiency and Renewable Energy Sources (RES). In fact, before the current economic crisis, specifically between 2007 and 2010, Portugal put great effort in implementing its energy efficiency national plan.

There should be no doubt that Portugal supports energy efficiency policies, what Portugal underlines is that executing the specific measures established in the Energy Efficiency Directive (EED) is not the most efficient way to achieve energy savings in Portugal since:

- a) Disregarding the savings that the Member States have already achieved through Energy Services Directive (ESD) - and will still achieve until 31st December 2013 - will penalize those Member States (such as Portugal) that have already implemented energy efficiency policies;
- b) The EED privileges measures related with building renovation, which are tailor-made for countries whose climatic conditions make it indispensable to use cooling and heating systems, but are not so appropriate - from a cost-benefit perspective - for countries that experience moderate temperatures through all the year. Moreover, building renovation related measures entail substantial upfront investment costs. Considering that capital in Portugal is more expensive than in other Member States and combining with the fact that Portuguese consumers spend less in cooling and heating, it results that investments' pay-back will be much harder to achieve in Portugal than in other Member States;
- c) Finally, EED implies an increase of public expenditures; in particular it involves renovation of governmental buildings, compliance costs and administrative burden. Portugal is concerned on how to cope with such public spending obligations under the severe budgetary restrictions that result from the Financial Assistance Program we have signed.

Achieving EED implementation and acceptance by its target groups will be very challenging. Portugal is looking forward to working together with the Commission and expects to receive its support on how to fulfill the Directive's obligations, within the timelines set.

Statement by the German and Austrian delegations

With regard to the German version of the EU Energy Efficiency Directive, the German and Austrian Governments wish to point out once again that the term "cost effective" should have been translated as "kosteneffizient" in this Directive.

Statement by Spain

Spain remains fully committed towards achieving the European target of 20% of savings in primary energy by 2020.

In the last decade, Spain has taken decisive action to significantly improve the energy efficiency of its economy. We met already in 2010 the 2006 Energy Services Directive (ESD 2006/32/EC) target of reducing by 9% final energy consumption, thus 6 years in advance. More recently, Spain enacted a very ambitious Energy Savings and Efficiency National Plan for the 2011-2020 period.

However, given the current economic context and past efforts, Spain considers that the new **Energy Efficiency Directive (EED)** does not provide a cost-effective approach to achieving further energy savings, otherwise imposing a disproportionate burden on certain countries:

- **Disregarding past efforts and savings achieved before 2014** penalises countries like Spain that have been in recent years at the forefront of promoting energy efficiency, with significant financial effort.
- The new **accounting methodology** represents an unjustified change from the already established and commonly accepted methodology -agreed by all Member States and the Commission together- which will entail important transaction costs and a significant administrative burden in order to adapt existing policies.
- Furthermore, it incentivises the adoption of short term measures that in the longer run may not be the most effective. This is particularly true for the buildings sector, where there is the greatest untapped energy efficiency potential in Europe, but has very long pay-back periods, which **savings beyond 2020 are similarly disregarded by the EED**. The Spanish Energy Efficiency National Plan 2011-2020 estimates that the buildings sector will account for 60% of the total financing needs up to 2020.
- The EED **binding target for renovation of public buildings** not only overlaps with the targets of the Directive 2010/31/EC on energy performance of buildings; experience in several EU countries shows that Governments can not rely entirely in Energy Services Companies (ESCOs) to externalise the cost of public building renovation and therefore this target will put short term additional pressure on public budgets.

- **Promotion on CHP** for district heating or cooling requires infrastructures that are already in place in countries with specific climate conditions but not widely available in other countries and which are unaffordable in the current economic context. Furthermore, the promotion of high efficiency cogeneration has to be balanced against the flexibility needs of the electricity system, particularly in countries such as Spain where renewable energy sources account today for more than 30% of total power generation.

Spain is nevertheless looking forward to working together with the Commission in order to find the most cost-effective solutions in order to fulfil the Energy Efficiency Directive's obligations.
