

**Report on the consultation of the  
Subsidiarity Monitoring Network on the  
proposal for a directive of the European  
Parliament and the Council on energy  
efficiency and repealing directives 2004/8/ec  
and 2006/32/ec, com(2011) 370**

**The report was written by  
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Subsidiarity Monitoring Network, but rather to synthesise the main points.  
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# 1. Consultation report

## 1.1 Introduction

The proposal for a Directive of the European Parliament and of the Council on Energy Efficiency and repealing Directives 2004/8/EC and 2006/32/EC [COM(2011) 370 final]<sup>1</sup> was submitted to a targeted consultation of the Committee of the Regions' (CoR) Subsidiary Monitoring Network (SMN). This consultation ran from 6 July to 19 August 2011.

The aim of the consultation was to gain an understanding of the administrative, financial and legal implications of the draft Directive at the local and regional level as perceived by the partners of the SMN and other relevant stakeholders, in particular from a subsidiarity point of view. Furthermore, the outcome of the consultation aimed to provide input for the preparation of an opinion on the draft Directive, to be adopted by the CoR during its plenary session on 14/15 December 2011.

In total, **21 responses** (16 replies to the consultation's questionnaire<sup>2</sup> and 5 other contributions) were submitted by local and regional stakeholders from 10 Member States (MS): 13 from SMN partners, 2 from members of the CoR's EUROPE 2020 Monitoring Platform, and 6 from other stakeholders.<sup>3</sup> In terms of administrative level, 3 responses were from municipalities or associations of local authorities, 3 from provincial authorities, 12 from regional authorities<sup>4</sup>, 1 from a national Parliament, and 2 from energy agencies (local and national). In terms of geographical source, 5 responses were received from Germany, 3 each from Austria, Italy and Spain, 2 from Sweden, and 1 each from Cyprus, Greece, Portugal, Romania and the Netherlands. Six responses were received after the deadline.

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<sup>1</sup> Hereafter referred to as 'draft Directive'.

<sup>2</sup> See Appendix II.

<sup>3</sup> See Appendix I.

<sup>4</sup> Including one body representing regional authorities (Verbindungsstelle der Bundesländer, Austria).

## 1.2 Synthesis and analysis of contributions

### 1.2.1 Scope of the Directive (Question 1)

*The majority of respondents consider it important to include in the final Directive energy efficiency requirements for other sectors than the public sector and energy companies, with transport being specifically mentioned in several of the replies. A few respondents do not believe that other sectors should be included in the final Directive.*

**The prevailing opinion (13 respondents)** is that the draft Directive is not going to be effective and/or ambitious enough and/or that the targets set for 2020 in terms of primary energy savings will not be reached if energy efficiency is not pursued coherently and in a coordinated manner across all those sectors that have a significant level of energy consumption. Twelve respondents expressly call for the **transport sector** to be included in the final Directive, as they believe that it: (i) significantly contributes to energy consumption; (ii) has a high reliance on fossil fuels and hence low performance in terms of energy efficiency; (iii) plays a crucial role in the functioning of the whole economy; and (iv) is expected to rapidly grow up to 2020 and beyond. Among the other sectors specifically highlighted for inclusion are (heavy) industries, construction, commercial centres, marine transport, and private household consumption.

Only a few respondents think that a final Directive should not cover other sectors. According to them, there are enough energy efficiency standards set in other EU legislation and it is more appropriate to address energy efficiency by means of sector-based legal provisions that take into account the specific technicalities and procedures of each sector. Two respondents note that relations and synergies with the Emission Trading System exist and need to be exploited.

### 1.2.2 Renovation of public buildings (Question 2)

*There is a prevalent positive assessment of the requirements of Article 4(1) to renovate, as from 2014, 3% of the total floor area owned by public bodies on a yearly basis. The positive attitude is mostly related to the expectation that energy savings will recoup investment. In general, implementation of the renovation requirement is considered feasible provided that supportive policies and tailored financial instruments are in place or, according to some respondents, that a market for energy services is developed. However, there are also significant criticisms in this context, regarding the renovation obligation as an **infringement of the subsidiarity principle** and concerning its financial viability, among other objections.*

Funding for the achievement of this objective is mostly expected to be at the European and third party/private level. In particular, at the EU level, reference is made to: (i) existing instruments/facilities, i.e. the Joint European Support for Sustainable Investment in City Areas (Jessica), the European Local ENergy Assistance (ELENA), and ELENA-KfW; (ii) EU funds, such as the European Regional Development Fund (ERDF) and the Cohesion Fund, with the expectation of including, from 2013 onwards, budget lines dedicated to local authorities that have proposed action plans for the renovation of their buildings<sup>5</sup>; and (iii) the European Investment Bank (EIB) not only for granting direct credit to big companies as well as local authorities and small businesses, but also for playing a guarantor role for credit granted to energy service companies (ESCO) by means of, for example, an energy efficiency recovery fund.

Funding from third party/private actors is expected in terms of investments by companies providing energy services. Several respondents explicitly mention the need to link the renovation of public buildings to the development of an energy services market where private companies will make the necessary investment and provide and maintain the energy services.

One respondent believes that renovating public buildings depends on the structural development of ESCO. Additionally, two Italian respondents note the need to review the ‘Stability Pact’ so as to allow public authorities to increase their expenditure on energy efficiency, as investments in the specific case of energy efficiency are made to tackle savings.<sup>6</sup> Other proposals by the respondents include: a fund dedicated to energy efficiency and derived from taxes coming from the use of more polluting forms of energy (i.e. fossil fuels, carbon taxes and taxes on used oil), especially for the less developed and outermost regions of Europe; and general energy efficiency support schemes harmonised across the EU.

On the renovation obligation in general, major **criticisms** are raised by six respondents. In particular, the provisions of Article 4 are considered to be **an infringement of the subsidiarity principle** by five Austrian/German respondents, namely because these respondents believe that the relevant provisions: (i) are not based on enough evidence that EU intervention adds value and that the objectives of the proposed measures cannot be achieved by the MS;

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<sup>5</sup> One respondent underlines that merely reallocating existing Structural Fund resources to local energy efficiency projects is not enough as it would affect the achievement of other objectives. It is also noted by another respondent that the role of local authorities having voluntarily committed to energy efficiency targets within the *Covenant of Mayors* is not acknowledged and that a (more effective) mobilisation of EU funds could allow the implementation of those measures needed to meet the commitments already made.

<sup>6</sup> The Stability and Growth Pact (SGP) among Eurozone members is implemented within each MS according to national rules and criteria. One of the two respondents clearly calls for action at the EU level, in the form of an ‘authorisation’ within the final Directive, allowing expenses incurred for energy efficiency not to be accounted for in the SGP. It is unclear if the other respondent refers to the internal stability pact or to the SGP.

(ii) interfere with the rights of local self-government, potentially conflicting with the delivery of other public services within the framework of a difficult (financial) situation; and (iii) provide for the adoption of a common rate of renovation across Europe that does not take into account the existing energy efficiency standards of buildings, punishing, in effect, those MS that have already and substantially renovated their buildings.

Other criticisms include: (i) a questionable financial viability of the renovation requirement, as in some MS several public buildings are part of the historical heritage and have characteristics that are difficult to reconcile with structural changes unless disproportionate efforts are undertaken; (ii) the possibility that, as a consequence of being obligatory, renovation results will be economically and environmentally questionable; and (iii) the need to invest in renovation within a broader context than simply an energy efficiency-driven framework.

### **1.2.3 Energy performance contracting in the public sector (Question 3)**

*Replies are very diverse and range from considering the provisions of Article 14 to overcome existing barriers to the implementation of energy performance contracting, from appropriate to insufficient. Overall, it appears that the way the final Directive will be transposed at the national level will be crucial for the effective implementation of energy performance contracting in the public sector. Several respondents do not provide a precise opinion on this matter.*

With regard to Article 14, two respondents consider the provisions of the draft Directive appropriate, while another specifies that such provisions could be supplemented with technical assistance to public administrations for the preparation of specifications and preliminary energy analyses to be used for tendering. Six respondents refer to the national legal framework as the crucial element for the effective implementation of energy performance contracting. Where such a framework already exists it is not always regarded as sufficient to boost the energy services market. Where the transposition of the final Directive at the national level is likely to need a revision of national provisions, it is expected that such a revision will require the adaptation of accounting practices and an adequate reflection of savings in the accounts, resulting from energy efficiency measures guaranteed by energy performance contracts.

It is noted by one respondent that the provisions of the draft Directive are, maybe unavoidably, general and thus unlikely to be very effective. Two other respondents assess the provisions negatively, either because they lack the necessary technical information to assess progress, or because energy performance contract regulations differ across the EU.

#### **1.2.4 Metering and informative billing (Question 4)**

*With regard to Article 8 and Annex VI of the draft Directive, respondents are almost equally distributed between those who consider the provisions related to metering and informative billing to be positive, mainly because such provisions are supposed to foster increased awareness and ‘empowerment’ of end-users and those raising technical and legislative criticisms including in **subsidiarity** terms. Overall, there is a significant call for greater consideration to be taken of local specificities under Article 8.*

Nine respondents assess the provisions of Article 8 positively, even though one specifies that the actual development will need to go through, and adapt to, the specific conditions existing at the regional and local level, and at the level of end-users.

Six respondents are more critical and believe that the provisions: (i) do not adapt to existing conditions or should give more consideration to local/regional specificities; (ii) do not properly address the introduction of smart metering; (iii) do not sufficiently consider the issue of data protection; (iv) are difficult and unrealistic to achieve by 2015, as they involve changes in legislation as well as in the necessary technical conditions; and (v) do not sufficiently consider the costs implied, including from the perspective of end-users, as the cost of district heating will increase.

Two Austrian respondents view the provisions negatively with respect to **subsidiarity**, as they believe that the level of detail laid down in Article 8 and Annex VI significantly limits decision-making power at the local and regional level; additionally, they consider that there is not enough evidence of the added value of an EU-wide commitment in this area.

#### **1.2.5 National heating and cooling plans and their implications for the local and regional levels (Question 5)**

*Respondents are almost equally distributed between those not agreeing on the establishment of requirements at the EU level in terms of national heating and cooling plans and adaptation of spatial planning to specific authorisation criteria, as outlined under Article 10 of the draft Directive, paragraphs 1 and 3 and those that consider such requirements to be beneficial or even crucial to the meeting of EU targets, if respecting the subsidiarity principle.*

**Ten respondents** are concerned about the provisions of Article 10 of the draft Directive. Their arguments point to: (i) the limited feasibility in some MS to produce national plans without creating an enormous bureaucratic burden, or

their limited relevance, especially with regard to decentralised networks; (ii) the need for planning and implementation at the territorial level in order to take into account local and regional specificities and thus to obtain more effective plans; and (iii) the provisions of Annex VIII on site selection, not taking into account several other important local factors. Additionally, two of the German respondents explicitly consider that the provisions of Article 10 **infringe the subsidiarity principle** since they believe that these provisions: (i) limit the flexibility of lower levels of national administration, reducing energy efficiency management rather than improving it; (ii) make it mandatory for new thermal power plants to operate in combined systems, hence complicating, for example, the construction of gas power plants that are needed to compensate fluctuating renewable energy sources; (iii) limit the flexibility of local plans, for example with regard to industrial or new residential areas, due to the requirement to be aligned to national plans; and (iv) do not add value towards the ongoing national conversion of energy supply from renewable sources.

Nine respondents believe that the establishment of minimum requirements at EU level is beneficial, or even ‘crucial’ for some, to meeting the objectives. According to them, it also helps streamlining national, regional and local provisions and targets, **provided** that guidance at EU level leaves room for finding solutions tailored to local conditions and **respects the subsidiarity principle**. Among the respondents reacting positively, some of the issues highlighted include: (i) the need for a flexible compliance framework that takes into account the different situations across MS, for example in terms of economic growth; (ii) the possibility to consider the existence of exceptional circumstances, if properly justified; (iii) the availability of clear indicators for savings and efficiency; and (iv) the opportunity to refer directly within the final Directive to the formulation of regional and local plans for heating and cooling.

### **1.2.6 Binding national objectives/achievement of 20/20/20 objectives (Question 6)**

*Two-thirds of the respondents assess as possible and, often even necessary, the establishment of binding national objectives as provided for by Article 3 and recital 13 of the draft Directive. However, a few respondents are definitely not in favour of them. In general, the time schedule set in the draft Directive for the evaluation of national targets is considered appropriate, although some respondents highlight that 2014 may be too early, taking into account the time for negotiation and adoption.*

**Fourteen respondents** believe that binding national targets are necessary to meet the 20/20/20 objectives and that concrete objectives are feasible by considering the 2020 deadline. In the replies, examples of provisions already set

in that respect at the national and regional level are provided. Ten respondents agree with the schedule for evaluation set in the draft Directive; there is even one suggestion to bring it forward to 2013. Interim targets are also proposed to guarantee that the final goal is met in 2020. One respondent notes that the 'double step' procedure (i.e. leaving MS time to set targets, then evaluating the progress and possibly proposing mandatory targets) may hamper the effectiveness of the process at the local level, especially in terms of the time left, after 2014, for reaching the final goal.

Binding national targets are not favourably considered by two respondents, one of which refers to the absence of reliable forecasts for energy demand that, in turn, makes goals/objectives unclear. Five respondents do not agree with the timetable for evaluation in 2014, three of them stating that it is too early, also taking into account the time needed for negotiation, adoption of the Directive and then transposition by MS.

### **1.2.7 Achievement of national objectives, consideration of local and regional efforts (Question 7)**

*Within the framework of evaluating progress through the review and monitoring of implementation foreseen under Article 19 and Annex XIV (1) of the draft Directive, the need to establish regional observatories is not commonly shared by respondents. In particular, it is suggested that existing bodies and instruments be used as an alternative to the establishment of new institutions for evaluation purposes.*

Six respondents support or do not oppose the establishment of regional observatories. An equal number is not favourable. Those not supporting the establishment of observatories provide examples of existing arrangements that could take up an evaluation role; in particular, one respondent highlights the fact that such a function could be played within the framework of the *Covenant of Mayors*, provided that the appropriate financial support is made available. One respondent notes that, notwithstanding the added value that the observatories could bring, it may not be the best solution to be implemented under the current circumstances, considering the financial constraints faced by several MS. With regard to reporting, two respondents are concerned about the administrative burden implied.

## **1.2.8 Other relevant elements addressed in other contributions<sup>7</sup> as well as by reasoned opinions issued by national Parliaments**

### **1.2.8.1 Other contributions**

In their replies, some respondents raised additional issues that in their opinion would require further development, clarification or modification of the relevant provisions of the draft Directive. Such issues refer to the subsidiarity principle as well as to technical matters and definitions.

Concerning **subsidiarity**, three German respondents believe that the draft Directive infringes the principle. Namely, the assumption on which the draft Directive is based is not shared, i.e. that intervention at EU level is needed because action to increase energy efficiency at the national level is not going to be sufficient. Furthermore, they consider that the measures contained in the draft Directive do not leave enough room for central, regional and local action. Two of these respondents also object that the mandatory introduction of energy efficiency obligation schemes (Article 6), the operation of new thermal power plants only in combined systems (Article 10, paragraph 3), and the split of incentives between the owner and the tenant of a building (Article 15) violate the subsidiarity principle. In particular, with regard to the energy efficiency obligation schemes, it is noted that the Commission has acknowledged the positive experience of some MS; thus, MS can indeed successfully use these schemes that are tailored to specific conditions and circumstances, rather than comply with mandatory systems that would only interfere with existing structures without adding value.

A few examples of technical matters raised by respondents include: (i) suggesting that the total floor area of buildings be considered by referring not only to individual public bodies but also to a group of public bodies having agreed on the use of one common service provider for meeting the renovation provisions (Article 4); (ii) re-considering the 20 MW threshold set in Article 10; and (iii) making mandatory, or at least preferential, the use of energy performance contracting by public administrations (Article 14).

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<sup>7</sup> Respondents who did not fill in the questionnaire, or completed the questionnaire and provided additional information.

### 1.2.8.2 Synthesis and analysis of reasoned opinions issued by national Parliaments<sup>8</sup>

#### *Swedish Parliament (reasoned opinion adopted on 28 September 2011)*

On the basis of the arguments of the Parliament's Committee on Industry and Trade, the **Swedish Parliament** acknowledges the important scope of the draft Directive but considers the proposal to be 'very broad' and to contain 'intrusive measures' that 'are not compatible with the principle of subsidiarity'. In general, the administrative management of energy efficiency at EU level is believed to lead to solutions that do not fit local and regional conditions or that are not the most cost-effective at the territorial level. Among the provisions specifically objected to by the Swedish Parliament are: a standardised renovation rate of publicly owned buildings across Europe (Article 4) and the framing of physical planning through national heating and cooling plans (Article 10).<sup>9</sup>

#### *Finnish Parliament (reasoned opinion adopted on 22 September 2011)*

The **Finnish Parliament**, in response to the proposal of the Parliament's Grand Committee, believes that the draft Directive deals with an important objective but, nevertheless, is not grounded on sufficient evidence that MS will be unable to meet EU energy efficiency targets. In general, it is not considered appropriate to make some energy efficiency measures mandatory with respect to others, as it prevents MS from pursuing those approaches that are the most cost-effective according to national specificities and local conditions. The reasoned opinion focuses on **Article 10** and related annexes, which is considered to infringe on the subsidiarity principle with regard to local spatial planning. The Grand Committee underlined the need for the draft Directive to be reconsidered, to address the 'many problems of substance' detected and to better comply with existing 'national specifics and local conditions'.<sup>10</sup>

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<sup>8</sup> Source: [www.ipex.eu](http://www.ipex.eu), reasoned opinions available at 14/10/2011.

<sup>9</sup> [Reasoned opinion of the Swedish Parliament](http://www.ipex.eu/IPEXL-WEB/scrutiny/COM20110370/serik.do) (unofficial translation), to be found on <http://www.ipex.eu/IPEXL-WEB/scrutiny/COM20110370/serik.do>.

<sup>10</sup> [Reasoned opinion of the Finnish Parliament](http://www.ipex.eu/IPEXL-WEB/scrutiny/COM20110370/fiedu.do) (unofficial summary), to be found on <http://www.ipex.eu/IPEXL-WEB/scrutiny/COM20110370/fiedu.do>.



## 2. Conclusions

There are **prevailing opinions** of the respondents with regard to: the need to tackle energy efficiency coherently across all sectors that contribute the most to energy consumption, including transport (Article 1); and an overall positive assessment of both the establishment of national targets (Article 3) and the renovation requirement (Article 4). No prevailing positions are evident for the other queries included in the consultation.

With regard to the **subsidiarity principle**, concerns are expressed about the overall need for the Directive as well as the following provisions of the draft Directive: renovation of public buildings (Article 4); metering and informative billing (Article 8); and national heating and cooling plans (Article 10). Subsidiarity concerns are primarily raised by Austrian and German authorities.

In general, while some respondents consider that EU action does help framing and mainstreaming energy efficiency actions at the national level, for others such action is seen to constrain flexibility and cost-effectiveness of approaches, or simply not to add value to already existing national measures.

The need to pursue cost-effective measures is also highlighted by the two **national parliaments** having issued a reasoned opinion. They also share the subsidiarity concerns of some of the respondents on the provisions of **Article 4** of the draft Directive on the renovation of public buildings, as they consider that they do not take into account existing achievements while using a standard renovation rate across the EU; and on the provisions of **Article 10** interfering with the spatial planning autonomy of local authorities.

Finally, there are several technical aspects and definitions contained in the draft Directive that, in the opinion of respondents, need to be addressed through further development, clarification or modification of the relevant provisions.



# Appendix I – List of contributions

| No | Country         | Administrative level | Authority   | Network           |
|----|-----------------|----------------------|---|-------------------|
| 1  | Austria         | NP                   | Bundesrat (regional chamber), EU-Committee  | SMN               |
| 2  | Austria         | R                    | Verbindungsstelle der Bundesländer ("Liaison Office" of the Austrian regions)   | Other stakeholder |
| 3  | Austria         | R                    | State Parliament of Vorarlberg  | SMN               |
| 4  | Cyprus          | EA                   | Cyprus Energy Agency  | Other stakeholder |
| 5  | Germany         | R                    | State Parliament of Hesse   | SMN               |
| 6  | Germany         | R                    | Bavarian State Parliament   | SMN               |
| 7  | Germany         | R                    | Bavarian State Government   | SMN               |
| 8  | Germany         | L                    | German County Association   | SMN               |
| 9  | Germany         | L                    | Municipality of Augsburg  | SMN               |
| 10 | Greece          | R                    | Region of Attiki  | EU2020            |
| 11 | Italy           | R                    | Region of Emilia-Romagna – Legislative Assembly   | SMN               |
| 12 | Italy           | P                    | Province of Ragusa  | Other stakeholder |
| 13 | Italy           | P                    | Province of Torino  | SMN               |
| 14 | Portugal        | R                    | Regional Government of Madeira - Directorate for European Affairs and External Cooperation                                  | SMN               |
| 15 | Romania         | EA                   | Alba Local Energy Agency  | Other stakeholder |
| 16 | Spain           | R                    | Parliament of the Autonomous Community of Catalonia   | SMN               |
| 17 | Spain           | R                    | Government of the Basque Country, Directorate of Industry, Innovation, Commerce and Tourism, Department of Energy and Mines | SMN               |
| 18 | Spain           | R                    | Regional Energy Entity of Castilla y León (EREN)  | Other stakeholder |
| 19 | Sweden          | R                    | Jämtland Regional Development Council   | EU2020            |
| 20 | Sweden          | L                    | City of Malmö   | Other stakeholder |
| 21 | The Netherlands | P                    | Province of Overijssel  | SMN               |

R = regional, P = provincial, L = local, NP = national Parliament, EA= energy agency



# Appendix II – Questionnaire



**Questionnaire on the  
Proposal for a Directive of the European Parliament and the Council on  
Energy Efficiency and repealing Directives 2004/8/EC and 2006/32/EC  
[COM(2011) 370 final]**

**Submitted by Mr Jean-Louis Joseph (FR/PES) for consultation  
of the Subsidiarity Monitoring Network**

Please complete and submit by **19 August 2011**. You can upload the completed questionnaire directly on to the Subsidiarity Monitoring Network webpage (<http://subsidiarity.cor.europa.eu> – remember to log in). Alternatively, you can send it by email to [subsidiarity@cor.europa.eu](mailto:subsidiarity@cor.europa.eu).

|  |  |
|--|--|
| <b>Name of the Authority:</b>          |  |
| <b>Contact person:</b>                 |  |
| <b>Contact details (phone, email):</b> |  |

**Please answer the following questions:**

### *Scope of the Directive*

*The proposed Directive establishes a common framework for promoting energy efficiency in the European Union to ensure the target of 20% primary energy savings by 2020 is met and to pave the way for further energy efficiency afterwards. It lays down rules which primarily concern the public sector and energy companies.*

- 1. Do you think that the final Directive should include provisions containing energy efficiency requirements for other sectors, such as transport and companies not working in the energy field? Please explain your answer.*

*(insert answer)*

## ***Renovation of public buildings***

*Under Article 4(1) of the draft Directive, "(...) Member States shall ensure that 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/EU".<sup>11</sup>*

2. *In your opinion, which financial instruments are needed in order to achieve this objective?*

*(insert answer)*

## ***Energy performance contracting in the public sector***

*Under Article 14 of the draft Directive, Member States are to promote the energy services market and access for small and medium-sized enterprises to this market by, inter alia, "providing model contracts for energy performance contracting in the public sector; these shall at least include the items listed in Annex XIII".<sup>12</sup>*

*At the same time, the draft Directive recognises the existence of "regulatory and non-regulatory barriers to the use of energy performance contracting and other third-party financing arrangements for energy savings. These include accounting rules and practices that prevent capital investments and annual financial savings resulting from energy efficiency improvement measures from being adequately reflected in the accounts for the whole life of the investment." (recital 32 of the draft Directive).*

3. *Do you believe that the relevant provisions will allow Member States*

<sup>11</sup> Directive 2010/31/EU of the European Parliament and of the Council on the energy performance of buildings

<sup>12</sup> **Minimum items to be included in energy performance contracts with the public sector**

- Clear and transparent list of the efficiency measures to be implemented
- Guaranteed savings to be achieved by implementing the measures of the contract.
- Duration and milestones of the contract, terms and period of notice.
- Clear and transparent list of the obligations of each contracting party.
- Reference date(s) to establish achieved savings.
- Clear and transparent list of steps to be performed to implement a measure and associated costs.
- Obligation to fully implement the measures in the contract and documentation of all changes made during the project.
- Regulations specifying the inclusion of third parties (subcontracting).
- Clear and transparent display of financial implications of the project and distribution of the share of both parties in the monetary savings achieved (i.e. remuneration of the service provider).
- Clear and transparent provisions on measurement and verification of the guaranteed savings achieved, quality checks and guarantees.
- Provisions clarifying the procedure to deal with changing framework conditions that affect the content and the outcome of the contract (i.e. changing energy prices, use intensity of an installation).
- Detailed information on the obligations of each of the contracting parties.

*to overcome the above-mentioned barriers and implement energy performance contracting, particularly regarding public purchase offers? Please explain your answer.*

*(insert answer)*

### ***Metering and informative billing***

*Article 8 and Annex VI of the draft Directive contain detailed requirements for metering and billing of energy consumption. Member States are to ensure, inter alia, that final customers for district heating are provided with individual meters (Article 8(1)).*

4. *In your opinion, do these provisions allow for sufficient consideration of specific local and/or regional socio-economic and technical conditions?*

*(insert answer)*

### ***National heating and cooling plans and their implications for the local and regional levels***

*Under Article 10(1) of the draft Directive, "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 (...)."*

*These national heating and cooling plans have to be "taken into account in local and regional development plans, including urban and rural spatial plans".*

*Moreover, Annex VII (3) of the draft Directive contains concrete requirements for urban spatial plans.<sup>13</sup>*

*Finally, "Member States shall ensure that national regulations on urban and rural spatial planning are adapted to the authorisation criteria referred to in [Article 10] paragraph 3 and are in line with the national heating and cooling plans referred to in [Article 10] paragraph 1."*

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<sup>13</sup> **Urban spatial plans shall be designed to ensure that:**

- a) new thermal electricity generation installations and industrial plants producing waste heat are located in sites where a maximum amount of the available waste heat will be recovered to meet existing or forecasted heat and cooling demand;
- b) new residential zones or new industrial plants which consume heat in their production processes are located in sites where a maximum amount of their heat demand will be met by the available waste heat, as identified in national heating and cooling plans. To ensure an optimal matching between demand and supply for heat and cooling, spatial plans shall favour the clustering of a number of industrial plants in the same location;
- c) thermal electricity generating installations, industrial plants producing waste heat, waste incineration plants and other waste-to-energy plants are connected to the local district heating or cooling network;

5. *In your opinion, is the setting of these requirements at EU level necessary in order to achieve the intended objectives (promoting energy efficiency in heating and cooling in order to achieve 20% primary energy savings by 2020), or do you believe that central, regional and/or local regulations on urban and/or rural spatial planning are or would be sufficient in this regard? Please explain your answer.*

*(insert answer)*

### ***Binding national objectives/achievement of 20/20/20 objectives***

*The draft Directive requires Member States to set national energy efficiency targets, schemes and programmes. It is for them to decide whether these targets should be binding or indicative in their territory.*

*In a second stage, in 2014, these targets and the individual efforts of each Member State will be evaluated by the Commission, alongside data on the progress made, to assess the likelihood of achieving the overall Union target and the extent to which the individual efforts are sufficient to meet the common goal.*

*If this assessment shows that the overall Union target is unlikely to be achieved, then the*

*Commission should propose mandatory national targets for 2020 (Article 3 and recital 13 of the draft Directive).*

6. *Do you consider it possible to establish binding national objectives? If yes, with what deadline? How do you view the Commission's time schedule (2014) for the evaluation of Member States' national energy efficiency targets?*

*(insert answer)*

### ***Achievement of national objectives, consideration of local and regional efforts***

*Under Article 19 and Annex XIV (1) of the draft Directive, Member States are to report annually on the progress achieved towards national energy efficiency targets.*

7. *In your opinion, what tools should be established by Member States in order to evaluate the progress achieved at local and regional level?*

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d) residential zones and industrial plants which consume heat in their production processes are connected to the local district heating or cooling network.

*Do you see a need to establish regional observatories?*

*(insert answer)*

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# **Appendix III – Contributions**

## **Appendix IV – Unofficial translations of reasoned opinions of the Swedish and the Finnish Parliaments**