



Manual of European Environmental Policy

The following pages are a section from the Manual of European Environmental Policy written by the Institute for European Environmental Policy.

The Manual was published by Earthscan/Routledge from 2010 to 2012. It was designed as an on-line interactive reference work and annual printed versions were also produced.

This section is the text of the Manual as published in 2012. It is therefore important to note the following:

- The contents have not been updated since 2012 and no guarantee is given of the accuracy of the contents given potential subsequent developments.
- The sections include links to external websites (e.g. to legal texts). These links continue to work as long as those links are not broken by those websites.
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Energy end-use efficiency and energy services

Formal reference	
2006/32/EC (OJ L 114 27.4.2006)	Directive on energy end-use efficiency and energy services and repealing Council Directive 93/76/EEC
Proposed 10.12.2003 – COM(2003)739	Proposal on energy end-use efficiency and energy services
Legal base	Article 192 TFEU (originally Article 175(1) TEC)
Binding dates	
Formal compliance	17 May 2008
Formal compliance with reporting provisions	17 May 2006
Member States report on existing calculation method	17 November 2006
Member States first Energy Efficiency Action Plan	30 June 2007
Member States second EEAP	30 June 2011
Member States third EEAP	30 June 2014
Commission cost/benefit analysis	17 May 2008
Committee and Commission review of first EEAPs	1 January 2008
Committee and Commission review of second EEAPs	1 January 2012
Committee and Commission review of third EEAPs	1 January 2015
Commission report on progress in setting indicators and benchmarks	17 May 2011

Purpose of the Directive

The purpose of the Directive is ‘to enhance the cost-effective improvement of energy end-use efficiency in the Member States’ (Article 1) by setting indicative targets, removing market barriers and promoting a market of energy efficiency services.

The reasons for the adoption of the Directive were to increase the security of energy supply, to contribute to the prevention of dangerous climate change by reducing CO₂ and other greenhouse gas emissions, to reduce dependence on energy imports and to boost the EU's innovativeness and competitiveness.

The main focus of the Directive is to promote energy end-use efficiency and energy services in a way that is compatible with the liberalization of energy markets. This process only gives incentives for improvements in energy efficiency in energy generation, transformation and distribution, that is on the supply side, and not on the demand side. Energy providers have

focused only on selling energy products, with a tendency to sell as much as energy as possible. There are currently even incentives to increase rather than decrease energy use, which are unjustifiable and should be removed. The intention of the Directive was therefore to open up a market for the provision of energy services, which has a big potential since investments to increase energy efficiency often cost less than the energy which is going to be saved as a result of such investments.

Summary of the Directive

The Directive requires Member States to adopt a national indicative energy savings target of 9 per cent, to be achieved in the ninth year of application of the Directive (2016), since energy savings in relation to the target are measured as from 1 January 2008. The base year to which the target refers is the average of annual energy consumption over the latest five-year period previous to the implementation of the Directive for which sufficient data exist. Each Member State has to adopt programmes and measures to improve energy efficiency and to designate an authority responsible for their implementation. The energy savings target itself is indicative, not a legally enforceable obligation.

Energy savings in a particular year following the entry into force of this Directive that result from energy efficiency improvement measures initiated in a previous year not earlier than 1995 and that have a lasting effect may be taken into account in the calculation of the annual energy savings. In certain circumstances, effects of measures initiated even as far back as 1991 may be accounted for during the nine-year period. The effects of such early action counting towards the achievement of the target are difficult to assess, though they may be small.

The public sector is expected to lead by example in energy efficiency. Member States are required to take energy efficiency considerations into account for public procurement, to communicate this exemplary role effectively and to implement at least two measures chosen from a list of possible measures in Annex VI to the Directive.

The Directive introduces several tools to remove existing barriers to the emergence of a market for energy end-use efficiency and energy services:

- A harmonized framework for energy efficiency services is created, notably by imposing an obligation on energy providers to offer or support some minimal level of energy services, unless there are voluntary agreements or schemes like white certificates. Such certificates would have to be issued by independent entities and would confirm the achievement of energy savings by individual market actors.
- The visibility and knowledge of savings potentials and their cost-effectiveness is increased by granting customers access to energy audit schemes, and accurate energy consumption meters.
- Member States are furthermore encouraged to ensure that consumers are provided with up-to-date information on their energy consumption by energy providers together with comparisons with average users and contact details to get more information and advice on how to improve energy efficiency. It is an objective of the Directive that consumers can take well-informed decisions on their individual energy consumption.
- The Directive also allows Member States to use subsidies to promote energy efficiency.

Member States must transpose the Directive into national law by 17 May 2008, with the exception of three sub-articles to be incorporated earlier, by 17 May 2006. These deal with information on existing practices, the submission of national action plans, and the assessment of these plans by the Commission. The Commission will assess and report on each plan within six months of its submission. Thereafter, it will enter into force. According to Article 14(2), Member States shall submit their first National Energy Efficiency Action Plan (NEEAP) to the Commission by 30 June 2007. In their NEEAPs, Member States should show how they intend to reach the 9 per cent indicative energy savings target by 2016. NEEAPs shall describe the energy efficiency improvement measures that are aimed at achieving the savings targets set out in Article 4(1) of the Directive. Furthermore the NEEAPs shall describe how Member States intend to comply with the provisions on the exemplary role of the public sector and the provision of information and advice to final consumers.

Member States are required to provide a series of three reports on their Energy Efficiency Action Plans and the progress achieved in their implementation in the course of the nine-year period after the start of the application of the Directive. Each of these reports is to be examined by a committee and the Commission within a timeframe of six months.

Development of the Directive

The objective to increase energy efficiency has been an important issue at EU level for several years. In 1998 the Council agreed a resolution ([OJ C 394](#), 7.12.1998) calling for a yearly increase of energy efficiency by one percentage point. Energy demand management was listed as a priority measure in the Communication from the Commission on the implementation of the first phase of the European Climate Change Programme. The Directive is one of several measures adopted by the EU to increase energy efficiency. The Green Paper on Energy Efficiency ([COM\(2005\)265](#)) launched a discussion about achieving energy savings of 20 per cent by 2020 and therefore going further than the measures so far adopted.

The proposal on energy end-use efficiency and energy services was adopted by the Commission in December 2003. The treaty basis of the proposal was Article 175(1) TEC (now Article 192 TFEU) and therefore the [co-decision procedure](#) applied. Like the Commission, the European Parliament was in favour of mandatory targets, both for Member States in general and for the public sector, for which specific, higher targets would have been set. Parliament attempted to strengthen the targets for the second and third three-year period at its first reading (4 and 4.5 per cent, respectively, compared to the annual cumulative 1 per cent target proposed by the Commission). However, it did not support the proposal to oblige energy companies to provide free energy audits. In its common position, the Council insisted on setting indicative targets only. It also reversed a proposal made by the Parliament to allow early action to count towards the target only if carried out after the year 2000, instead of 1991.

The European Parliament adopted 49 amendments to the common position of the Council, but did not change the most disputed parts of it. Above all, it accepted that targets would only be indicative. The amendments made by Parliament in its second reading concerned new recitals, new definitions (Article 3), the introduction of an intermediate savings target for the third year of application of the Directive (Article 4(2)), systematic and rigorous reporting requirements for the Member States and the Commission (Article 14), and the development of the energy efficiency improvement measurement system (Article 15 and Annexes I, III and

IV) as well as a few further changes to the annexes. The amendments were accepted in full by the Commission. The Council too accepted these amendments at its meeting of 14 March 2006, resulting in the final adoption of the Directive without recourse to the conciliation procedure.

Implementation of the Directive

Information on the measures taken by the Member States to transpose Directive 2006/32/EC can be found in their national [execution measures](#). Only Finland and the United Kingdom submitted their NEEAPs to the Commission before the 30 June 2007 deadline. At the beginning of 2008, Greece and Latvia were sent a second warning of referral to the European Court of Justice because of a failure to draft their national action plans.

As part of the energy and climate package, the Commission published the first assessment of NEEAPs ([COM\(2008\)11](#)) in January 2008, based on 17 national action plans submitted by December 2007. Five EU countries, namely Cyprus, Lithuania, Italy, Romania and Spain, adopted energy savings targets going beyond the 9 per cent indicative target for 2016 specified in the Directive. However, even some relatively progressive Member States did not appreciate all of the new measures that could be used to achieve the targets and other Member States presented little more than a business as usual approach.

By 2009, all 27 Member States had submitted NEEAPs and these can be accessed via the Commission [website](#). A report assessing all NEEAPs ([SEC\(2009\)889](#)) was published on 23 June 2009. Almost all Member States had introduced a target of 9 per cent for 2016, with some exceeding that. Italy had adopted a 9.6 per cent target, Cyprus a 10 per cent target, Lithuania an 11 per cent target and Romania a 13.5 per cent. Some Member States expected to exceed the 9 per cent target with savings from measures included in the NEEAPs, but did not explicitly commit to a higher target. Ireland indicated expected savings of 12.5 per cent in 2016 and Luxembourg 10.4 per cent. The Netherlands indicated high and low estimates of 9.4 and 14.7 per cent and the UK expected savings of 18 per cent in 2016.

An overview of the assessments of the NEEAPs was also published by the Commission on 8 March 2011 as [SEC\(2011\)276](#).

The Commission launched several supporting processes for the preparation of the second NEEAPs to be reported in June 2011, including training workshops, on-line and telephone helpdesk and a NEEAP template. The template (distributed to the Member States in November 2010) integrated modules to encourage additional reporting of savings from supply side measures and improvement of distribution. Formal reporting obligations from Directive on the Energy Performance of Buildings ([2010/31/EU](#)) have also been incorporated.

Enforcement and court cases

No cases relating to Directive 2006/32/EC have been concluded by the European Court of Justice.

Further developments

In its 8 March 2011 publication of the Energy Efficiency Plan 2011 ([COM\(2011\)109](#)), the Commission stated that it would propose a revision to Directive 2006/32/EC later in 2011. Shortly after, on the 22 June 2011, the Commission published its proposal for a new Directive on energy efficiency which would repeal Directive 2006/32/EC ([COM\(2011\)370](#)) (See Sectoral Policies: Energy for more detail).

Related legislation

The following legislations interact with the energy end-use efficiency and energy services Directive:

- Directive [92/75/EEC](#) on energy labelling.
- Directive [2009/28/EC](#) on the promotion of renewable energy.
- Directive [2010/31/EU](#) on the energy performance of buildings.
- Directive [2009/125/EC](#) on establishing a framework for the setting of ecodesign requirements for energy-related products.
- Directive [2010/30/EU](#) on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products.
- Decision [1230/2003/EC](#) on Intelligent Energy – Europe.
- Directive [2001/77/EC](#) on promotion of electricity from renewable sources.
- Directive [2009/72/EC](#) concerning common rules for the internal market in electricity and Directive [2009/73/EC](#) concerning common rules for the internal market in natural gas provide for the possibility of using energy efficiency and demand-side management as alternatives to new supply and for environmental protection.
- Directive [2004/17/EC](#) coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors and Directive [2004/18/EC](#) on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts allow for use of energy efficiency criteria in tendering procedures for public procurement.