

# Boosting the EU energy savings obligation

## Review of negotiations on Article 8 of the Energy Efficiency Directive

Marion Santini, Samuel Thomas, Louise Sunderland<sup>1</sup>  
15 June 2022

In July 2021, the European Commission proposed a recast of the Energy Efficiency Directive (EED). The recast includes significant changes to the EED's cornerstone article, Article 7 on the energy savings obligation, now renumbered as Article 8.<sup>2</sup> EU legislators – the European Parliament and the Council of the EU – now have to agree on a common text.

Under the energy savings obligation, EU Member States must trigger a certain amount of energy savings among end users. These savings must be the result of national policy measures that go beyond EU measures, such as product standards.

The Commission's proposal would see the annual savings rate that Member States must reach almost double from 2024 onwards. The proposal also affects the eligibility of policy measures, banning the use of technologies that directly combust fossil fuels, to achieve energy savings under Article 8. In addition, Member States would have to achieve a defined share of their obligation among people affected by energy poverty, vulnerable customers and, where applicable, people living in social housing.

When the Commission released the proposals, it expected Article 8 to deliver half of the energy savings required to reach the 2030 energy efficiency headline target.<sup>3</sup> In the meantime, on 18 May, the Commission published its plan to reduce energy imports from Russia and updated its EED recast proposals to increase the headline target.<sup>4</sup> With a higher headline target, the EU needs to save more energy through energy efficiency policy measures. If sufficiently ambitious, the energy savings obligation has the potential to drive improvements in energy security, alleviate worsening levels of energy poverty and put the EU on course to meet its climate goals.

### The legislative timeline

The main responsible body in the Parliament, the Committee on Industry, Research and Energy, plans to vote on its EED position on 13 July 2022. A plenary vote would then take place in September.

The French presidency aims to adopt a compromise text for the Council position at the Energy Council meeting on 27 June 2022.

The two institutions and the Commission would then start negotiations, called 'informal dialogues,' to land on a common text.

<sup>1</sup> The authors would like to acknowledge and express appreciation to the following people who provided helpful information and insights into drafts of this paper: Antonin Chapelot, Coalition for Energy Savings, and Verena Bax, CAN Europe.

<sup>2</sup> European Commission. (2021, 14 July). *Proposal for a Directive of the European Parliament and of the Council on energy efficiency (recast)*. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0558>

<sup>3</sup> European Commission. (2021, 14 July). *Impact assessment report accompanying the Proposal for a Directive of the European Parliament and of the Council on energy efficiency (recast)*. <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=SWD:2021:623:FIN>

<sup>4</sup> European Commission. (2022, 18 May). *Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources, Directive 2010/31/EU on the energy performance of buildings and Directive 2012/27/EU on energy efficiency*. [https://energy.ec.europa.eu/system/files/2022-05/COM\\_2022\\_222\\_1\\_EN\\_ACT\\_part1\\_v7.pdf](https://energy.ec.europa.eu/system/files/2022-05/COM_2022_222_1_EN_ACT_part1_v7.pdf)

This briefing takes stock of the negotiations on Article 8 on 15 June 2022, with a particular focus on the energy savings rate, the exclusion of fossil fuel technologies and the energy poverty sub-target. It identifies the important issues for decision-makers who are looking to align the EED with climate neutrality, energy security and equity goals.

## The increase in the energy savings rate

### The Commission's proposal

As Table 1 shows, **the Commission's proposal increases the new annual energy savings that Member States must achieve from 2024 onwards, from 0.8% to 1.5%** of average final energy consumption.

In addition, a new provision states that if a Member State does not achieve the required energy savings by the end of an obligation period (for example, 2021-2030), it would have to achieve these outstanding savings in the following period (for example, 2031-2040).

**Table 1. New annual savings in Article 8 in Commission proposal\***

Year	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
<b>Current directive<sup>5</sup></b>	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%
<b>Commission's proposal</b>	0.8%	0.8%	0.8%	1.5%	1.5%	1.5%	1.5%	1.5%	1.5%	1.5%

\*Percentage of average final energy consumption.

Aspects of the proposal that remain unchanged compared to the current EED:

- The basis upon which Member States calculate the absolute amount of energy savings of their obligation remains the annual final energy consumption, averaged over the most recent three-year period prior to 1 January 2019, i.e., 2016, 2017, 2018.
- Member States can still achieve their obligation by implementing an energy efficiency obligation scheme, other policy measures ('alternative' policy measures) or a mix of these options.
- Member States can still choose the sectors in which the energy savings take place. The Commission considered setting a sub-target on transport,<sup>6</sup> but did not include this idea.
- The calculation of energy savings follows the same rules. The proposal does not significantly amend the provisions on energy savings measurement or on monitoring and verification. Member States must still demonstrate that the energy savings are the result of the policy measure itself, and not the result of other legislation or natural market developments (principles of 'additionality' and 'materiality').

<sup>5</sup> European Union. (2018). *Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018 amending Directive 2012/27/EU on energy efficiency*. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32018L2002&from=EN>. For more information about the EED: ENSMOV Horizon 2020 project. <https://ensmov.eu/>; European Commission. (2019, 25 September). *Commission recommendation on transposing the energy savings obligations under the Energy Efficiency Directive*. <https://eur-lex.europa.eu/eli/reco/2019/1658>; Santini, M., & Thomas, S. (2020). *Article 7 of the Energy Efficiency Directive 3.0: How to maximise the energy efficiency opportunity for climate neutrality*. Regulatory Assistance Project. <https://www.raonline.org/knowledge-center/article-7-energy-efficiency-directive-3-0-how-maximise-energy-efficiency-opportunity-climate-neutrality>

<sup>6</sup> European Commission. (2021, 14 July). *Impact assessment report accompanying the proposal for a Directive of the European Parliament and of the Council on energy efficiency (recast)*. <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=SWD:2021:623:FIN>

- The obligation remains cumulative. This means that incremental annual savings deliver a total volume of cumulative savings by the end of the obligation period in 2030. Member States shall achieve energy savings at least equal to 0.8% in 2021, 1.6% in 2022, 2.4% in 2023, and so on, as Table 2 shows. The cumulative requirement is spread over the entire period, meaning Member States can do less in one year and catch up in another year, or frontload energy savings. In practice though, a late start makes it more difficult for Member States to reach their obligation by the end of the period.
- Member States can still credit energy savings from an individual action (for example, the installation of roof insulation) until the end of the obligation period in which it occurs – rather than based on the full lifetime of the action or only its first year. This means that an action implemented in 2021 can bring savings until 2030, but not after that date.

**Table 2. Cumulative savings in Article 8 – Commission proposal\***

	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%
		0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%
			0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%
				1.5%	1.5%	1.5%	1.5%	1.5%	1.5%	1.5%
					1.5%	1.5%	1.5%	1.5%	1.5%	1.5%
						1.5%	1.5%	1.5%	1.5%	1.5%
							1.5%	1.5%	1.5%	1.5%
								1.5%	1.5%	1.5%
									1.5%	1.5%
										1.5%
<b>Total</b>	<b>0.8%</b>	<b>1.6%</b>	<b>2.4%</b>	<b>3.9%</b>	<b>5.4%</b>	<b>6.9%</b>	<b>8.4%</b>	<b>9.9%</b>	<b>11.4%</b>	<b>12.9%</b>

\*Percentage of average final energy consumption.

## Discussions in Parliament and Council

The rapporteur, who is the Member of Parliament (MEP) leading the Parliament's work on the file, has proposed to increase the savings rate to 2% from 2024.<sup>7</sup> Other MEPs made proposals ranging from 0.8% to 2.2%.<sup>8</sup> One MEP has proposed the inclusion of a sub-target for transport. The text discussed by the Council<sup>9</sup> maintains an increase in ambition compared to the existing obligation, but it is lower than what the Commission proposed, as it includes a ramp up of new energy savings over time, as Table 3 shows. The Council also proposes that Member States who achieve cumulative end-use energy savings above the required level by

<sup>7</sup> European Parliament. (2022, 22 February). *Draft report on the proposal for a Directive of the European Parliament and of the Council on energy efficiency (recast)*. [https://www.europarl.europa.eu/doceo/document/ITRE-PR-703281\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/ITRE-PR-703281_EN.pdf)

<sup>8</sup> European Parliament, Committee on Industry, Research and Energy (2022, 21 March). *Amendments to draft report on the proposal for a Directive of the European Parliament and of the Council on energy efficiency (recast)*. *Amendments 142-314 Energy efficiency (recast)*, draft report. [https://www.europarl.europa.eu/doceo/document/ITRE-AM-729910\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/ITRE-AM-729910_EN.pdf) and *Amendments 315-595 Energy efficiency (recast)*, draft report. [https://www.europarl.europa.eu/doceo/document/ITRE-AM-729911\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/ITRE-AM-729911_EN.pdf); European Parliament, Committee on Industry, Research and Energy. (2022, 22 March). *Amendments 596-885 Energy efficiency (recast)*, draft report. [https://www.europarl.europa.eu/doceo/document/ITRE-AM-729913\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/ITRE-AM-729913_EN.pdf) and *Amendments 886-1190 Energy efficiency (recast)*, draft report. [https://www.europarl.europa.eu/doceo/document/ITRE-AM-729942\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/ITRE-AM-729942_EN.pdf)

<sup>9</sup> At this stage of the process, these documents are not published on the Council website but are often disclosed in the media. Latest disclosed text here: Council of the European Union. (2022, 22 April). *Third revised version of the Commission proposal, as prepared by the Presidency*. Document published by *Contexte*. [https://www.contexte.com/article/energie/paris-lache-encore-du-lest-sur-la-revision-de-la-directive-efficacite-energetique-2\\_151297.html](https://www.contexte.com/article/energie/paris-lache-encore-du-lest-sur-la-revision-de-la-directive-efficacite-energetique-2_151297.html)

the end of each obligation period shall be entitled to carry the eligible amount of no more than 10% of such surplus into the following obligation period.

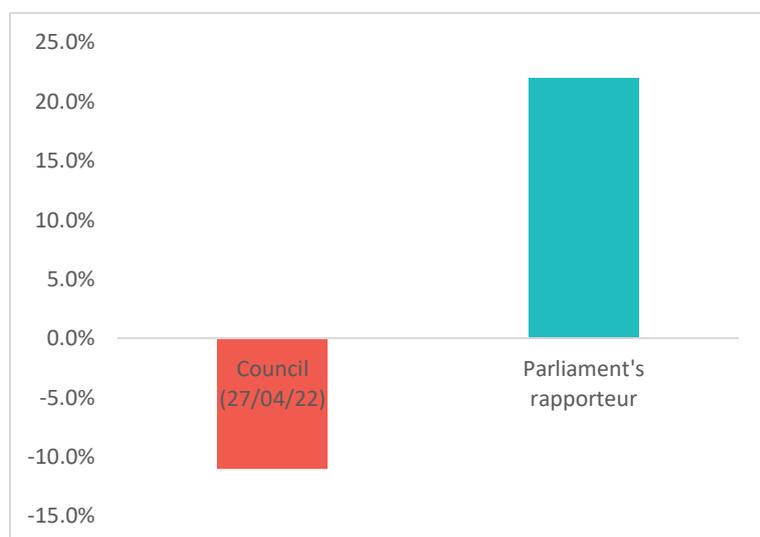
**Table 3. New annual energy savings in Article 8 – Commission, Parliament, Council\***

Year	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
<b>Commission's proposal</b>	0.8%	0.8%	0.8%	1.5%	1.5%	1.5%	1.5%	1.5%	1.5%	1.5%
<b>Parliament's Rapporteur</b>	0.8%	0.8%	0.8%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%
<b>Council draft text</b>	0.8%	0.8%	0.8%	1.1%	1.1%	1.3%	1.3%	1.5%	1.5%	1.5%

\*Percentage of average final energy consumption.

The proposals in the Parliament focus on the savings rate, while the Council discussed both the rate and the acceleration of action over time. Ultimately, however, both elements affect the cumulative savings required by Member States, who remain free to allocate energy savings as they wish over the period. For this reason, it makes sense to look at the cumulative savings required at the end of the 2021-2030 period. Figure 1 shows that in terms of cumulative energy savings, **the Council's proposal is 11% lower than the Commission's proposal, while the proposal by the Parliament's rapporteur is 22% more ambitious.**

**Figure 1. Variation in cumulative savings compared to Commission's proposal (%)**



## Next steps

Further mobilising energy savings from national programmes is crucial to reach climate goals and a more ambitious 2030 energy efficiency target. These policies reduce dependency on imported energy and help mitigate the impact of rising energy prices. In its EU 'Save Energy' plan, the Commission identified the increase of the national energy savings obligation as an action co-legislators can take to respond to the current energy crisis.<sup>10</sup> For decision-makers

<sup>10</sup> European Commission. (2022, 18 May). *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee of the Regions, EU 'Save Energy'*. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022DC0240&from=EN>

looking at how to reach the climate and energy security objectives, the increase of the energy savings rate in Article 8 is vitally important:

- Aligning the savings rate with the new energy efficiency target proposed by the Commission in May 2022 is a crucial measure to reach energy security objectives.
- Ensuring that energy savings are independently evaluated provides more certainty for policymakers. Evaluation would be even more important to assess the amount of outstanding savings that should be carried in the following period, and in case Member States are able to carry over excess savings from one period to another.

## The exclusion of equipment running on fossil fuels

### The Commission's proposal

The proposal prevents Member States from fulfilling their Article 8 obligation with policy measures “regarding the use of direct combustion of fossil fuel technologies” that are implemented as of 2024. It also states that energy savings as a result of “policy measures regarding the use of direct fossil fuel combustion in products, equipment, transport systems, vehicles, buildings or works” shall not count towards fulfilling the obligation as of 2024.

Aspects of the proposal that remain unchanged compared to the current EED:

- Member States can support these measures as long as this is not in the context of Article 8.
- It is still possible to use fossil fuels ‘indirectly’ in the context of Article 8, for example where equipment runs on electricity and the electricity stems from fossil fuel generation. This is consistent with the focus of Article 8 on end users.
- The restriction does not apply to policy measures targeting behavioural changes to reduce the consumption of fossil fuel, for example through information campaigns.
- Individual actions that do not involve a fuel switch, like the insulation of building envelopes or industrial pipes, remain eligible, regardless of the fuel that the facility uses.

#### Eligibility under proposed rules

##### Examples of eligible policies:

- Heat pump deployment programmes
- Building insulation programmes
- Eco-driving training programmes

##### Examples of eligible individual actions:

- Replacement of oil boiler with heat pump
- Rollout of solar thermal technology
- Early replacement of internal combustion engine vehicle with electric vehicle

##### Example of ineligible policies:

- Gas boiler deployment schemes

##### Examples of ineligible individual actions:

- Replacement of oil boiler with gas boiler
- Replacement of gas boiler with more efficient gas boiler.
- Replacement of natural-gas-based combined heat and power

### Discussions in Parliament and Council

The Parliament's rapporteur supports the Commission proposal, but some MEPs have proposed to delete the provision or weaken it by introducing:

- The option to count energy savings from equipment combusting fossil fuels if it “prevents technology lock-ins by ensuring future compatibility with climate-neutral alternative fuels and technologies,” or if it is “designed” to run on renewable energy.
- Slower timing for policies and individual actions in the industrial sector.

The text currently discussed by the Council introduces the following changes, which are also reflected in some proposals in the Parliament:

- It introduces slower timing for “energy intense enterprises in the industry sector” with an annual energy consumption higher than 100 terajoules. In these companies, energy savings from direct fossil fuel combustion technologies can count under Article 8 if an energy audit justifies it. The Council text lists several conditions. For example, there should be evidence that no alternative, sustainable non-fossil fuel solution is technically feasible.
- It replaces the wording “policy measures implemented as from 2024” by “policy measures *newly* implemented as from 2024.” This is unclear and could suggest that a policy measure formally set up before 2024 could still generate savings from equipment combusting fossil fuels installed after 2024.
- The Council looks at policy measures promoting combinations of technologies, like a renovation scheme that combines roof insulation and the replacement of a condensing gas boiler. The Council text states that the share of energy savings related to the fossil fuel combustion technologies shall not be eligible. It would confirm that Member States can still promote fossil fuel technologies in their policies as long as they only report eligible savings for fulfilling their obligation.

## Next steps

For decision-makers wanting to align the EED with objectives of climate neutrality and energy security, the following issues are key:

- The exclusion of equipment running on fossil fuels from Article 8 obligations would provide a much-needed signal to end users. The overall amount of energy savings achieved from direct fossil fuel combustion technologies represents a small share of energy savings reported under the obligation to date. Cleaner alternatives exist that deliver considerably more energy savings: Member States can claim between four and eight times more savings from heat pump programmes than from fossil fuel boiler schemes.<sup>11</sup>
- The option to credit equipment that combusts fossil fuels under the assumption that they could run on renewable energy sources at a future date is counterproductive. This would allow so-called ‘hydrogen-ready’ boilers to receive credit under Article 8 despite uncertainty about the future role of hydrogen in the heating sector.<sup>12</sup>
- The eligibility of energy savings over time could be clarified. All policy measures, regardless of their introduction date, should fall into the scope of the provision. No

<sup>11</sup> Thomas, S. (2021). *Ensuring the EED energy savings obligation is Fit for 55*. Regulatory Assistance Project. <https://www.raponline.org/knowledge-center/ensuring-the-eed-energy-savings-obligation-is-fit-for-55>

<sup>12</sup> For more information, see Rosenow, J. (October 2021). *Now with all hyperlinks working – due to popular demand I’m sharing my collection of 10 independent studies that looked at* [Post]. LinkedIn. [https://www.linkedin.com/posts/janrosenow\\_hydrogen-studies-activity-6855775858259447808-GwxM](https://www.linkedin.com/posts/janrosenow_hydrogen-studies-activity-6855775858259447808-GwxM)

individual action implemented after 2024 should involve direct fossil fuel combustion. If decision-makers are looking for a compromise to credit ongoing action, one option would be to allow individual fossil-fuel-related actions in 2021-2023 to contribute to savings for the whole 2021-2030 period.

- Postponing the start of the fossil fuel restriction in the industrial sector would weaken the signal of the provision. If decision-makers nevertheless consider this option, they could narrow its use – for example, by publishing a restrictive list of exempted processes.

## The energy poverty sub-target

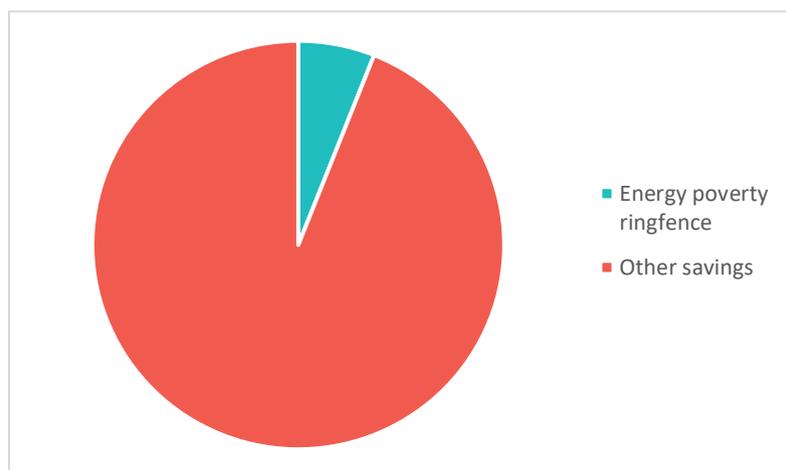
### The Commission's proposal

The Commission proposes that Member States achieve a share of their cumulative energy savings obligation among people affected by energy poverty, vulnerable customers and, where applicable, people living in social housing. The current Directive already encouraged this focus but without a mandatory sub-target. The mandatory share (or 'ringfence') shall at least equal:

- the proportion of households in energy poverty as assessed in the Member State's National Energy and Climate Plan (NECP); or
- if the proportion is not reported in the NECP: "the arithmetic average share of the following indicators for 2019 or, if not available for 2019, for the linear extrapolation of their values for the last three years that are available: (a) Inability to keep home adequately warm; (b) Arrears on utility bills; and (c) Structure of consumption expenditure by income quintile and COICOP [classification of individual consumption by purpose] consumption purpose."<sup>13</sup>

If we apply the second option, at least **6% of the EU-level cumulative energy savings would take place among the priority energy end users**, as Figure 2 shows.

**Figure 2. Percentage of cumulative energy savings obligation from priority end users – Commission's proposal**



Source: own calculations, based on Eurostat

<sup>13</sup> Data sources: (a) Eurostat, SILC [ilc\_mdcs01]; (b) Eurostat, SILC, [ilc\_mdcs07]; (c) Eurostat, HBS, [hbs\_str\_t223], data for [CP045] Electricity, gas and other fuels.

Aspects of the proposal that remain unchanged compared to the current EED:

- Member States retain the freedom to define ‘energy poverty’ in their national context and to choose the target group.
- Member States can decide to implement a higher share of the obligation among these priority end users.
- Member States can opt for energy savings obligation schemes, other policy measures, or a mix of both, to achieve the sub-target.

## Discussions in Parliament and Council

The Council text has not modified this aspect of the proposal. The Parliament’s rapporteur replaces indicator (c) with two other indicators (2019 data): “(ca) total population living in a dwelling with a leaking roof, damp walls, floors or foundation, or rot in window frames or floor;” and “(cb) at-risk-of-poverty rate.”<sup>14</sup> This change of indicators would ringfence 10% of the EU’s cumulative energy savings for priority groups. The rapporteur also enlarges the definition of these priority groups to include “low-income households.” Other MEPs would add “transport users, SMEs [small and medium-sized enterprises], micro-enterprises” to the priority groups.

## Next steps

For decision-makers wanting to put equity and inclusion at the centre of the EED, the following issues are key:

- The ringfence concept is important in the context of rising energy prices and in view of putting in place an equitable EU climate and energy policy mix. Often, actions to support the energy-poor are more costly than in other sectors and a ringfence guarantees the achievement of societal benefits.<sup>15</sup> Member States like Ireland and France are already successfully using this mechanism.
- The proposal gives a lot of flexibility to Member States to define the ringfence target through the NECP and to choose the priority groups. Adjusting the indicators would maintain this flexibility and reinforce the target-setting methodology. The change of indicators proposed by the rapporteur recognises that indicator (c) is less solid than the other indicators.<sup>16</sup>
- Adding ‘low-income households’ to the priority groups adds further flexibility and takes into account the fact that some Member States do not have a definition of energy poverty.
- Extending the eligibility of ringfenced savings to all transport users and to small and medium-sized enterprises and micro-enterprises would greatly dilute the obligation.

---

<sup>14</sup> Data sources: (ca) Eurostat, SILC [ilc\_mdho01]; (cb) Eurostat, SILC and ECHP surveys [ilc\_li02] (cut-off point: 60% of median equivalised income after social transfers).

<sup>15</sup> Ringfences are more effective than uplifts for energy poverty individual actions. See ENSMOV & SocialWatt. (2021). *The Energy Efficiency Directive energy savings obligation and energy poverty alleviation*. <https://ensmov.eu/policy-guide-the-eed-energy-savings-obligation-and-energy-poverty-alleviation>

<sup>16</sup> Data for indicator (c) is only collected every five years and is not a measure of energy poverty as such but a measure of expenditure on energy.

## Summary

The revision of Article 8 of the EED provides an opportunity to align the energy savings obligation with the climate neutrality and energy security objectives, and to reinforce the social dimension of the Fit for 55 package. The following issues are key for decision-makers wanting to support the contribution of Article 8 of the EED to these objectives:

	<p><b>The energy savings rate</b></p> <ul style="list-style-type: none"> <li>- The increase of the energy savings rate in Article 8 is critical. Aligning the savings rate with the new energy efficiency target proposed by the Commission in May 2022 is a vital measure for ensuring Europe achieves its energy security objectives.</li> <li>- Ensuring that energy savings are independently evaluated reinforces the credibility of energy savings.</li> </ul>
	<p><b>The exclusion of equipment running on fossil fuels</b></p> <ul style="list-style-type: none"> <li>- The exclusion of equipment running on fossil fuels from Article 8 obligations is crucial to provide the right signal to end-users.</li> <li>- The option to credit equipment that combusts fossil fuels under the assumption that they could run on renewable energy sources at a future date is counterproductive.</li> <li>- The eligibility of energy savings over time could be clarified. All policy measures, regardless of their introduction date, should fall into the scope of the provision.</li> <li>- Postponing the start of the fossil fuel restriction in the industrial sector would weaken the signal of the provision.</li> </ul>
	<p><b>The energy poverty sub-target</b></p> <ul style="list-style-type: none"> <li>- The ringfence concept is important in the context of rising energy prices and in view of putting in place an equitable EU climate and energy policy mix.</li> <li>- Adjusting the indicators would reinforce the target-setting methodology.</li> <li>- Adding 'low-income households' to the priority groups adds further flexibility and takes into account the fact some Member States do not have a definition of energy poverty.</li> <li>- Extending the eligibility of ringfenced savings to all transport users and to small and medium-sized enterprises and micro-enterprises would greatly dilute the obligation.</li> </ul>



**RAP**<sup>®</sup>

Energy Solutions for a Changing World

---

**Regulatory Assistance Project (RAP)**<sup>®</sup>  
Belgium · China · Germany · India · United States

---

Rue de la Science 23  
B – 1040 Brussels  
Belgium

---

+32 2-789-3012  
[info@raponline.org](mailto:info@raponline.org)  
**raponline.org**

© Regulatory Assistance Project (RAP)<sup>®</sup>. This work is licensed under a Creative Commons Attribution-NonCommercial License (CC BY-NC 4.0).