Position Paper

Revision of the Energy Efficiency Directive

28 February 2022

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Position

Summary

- SGI Europe welcomes the revision of the new Energy Efficiency Directive (EED). However, as many aspects of the first EED have not yet been fully transposed into national law, evaluating its actual impact is challenging in many areas.
- Achieving the EU climate targets should simultaneously consider energy efficiency and CO2 emissions. We propose a **carbon non-regression principle** in energy efficiency regulation to regard the effects on emissions from a broader perspective as a sort of "climate safeguard".
- The **new obligations on public sectors bodies in Articles 5, 6, 7 and 8 raise deep concerns**. Local public utilities are conscious of their exemplary role in energy efficiency. However, blanket reduction targets do not do justice to the complexity of supply and disposal tasks, and they should not place in a worse competitive position. CO2 savings should be viewed holistically.
- **SGI Europe calls for a clear definition of what is understood under "Public-law Bodies" and whether public housing companies are included to interpret** the procurement directive. Including public housing in the provision would be inappropriate, especially in markets and Member States where public housing competes with private housing.
- SGI Europe pleads for **fair and efficiently adjusted final energy consumption.** Reducing the final energy consumption of **all public bodies by 1,7% each year** will be a considerable challenge, requiring **extensive capacity building**. SGI Europe calls for a broad application of existing and new transformative techniques and practices.
- **The new extended obligation to renovate 3% of EU's buildings annually for all public buildings is unsustainable**. It does not regard the actual needs and how long-term energy efficiency work is conducted. This target will prove extremely costly and raise serious financial challenges for public bodies and eventually taxpayers and tenants. **SGI Europe recommends a** continued possibility **for alternative measures** and targets.
- The **NZEB is also not an appropriate level to mandate for renovation** since it is defined very differently among Member States, in many cases only being relevant to new buildings.
- The purchase of products, services, buildings and buildings with high energy-efficiency performance must be left to **each Local Reutilization Authority (LRA)**, respecting the principle of **local self-government.** Here, **SGI Europe rejects the proposed mandatory requirement for public procurement beyond what is foreseen in Directive 2014/24.**
- SGI Europe is highly critical of the lack of flexibility regarding district heating and cooling and CHP plants, especially the **Commission's proposal for the new definition for highly efficient CHP plants** to be applied immediately. To guarantee legal certainty, the new limit should only apply to new installations, and for existing plants, transitional periods until 2030 should be foreseen.
- SGI Europe rejects introducing specific minimum requirements for efficient district heating and cooling systems. **CHP should be part of an efficient district heating/cooling system even after 2035,** and the directive can refrain from proposing an interim objective for 2026.
- **SGI Europe calls for combining waste heat and renewable energy on equal footing in targets**. Using waste heat should be preferred since renewable energy is in limited supply.
- SGI Europe pleads that the directive must **ensure technological neutrality and therefore provide flexibility in selecting the most efficient generation and supply options**. For this reason, **CO2-dependent regulation could be more efficient than technology-based control**.
- SGI Europe would like to welcome that the European Commission refrained from the so-called SME Recommendation (2003/73617/EC) definition and has pointed out that Energy Efficiency performance will be measured **based on energy consumption.**

SGI Europe welcomes the European Commission's ambitions for a revision of the Energy Efficiency Directive (EED). However, it is important to notice that many aspects of the first EED have not yet been fully transposed into national law. It is therefore difficult in some areas to evaluate its true impact. Nevertheless, on a general note, efforts have to be made within the EED to meet the newly adopted climate ambition targets of 55% by 2030 and ensure its contribution to achieving carbon neutrality by 2050. As a cross-sectoral EU association, we highlight that climate targets will only be achieved if all sectors and instruments contribute to their achievements, including, among others, the EED and Renewable Energy Directive (REDII), but also the Eco-Design Directive, Energy Performance in Buildings Directive (EPBD), measures in the transport and energy sectors, Emission Trading System (ETS), Effort Sharing and the EU Climate Law.

In the following paragraphs, SGI Europe expresses some of its concerns with the newly revised EED and offers recommendations for consideration:

Proposal for a Carbon non-regression principle as a "Climate Safeguard"

SGI Europe considers that achieving the EU climate targets should simultaneously consider energy efficiency and CO2 emissions. We propose integrating a **carbon non-regression principle** in energy efficiency regulation to regard the effects on emissions from a broader system's perspective as a "climate safeguard". Such an approach has already been implemented in France in different building renovation legislation. For instance, it would prevent switching from low-carbon and efficient electric heating systems like heat pumps or district heating to gas boilers, which would increase total CO2 emissions.

The new obligations on public sectors bodies in Articles 5, 6, 7 and 8 raise deep concerns among the members of SGI Europe

Local public utilities are conscious of their exemplary role in energy efficiency. However, blanket reduction targets do not do justice to the complexity of supply and disposal tasks (e.g., energy-efficient wastewater treatment). Moreover, they should not be placed in a worse position in competition with private third parties. Instead, CO2 savings should be viewed holistically.

Clarifying the definition of Public Bodies

The draft directive raises the question of **which public-law bodies are meant and whether public housing companies are included to interpret** the so-called procurement directive. 'Public bodies' means 'contracting authorities as defined in Directive 2014/24 of the European Parliament and the Council. This aspect has to be clarified. Including public housing would be inappropriate, especially in markets and Member States, where it is supposed to compete on equal terms with private housing. Moreover, it has to be specified that in the case of residential buildings owned by public bodies, this provision shall apply only if public funds fully finance the renovation costs. Otherwise, SGI Europe fears that the tenants will bear these financial burdens.

Final Energy Consumption to be adjusted fairly and efficiently

The proposed absolute reductions in energy use and **final energy consumption of all public bodies by 1,7% each year** will be a considerable challenge for most Member States. **It will require extensive capacity building** in finance, competence, guidance, data, reporting etc. **SGI Europe considers it necessary to apply both existing and new transformative techniques and practices broadly.**

Any target level could be modified according to Member States' varying conditions on the need and profitability for energy efficiency, available resources for renovation, population growth, urbanisation etc. We question why the requirement for the public sector should be at the same level as the economy at large. The substantial efficiency gains from the electrification of transport and industry lay mainly outside the public sector. Every saving of CO2 emissions should count, i.e. the planned restrictions on the eligibility of measures based on fossil fuels strongly limit the reduction potential and is, thus, rejected. Lastly, the choice of reference year will also matter since 2020 saw a sharp drop in energy use in many public activities due to Covid-19.

Furthermore, **the new obligation to renovate 3% of the EU's buildings annually to extend it to all public buildings raises deep concerns.** It does not address local, regional and national conditions or the actual needs for renovation and how long-term energy efficiency work is conducted (e.g., efficient utilisation of buildings, technical building systems and data, long-term planning, etc.). It would be **highly costly and raise severe financial challenges for public bodies and eventually taxpayers and tenants**.
SGI Europe also highlights many practical difficulties such as the nonexistent consideration for buildings of historical interest, the **lack of skilled labour and construction entrepreneurs**, the displacing effect on private sector renovation, local property markets, incentive to privatise public activities etc.

SGI Europe is convinced that the energy consumption of the building stock can be reduced in more flexible and cost-effective ways. It is also essential to enable **a life-cycle approach for GHG emissions** since construction and materials can account for about half of total building emissions. We strongly advocate for a continued possibility for alternative measures and targets, such as absolute energy savings and increased energy efficiency per square meter. **District, neighbourhood and portfolio approaches must also be recognised** to apply energy efficiency and renewable energy with a broader scope than public buildings. These measures would fundamentally align with the "Efficiency First" principle. The interaction between energy-efficient building refurbishment and, if necessary, neighbourhood energy supply must be coordinated to achieve CO2 savings targets and ensure a cost-efficient supply of climate-friendly energy.

Furthermore, the **Nearly Zero Emission Building (NZEB) is not an appropriate level to mandate for renovation** since it is defined very differently among Member States, in many cases only being relevant to new buildings. Some buildings of public companies, such as workshops, depots, stations or facilities under monument protection, cannot be renovated to meet the criteria of an NZEBs. There must be a considerable scope for Member States to set their renovation rates and levels to achieve the target of Article 5.

Better energy efficiency starts at the local level

The purchase of products, services, buildings and buildings with high energy-efficiency performance (Art 7) must be left to the **discretion of each public body**, respecting the principle of **local self-government enshrined in Art. 4 TEU.** SGI Europe rejects the proposed mandatory requirement for public procurement beyond what is foreseen in Directive 2014/24/EU. Otherwise, if the proposal remains, it would lead to uncertainty in procurement processes, possibly much higher costs. It, therefore, is pivotal that the original conditionalities (technical and economic feasibility) are restored.

Instead, the central governments should work in partnership with public bodies to build capacity and further encourage sustainability in public procurement. The present EED reference to cost-effectiveness, broader sustainability etc., should be kept. **Minimum energy performance requirements are not appropriate** levels to mandate for renovation and purchase or rent of buildings since they are defined very differently among Member States, in many cases only being relevant to new buildings. Any requirements for tires must also consider winter conditions. (Art 7 and Annex IV)

SGI Europe is highly critical of the lack of flexibility regarding district-heating and cooling and combined heat and power plants (CHP) (Art. 24, Annex III):

CHP plants are important for providing heat and power in an energy-efficient way and safeguarding a reliable and stable energy supply (flexible back-up to renewables). Fossil fuels are gradually replaced by alternative sources such as green gases/hydrogen. This is an incremental process that takes time. Thus, **we strongly disagree with the Commission's proposal for a new definition for highly efficient CHP plants, which adds a new criterion in the form of a maximum of 270 g CO_2 per kWh of energy output** and should be applied immediately. The new limit should only apply to new installations and existing plants to guarantee legal certainty, and transitional periods until 2030 should be foreseen.

In that context, **Art. 24 introduces minimum and requirements for efficient district heating and cooling systems, which are very specific and difficult to achieve**. With the specifications given in Annex III in combination with Article 24, the proposed revision, the expansion of the heating networks and the increase in the number of buildings supplied with district heating would be jeopardised, as the criteria for efficient district heating could not be met (early enough**). CHP should be part of an efficient district heating/cooling system even after 2035,** and the directive can refrain from proposing an interim objective for 2026. This means leaving more leeway for operators and members states could be given, which can take into account Europe's diversity of decarbonisation solutions by applying the new definition only from 2030 instead of 2026.

Furthermore, SGI Europe sees a need to **combine waste heat and renewable energy on an equal footing in targets**. Using waste heat from industry, data centres, and other social activities should be preferred since renewable energy is still in limited supply and not without other environmental impacts. A city supplied fully by waste heat from industry etc., should not be required to switch to 40% or 60% renewables.

Considering CO2-dependent regulation instead of technology-based control

SGI Europe pleads that the directive must ensure technological neutrality and, therefore, **provide flexibility in selecting the most efficient generation and supply options**. It is necessary to use every technology available that contributes to the effort to decarbonise as quickly as possible. The proposed threshold restricts most modern CHP plants and the most efficient use of natural gas, hampering the quick decarbonisation on the local level. Therefore, **CO2-dependent regulation makes more sense than technology-based control**. Decarbonisation roadmaps, budget targets or balances adapted to regional conditions are the more effective and efficient instruments. They offer energy suppliers the necessary technical and organisational flexibility to achieve the climate targets for a specific supply area. Rigid quotas or thresholds restrict flexibility and jeopardise the decarbonisation targets, as they discriminate against certain technologies from the beginning.

SME Definition:

SGI Europe welcomes that the European Commission has refrained from the so-called SME Recommendation (2003/73617/EC) definition and has pointed out that Energy Efficiency performance will be measured **based on energy consumption rather the size of an enterprise**. We welcome this development since many local public service enterprises (LPSEs) are excluded from various energy efficiency related EU funds and investment schemes due to this definition. This also leads to municipal SMEs - unlike private SMEs - not being able to draw advantage of specific support programmes (at all or only at worse conditions) meant to support energy efficiency. **SGI Europe calls on EU legislators to adopt this approach as we believe this creates a fairer and more level-playing field between the private and public enterprises**.