



EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
D(2016)

Opinion

Title **DG ENER - Impact assessment on the review of the Energy Performance of Buildings Directive (EPBD)**
(draft version of 3 May 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: NEGATIVE

The Board gives a negative opinion because the report contains shortcomings that need to be addressed, particularly with respect to the following issues:

- 1) The case for further policy action in this area at this point in time should be clarified, given the relatively recent entry into force of the current Directive and the lack of clear regulatory failure. In particular, the problem and its key drivers should be explored in more depth.**
- 2) The options section and analysis should be revised to clarify the link between the individual measures and the identified problems. The report needs to show to what extent the proposed additional measures can be justified on the basis of proportionality and subsidiarity, and what their expected impacts are (costs and benefits).**
- 3) The links between the different options the associated investment needs and the envisaged financing sources/incentives should be clarified, since the lack of financing for the required investments is admittedly a major constraint in the delivery of the expected improvements in the energy performance of buildings.**

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

4) Given the REFIT nature of this initiative, a more elaborate analysis and, where possible, quantification of administrative costs/burdens is required.

Once revised, the IA must be resubmitted to the Board, which will issue a new opinion on the revised draft.

(C) Main recommendations for improvements

(1) Problem definition. The case for this initiative should be strengthened by a better developed problem definition, drawing on the results from the evaluation. In particular the report should clarify what are the key drivers behind the relatively weak performance of the current directive and to what extent they concern regulatory failures, implementation problems and/or lack of financing.

(2) Description and analysis of options. Drawing on the information included in the Annexes, the main report should better explain the content, proportionality and subsidiarity of each individual measure contained in the options. When describing their impacts, the analysis should be further broken down as regards the costs per measure and it should be explained how they will be financed. In addition, the analysis should provide additional information on the expected contribution of each measure to solving the identified problems, distinguishing those that are "nice to have" from the ones that are necessary for the directive to effectively contribute to the energy performance of buildings in the EU. Finally, the differentiated nature of impacts in different Member States resulting from the proposed horizontal measures should be better explained, and put in perspective with country-specific targets under the Effort Sharing Decision or the Energy Efficiency Directive.

(3) Links with financing. In order to allow a rigorous assessment of the effectiveness and efficiency of the envisaged options, information regarding the financing needs for the various options has to be provided. In particular as the financing part of the initiative, i.e. the "Smart Finance for Smart Buildings", has not been included in the report, it should better describe how and from which sources the investment needs will be covered.

(4) REFIT. While the initiative contains some simplification elements, it should build a more convincing case for the need for additional (sometimes costly) measures and provide information regarding the overall net burden reduction expected from this initiative. Additional obligations that entail potential new administrative burdens on Member States or households should be supported by a more robust demonstration of their added value. This is for instance the case for the audit requirement for publicly-funded renovations (Measure 5A) or the requirement for charging points in parking spaces, reported to potentially triple their price (Measure 3D, p. 66).

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

(D) Procedure and presentation

Data and evidence quoted in the report should be properly referenced (e.g. 33 Mtoe of energy saving potential mentioned on p.9) and the whole report (including annexes) should be proof-read and edited.

(E) RSB scrutiny process

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| Reference number | 2016/ENER/001 |
| External expertise used | No |
| Date of RSB meeting | 7 June 2016 |