



EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
D(2016)

Opinion

Title **DG ENER - Evaluation for the review of Directive 2012/27/EU on Energy Efficiency**
(Submitted version of 3 March 2016)*

(A) Context

Directive 2012/27/EU on energy efficiency (EED) establishes a set of binding measures to help the EU reach its 20% energy efficiency target by 2020. Under the Directive, all EU Member States are required to use energy more efficiently at all stages of the energy chain, from energy production to its final consumption. EU Member States were required to transpose the Directive into their national laws by 5 June 2014.

Article 24 of the EED stipulates that "The Commission shall review the effectiveness of the implementation of Article 6 by 5 December 2015, taking into account the requirements laid down in Directive 2004/18/EC and shall submit a report to the European Parliament and the Council. That report shall be accompanied, if appropriate, by proposals for further measures."

The article 24 also stipulates that "By 30 June 2016, the Commission shall submit a report to the European Parliament and the Council on the implementation of Article 7. That report shall be accompanied, if appropriate, by a legislative proposal for one or more of the following purposes:

- (a) to change the final date laid down in Article 7(1);
- (b) to review the requirements laid down in Article 7(1), (2) and (3);
- (c) to establish additional common requirements, in particular as regards the matters referred to in Article 7(7).EN L 315/26 Official Journal of the European Union 14.11.2012"

The Energy Union Communication, adopted in February 2015 (COM(2015)80 Final), announced a review of the EED by the end of 2016.

Hence the present report feeds, together with other ongoing evaluations (on metering and billing and on demand response (Art. 15(8)) into the announced EED review and the upcoming impact assessment of EED as well as serve as an evaluation SWD in the sense of the Better Regulation Guidelines

(B) Overall opinion:

The RSB recommends improving the report along the following lines:

* Note that this opinion concerns a draft ex-post evaluation report which may differ from the one adopted

- 1) Explain better the overall policy context and how the present report fits into it.**
- 2) Clarify the limitations of the report and the partial approach taken – by aligning the title to the content – by acknowledging that the recent transposition deadline impairs the possibilities of generating evidence - by clarifying that the evidence and analysis presented does not fully comply with the better regulation requirements for evaluations (especially concerning Article 6) - and by showing and clarifying the many inter-linkages between measures taken in this and neighbouring fields which complicates the analysis.**
- 3) By elaborating more on the effectiveness and cost-efficiency of Member States' EEOS, and notably, alternative measures and being more clear on possible areas for improvement.**
- 4) By generally presenting the complex calculations and concepts relating to the implementation of article 7 measures in a clearer way, with more precision and better source identification.**

(C) Main recommendations for improvements:

(1,2) Context and coherence

The report needs to better present its content and put it into the relevant policy context. It should be made clear that the evaluation of the EED consists of several other partial elements – i.e. the ongoing evaluation of the metering and billing aspects and of the demand response. It needs for instance to be made clear in the title that it is not a full evaluation for the review of the EED. It is indeed very partial, as it is essentially limited to assessing article 7 of the EED.

It should also be made clear that the analysis of article 6 does not fully amount to an evaluation as defined in the better regulation guidelines. There are too many missing elements in the analysis and it comes at a too early time to comply with the standards and requirements, including on providing evidence. Even for article 7, the evaluation is also very early, essentially building on projections and announced measures rather than evidence of the impacts on the ground. For this reason, the report does not fully comply with the evaluation requirements.

The EED is closely linked up with other regulatory measures such as the EPBD, ETS and other instruments. In fact, measures announced under EED may also count as EPBD measures. Such measures may indeed overlap or interact with other measures taken at the Member States level. For this reason, there is a risk of double counting as well as 'assigning' impacts to the EED, which in fact arise from other sources and a difficulty in identifying measures which work and do not work. This interlinked complexity makes it difficult for the RSB to assess a partial measure, like the present report. An effort to illustrate the coherence should be made to map measures from different legislation which contribute to the objective. On this basis, the RSB recommends DG ENER to undertake broader and more comprehensive evaluations. In particular, in view of the upcoming impact assessment on the EED, and on neighbouring initiatives such as the EPBD and the effort sharing decision, the RSB recommends that ENER brings together the various partial strands of implementation analysis in a more integrated and comprehensive way highlighting the main results that will feed into the IAs.

(3) Effectiveness and efficiency

The report should better explain the market failures, which justify intervention on energy

efficiency and which may hinder a proper uptake of measures put in place. Given that the larger part of energy savings are likely to come from alternative measures, the report should be more elaborated on such measures. Not all measures have the same level of effectiveness and efficiency and there may be scope for improvements by adjusting in this regard. The report should support efforts to improve effectiveness and efficiency by being more explicit on this point. In addition, as some Member States have put in place a large number of measures, costs may well add up and create an overall system, which is complex, burdensome and not cost-efficient. Stakeholders find that administrative burdens are the second most important barrier for implementation and the report recognises (p.51, 66) that there can be high administrative burdens. While no estimation of the level of administrative burdens is provided due to the recent transposition deadline, the report should better identify to what extent there is a potential for reducing these costs. The report specifies that the structured dialogue with Member States has revealed scope for streamlining and simplification. In this respect, the monitoring and verification systems and their justification should be better explained and their different application vis-à-vis EEOS and alternative measures should be clarified. It should also be made clearer what the scope of streamlining and simplification of monitoring and verification systems is to reduce administrative costs.

(4) Clarity

There is a need to better explain the concept of EEOS and how there are distinct from alternative measures. Section 4.4 should better explain the many difficult concepts and how they interact to make it more accessible for non-experts. In particular the graphs and figures should be better presented with more explanations and proper source identification.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated into the final version of the impact assessment report.

(D) Procedure and presentation

The report should be shortened while at the same time not lose out on substance. Charts and graphs should be made more reader-friendly.

(E) RSB scrutiny process

Reference number	2015/ENER/062
External expertise used	Yes, a number of external consultant reports as well as other studies have been used for the basic input to the report.
Date of RSB meeting	6 April 2016