



EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
Ares(2016)

Opinion

Title

DG ENER – Review of the Energy Performance of Building Directive (EPBD)

(resubmitted version of 1 July 2016)*

(A) Context

The Energy Performance of Buildings Directive 2010/31/EU (EPBD) promotes the improvement of the energy performance of buildings within the Union using a three-pronged approach: 1) the use of minimum standards (in the building codes) for building works in new and existing building; 2) the use of labelling through the Energy Performance Certificates in order to provide information to the consumers; 3) speeding up the renovation rate through financing schemes. It replaced Directive 2002/91/EC introducing new aspects such as cost-optimality, efficiency of building systems, nearly zero-energy buildings targets, financial incentives and independent control systems, combined with enforcement mechanisms. Member States were required to transpose the revised EPBD by 9 January 2013.

A recent evaluation has been carried out of the EPBD, which feeds into this impact assessment that examines a series of measures to address the identified problems: 1) first option: enhance implementation and further guidance with no legislative action; 2) second option: enhanced implementation through targeted legislative amendments in view of strengthening the current provisions, 3) third option: enhanced implementation and revision that go beyond the current intervention logic and level of subsidiarity.

(B) Overall opinion: POSITIVE

The Board gives a positive opinion on the understanding that the report shall be adjusted in order to integrate the Board's recommendations and address a number of the shortcomings identified in its first Opinion that have not been dealt with satisfactorily.

The revised report has generally been improved: The problem drivers have been further analysed acknowledging the importance of contextual factors (e.g. economic crisis,...) and recognising that regulatory failures remain relatively limited (see section 1 and 2). The report has also streamlined the individual measures providing clearer information per measure regarding the costs, the impacts on energy savings and on annual energy expenditure as well as regarding the argumentation in terms of subsidiarity and proportionality (see section 5, annex 9 and 10). In sections 5 and annex 10, more details have been provided on the various envisaged options and the

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted.

required financing needs. In REFIT terms, the standard cost model has been used to calculate the net administrative burden reduction (see annex 12).

However, the report still contains a number of shortcomings and areas where additional improvements are necessary:

(1) Notwithstanding the more elaborate subsidiarity and proportionality analysis undertaken in section 2.8 and annex 9, for a number of measures a stronger subsidiarity argumentation needs to be provided including for the measure that aims to support "electro-mobility" and the measure requiring an energy audit for renovation with public funding.

(2) While more detailed information is provided in annex 12 on estimating the administrative costs of the individual measures, the report should also include an overall assessment of the regulatory cost, and in particular an estimate which is directly linked to the compliance with the new requirements of the Directive (building automation, electro-mobility, etc.). It should indicate how much of the annual investment of EUR 48 bn by 2030 for the preferred option is directly mandated by the future measures.

(3) On the financing side, the "Smart Finance for Smart Buildings" initiative has been included in section 2.5 but is presented in very general terms. It remains unclear whether and how it could significantly contribute to the financing of the considerable investments efforts required by the preferred option.

The lead DG shall ensure that the report is adjusted accordingly prior to launching the inter-service consultation.

(C) Main recommendations for improvements

(1) **Subsidiarity and proportionality:** In section 2.8, a more elaborate analysis on subsidiarity is presented. While admitting that there are no classic cross-border effects of national policies on energy efficient buildings, it is argued that additional EU measures would allow individual Member States to fulfil their obligations on the Effort Sharing Decision more easily and cheaply (i.e. in a cost effective way), and that a failure by individual Member States to meet their non-ETS target would imply higher GHG abatement costs for the EU as a whole. In addition, while individual measures have been more extensively justified in terms of subsidiarity and proportionality (see annex 9), for a number of measures the subsidiarity argumentation still needs to be strengthened, in particular to justify to extend legislation beyond the building envelope to building equipment. This is the case for example for the measure that aims to support "electro-mobility" requiring electrical charging points in the parking space of new buildings. It is also true for the measure requiring an energy audit to be carried out for renovation works supported by public funding (see annex 9). Overall, the proposed measures should also be more clearly linked with specific findings from the evaluation.

(2) **Impacts of the preferred option and financing:** The description of the impacts (section 5.2) should reflect comprehensively the results of annex 11 and the link with the financing. The report concludes that the proposed amendments will bring an important contribution to the 2030 agenda through energy savings and might have positive effects on the construction sector and the overall activity. It should also highlight that most of the costs over the period fall on the households and to a lesser extent on businesses: the preferred option implies significant investment efforts over a period of more than 10 years, larger than the savings on the energy bill generated over the same period and requiring a reduction in consumption. The availability of financing for such a shift in investment requires adjustment in financial markets much beyond means available through measures

like the smart finance initiative, which is only sketched in very broad terms and without sufficient prior assurances that the envisaged measures can realistically be considered.

(3) REFIT: In annex 12, the standard cost model is used to calculate the net administrative burden reduction for each measure of the preferred option, as well as for the envisaged simplification measures. It estimates a total annual net reduction of the administrative burden by EUR 21.4 million, but some qualifications are needed for the cost of introducing these new measures, which imply some adjustments by different parts of the national administrations. Moreover, the REFIT assessment should also take into account other compliance costs, in particular the private investment needed to comply with the new rules: the report quotes a total annual figure of investment of EUR 48 bn by 2030 for the preferred option (derived from table 8 and annex 11) and should specify the part of this investment mandated by the legislation.

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

(D) Procedure and presentation: In the revised report, the original set of measures has been streamlined including through the merging of previously separately conceived measures. For example, the measures 5A and 5B of the previous version have been merged with measure 4A into the new measure 4A. This has resulted in some incoherence for example between the table of preferred options in section 5.2 and the table with administrative burden calculations in annex 12 as different measures seem to be covered. Following this streamlining of measures, full coherence between the relevant texts and tables in the report and the annexes needs to be ensured.

(E) RSB scrutiny process

Reference number	2016/ENER/001
External expertise used	No
Date of RSB meeting	Written procedure (an earlier version of this report was discussed by the RSB on 7 June 2016 for which an opinion was issued on 9 June 2016)