

**Opinion of the Committee of the Regions on 'Energy efficiency'**

(2012/C 54/09)

## THE COMMITTEE OF THE REGIONS

- points to the great importance of respecting the powers of different levels of governance and the subsidiarity principle when applying energy efficiency measures;
  - welcomes the proposal for a directive under review and the Commission's proposed energy efficiency measures which are aimed at achieving a 20 % cut in primary energy consumption by 2020;
  - considers that the proposal for a directive on energy efficiency contains a number of shortcomings, e.g.:
    - the limited range of areas in which the measures will apply;
    - the minor role assigned to regional and local actors;
    - the absence of measures to raise public awareness beyond those taken to promote real-time consumer information on energy consumption;
- rejects the proposal that the public sector should be required to renovate 3 % of its buildings annually and purchase high-energy-performance products, services and buildings.

<b>Rapporteur</b>	Jean-Louis JOSEPH (FR/PES) Mayor of La Bastidonne
<b>Reference document</b>	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 COM(2011) 370 final

## I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS,

### A. General comments

1. stresses the added value of EU-level action on energy efficiency, which is necessary in order to ensure that individual measures to implement the savings targets are consistent and effective, and to avoid distortions of competition between the Member States; the Committee stresses, however, that this action must of course be implemented at national, regional or local level. As a result, the Committee points to the great importance of respecting the powers of different levels of governance and the subsidiarity principle when applying energy efficiency measures;
2. considers that energy-efficiency challenges are an essential factor in the fight against climate change and in managing our energy consumption, and fall under the heading of sustainable, responsible and inclusive growth aimed at reducing greenhouse gas emissions and improving security of energy supply;
3. notes that the European Union is increasingly dependent on imported energy at a time when prices are rising; considers that access to safe and sustainable energy sources will take on increasing importance, and will be a decisive factor in future economic growth and the emergence of energy justice;
4. points out that the Committee of the Regions has stressed several times that the transition to an economy which makes efficient use of resources, including energy resources, will create immense opportunities for economic growth, jobs which will not be vulnerable to relocation and technological developments which will underpin the Union's competitiveness;
5. stresses the importance of the trias energetica (energy triad) model laying down the 20-20-20 target with its respective targets for reductions in greenhouse gas emissions, improved energy efficiency and the development of renewable energy sources by 2020. Energy efficiency remains the keystone of European policy for reducing climate impact in relation to security of energy supply, and energy production and consumption;
6. welcomes the proposal for a directive under review and the Commission's proposed energy efficiency measures which are aimed at achieving a 20 % cut in primary energy consumption by 2020;
7. points out, however, that, as mentioned in the Energy Efficiency Plan 2011 <sup>(1)</sup>, recent studies carried out by the Commission show that the European Union is likely to achieve at most half of its energy efficiency commitment by 2020. In this respect the proposal for a directive represents a particularly important challenge;
8. regrets the absence of any projections in the draft directive going beyond 2020, particularly concerning the crucial 2050 objective (cutting greenhouse gas emissions by between 80 and 95 % compared with 1990 by 2050) for limiting the effects of climate change;
9. considers that the proposal for a directive on energy efficiency contains a number of shortcomings, e.g.:
  - the absence of binding national objectives earlier than 2014;
  - the limited range of areas in which the measures will apply;
  - the minor role assigned to regional and local actors;
  - the scope for Member States to avoid obligations regarding the application of binding measures, and more specifically the mechanisms requiring the introduction of energy efficiency measures and high-efficiency cogeneration development plans;
  - the absence of measures to raise public awareness beyond those taken to promote real-time consumer information on energy consumption;
  - the absence of measures to develop and support training of market actors, including specialists and technicians in various fields related to energy efficiency;

<sup>(1)</sup> COM(2011) 109 final, Energy Efficiency Plan 2011.

**B. Refocusing of the proposal for a Directive on energy efficiency**

10. points out that the directive requires the Member States to set a **national energy efficiency target** expressed as an absolute level of primary energy consumption in 2020. The Commission is required to assess by 30 June 2014 whether the Union can achieve its target of 20 % primary energy savings by 2020, taking account of aggregate national objectives. In this context the Committee:

- a. regrets the absence of binding national targets in the directive as well as the fact that any decision on these will not be taken before 2014. It proposes that national energy efficiency targets for each Member State, tailored to their circumstances, be included in the directive which will serve as a reference for national energy efficiency plans which will become binding in 2014;
- b. strongly urges the Commission to propose a common methodology for drawing up binding national targets. This methodology would take account of the specific situation of each Member State, including its economic performance and early action taken;
- c. considers recital 13 <sup>(2)</sup>, introducing purely optional measures and objectives which will initially be indicative, to be inadequate. This process renders hypothetical the achievement of the targets set for 2020. The Committee is concerned that this process will compromise the effectiveness of the measures provided for in the proposal for a directive under review;

11. rejects the **quantified targets set for the public sector and the energy distribution and sale sector**, but regrets the lack of such targets for the passenger and goods transport sector, and the commercial and industrial sectors which are not covered by the Emissions Trading Scheme (ETS). In particular the Committee:

- a. rejects the proposal that the public sector should be required to renovate 3 % of its buildings annually and purchase high-energy-performance products, services and buildings. The Committee:

<sup>(2)</sup> Recital 13 describes the introduction of national measures for achieving the 20 % target for energy efficiency. If it proves necessary to reinforce the policy framework in order to achieve the target, a two-stage process would be introduced adding a system of binding targets: 1) Member States would be required to draw up indicative or binding national energy efficiency targets, schemes and programmes, and 2) the Commission would assess the likelihood of achieving the target in the light of the objectives previously set. If the result of the assessment is negative, the Commission will propose mandatory national targets for 2020, taking into account the individual starting points of Member States, their economic performance and early action taken.

— stresses the need to take account of the subsidiarity principle;

— accordingly, calls for the possibility to implement alternative approaches to achieving energy reduction targets, provided that the same level of reduction in energy consumption is achieved;

— is in favour of introducing incentives to avoid raising the rent for social housing when energy efficiency work is carried out;

— points out that greater energy efficiency can only be achieved if financial resources are made available at European, national, regional and local level as well as tools such as energy performance contracts and public-private partnerships. It stresses the importance of introducing measures encouraging Member States and local and regional authorities to make use of the resources available from the Structural Funds to trigger investments in energy efficiency improvement measures and explicitly supports the guidelines in this respect included in the Commission's proposal on the multiannual financial framework;

— points out that balanced rules need to be implemented at Member-State level to divide the costs and benefits of energy-saving measures transparently between building owners and tenants; until such rules are in place, it will be difficult to mobilise the necessary investment;

- b. invites public authorities to consider the introduction of additional objectives, e.g. including the public lighting and transport sectors, subject to adequate funds being provided;

- c. recommends the introduction of binding targets for the transport, tertiary, industrial and commercial sectors, and that particular attention be paid to installations that are not covered by the ETS;

12. welcomes the introduction of mechanisms requiring energy efficiency measures, particularly measures requiring energy distributors to achieve annual energy savings equal to 1,5 % of their energy sales <sup>(3)</sup>; and reiterates the importance of taking account of the subsidiarity principle when introducing mechanisms requiring energy efficiency measures;

<sup>(3)</sup> The mechanisms requiring the adoption of energy efficiency measures, as defined in Article 6(1) of the proposal for a directive, comprise measures requiring all energy distributors or all retail energy sales companies operating on the Member State's territory to achieve annual energy savings equal to 1,5 % of their energy sales, by volume, in the previous year in that Member State excluding energy used in transport.

It regrets:

- a. the option left open to Member States of proposing alternative measures which could result in the private sector's obligation being transferred to the public sector, thus increasing the burden on taxpayers;
  - b. that the Directive fails to address the central problem of how to incentivise energy distributors and retail sales companies to reduce their energy sales by 1,5 % year on year; and that the provision that Member States may "include requirements with a social aim in the savings obligations they impose" will not be sufficient to protect our poorest citizens from further increases in energy prices;
  - c. the inclusion of alternative measures among the measures required to be adopted by 1 January 2013 aimed at achieving energy savings from final consumers. The Committee is concerned that these alternative measures, as currently defined, could defeat the object of the mechanisms requiring the introduction of measures;
13. stresses the **key role of regional and local actors** in the process of preparing and implementing energy efficiency programmes. Local and regional authorities, which are responsible for local housing, labour, transport and training policies, are in contact with the general public and all local actors when drawing up policies designed to meet the concerns of the public and respond to local and regional energy efficiency challenges and are best placed to influence behavioural change in the way citizens use energy in a new era of microgeneration, smart grid technology and variable pricing. The Committee therefore proposes boosting the involvement of regional and local actors by means of measures encouraging:
- a. Member States to introduce a consultation process involving regional and local actors in the drafting of national plans (bottom-up approach), also ensuring that national plans are consistent with local, regional and national targets and means;
  - b. regional and local authorities to establish regional and local energy efficiency plans promoting, for example, decentralised energy production, programmes for the renovation of public buildings and sustainable local transport plans. It also draws attention to the importance of the European Covenant of Mayors initiative and the Pact of Islands initiative and proposes that measures requiring Member States to support and promote these initiatives be included in the directive;
  - c. regional authorities to support their local actors, given their knowledge and their ability to analyse opportunities for, and
- obstacles to, the introduction of energy efficiency measures, their efforts to raise public awareness and their support for the introduction of local programmes and projects and the training of actors;
- d. regional and local authorities to establish, where they do not already exist, mechanisms for the observation and measurement of energy and greenhouse gases in order to make political decisions more effective;
  - e. regional authorities to support and boost interregional cooperation programmes promoting the transfer of energy efficiency know-how between regions;
14. draws attention to the importance of **public information and awareness-raising**. Individual action is essential to ensure respect for the environment and proper implementation of energy efficiency measures affecting the public. Public information and awareness raising are essential. In this connection the Committee:
- a. supports the measures adopted to promote real-time consumer information on energy consumption and billing (electricity, gas, heating);
  - b. stresses the key importance of protection of personal data, especially as regards suppliers, and free and easy access to this information for final consumers and reiterates that these data should be easy for final consumers to understand and use;
  - c. recommends the introduction of metering systems enabling final consumers to manage their costs and reduce their consumption by means of tariff options available from the energy distributor;
  - d. regrets in this connection that the directive does not provide for additional measures publicising ways of reducing energy consumption;
15. welcomes the promotion of energy audits for companies and affordable audit programmes for final consumers and small and medium-sized enterprises. However, in order to optimise the quality of audits, it recommends:
- a. that training be made available for specialists, leading to an officially recognised qualification;

- b. that explicit reference be made to European technical standards (EN 16001) for energy management systems and that the certification they provide for be promoted;
- c. that the public sector be included in this measure;
- d. the implementation of the measures proposed in the audits;
16. welcomes the measures proposed to develop **energy services**. However, the Committee:
- a. recommends that they should not be limited solely to energy performance contracts, and that all energy services should be promoted, such as compulsory periodic servicing of heating and cooling systems and the introduction of thermal regulation systems;
- b. regrets the absence of specific measures aimed at reducing administrative and legal barriers to the introduction of energy performance contracts, for example measures concerning energy efficiency;
17. highlights the key importance of **training** issues. In this connection it stresses the importance for Member States and regional and local actors of introducing training for specialists and sector professionals which meets the challenges posed by the directive under review.

## II. RECOMMENDATIONS FOR AMENDMENTS

### Amendment 1

#### Article 1(1)

Text proposed by the Commission	CoR amendment
1. This Directive establishes a common framework for the promotion of energy efficiency within the Union in order to ensure the achievement of the Union's target of 20 % primary energy savings by 2020 and to pave the way for further energy efficiency improvements beyond that date.	1. This Directive establishes a common framework for the promotion of energy efficiency within the Union in order to ensure the achievement of the Union's target of 20 % primary energy savings by 2020 and to pave the way for further energy efficiency improvements beyond that date, <u>with a view to achieving the EU target of reducing greenhouse gas emissions by between 80 and 95 % compared with the 1990 level by 2050.</u>

#### Reason

On 8 March 2011, the Commission adopted a Roadmap for moving to a competitive low carbon economy in 2050 <sup>(4)</sup>, identifying the need from this perspective for more focus on energy efficiency. The energy efficiency measures set out in the proposal for a directive do not look beyond 2020 or towards 2050, the deadline adopted by the Commission itself.

### Amendment 2

#### Article 2(7)

Text proposed by the Commission	CoR amendment
7. "energy distributor" means a natural or legal person, including a distribution system operator, responsible for transporting energy with a view to its delivery to final customers or to distribution stations that sell energy to final customers;	7. "energy distributor" means a natural or legal person, including a distribution system operator, <u>whose main business is responsible for</u> transporting energy with a view to its delivery to final customers or to distribution stations that sell energy to final customers;

#### Reason

This amendment and a related one to article 2(9) help to better define "energy distributor" and "retail energy sales company" to avoid possible unintended consequences.

For instance, tenants may be billed for energy in different ways. In many places, it is billed directly to the tenant by the energy supply company, but in others, it is the landlord who bills, either solely for the energy or as part of an overall service charge comprising many elements which may be separated and itemised.

<sup>(4)</sup> COM(2011) 112 final.

The purpose of the amendment is to provide greater legal certainty that those billing tenants for the energy supplied to the building are not caught up in Directive-imposed obligations not intended for them. The exemption (Article 6(8)) for small energy distributors and small retail energy sales companies does not constitute a sufficient safeguard.

### Amendment 3

#### Article 2(9)

Text proposed by the Commission	CoR amendment
9. "retail energy sales company" means a natural or legal person who sells energy to final customers;	9. "retail energy sales company" means a natural or legal person <u>whose main business is to sell</u> <del>who sells</del> energy to final customers;

#### Reason

This amendment and a related one to article 2(7) help to better define "energy distributor" and "retail energy sales company" to avoid possible unintended consequences.

For instance, tenants may be billed for energy in different ways. In many places, it is billed directly to the tenant by the energy supply company, but in others, it is the landlord who bills, either solely for the energy or as part of an overall service charge comprising many elements which may be separated and itemised.

The purpose of the amendment is to provide greater legal certainty that those billing tenants for the energy supplied to the building are not caught up in Directive-imposed obligations not intended for them. The exemption (Article 6(8)) for small energy distributors and small retail energy sales companies does not constitute a sufficient safeguard.

### Amendment 4

#### Article 3(1)

Text proposed by the Commission	CoR amendment
<p>1. Member States shall set a national energy efficiency target expressed as an absolute level of primary energy consumption in 2020.</p> <p>When setting these targets, they shall take into account the Union's target of 20 % energy savings, the measures provided for in this Directive, the measures adopted to reach the national energy saving targets adopted pursuant to Article 4(1) of Directive 2006/32/EC and other measures to promote energy efficiency within Member States and at Union level.</p>	<p><del>1. Member States shall set a national energy efficiency target expressed as an absolute level of primary energy consumption in 2020. When setting these targets, they shall take into account the Union's target of 20 % energy savings, the measures provided for in this Directive, the measures adopted to reach the national energy saving targets adopted pursuant to Article 4(1) of Directive 2006/32/EC and other measures to promote energy efficiency within Member States and at Union level.</del></p> <p><u>1. The Commission shall propose national targets with a view to achieving the 2020 energy efficiency target, expressed as an absolute level of primary energy consumption. The methodology used by the Commission to set national targets shall take account of the individual starting points of Member States, their economic performance and early action taken. These targets shall become binding on 30 June 2014.</u></p> <p><u>Member States shall apply these targets, in consultation with local and regional authorities, to all the sectors listed in the directive, as well as to the passenger and goods transport sector, and the tertiary, commercial and industrial sectors, and particularly to installations not covered by the Emissions Trading Scheme (ETS).</u></p> <p><u>These targets shall also apply to other energy-consuming sectors, such as the primary sector.</u></p>

## Reason

As things stand, the European Union will be able to achieve only half its energy efficiency commitment for 2020. The Committee proposes that the directive include national targets which will become binding in 2014. Moreover it believes that the passenger and goods transport sector, and the commercial and industrial sectors not covered by the Emissions Trading Scheme (ETS) should also be included in the plans implemented by the Member States and made subject to national targets on an equal footing with the other sectors.

The European Commission's objective of 20 % energy savings by 2020 should in principle be supported. The period to 2020 is relatively short and short and medium-term measures need to be implemented as quickly as possible. We propose a methodology for assessing the progress of each Member State on energy efficiency. In Directive 2009/28 on renewable energy the European Commission set an overall target of 20 %, to be applied in the Member States in line with their capacity to achieve it. We suggest the same approach for energy efficiency, taking account of the current situation in each of the countries.

It should also be stressed that the energy consumption of the primary sector (agriculture, stock breeding, fisheries) relies on sources of fossil energy, mostly imported. The economic and environmental impact of this state of affairs constitutes a sufficient reason to include specific mention of the primary sector in the article under consideration.

## Amendment 5

### Article 4

Text proposed by the Commission	CoR amendment
<p>1. Without prejudice to Article 7 of Directive 2010/31/EU, Member States shall ensure that as from 1 January 2014, 3 % of the total floor area owned by their public bodies is renovated each year to meet at least the minimum energy performance requirements set by the Member State concerned in application of Article 4 of Directive 2010/31/EU. The 3 % rate shall be calculated on the total floor area of buildings with a total useful floor area over 250 m<sup>2</sup> owned by the public bodies of the Member State concerned that, on 1 January of each year, does not meet the national minimum energy performance requirements set in application of Article 4 of Directive 2010/31/EU.</p>	<p>1. Without prejudice to Article 7 of Directive 2010/31/EU, Member States shall ensure that as from 1 January 2014, <del>3 % of the total floor area</del> <u>buildings</u> owned by their public bodies <del>is are</del> renovated <del>each year</del> to meet at least the minimum energy performance requirements set by the Member State concerned in application of Article 4 of Directive 2010/31/EU. <del>The 3 % rate shall be calculated on the total floor area of</del> <u>This shall apply to</u> buildings with a total useful floor area over 250 m<sup>2</sup> owned by the public bodies of the Member State concerned that, <del>on 1 January of each year,</del> does not meet the national minimum energy performance requirements set in application of Article 4 of Directive 2010/31/EU. <u>The principle of cost-effectiveness must be applied to the services and material purchased.</u></p>
<p>2. Member States may allow their public bodies to count towards their annual renovation rate the excess of renovated building floor area in a given year as if it has instead been renovated in any of the two previous or following years.</p>	<p><u>2. Under Article 4(2) of Directive 2010/31/EU on the energy performance of buildings, Member States may decide not to set or apply the requirements referred to in paragraph 1 to buildings officially protected as part of a designated environment, or because of their special architectural or historical merit, in so far as compliance with certain minimum energy performance requirements would unacceptably alter their character or appearance.</u></p>
<p><del>2. Member States may allow their public bodies to count towards their annual renovation rate the excess of renovated building floor area in a given year as if it has instead been renovated in any of the two previous or following years.</del></p>	<p><del>2. Member States may allow their public bodies to count towards their annual renovation rate the excess of renovated building floor area in a given year as if it has instead been renovated in any of the two previous or following years.</del></p>
<p>3. For the purposes of paragraph 1, by 1 January 2014, Member States shall establish and make publicly available an inventory of buildings owned by their public bodies indicating:</p>	<p>3. For the purposes of paragraph 1, by 1 January 2014, Member States <u>and local and regional authorities</u> shall establish and make publicly available an inventory of buildings owned by their public bodies indicating:</p>
<p>(a) the floor area in m<sup>2</sup>; and</p>	<p>(a) the floor area in m<sup>2</sup>; and</p>

Text proposed by the Commission	CoR amendment
<p>(b) the energy performance of each building.</p> <p>4. Member States shall encourage public bodies to:</p> <p>(a) adopt an energy efficiency plan, freestanding or as part of a broader climate or environmental plan, containing specific energy saving objectives, with a view to continuously improving the body's energy efficiency;</p> <p>(b) put in place an energy management system as part of the implementation of their plan.</p>	<p>(b) the energy performance of each building.</p> <p>4. Member States shall <del>encourage</del> <u>ask</u> public bodies to:</p> <p>(a) adopt an energy efficiency plan, freestanding or as part of a broader climate or environmental plan, containing specific energy saving objectives, with a view to continuously improving the body's energy efficiency;</p> <p>(b) put in place an energy management system as part of the implementation of their plan.</p> <p><u>(c) establish an energy accounting system in the public sector, preferably under the auspices of the international standard ISO 50001;</u></p> <p><u>(d) introduce a system of continuous testing to ensure the proper use of Energy Performance Contracts as an energy service model, with a view to reducing the energy consumption of public buildings and municipal installations such as the lighting of public spaces or water processing plants;</u></p> <p><u>(e) provide financial and other support to public bodies at local, regional and national level required to implement the national energy efficiency plans referred to in Article 3.</u></p> <p><u>(f) raise the awareness of occupants of these buildings to energy-saving use and that of managers to good management and maintenance of these assets.</u></p>

### Reason

As things stand, the European Union is likely to attain only half of its energy saving targets. There is a need to step up action, particularly by setting binding targets. In the absence of binding national targets it is important to promote sectoral objectives, particularly for buildings, which represent the greatest potential for energy efficiency.

The following points cause us to support the directive:

1. The European Union has set up financial mechanisms (ELENA, JESSICA, etc.) and funds dedicated to energy efficiency (EEE-F etc.), the financial framework 2014-2020 which at present makes provision for a high percentage of structural funding being dedicated to energy efficiency. There are other financial tools such as energy performance contracts, public-public partnerships, and national and regional energy efficiency funds which encourage work on energy efficiency at a time when public money is in increasingly short supply.
2. There are less expensive solutions, with shorter returns on investment, such as maintenance of heating and cooling systems, thermal regulation systems for buildings which allow for progressive investment.
3. The directive on the energy performance of buildings takes account of the diversity of buildings, exempting some of them (historic buildings, temporary buildings, barns etc). It also takes account of the climatic diversity between states in the north and south.
4. The energy efficiency of a building contributes to local jobs which cannot be relocated: the energy-related renovation of four dwellings creates the equivalent of one job.
5. The Member States have just been given a roadmap on the training of craftsmen for the implementation of the directive on the energy performance of buildings.



The proposal for a directive can be improved, however, taking account of the following points:

1. It is important to remember that the directive on the energy performance of buildings 2010/31 leaves the Member States the choice as to whether or not to require the renovation of protected buildings which are part of a designated environment.
2. European standards on energy management and accounting should be used.
3. Access to energy performance contracts should be facilitated.
4. The Member States must support the regions and local authorities by offering financial or other aid.
5. Finally, it would be appropriate to encourage the public authorities to put in place training and awareness raising instruments aimed at sound management and maintenance of buildings and energy-saving use by users.

These elements are important for achieving the 2020 energy efficiency target.

### Amendment 6

#### Article 5

Text proposed by the Commission	CoR amendment
<p>Purchasing by public bodies</p> <p>Member States shall ensure that public bodies purchase only products, services and buildings with high energy efficiency performance, as referred to in Annex III.</p>	<p>Purchasing by public bodies</p> <p><u>Without prejudice to Directive 2004/18/EC</u>, Member States shall ensure that public bodies purchase only products, services and buildings with <u>the highest</u> energy efficiency performance, as referred to in Annex III. <u>Member States shall encourage the development and uptake of energy services, as defined in Article 2. In this respect public bodies shall assess the possibility of concluding long term energy performance contracts as referred to in Article 14b, as and when appropriate.</u></p>

#### Reason

Requiring public authorities to purchase only products, services and buildings with high energy efficiency performance raises some worries about EU attempts to use public procurement to address strategic policy goals. The decision choice of whether to include energy efficiency criteria in public procurement should be left to the local or regional authority itself and any EU related requirement must remain entirely voluntary.

In the interests of the legal certainty and integrity of the single market, it is essential that the directive under consideration be consistent with existing EU provisions and legislation on public procurement. In this context it should be stressed that the Member States have direct responsibility for guiding public procurement in order to achieve energy efficiency targets which could not otherwise be met. It is appropriate to recommend, as the European Parliament's draft report does, not just high energy standards but the highest possible energy standards.

When the proposal for a directive tackles the question of energy efficient services in the context of public purchasing, its wording refers exclusively to services using high energy performance products. It ought, rather, to refer to services in the broader sense, including high-efficiency services, as defined in Article 2.

**Amendment 7**

## Article 6(9)

Text proposed by the Commission	CoR amendment
<p>9. As an alternative to paragraph 1, Member States may opt to take other measures to achieve energy savings among final customers. The annual amount of energy savings achieved through this approach shall be equivalent to the amount of energy savings required in paragraph 1. Member States opting for this option shall notify to the Commission, by 1 January 2013 at the latest, the alternative measures that they plan to adopt, including the rules on penalties referred to in Article 9, and demonstrating how they would achieve the required amount of savings. The Commission may refuse such measures or make suggestions for modifications in the 3 months following notification. In such cases, the alternative approach shall not be applied by the Member State concerned until the Commission expressly accepts the resubmitted or modified draft measures.</p>	<p><u>9. As an alternative to paragraph 1, the Member States may opt to allow the parties involved to meet their obligations partially by paying additional sums into financial instruments intended to feed into public investment in connection with energy efficiency. For illustrative purposes, it is recommended that the Member States allow the parties involved to fulfil between 25 % and 50 % of their obligation annually by paying into the financing instruments. This shall be done by contributing to the financing facility an amount equal to the investment costs estimated to achieve the corresponding share of their obligation. In general terms, the Member States must ensure that these instruments are used to finance public investment, with priority for energy efficiency.</u></p> <p><del>9. As an alternative to paragraph 1, Member States may opt to take other measures to achieve energy savings among final customers. The annual amount of energy savings achieved through this approach shall be equivalent to the amount of energy savings required in paragraph 1. Member States opting for this option shall notify to the Commission, by 1 January 2013 at the latest, the alternative measures that they plan to adopt, including the rules on penalties referred to in Article 9, and demonstrating how they would achieve the required amount of savings. The Commission may refuse such measures or make suggestions for modifications in the 3 months following notification. In such cases, the alternative approach shall not be applied by the Member State concerned until the Commission expressly accepts the resubmitted or modified draft measures.</del></p>

**Reason**

It is proposed that the Member States adopt other measures to achieve energy savings. If Member States do not succeed in involving the private sector, there is a danger that these measures will be implemented using public funds only, with a corresponding burden on taxpayers. It is strongly recommended that this paragraph be dropped to eliminate any ambiguity.

It is also possible to envisage an alternative measure such as that proposed in the European Parliament's draft report on the energy efficiency directive, which makes provision for providing resources to financial instruments for energy efficiency measures.

**Amendment 8**

## Article 6(10)

Text proposed by the Commission	CoR amendment
<p>10. If appropriate, the Commission shall establish, by means of a delegated act in accordance with Article 18, a system of mutual recognition of energy savings achieved under national energy efficiency obligation schemes. Such a system shall allow obligated parties to count energy savings achieved and certified in a given Member State towards their obligations in another Member State.</p>	<p><del>10. If appropriate, the Commission shall establish, by means of a delegated act in accordance with Article 18, a system of mutual recognition of energy savings achieved under national energy efficiency obligation schemes. Such a system shall allow obligated parties to count energy savings achieved and certified in a given Member State towards their obligations in another Member State.</del></p>

**Reason**

The system of mutual recognition of energy savings allowing obligated parties to count energy savings achieved and certified in a given Member State towards their obligations in another Member State has the major potential drawback of discouraging local employment in the Member States concerned. It is strongly recommended that this paragraph be dropped to eliminate any such impact.

## Amendment 9

## Article 8(1)

Text proposed by the Commission	CoR amendment
<p>1. Member States shall ensure that final customers for electricity, natural gas, district heating or cooling and district-supplied domestic hot water are provided with individual meters that accurately measure and allow to make available their actual energy consumption and provide information on actual time of use, in accordance with Annex VI.</p>	<p>1. Member States shall ensure that, <u>where technically feasible and cost effective</u>, final customers for electricity, <del>natural gas and fuels</del>, district heating or cooling and district-supplied domestic hot water are provided with individual meters that accurately measure and allow to make available their actual energy consumption and provide information on actual time of use, in accordance with Annex VI.</p>
<p>When Member States put in place the roll-out of smart meters foreseen by Directives 2009/72/EC and 2009/73/EC concerning electricity and gas markets, they shall ensure that the objectives of energy efficiency and final customer benefits are fully taken into account when establishing the minimum functionalities of the meters and obligations imposed on market participants.</p>	<p>When Member States put in place the roll-out of smart meters foreseen by Directives 2009/72/EC and 2009/73/EC concerning electricity and gas markets, they shall ensure that the objectives of energy efficiency and final customer benefits are fully taken into account when establishing the minimum functionalities of the meters and obligations imposed on market participants.</p>
<p>In the case of electricity and on request of the final customer, meter operators shall ensure that the meter can account for electricity produced on the final customer's premises and exported to the grid. Member States shall ensure that if final customers request it, metering data on their real-time production or consumption is made available to a third party acting on behalf of the final customer.</p>	<p><u>The Member States shall ensure that metering systems are introduced which enable the final consumer to manage costs and reduce consumption, and also that the installation of these systems is not done at the cost of the final consumer.</u></p>
<p>In the case of electricity and on request of the final customer, meter operators shall ensure that the meter can account for electricity produced on the final customer's premises and exported to the grid. Member States shall ensure that if final customers request it, metering data on their real-time production or consumption is made available to a third party acting on behalf of the final customer.</p>	<p>In the case of electricity and on request of the final customer, meter operators shall ensure that the meter can account for electricity produced on the final customer's premises and exported to the grid. Member States shall ensure that if final customers request it, metering data on their real-time production or consumption is made available to a third party acting on behalf of the final customer.</p>
<p>In case of heating and cooling, where a building is supplied from a district heating network, a heat meter shall be installed at the building entry. In multi-apartment buildings, individual heat consumption meters shall also be installed to measure the consumption of heat or cooling for each apartment. Where the use of individual heat consumption meters is not technically feasible, individual heat cost allocators, in accordance with the specifications in Annex VI(1.2), shall be used for measuring heat consumption at each radiator.</p>	<p>In case of heating and cooling, where a building is supplied from a district heating network, a heat meter shall be installed at the building entry. In multi-apartment buildings, individual heat consumption meters shall also be installed to measure the consumption of heat or cooling for each apartment. Where the use of individual heat consumption meters is not technically feasible, individual heat cost allocators, in accordance with the specifications in Annex VI(1.2), shall be used for measuring heat consumption at each radiator.</p>
<p>Member States shall introduce rules on cost allocation of heat consumption in multi-apartment buildings supplied with centralised heat or cooling. Such rules shall include guidelines on correction factors to reflect building characteristics such as heat transfers between apartments.</p>	<p>Member States shall introduce rules on cost allocation of heat consumption in multi-apartment buildings supplied with centralised heat or cooling. Such rules shall include guidelines on correction factors to reflect building characteristics such as heat transfers between apartments.</p>

**Reason**

Given that the subsidiarity principle is stressed by the rapporteur in the draft opinion, Member States must retain some flexibility to implement the proposal as differences in the construction of buildings can affect heat use by end-users.

Equally, the total economic and environmental costs of the proposal must be taken into consideration to ensure its overall effectiveness. This would include maintenance, management and replacement costs.

First, it is proposed that smart meters cover the whole range of fuels. Secondly, in line with the general comments, it seems appropriate to mention here that final consumers must be able to manage their costs and reduce their energy consumption. It is important to make it clear that the introduction of these systems must not be at the cost of the final consumer.

**Amendment 10**

## Article 8(3)

Text proposed by the Commission	CoR amendment
3. Information from metering and billing of individual consumption of energy as well as the other information mentioned in paragraphs 1, 2, 3 and Annex VI shall be provided to final customers free of charge.	3. Information from metering and billing of individual consumption of energy as well as the other information mentioned in paragraphs 1, 2, 3 and Annex VI shall be provided to final customers free of charge <u>or to third parties acting on their behalf. Member States shall guarantee the protection of personal data as regards energy suppliers.</u>

**Reason**

In order to avoid misunderstandings, it is worth making it clear here that only parties acting on behalf of the final customers concerned should have access to this personal data. Developments in metering and billing methods towards smart systems will generate personal digital data. This information should be protected in the interests of confidentiality and protection of final customers' consumption data.

**Amendment 11**

## Article 8(4) (new paragraph)

Text proposed by the Commission	CoR amendment
	<u>4. The Member States, in close cooperation with local and regional authorities and actors, shall introduce public advice and awareness plans. These plans shall be geared towards developing a new energy culture, in which the public is able to play an active role in decision-making in the field of energy consumption.</u>

**Reason**

The directive does not give enough weight to the benefits of individual action. Individuals should not be ignored when applying energy efficiency measures, and the potential contribution of public awareness campaigns to achieving the 2020 target should not be neglected.

**Amendment 12**

## Article 10(1)

Text proposed by the Commission	CoR amendment
1. By 1 January 2014, Member States shall establish and notify to the Commission a national heating and cooling plan for developing the potential for the application of high-efficiency cogeneration and efficient district heating and cooling, containing the information set out in Annex VII. The plans shall be updated and notified to the Commission every five years. Member States shall ensure by means of their regulatory framework that national heating and cooling plans are taken into account in local and regional development plans, including urban and rural spatial plans, and fulfil the design criteria in Annex VII.	1. By 1 January 2014, Member States shall establish and notify to the Commission a national heating and cooling plan, <u>in consultation with local and regional authorities</u> , for developing the potential for the application of high-efficiency cogeneration and efficient district heating and cooling, containing the information set out in Annex VII. The plans shall be updated and notified to the Commission every five years. Member States shall ensure by means of their regulatory framework that national heating and cooling plans are taken into account in local and regional development plans, including urban and rural spatial plans, and fulfil the design criteria in Annex VII.

**Reason**

It is important that regional and local authorities be consulted in drawing-up and implementing district heating and cooling plans.

**Amendment 13**

## Article 10(4)

Text proposed by the Commission	CoR amendment
<p>4. Member States may lay down conditions for exemption from the provisions of paragraph 3 when:</p> <p>(a) the threshold conditions related to the availability of heat load set out in point 1 of Annex VIII are not met;</p> <p>(b) the requirement in point (b) of paragraph 3 related to the location of the installation cannot be met due to the need to locate an installation close to a geological storage site permitted under Directive 2009/31/EC;</p> <p>(c) a cost-benefit analysis shows that the costs outweigh the benefits in comparison with the full life-cycle costs, including infrastructure investment, of providing the same amount of electricity and heat with separate heating or cooling.</p> <p>Member States shall notify such conditions for exemption to the Commission by 1 January 2014. The Commission may refuse those conditions or make suggestions for modifications in the 6 months following notification. In such cases, the conditions for exemption shall not be applied by the Member State concerned until the Commission expressly accepts the resubmitted or modified conditions.</p>	<p>4. Member States may lay down conditions for exemption from the provisions of paragraph 3 when:</p> <p>(a) the threshold conditions related to the availability of heat load set out in point 1 of Annex VIII are not met;</p> <p>(b) the requirement in point (b) of paragraph 3 related to the location of the installation cannot be met due to the need to locate an installation close to a geological storage site permitted under Directive 2009/31/EC;</p> <p>(c) a cost-benefit analysis shows that the costs outweigh the benefits in comparison with the full life-cycle costs, including infrastructure investment, of providing the same amount of electricity and heat with separate heating or cooling.</p> <p><del>Member States shall notify such conditions for exemption to the Commission by 1 January 2014. The Commission may refuse those conditions or make suggestions for modifications in the 6 months following notification. In such cases, the conditions for exemption shall not be applied by the Member State concerned until the Commission expressly accepts the resubmitted or modified conditions.</del></p> <p><u>(d) new high efficiency gas- or coal-fired power stations have to be authorised by a Member State to benefit from exemption on economic grounds or for ensuring network stability.</u></p>

**Reason**

Alongside high efficiency cogeneration, new, high efficiency gas- and coal-fired power stations should also be permitted by Member States on an equal basis, on economic grounds and for ensuring network stability. The exemption arrangements set out in the draft directive, which provide for a scrutiny reservation on the part of the Commission, is not enough here. An appraisal of the economic value of a power station and its contribution to network stability must continue to fall within the remit of Member States.

**Amendment 14**

## Article 19(4)

Text proposed by the Commission	CoR amendment
<p>The Commission shall evaluate the annual reports and supplementary reports and assess the extent to which Member States have made progress towards the achievement of the national energy efficiency targets required by Article 3(1) and towards the implementation of this Directive. The Commission shall send its assessment to the European Parliament and the Council. Based on its assessment of the reports the Commission may issue recommendations to Member States.</p>	<p>The Commission shall evaluate the annual reports and supplementary reports and assess the extent to which Member States have made progress towards the achievement of the national energy efficiency targets required by Article 3(1) and towards the implementation of this Directive. The Commission shall send its assessment to the European Parliament and the Council. Based on its assessment of the reports the Commission may issue recommendations to Member States. <u>With regard to the annual reports and supplementary reports, the Member States must put in place mechanisms providing regional and local authorities with access to the information they need for drawing up such reports.</u></p>

**Reason**

Paragraph 13 of the Committee of the Regions' policy recommendations highlights the key role of regional and local stakeholders in the process of implementing energy efficiency programmes. We therefore suggest stepping up this level of participation via a range of measures, including those highlighted in point d), with regional and local bodies putting in place mechanisms to observe and measure energy and greenhouse gas emissions, with a view to improving the results of policy decisions. In order to set up these observation and measuring mechanisms, on the basis of which the annual reports and supplementary reports will then be drawn up in conjunction with the Member States and ultimately assessed by the Commission, the means must be made available to provide greater information than is held by energy operators.

**Amendment 15**

Article 19(8)-(9)

Text proposed by the Commission	CoR amendment
<p>8. By 30 June 2018, the Commission shall report to the European Parliament and the Council on the implementation of Article 6. That report shall be followed, if appropriate, by a legislative proposal for one or more of the following purposes:</p> <p>(a) to change the saving rate laid down in Article 6(1);</p> <p>(b) to establish additional common requirements, in particular as regards the matters referred to in Article 6(5).</p> <p>9. By 30 June 2018, the Commission shall assess the progress made by Member States in removing the regulatory and non-regulatory barriers referred to in Article 15(1); this assessment shall be followed, if appropriate, by a legislative proposal;</p>	<p>8. By 30 June <del>2018</del> 2016, the Commission shall report to the European Parliament and the Council on the implementation of Article 6. That report shall be followed, if appropriate, by a legislative proposal for one or more of the following purposes:</p> <p>(a) to change the saving rate laid down in Article 6(1);</p> <p>(b) to establish additional common requirements, in particular as regards the matters referred to in Article 6(5).</p> <p>9. By 30 June <del>2018</del> 2014, the Commission shall assess the progress made by Member States in removing the regulatory and non-regulatory barriers referred to in Article 15(1); this assessment shall be followed, if appropriate, by a legislative proposal.</p>

**Reason**

The intermediate dates seem inappropriate. 2018 is too close to the 2020 deadline for significant action to be undertaken. The Committee therefore recommends that the deadlines be shortened, to 2016 for the forwarding of the report on the implementation of the mechanisms requiring the adoption of energy efficiency measures, and to 2014 for the assessment of progress by the Member States in removing regulatory and non-regulatory barriers.

**Amendment 16**

New Article 15

Text proposed by the Commission	CoR amendment
	<p><u>1. The Member States, in coordination with the local and regional authorities and actors, shall adopt all necessary measures for the training of energy efficiency specialists. As part of this process, they shall ensure appropriate further training which will be accessible to all professionals already active in the field. They shall also ensure that training courses for future professionals are reviewed and regularly adapted in this light. The Member States, in cooperation with the local and regional authorities and actors, shall also set up training programmes that are open to all and whose scope is such that they can train a sufficient number of certified experts for the execution of tasks such as the delivery of energy performance certificates and the inspection of technical systems.</u></p>

Text proposed by the Commission	CoR amendment
	<p><u>2. The Member States, in coordination with the local and regional authorities and actors, shall report on the initiatives taken and the results achieved in the area of training, as well as on new measures they intend to take, if necessary. The Member States, in cooperation with their local and regional authorities and actors, shall carry out a study on training needs.</u></p>

### Reason

The training of energy efficiency sector experts and professionals is needed in order to achieve the objectives relating to the deployment of the energy efficiency measures as well as in order to ensure the quality and effectiveness of the action taken. Local and regional authorities are essential to the development and implementation of this training.

### Amendment 17

#### Annex III

Text proposed by the Commission	CoR amendment
<p><b>Energy efficiency requirements for purchasing products, services and buildings by public bodies</b></p> <p>Public bodies that purchase products, services or buildings shall:</p> <p>a) where a product is covered by a delegated act adopted under Directive 2010/30/EU or Commission Directive implementing Directive 92/75/EEC, purchase only the products that comply with the criterion of belonging to the highest energy efficiency class while taking into account cost-effectiveness, economical feasibility and technical suitability, as well as sufficient competition;</p> <p>b) where a product not covered under point a) is covered by an implementing measure under Directive 2009/125/EC adopted after the entry into force of this Directive, purchase only products that comply with energy efficiency benchmarks specified in that implementing measure;</p> <p>c) purchase office equipment products covered by Council Decision [2006/1005/EC ] that comply with energy efficiency requirements not less demanding than those listed in Annex C of the Agreement attached to that Decision;</p> <p>d) purchase only tyres that comply with the criterion of having the highest fuel energy efficiency class, as defined by Regulation (EC) No 1222/2009. This requirement shall not prevent public bodies from purchasing tyres with the highest wet grip class or external rolling noise class where justified by safety or public health reasons;</p> <p>e) require in their tenders for service contracts that service providers use, for the purposes of providing the services in question, only products that comply with the requirements referred to in points (a) to (d), when providing the services in question;</p> <p>f) purchase or rent only buildings that comply at least with the minimum energy performance requirements referred to in Article 4(1). Compliance with these requirements shall be verified by means of the energy performance certificates referred to in Article 11 of Directive 2010/31/EU.</p>	<p><b>Energy efficiency requirements for purchasing products, services and buildings by public bodies</b></p> <p>Public bodies that purchase products, services or buildings shall:</p> <p>a) where a product is covered by a delegated act adopted under Directive 2010/30/EU or Commission Directive implementing Directive 92/75/EEC, purchase only the products that comply with the criterion of belonging to the highest energy efficiency class while taking into account cost-effectiveness, economical feasibility and technical suitability, as well as sufficient competition;</p> <p>b) where a product not covered under point a) is covered by an implementing measure under Directive 2009/125/EC adopted after the entry into force of this Directive, purchase only products that comply with energy efficiency benchmarks specified in that implementing measure;</p> <p>c) purchase office equipment products covered by Council Decision [2006/1005/EC ] that comply with energy efficiency requirements not less demanding than those listed in Annex C of the Agreement attached to that Decision;</p> <p>d) purchase only tyres that comply with the criterion of having the highest fuel energy efficiency class, as defined by Regulation (EC) No 1222/2009. This requirement shall not prevent public bodies from purchasing tyres with the highest wet grip class or external rolling noise class where justified by safety or public health reasons;</p> <p>e) <del>require in their tenders for service contracts that service providers use, for the purposes of providing the services in question, only products that comply with the requirements referred to in points (a) to (d), when providing the services in question;</del></p> <p>f) purchase or rent only buildings that comply at least with the minimum energy performance requirements referred to in Article 4(1). Compliance with these requirements shall be verified by means of the energy performance certificates referred to in Article 11 of Directive 2010/31/EU.</p>

**Reason**

Whilst it is understood that the purpose of this sub-paragraph is to get public bodies to extend the reach of the directive to the suppliers of services, thereby providing a multiplier effect, this provision imposes a substantial administrative and financial burden in the accurate scrutiny on contractors' compliance, going beyond the prudential verification that a service has been provided as specified in the tender.

Brussels, 14 December 2011.

*The President*  
*of the Committee of the Regions*  
Mercedes BRESSO

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