



**COUNCIL OF EUROPEAN MUNICIPALITIES AND REGIONS
CONSEIL DES COMMUNES ET REGIONS D'EUROPE**

*Registered in the Register of Interest Representatives
Registration number: 81142561702-61*

CEMR position paper on the proposal for a directive on energy efficiency

COM (2011)370 final

Brussels, September 2011

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Background

Energy efficiency is at the heart of two important EU strategies released early 2011 by the European Commission: the "[Flagship initiative on resource efficiency](#)" of the Europe 2020 strategy for smart, sustainable and inclusive growth and the "[Roadmap for moving to a competitive low-carbon economy in 2050](#)". Energy efficiency is considered as "the most cost-effective and fastest way to increase security of supply", and "an effective way to reduce the greenhouse gases emissions responsible for climate change", and thus contributes to the European Unions' objective of 80-95% greenhouse gas emission reduction goal in 2050.

In order to further exploit the energy efficiency potential in the EU and achieve the target of 20% primary energy savings in 2020 set in the [Europe 2020 strategy](#), the European Commission released on 22 June a [proposal for a directive on energy efficiency](#).

Concrete proposals are made to encourage a more efficient use of energy at all stages of the energy chain, from the transformation of energy and its distribution to its final consumption. The European Commission considers that the public sector should lead by example, so that many provisions directly impact on local and regional authorities.

About CEMR

CEMR is the umbrella organisation gathering 53 national associations of local and regional governments in almost 40 European countries (www.ccre.org). CEMR's members represent local and regional authorities in both urban and rural areas.

CEMR has been working on the issue of energy for a long time and was involved in several EU projects on energy. Thus, it is currently involved in the Covenant of Mayors' Office.

The CEMR focus group on energy efficiency, composed of energy experts of national association of municipalities and regions, is responsible for responding to the draft EU legislation on energy efficiency.

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CEMR key messages on the draft directive on energy efficiency

- CEMR welcomes the priority given by the European Commission to saving energy and using energy efficiently, as well as the recognition of the **existing potential at local and regional level**. Nevertheless, CEMR recalls the necessity to respect the **subsidiarity principle** and to avoid imposing burdensome and inflexible targets upon local and regional government. They may indeed lead to high investments for energy efficiency measures which are not the most cost-effective.
- CEMR supports the obligation to set **national energy efficiency targets** as it provides visibility and certainty to decision-makers and investors. We call on the European legislators to include provisions obliging Member States to negotiate with local and regional authorities in determining the ways of achieving the national energy efficiency target and implementing the necessary actions.
- The proposal obligation to **renovate 3% of public buildings** annually raises a number of practical difficulties and concerns for local and regional authorities. CEMR advocates the possibility to implement alternative approaches, provided that the same level of results in energy consumption reduction is achieved. This would allow for the necessary flexibility required to identify and implement the most cost-effective measures, tailored to the national, regional and local context and the financial means available.
- Investing in energy efficiency measures represents a **significant financial challenge** for local and regional authorities, whose budgets are already under considerable pressure. It is essential that further financial means are provided to local and regional authorities, if new obligations are to be imposed on them. CEMR calls on the European legislators to foresee more possibilities for direct funding of municipalities' and regions' energy efficiency projects in the multi-annual financial framework 2014-2020.
- The proposal to use a relevant share of the **EU Structural funds** to finance the upfront investments in energy savings is positive. Member States should be encouraged to cooperate with municipalities in the definition of the priorities and the use of the Structural funds.
- 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 choice of whether to include energy efficiency criteria should be left to the local or regional authority itself and any EU related requirement must remain entirely voluntary. CEMR would favour an approach based on incentives to buy the most energy-efficient products, for instance guidance on their positive impacts and their life-cycle costs.
- The European Commission's focus is still on the big producers of electricity and heat. Small decentralised solutions such as **micro-generation** are rather overlooked and should be better considered and promoted in the future.
- **Metering and informative billing** are crucial to raise awareness of consumers. The directive should confirm the right of the final consumer to the inexpensive and easy availability of his/her own energy consumption data in electronic form on a daily basis.
- Provisions to promote **combined heat and power production** are to be supported. Local and regional authorities have a significant potential in this field. However, the directive should not go too far in prescribing what should be set in local and regional spatial plans. CEMR is seriously concerned that the **spatial planning obligations**

proposed by the European Commission are too detailed and thus infringe the principle of subsidiarity.

- CEMR welcomes the proposals to **remove the barriers to the use of energy services** and strongly supports efforts to make internal and external energy contracting more attractive to local and regional authorities.

1. Objectives of the directive and role of local and regional authorities

Recitals 10 to 12, 14 and 16, and article 1

Proposals of the European Commission:

The objective of the directive is to “establish a common framework for the promotion of energy efficiency within the Union in order to ensure the achievements of the 20% energy savings target by 2020 and more improvement beyond this date”. In this context, the European Commission stresses that “public bodies at national, regional and local level should fulfil an exemplary role as regards energy efficiency” and that Member States should support local integrated approaches to energy.

CEMR recognises the priority given by the European Commission to saving energy and using energy efficiently, as well as the recognition of the existing potential at local and regional level. Energy efficiency and energy saving are the cheapest options in climate and energy policies and bring the most in terms of employment. Local and regional government has an important role in delivering a more energy efficient society, including supporting a radical change of citizens’ behaviour.

Recommendation: CEMR welcomes the proposal for a directive on energy efficiency and the recognition of the key role that local and regional authorities can play in achieving its objectives. The Covenant of Mayors¹ is a concrete demonstration of the results that municipalities, provinces and regions can achieve on energy and climate issues. Such efforts should be further supported and local and regional authorities better empowered in the future.

2. National energy efficiency targets

Recitals 13, 35 and 36, and article 3

Proposals of the European Commission:

Member States shall “set a national energy efficiency target expressed as an absolute level of primary energy consumption in 2020” and taking into account the EU’s target of 20% energy savings. By 30 June 2014, the Commission will assess if the 20% target is likely to be achieved. If it is not the case, the Commission should propose mandatory national targets for 2020, taking into account the individual starting points of Member States, their economic performance and early action taken.

CEMR welcomes the proposed obligation on Member States to set national energy efficiency targets as it provides visibility and certainty to decision-makers and private investors. Considering their competences and the potential for action at local and regional level, European municipalities and regions can play a significant role in achieving European and national energy efficiency targets. However, providing sufficient flexibility to local and regional authorities is crucial, since local conditions, needs and means greatly vary in Europe.

¹ The Covenant of Mayors is an initiative gathering around 3000 municipalities and 150 regions, provinces and associations of local and regional authorities, with the objective to go beyond the EU 20% CO₂ reduction objective by 2020: www.eumayors.eu

The new provisions of the Lisbon Treaty² strengthened the role of local and regional authorities in the development of EU legislation. As a consequence, it should be guaranteed in the directive that local and regional authorities will be involved by their national government when it decides its strategy to meet the national energy efficiency target.

Recommendation:

- ⇒ **Provisions should be included in the directive to introduce more flexibility concerning both cost efficiency and starting level of energy consumption.**
- ⇒ **CEMR calls on the European legislators to include provisions obliging Member States to negotiate with local and regional authorities in determining the ways of achieving the national energy efficiency targets and implementing the necessary actions.**

3. Renovation target for public buildings

Recital 15 and article 4

Proposals of the European Commission:

“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/EU³. The 3% rate shall be calculated on the total floor area of buildings with a total useful floor area over 250 m² 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 the Directive 2010/31/EU”.

In addition, “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”.

For this purpose, “by 1 January 2014, Member States shall establish and make publicly available an inventory of buildings owned by their public bodies [...]”.

Lastly, Member States shall encourage public bodies to adopt an energy efficiency plan [...] and “put in place an energy management system as part of the implementation of their plan”.

In its proposal, the European Commission proposes to set a binding target of 3% per annum for the renovation of buildings owned by public authorities. In principle, CEMR agrees with the necessity to improve the energy efficiency of buildings. However, we wish to outline the practical difficulties of this proposal and suggest alternative approaches, in order to take account of the concern of many European municipalities and regions.

While recalling the necessity to respect the self-government and subsidiarity principles, thus letting enough room for manoeuvre to local and regional authorities when it comes to dealing with their own buildings and energy policies, CEMR would like to identify the main challenges raised by the Commission’s proposal:

- The proposed annual renovation target of 3% of the total floor area is highly ambitious, notably in administrative and financial terms. Such a target would be hard to meet for many municipalities and regions, even in the most advanced Member States with domestic energy efficiency requirements. Local and regional policy-making requires adequate time and visibility to plan and prioritise investments, develop strategies and build competences, depending on local circumstances.

² See articles 5 and 11 of the [Lisbon Treaty](#), as well as the Protocol on subsidiarity.

³ Energy Performance of Buildings directive: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:153:0013:0035:EN:PDF>

- Furthermore, the target does not allow for sufficient flexibility. The 3% target may not be feasible for all regions and all municipalities in Europe, some of them being able to do more and others less than 3%. The different situations of local and regional authorities (starting points, budgetary, climatic, cultural, demographic, historic conditions, etc.) have to be thoroughly considered. Moreover, it may prevent opting for the most cost-effective solutions. For instance, building' renovation for energy purposes is most effective if it is done building by building, not room by room. Renovation is not the only way to achieve most energy efficient buildings, other combined actions such as maintenance and awareness-raising of users also prove to be efficient. Furthermore it has to be mentioned, that a 3% renovation-target does not guarantee that renovation is done where it is most energy efficient (e.g. buildings that are used on a 24-hour basis) and thus could lead to an easy-way approach which does not reduce energy-consumption in the desired way.
- The impact of the target on successful schemes supporting local and regional energy efficiency initiatives in some countries has also to be taken into account. Some Member States have their own energy efficiency agreements with local and regional authorities. The latter are participating in various voluntary energy or climate programmes and campaigns which also serve energy efficiency. These arrangements have to be kept and developed as relevant alternative examples.
- Lastly, it is still unclear whether listed buildings and monuments and public housing stock aimed for social housing would be counted for the renovation target, which could considerably increase the challenge for local and regional authorities. For social housing, it may create an unbalanced competition on the rental flat market with the private sector, as the renovation costs will be transferred to the rent of flats and, in some cases, the rent will be covered partly or totally with public money.

As a consequence, CEMR calls for **the possibility for national, regional and local authorities to implement alternative approaches** to the 3% target, provided that an equivalent level of overall reduction in energy consumption is achieved.

This approach would be similar to the one proposed for energy distributors and retail energy sales companies (article 6 on energy efficiency obligation schemes), where the 1.5% energy saving target can be replaced by other measures to achieve energy savings among final consumers.

Recommendation:

In line with the subsidiarity principle, CEMR would favour an overall target for energy consumption reduction, thus ensuring enough freedom and flexibility for local and regional authorities to implement actions aiming at improving energy efficiency where the results would be the most cost-effective.

The yearly 3% renovation target for public buildings raises a number of practical difficulties and concerns for local and regional authorities, so CEMR advocates the possibility of implementing alternative approaches, provided that the same level of results in energy consumption reduction is achieved (for instance through a national agreement between national, regional and local authorities on how to reach a yearly average of 3 % energy consumption reduction). This would allow for the necessary flexibility required to identify and implement the most cost-effective measures, tailored to the national, regional and local context and the financial means available.

4. Financing energy efficiency measures

Recital 33

Proposals of the European Commission:

Financing for energy efficiency measures in the public sector is only mentioned in a recital, stressing the need to exploit the potential of Structural funds. Financing is also mentioned

in article 14 where Member States are encouraged to “disseminate information on financial instruments, incentives, grants and loans to support energy service projects”.

Financing is a crucial issue and a major barrier to the realisation of local and regional energy efficiency projects, even in the more advanced Member States, and solutions have still to be found to cover the upfront investments.

CEMR is concerned about the Commission’s proposals for the multiannual financial framework for 2014-2020⁴ in the field of energy, as few of them are likely to directly benefit to local authorities and no specific instrument for energy projects is foreseen. We are worried that the Energy Intelligent Europe programme may disappear after 2013, without being adequately replaced. Many innovative projects implemented by European municipalities and regions, as well as significant initiatives such as the Covenant of Mayors and the creation of local and regional energy agencies throughout Europe, have been made possible thanks to such a programme.

Moreover, CEMR notes the European Commission’s proposal to use 20% of Structural funds for energy efficiency and renewable energy in competitiveness and transition regions. The use of a relevant share of the EU Structural funds to finance the upfront investments in energy savings is to be welcomed.

However, EU regions are not all in the same situation, so CEMR would be in favour of ambitious national objectives for the use of Structural funds for energy efficiency rather than imposing a maximum percentage of Structural funds for each region. Flexibility should be given to those who are on the ground, and the focus placed where the potential is the strongest.

Recommendation:

It is essential that further financial means are provided to local and regional authorities, if new obligations are to be imposed on them, as local and regional budgets are already under considerable pressure.

- ⇒ **CEMR calls on the European legislators to foresee more possibilities for direct funding of municipalities’ and regions’ energy efficiency projects in the multi-annual financial framework 2014-2020.**
- ⇒ **Regarding Structural funds, the partnership principle has to be implemented effectively, i.e. local and regional authorities should be involved in the development and implementation of the measures⁵. Thus, Member States should be encouraged to cooperate with municipalities in the definition of the priorities and the use of the funds.**

5. Promote energy efficiency through public procurement

Recital 17, article 5 and annex III

Proposals of the European Commission:

Article 5 states that “Member States shall ensure that public bodies purchase only products, services and buildings with high energy efficiency performance”. Annex III details the energy efficiency requirements for purchasing products, including office equipments and tyres, services and buildings.

The provisions of the draft directive that require public authorities to purchase only products, services and buildings with high energy efficiency performance cause concern amongst local and regional authorities about EU attempts to use procurement to address

⁴ The European Commission’s multiannual framework for 2014-2020 was published on 29 June 2011: http://ec.europa.eu/budget/index_en.cfm

⁵ See the CEMR position on the future of EU Cohesion Policy: http://www.ccre.org/prises_de_positions_detail_en.htm?ID=97&idca=3120

strategic policy goals⁶. On the principle, CEMR considers that the decision on how to include and weight energy efficiency aspects in their public tender procedures should be left to the public authority itself and any EU-related requirement must remain entirely voluntary.

Additionally, the proposals of the European Commission raise a number of practical difficulties which ought to be taken into account. For example, the contracting public authority has limited capacities to monitor and control its service-provider and cannot be held responsible for verifying the implementation of the directive by their provider. It is also worth noting that the provisions of the directive may significantly limit the room for manoeuvre of local and regional authorities since they do not always rent or buy buildings only for their energy efficiency performance but also for other purposes (e.g. location, social or security aims).

Finally, we wish to highlight the upcoming revision of the public procurement directives, which is currently prepared by the European Commission (DG MARKT). Consistency and coherence of any energy efficiency provision with the public procurement policy directives need to be ensured.

Recommendation: Rather than imposing compulsory criteria upon local and regional authorities, CEMR would favour an approach based on incentives to buy the most energy-efficient products, for instance guidance on the positive impacts of such products and their life-cycle costs.

6. Energy-saving obligation schemes

Recital 18, articles 6 and 9, and annex V

Proposals of the European Commission:

Each Member State shall set up an energy efficiency obligation scheme, in order to “ensure that either all energy distributors or all retail energy sales companies operating on the Member States territory achieve annual energy savings equal to 1.5% of their energy sales by volume in the previous year in that Member State”. The article provides a number of details on the implementation of this provision, including possibility of exemptions (e.g. for small energy distributors). It has to be noted that Member States have the possibility to propose alternative measures to imposing an energy-saving obligation scheme, if the intended results (1.5% target) are still achieved.

CEMR supports the proposed energy-saving obligation schemes on retail energy sales companies or energy distributors to achieve 1.5% annual energy savings. The possibility to take alternative measures, provided they achieve the same results, is appreciated.

There are still remarkable losses in the distribution of centrally produced electricity and heat, so CEMR is in favour of home, neighbourhood and local production of electricity and heat. This element is missing in this draft Energy efficiency directive or any other EU regulation.

In order to promote small-scale and combined heat and power-based electricity production, appropriate incentives should be mobilised. Member States could use the guaranteed price like feed-in tariffs or privileges to get to the national and regional electricity grids. It could lead to more decentralised production and less transmission loss e.g. in electric distribution.

Recommendation: CEMR notes that the European Commission’s focus is still on the big producers of electricity and heat. Small decentralised solutions, like micro-generation, are rather overlooked and should be better considered and promoted in the future, for instance through appropriate incentives.

⁶ See CEMR response to the green paper on the modernisation of public procurement policy: http://www.ccre.org/prises_de_positions_detail_en.htm?ID=123&idca=3118

7. Metering and informative billing

Recital 21, articles 8 and 9, and annex VI

Proposals of the European Commission:

Article 8 states that "Member States shall ensure that final customers of electricity, natural gas, district heating or cooling and district-supplied domestic hot water are provided with individual meters that measure and make available their actual energy consumption and provide information on actual time of use". Annex VI details the minimum requirements for metering of individual energy consumption, the frequency of billing (monthly or every two months, depending on the energy concerned) and the minimum information to be contained in the bill.

Energy displays providing consumers with 24/7 information about energy use and costs should be made mandatory for the energy distributors and retail energy sales companies. Smart, real-time metering equipment which provides energy and financial information will help consumers to pay attention to their own consumption and save energy and money. Currently, yearly billing is mandatory by the EU. Making this monthly will hardly help in raising energy awareness from final consumers.

The obligation to meter energy consumption by flats may often be technically difficult or expensive to realise, especially in old buildings. Thus, investment costs of metering must always be compared to the expected benefits.

Recommendation: CEMR suggests that the draft directive confirms the right of the final consumer to the inexpensive and easy availability of his/her own energy consumption data in electronic form on a daily basis.

8. Promotion of combined heat and power production (cogeneration)

Recitals 23 to 26, 28, 29, article 10, and annex II and VII

Proposals of the European Commission:

Article 10 details a certain number of measures to promote efficiency in heating and cooling. In particular, "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 [...]".

Regarding local and regional authorities, the following provisions are highlighted:

"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 [...]" (paragraph 1).

"Member States shall ensure that national regulations on urban and rural spatial planning are adapted to the authorisation criteria referred to in paragraph 3 and are in line with the national heating and cooking plans referred to in paragraph 1" (paragraph 5).

Annex VII states that "to the extent appropriate, the plan may be made up of an assembly of regional and local plans" (point 2).

CEMR welcomes the proposed obligation to combine power and heat production (CHP) and the related provisions. Cogeneration is a very effective way to save energy, which has been suffering from economic setbacks because of the liberalisation of energy markets in the EU. The usefulness of CHP depends on local circumstances like density of heated building and distance between production and use of energy. Therefore, obligations in promoting CHP must be based on a sound economical and environmental basis.

Recommendation:

⇒ **Provisions to promote cogeneration, and the use of renewable energy, are to be supported. Local and regional authorities have a significant potential**

in this field and national government should cooperate with local and regional authorities when developing their national heating and cooling plan.

CEMR believes that the directive should not go too far in prescribing what should be set in local and regional spatial plans. We are seriously concerned that the spatial planning obligations proposed by the European Commission are too detailed and thus infringe the principle of subsidiarity.

9. Energy Services

Recitals 30 to 32, articles 13 and 14, and annex XIII

Proposals of the European Commission:

A list of actions which could be implemented by Member States to promote the energy services market is described in article 14 (e.g. make publicly available a list of energy services providers and the services they offer, providing model contracts for energy performance contracting in the public sectors, disseminating information about these contracts and possible clauses, encourage the development of voluntary quality labels, disseminating information about financial instruments). Annex XIII identifies minimum items to be included in energy performance contracts with the public sector.

The requirement that Member States promote the energy services market and the access of small and medium-sized enterprises to this market would benefit to local and regional authorities. Energy performance contracting is a relevant tool to save energy and a good alternative to finance the local energy efficiency actions, especially in the case of lack of public funds. It is therefore important to make the energy services market functional and easier to use for local and regional authorities.

Recommendation: CEMR welcomes the proposals to remove the barriers to the use of energy services and strongly supports efforts to make internal and external energy contracting more attractive to local and regional authorities.