



Revision of european directives related to energy : proposals of the Coalition France pour l'efficacité énergétique (CFEE)

Who we are

The Coalition France pour l'efficacité énergétique (CFEE) is an informal platform gathering industries and professional federations (Effinergie , Gesec, Gimelec, Isolons la Terre contre le CO2) as well as consumers & environmental NGOs (ARC, CLER, France nature environnement, Réseau Action Climat, UFC-Que Choisir). Its purpose is to promote energy savings in France and Europe.

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I Introduction

Members of the CFEE are convinced that the french energy transition greatly depends on decisions taken at the european level. Therefore we closely follow what is being discussed in Brussels.

In the present document, the CFEE formulates several proposals with the view of contributing to the ongoing revisions debate.

However, we also want to remind stakeholders that enforcement of existing regulations must remain a priority.

II Proposals

Give more consistency to the european framework linked to energy renovation of buildings

Numerous directives are dealing with energy efficiency in buildings. This complexity is not easing the success of the energy transition in each member State, especially in France where it sometimes represents an opportunity to generate administrative burden and justify the status quo.

In the medium term, the idea of merging several directives (or part of them) into an energy renovation of buildings directive should clearly be investigated. In the short term, Europe should create links between articles of existing directives.

Set a 40% energy efficiency objective for 2030

Tapping the full cost-effective potential for energy savings must be the aim of the EU energy efficiency target for 2030. In a study for the European Commission, Fraunhofer ISI calculates that the EU could cost-effectively save 40% of its energy consumption by 2030. A 40% energy efficiency target ensures cost-effective investments and helps to make achieving the targets for renewable energy and greenhouse gas emissions reductions cheaper for consumers and the economy. All technologies and data services are ready to achieve these targets at european level thanks to affordable renovation packages, including insulation, energy active management and renewable energies.

Improve reporting & introduce stringent verification of transpositions

The introduction of a standard, binding reporting template is important to ensure comparability of reporting. It is also important to introduce a scheme which allows third party evaluation of national reports. The European Commission is usually not able assess them on the qualitative aspect and national governments cannot assess their own policies. The EU Commission should be organised to analyse the information coming from potential "whistle blowers".

Notifications from Member States are sometimes not consistent with what is going on on the field. The EU Commission should put more emphasis on checking the consistency between what the Member-State says and the reality. More resources must be dedicated to this work since it is the prerequisite to the better enforcement of existing directives related to energy.

Consider energy efficiency as an infrastructure

In order to initiate the economic recovery, G20 has repeatedly put forward infrastructure investments which, if put to good use, could generate many positive effects. However separating the development of energy efficiency and conventional infrastructures is taking the risk of seeing the latter becoming stranded assets and not fully tapping the energy savings potential of the building industries and services sectors.

According to the IEA, the current amount of money spent on energy efficiency will need to be multiplied by 8 to avoid major climate changes.

Therefore, Europe and its Member States must consider energy efficiency as a priority infrastructure.

Adapt accounting rules to energy efficiency

The current accounting rules are a disincentive to governments and local authorities to develop energy efficiency investment programmes – and promote the continued focus on grant-funded schemes.

Several reforms must be carried out in order to solve the problem :

1. Revisit Eurostat's view of what is considered an "asset"
2. Recognise the cash savings from energy efficiency investments in the 'scoring' of investments
3. Reinterpret debt rules
 - Create an off balance sheet classification for energy efficiency projects and define some conditions in order to avoid any risk of deadweight ;
 - Clarify that flexibility will be granted under the Stability and Growth Pact structural reform clause to fund major energy efficiency investment as part of a structural reform programme.

However the adaption of accounting rules to energy efficiency **is indissociable with the unbundling between energy supply and energy efficiency services.**

Unbundle energy supply and energy efficiency services

The allotment is not compulsory in an Energy performance contract (EPC) in France. Since 1974, buying energy together with other services is deeply rooted in buying strategies.

Thus, bundle energy supply and energy efficiency works in the same tender result in excluding independent energy services companies especially Small and medium enterprises (SMEs).

The clear conflict of interest underlying in a contract including energy supply and energy efficiency leads to unambitious energy efficiency works¹, very long duration contracts², unfavorable contract terms for users. The potential abuses are numerous and already documented.

The problem does not lie in the contractual and economic model of the EPC but in the players using them. There is obviously a need to make the energy services market more transparent for more innovation and more energy savings.

Therefore it is essential to clean all contract models related to energy efficiency by banning energy supply from them.

¹ <http://www.ladepeche.fr/article/2014/11/23/1997063-promesse-chiffree-d-economie-d-energie.html>

² <http://www.cleantechrepublic.com/2011/02/28/montlucon-contrat-performance-energetique-batiments-publics/>

Better regulate the use of energy performance contracts

The energy performance contracts model is a victim of several abuses which affect the users (local authorities, co-owners, private companies) and local SMEs in France and potentially in other Member States. Beyond the previous proposal, several provisions must be introduced :

1. the EPC has to be better defined in the next directive. In particular the possibility of considering an EPC as an energy supply contract should be banned;
2. the notion of energy guarantee will have to be defined in the respect of free competition and free access for SMEs without adding administrative burden or contractual complexity.
3. the monitoring of incumbent operators will have to be reinforced by the complete transcription of the third energy package in France, especially regarding the EDF & Engie groups.

Strengthen national regulation authorities requirements, better supervision at the european level

2009/72/EU and 2009/73 impose the creation of national regulators for the energy sector. The importance of regulation is reminded in every directive related to energy such as the energy efficiency directive.

There is indeed in France a national regulator : the « Commission de regulation de l'énergie » (CRE).

However its scope, financing and power are overly restricted which doesn't fit the european requirements. They must be revised in order to allow the CRE be up to the challenge and become an authority.

Moreover, better supervision of national authorities by european institutions should be introduced : giving enforcement powers to european actors such as Agency for the cooperation of energy regulators (ACER) and/or the Council of european energy regulators (CEER) should for example be considered strongly.

The scope of regulation should also include the energy services in order to stop the non technologic barriers existing in France and cover the Demand side management (DSM).

Independant assessment of articles 9 to 11 of the energy efficiency directive

Smart metering has been so far a costly technology for questionable results in terms of energy savings.

Moreover, especially in collective housing, individual metering is a labyrinth that encourage individual behaviours to the detriment of the collective approach that is needed by global renovation of buildings projects. Smart metering can indeed be a brake to energy efficiency in many countries in the EU.

Smart meters could quickly become an “has been technology” compared to the digital devices that the consumer can buy on the market.

Most of the existing studies are only simple local reports made by non-scientists or lobby, none of them published in peer-reviewed literature. An independent scientific study is needed to know exactly if the cost of the smart measuring measures is worth the investments or if it would be better to invest on techniques whom results are well known.

Request from Member States a long term financing strategy of for energy renovation

A long term vision is indeed needed to overcome the current challenges to obtaining long-term financing for energy efficiency.

The mechanisms required to increase the scale, effectiveness and impact of energy efficiency investments are firstly associated with making sure public finance focuses on addressing specific market failures, secures high public value outcomes and enables risks to be shared with the private sector. The aim would also be to make private capital available for investments in energy efficiency. There is also a need to scale up technical assistance as shown through the large demand for support through the European Investment Advisory Hub.

The financing mechanisms must take into account the generally small size of retrofittings projects. Europe must both adapt its requirements and help Member States setting up project aggregators, french third-party financing companies being an interesting exemple.

Define what are deep and stage by stage retrofits

The concept of « staged deep renovation » is far from being clear in current directives. potential recasts are an opportunity to develop this subject : a minimum energy performance in major renovations of existing buildings must be set and become the objective of both the « one-shot » deep renovations and the « staged deep renovations ».

Introduce mandatory energy efficiency objectives sector by sector

Mandatory measures and binding targets are currently missing. They are vital if we want to reach 2020 and 2030 energy efficiency objectives. In order to be socially accepted, they must be mixed with efficient financing schemes which are currently lacking in France (see previous comments). Mandatory measures and binding targets for buildings are already existing in France. They must also be adapted to the context of each sector (housing, tertiary buildings, industry, etc.).

Improve the regulation of Distribution system operators (DSO)

Promoters of the energy transition in France witness market distortions caused by the french electric DSO which is vastly due to its lack of independance from its mother company.

In the case C-105/12 to C-107/12 of the European Court of Justice, the advocate general Jääskinen stated in his opinion (points 71 & 72) :

However, although Directives 2009/72 and 2009/73 are not applicable ratione temporis to the present cases, their subsequent adoption cannot be disregarded; for their part, they make unbundling of ownership structures an express means of transposition. Recital 11 in the preamble to directive 2009/72 describes such unbundling as an effective and stable means of resolving the inherent conflict of interests and recital 21 thereof enshrines a right to opt for full ownership unbundling. (36)

Admittedly, a literal and restrictive interpretation of those recitals might suggest that they concern only energy transmission system operators. None the less, like the Netherlands Government and the Commission, I consider that those recitals are also relevant as regards distribution systems, in the light of their characteristics as above described, and the need to eliminate conflicts of interest between system operators and users; that need seems to me to be just as acute with regard to distribution as to transmission even if only the latter systems are decisive from the point of view of freedom to provide services at cross-border level.

The CFEE shares his diagnosis : regulation of DSOs should clearly be reinforced the way the one for Transmission system operators (TSOs) was in the third energy package directives.

The DSO is key for the success of the french energy transition. Its independance from its mother company will contribute to accelerate it and will benefit consumers and french territories.

Ensure that energy data are handled by independant structures

Energy data are vital to the implementation of the energy transition in France an in Europe : the creation of a « general interest » status for them must be considered strongly.

Moreover, provisions that make sure that they are handled by independant stakeholders, made easily accessible to local authorities and public research actors must also be introduced.

END

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