



2024/1590

4.6.2024

COMMISSION RECOMMENDATION (EU) 2024/1590

of 28 May 2024

on transposing Articles 8, 9 and 10 on the energy saving obligation's provisions of the Directive (EU) 2023/1791 of the European Parliament and of the Council on energy efficiency

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

- (1) Directive 2012/27/EU of the European Parliament and of the Council ⁽¹⁾ introduced a requirement to achieve the headline target of at least 32,5 % energy savings at Union level by 2030.
- (2) In its Recommendation (EU) 2019/1658 ⁽²⁾, the Commission provided guidance to the Member States for transposing and implementing the energy savings obligation pursuant to Directive 2012/27/EU, supporting them in putting in place the adequate measures, tools and methodologies in order to be able to fully tap into their energy savings potential and achieve the energy efficiency headline target.
- (3) Directive (EU) 2023/1791 of the European Parliament and of the Council ⁽³⁾ was adopted on 13 September 2023. It recast Directive 2012/27/EU, keeping some of its provisions unchanged while, at the same time, introducing some new requirements. In particular, it significantly raised the level of ambition for 2030 in terms of energy efficiency, including as regards the energy savings obligation.
- (4) Directive (EU) 2023/1791 increased the energy savings obligation. By ensuring stability for investors and encouraging long-term investments and long-term energy efficiency measures, the energy savings obligation plays an important role in the creation of local growth, jobs and competitiveness, while also contributing to alleviate energy poverty. It would ensure that the Union can achieve its energy and climate objectives by creating further opportunities and by breaking the link between energy consumption and growth.
- (5) Directive (EU) 2023/1791 has an impact on both the current (2021-2030) and the future obligation periods (2031-2040 and beyond) of the energy savings obligation, as laid down in Article 8(1) therein. Member States should be supported in implementing new requirements laid down in Directive (EU) 2023/1791 which are relevant for both current and future obligation periods, and in identifying which requirements have been clarified in Directive (EU) 2023/1791 but not changed when compared to Directive 2012/27/EU.
- (6) Member States are to bring into force the laws, regulations and administrative provisions transposing Articles 8, 9, 10 of Directive (EU) 2023/1791 and Annex V thereto by 11 October 2025.
- (7) Member States can choose at their discretion the way of transposing and implementing the requirements regarding the energy savings obligation that is best suited to their national circumstances. In this context, it would be recommended to interpret the relevant provisions of Directive (EU) 2023/1791 in a consistent way which would contribute to a coherent understanding of Directive (EU) 2023/1791 across Member States as they prepare their transposition measures.

⁽¹⁾ Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1, ELI: <http://data.europa.eu/eli/dir/2012/27/oj>).

⁽²⁾ Commission Recommendation (EU) 2019/1658 of 25 September 2019 on transposing the energy savings obligations under the Energy Efficiency Directive (OJ L 275, 28.10.2019, p. 1, ELI: <http://data.europa.eu/eli/reco/2019/1658/oj>).

⁽³⁾ Directive (EU) 2023/1791 of the European Parliament and of the Council of 13 September 2023 on energy efficiency and amending Regulation (EU) 2023/955 (OJ L 231, 20.9.2023, p. 1, ELI: <http://data.europa.eu/eli/dir/2023/1791/oj>).

- (8) Moreover, this Recommendation should provide guidance on the interpretation of those provisions of Directive (EU) 2023/1791 that have been amended in comparison with Directive 2012/27/EU. It should therefore be read alongside Recommendation (EU) 2019/1658 and complement the latter,

HAS ADOPTED THIS RECOMMENDATION:

Member States should follow the interpretative guidelines in the Annex to this Recommendation when transposing Articles 8, 9 and 10 of Directive (EU) 2023/1791 and Annex V thereto in their national law.

Done at Brussels, 28 May 2024.

For the Commission
Kadri SIMSON
Member of the Commission

ANNEX

1. INTRODUCTION

These guidelines provide guidance to Member States on how to interpret Articles 8, 9 and 10 of Directive (EU) 2023/1791 when transposing it into their national legislation. They focus on the new elements of Directive (EU) 2023/1791 and thereby complement the Annex to Recommendation (EU) 2019/1658, that remains applicable.

Nonetheless, the binding interpretation of Union legislation is the exclusive competence of the Court of Justice of the European Union.

2. LEGAL AND POLICY CONTEXT

Articles 8, 9 and 10 of Directive (EU) 2023/1791 are closely interlinked, since the achievement of the required amount of cumulative end-use energy savings as set out in Article 8 is to be ensured by Member States either by establishing energy efficiency obligation schemes pursuant to Article 9 or by implementing alternative policy measures pursuant to Article 10, or both.

In addition, Articles 8, 9 and 10 of Directive (EU) 2023/1791 are further interlinked with the following Articles of Directive (EU) 2023/1791:

- Article 2: Definition of important terms, such as ‘energy poverty’,
- Article 4: Implementing the energy savings obligation will contribute to the Member States’ achievement of their national contributions to the overall 2030 energy efficiency targets,
- Article 24: An obligation of Member States to implement energy efficiency improvement measures and related consumer protection or information measures as a priority among people affected by energy poverty, vulnerable customers, people in low-income households and, where applicable, people living in social housing to alleviate energy poverty,
- Article 30(14): Member States have the option of providing that obligated parties can fulfil their obligations set out in Article 8(1) and (4) by contributing every year to the national energy efficiency fund an amount equal to the investments required to achieve those obligations,
- Annex V: Common methods and principles for calculating the impact of energy efficiency obligation schemes or other policy measures under Articles 8, 9 and 10 and Article 30(14).

3. DEFINITIONS IN DIRECTIVE (EU) 2023/1791

The definitions of the following terms set out in Article 2 of Directive (EU) 2023/1791 are the most relevant in the interpretation of Articles 8, 9 and 10 of Directive (EU) 2023/1791 and Annex V to that Directive:

- (a) ‘final energy consumption’ (Article 2, point (6));
- (b) ‘energy savings’ (Article 2, point (9));
- (c) ‘obligated party’ (Article 2, point (19));
- (d) ‘participating party’ (Article 2, point (21));
- (e) ‘policy measure’ (Article 2, point (23));
- (f) ‘individual action’ (Article 2, point (24)).

In the context of Directive (EU) 2023/1791, it is important to underline that the definition of ‘final energy consumption’ has been revised, which can have implications on the implementation of the provisions of Article 8, 9, 10 and Annex V. More information is provided under Section 4.2 of this Annex.

4. AMENDED OBLIGATIONS LAID DOWN IN ARTICLE 8 OF DIRECTIVE (EU) 2023/1791

4.1. Changes to the level and the calculation of the required amount of cumulative end-use energy savings (Article 8(1), point (b) of Directive (EU) 2023/1791)

This Section complements Section 2.1 of the Annex to Recommendation (EU) 2019/1658.

The level of cumulative end-use energy savings is increased, but the calculation process remains the same:

- The first step is to calculate the baseline energy consumption as the annual final energy consumption averaged over the three years 2016, 2017 and 2018 (see Section 4.2 of this Annex about the implication of the changes to the definition of final energy consumption in Directive (EU) 2023/1791).
- The second step applies rates of new annual savings to the baseline energy consumption, cumulating those savings over the obligation period. Directive (EU) 2023/1791 revises those rates from 2024, as explained in Sections 4.1.1, 4.1.2 and 4.1.3 of this Annex.

From the 2031 to 2040 period onwards, a third step might be needed in the case of under- or over-achievement of the energy savings required in the previous period (see Section 4.1.4).

4.1.1. Minimum rates of new annual energy savings

Directive (EU) 2023/1791 raises the rates of new annual energy savings required from 2024 onwards when calculating the amount of cumulative savings set out for 2021 to 2030 in Article 8(1), point (b) of Directive (EU) 2023/1791. Those rates are shown in Table 1 of this Annex.

Member States may use another calculation approach as per Article 8(1), fourth subparagraph, provided that the calculated amount of cumulative savings for the whole obligation period running from 2021 to 2030 is at least equivalent to the one calculated with the formula below. If Member States decide to use another calculation approach, this is to be communicated to the Commission in the updates of their integrated national energy and climate plans, in their subsequent integrated national energy and climate plans or through bilateral communication.

Table 1

Minimum rates of new annual energy savings required by the energy savings obligation

2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
0,8 %	0,8 %	0,8 %	1,3 %	1,3 %	1,5 %	1,5 %	1,9 %	1,9 %	1,9 %

Notes:

- New rates applicable as from 2024 are in bold.
- Specific rates apply to Cyprus and Malta (see Section 4.1.2).

Table 2

Rates to calculate the required amount of cumulative end-use energy savings for 2021 to 2030

Rate of annual savings achieved in: Rate of new annual savings from actions implemented in:	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
2021	0,8 %	0,8 %	0,8 %	0,8 %	0,8 %	0,8 %	0,8 %	0,8 %	0,8 %	0,8 %
2022		0,8 %	0,8 %	0,8 %	0,8 %	0,8 %	0,8 %	0,8 %	0,8 %	0,8 %
2023			0,8 %	0,8 %	0,8 %	0,8 %	0,8 %	0,8 %	0,8 %	0,8 %

2024				1,3 %	1,3 %	1,3 %	1,3 %	1,3 %	1,3 %	1,3 %
2025					1,3 %	1,3 %	1,3 %	1,3 %	1,3 %	1,3 %
2026						1,5 %	1,5 %	1,5 %	1,5 %	1,5 %
2027							1,5 %	1,5 %	1,5 %	1,5 %
2028								1,9 %	1,9 %	1,9 %
2029									1,9 %	1,9 %
2030										1,9 %
<i>Equivalent rates of total annual savings in each year</i>	0,8 %	1,6 %	2,4 %	3,7 %	5,0 %	6,5 %	8,0 %	9,9 %	11,8 %	13,7 %

Notes:

- Revised rates are in bold (and those revised rates apply to an updated baseline, see Section 4.2 about the implication of the change in the definition of final energy consumption).
- Specific rates apply to Cyprus and Malta (see Section 4.1.2).
- Each row corresponds to the minimum rate of new annual energy savings from actions done in a given year, assuming those energy savings have a lifetime that goes at least until the end of the period.
- Each column corresponds to the minimum rate of annual energy savings to be achieved in a given year.
- The last line gives the equivalent rates of total annual savings in each year, when summing the rates used to calculate the required amount of cumulative savings over 2021-2030. That is a simplification that does not take into account the change in the baseline from 2024 (see Section 4.2).

4.1.2. Derogation for Cyprus and Malta

As a derogation, Malta and Cyprus are to achieve at least a minimum rate of 0,45 % new annual savings from 2024 to 2030. These two Member States already had a derogation in Directive 2012/27/EU with a minimum rate of new annual savings of 0,24 %. The rate of 0,24 % is maintained only for the sub-period 2021 to 2023. The Commission recommends Malta and Cyprus use the following formula to update their cumulative energy savings requirement.

Cumulative energy savings (2021-2030) (Malta and Cyprus)	=	0,24 % x 'old' baseline x 27	+	0,45 % x 'new' baseline x 28
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Note: see Section 4.2 of this Annex explaining the change of baseline from 2024.

Cyprus and Malta might use another calculation approach, provided that the calculated amount of cumulative savings for the whole obligation period running from 2021 to 2030 is at least equivalent to the one calculated with the formula above.

4.1.3. Post-2030 rate of new annual energy savings

Article 8(1), fifth subparagraph, of Directive (EU) 2023/1791 specifies that Member States are to continue to achieve new annual savings in accordance with the savings rate provided in Article 8(1), point (b)(iv), i.e. 1,9 %, for ten-year periods after 2030. The Commission notes that the cumulative energy savings required for the 2031 to 2040 period will be the same for all Member States:

Cumulative energy savings (2031-2040) = 1,9 % x baseline x 55 = baseline x 1,045

4.1.4. Carry over of possible under- or over-achievement from the previous period

To account for the energy savings under an obligation period, an individual action is to be initiated during this period and can only bring energy savings until the end of the same obligation period.

Article 8(13), first subparagraph, provides however that, where a Member State has not achieved the required cumulative end-use energy savings by the end of an obligation period, it is to achieve the outstanding energy savings by the end of the following obligation period.

Regardless of any legal consequences stemming from the non-achievement of the obligation, the outstanding energy savings are to be added to the amount of energy savings required in the following obligation period. In the case of under-achievement for a period [n-1], the amount of cumulative energy savings required for the following period [n] should be calculated as follows:

Adjusted cumulative energy savings (period [n])

= cumulative energy savings (period [n]) + outstanding energy savings (period [n-1])

Article 8(13), second subparagraph, provides that, where a Member State has achieved cumulative end-use energy savings above the required level by the end of an obligation period, it is to be entitled to carry the eligible amount of no more than 10 % of such surplus into the following obligation period without having the target commitment being increased. In Commission's view, this can be done in practice by deducting the eligible amount to be carried over from the required amount of cumulative energy savings in the next period. The amount of cumulative energy savings required for the following period [n] can be calculated as follows:

Adjusted cumulative energy savings (period [n])

= cumulative energy savings (period [n]) - eligible surplus energy savings (period [n-1])

4.2. Implication of the changes to the definition of final energy consumption

The definition of final energy consumption in Article 2, point (6), of Directive (EU) 2023/1791 is amended (see also Commission Recommendation (EU) 2023/xxx of xxx 2023 on transposing Article 4 of the Energy Efficiency Directive recast). The changes clarify that:

- the energy supplied to transport includes the energy consumption in international aviation,
- the scope of final energy consumption explicitly includes the energy supplied to forestry and fishing (previously implicitly included in other end-use sectors),
- that scope excludes energy consumption in international maritime bunkers and ambient energy (in addition to the exclusion of the deliveries to the energy transformation sector and the energy sector already mentioned in the definition in Article 2, point (3), of Directive 2012/27/EU).

The baseline energy consumption, i.e. the annual final energy consumption averaged over 2016, 2017 and 2018, is affected by that change of definition. Member States are to apply this new definition when calculating the cumulative energy savings required for the sub-period 2024 to 2030.

That means that different baselines should be used for the calculation of 2021 to 2023 and 2024 to 2030 the cumulative energy savings, as illustrated in the formula below:

Cumulative energy savings (2021-2030)	=	0,8 % x baseline based on old definition of FEC x 27	+	1,3 % x baseline based on new defini- tion of FEC x 13 + 1,5 % x baseline based on new defini- tion of FEC x 9 + 1,9 % x baseline based on new defini- tion of FEC x 6
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4.3. Requirement to consider and promote the role of renewable energy communities and citizen energy communities (Article 8(3) of Directive (EU) 2023/1791)

Member States can find useful resources about energy communities in the Commission's Energy Communities Repository ⁽¹⁾, as well as in the new Commission's 'Citizen-Led Renovation' initiative ⁽²⁾.

4.4. Energy poverty ringfence (Article 8(3) of Directive (EU) 2023/1791)

Article 8(3) of Directive (EU) 2023/1791 requires Member States to establish and achieve a share of the required amount of cumulative end-use energy savings among specific target groups, i.e. people affected by energy poverty, vulnerable customers, people in low-income households and, where applicable, people living in social housing. Appendix V of the Annex to Recommendation (EU) 2019/1658 provides examples of policy measures implemented by Member States in the past with the objective to alleviate energy poverty. Further examples can also be found on the website of the Concerted Action EED ⁽³⁾, the Energy Poverty Advisory Hub ⁽⁴⁾ and in the resources developed by the various European projects ⁽⁵⁾ focused on the alleviation of energy poverty.

4.4.1. Establishing the share of end-use energy savings among the target groups

The share is to be at least equal to that established using the default option described in point 4.4.1.1 of this Annex. Where a Member State has not met the requirements for using the default option, the share is to be at least equal to that established using the fallback option, described in point 4.4.1.2 of this Annex. That share is applied to the required amount of cumulative end-use energy savings set out in Article 8(1) of Directive (EU) 2023/1791 (see Section 4.1 of this Annex).

4.4.1.1. Default option – use of the proportion of households in energy poverty in the National Energy and Climate Plan (NECP)

The share of end-use energy savings among the target groups is to be at least equal to the proportion of households in energy poverty as assessed in Member States' NECPs, or updated NECPs, having considered the four indicators set out in the fallback option, below.

4.4.1.2. Fallback option – use of the arithmetic average of four statistical indicators

The share of end-use energy savings among the target groups is to be at least equal to the arithmetic average of the four indicators as described in 3 for the year 2019 (see data in 4).

⁽¹⁾ Energy Communities Repository, https://energy-communities-repository.ec.europa.eu/index_en/.

⁽²⁾ Energy communities, https://energy.ec.europa.eu/topics/markets-and-consumers/energy-communities_en/.

⁽³⁾ <https://www.ca-eed.eu/?s=energy+poverty/>.

⁽⁴⁾ Energy Poverty Advisory Hub, https://energy-poverty.ec.europa.eu/index_en/.

⁽⁵⁾ List of relevant Horizon 2020 projects: <https://cordis.europa.eu/search?q=contenttype%3D%27project%27%20AND%20programme%2Fcode%3D%27LC-SC3-EC-2-2018-2019-2020%27&p=1&num=10&srt=/project/contentUpdateDate:decreasing/>.
<https://cordis.europa.eu/search?q=contenttype%3D%27project%27%20AND%20programme%2Fcode%3D%27EE-06-2016-2017%27&p=1&num=10&srt=/project/contentUpdateDate:decreasing/>.

Database of LIFE projects: <https://webgate.ec.europa.eu/life/publicWebsite/search/get?basicSearchText=energy+poverty>.

Table 3

Indicators mentioned in Article 8(3) of Directive (EU) 2023/1791 to set the energy poverty share

Name	Eurostat reference	Eurostat definition
Indicator a: Inability to keep home adequately warm	SILC [ilc_md01] ⁽¹⁾	% of persons in the total population who are in the state of enforced inability to keep home adequately warm ⁽²⁾
Indicator b: Arrears on utility bills	SILC, [ilc_md07] ⁽³⁾	% of persons in the total population who are in the state of arrears on utility bills, expressing the enforced inability to pay their utility bills on time due to financial difficulties ⁽⁴⁾
Indicator c: Total population living in a dwelling with a leaking roof, damp walls, floors or foundation, or rot in window frames or floor	SILC [ilc_mdho01] ⁽⁴⁾	% of persons in the total population living in a dwelling either a leaking roof, or damp walls/floors/foundation, or rot in window frames or floor ⁽⁵⁾
Indicator d: At-risk-of-poverty rate	SILC and ECHP surveys [ilc_li02] ⁽⁶⁾	share of people with an equivalised disposable income (after social transfer) below the at-risk-of-poverty threshold, which is set at 60 % of the national median equivalised disposable income after social transfers ⁽⁷⁾

⁽¹⁾ https://ec.europa.eu/eurostat/databrowser/view/ilc_md01/default/table?lang=en.

⁽²⁾ [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=EU_statistics_on_income_and_living_conditions_\(EU-SILC\)_methodology_-_economic_strain#Description](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=EU_statistics_on_income_and_living_conditions_(EU-SILC)_methodology_-_economic_strain#Description).

⁽³⁾ https://ec.europa.eu/eurostat/databrowser/view/ilc_md07/default/table?lang=en.

⁽⁴⁾ https://ec.europa.eu/eurostat/databrowser/view/ilc_mdho01/default/table?lang=en.

⁽⁵⁾ [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=EU_statistics_on_income_and_living_conditions_\(EU-SILC\)_methodology_-_housing_deprivation#Description](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=EU_statistics_on_income_and_living_conditions_(EU-SILC)_methodology_-_housing_deprivation#Description).

⁽⁶⁾ https://ec.europa.eu/eurostat/databrowser/view/ilc_li02/default/table?lang=en/.

⁽⁷⁾ https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:At-risk-of-poverty_rate.

Data for all indicators are available for all Member States in 2019. Table 4 sets out the data and the arithmetic average by Member State.

Table 4

Minimum share of required amount of cumulative end-use energy savings to be achieved among priority groups, based on the indicators listed in Article 8(3) of Directive (EU) 2023/1791

Country	Indicator a	Indicator b	Indicator c	Indicator d	Average
Austria	1,80 %	2,40 %	9,40 %	13,30 %	6,73 %
Belgium	3,90 %	4,10 %	16,70 %	14,80 %	9,88 %
Bulgaria	30,10 %	27,60 %	11,60 %	22,60 %	22,98 %
Croatia	6,60 %	14,80 %	10,20 %	18,30 %	12,48 %
Cyprus	21,00 %	10,40 %	31,10 %	14,70 %	19,30 %
Czechia	2,80 %	1,80 %	7,30 %	10,10 %	5,50 %
Denmark	2,80 %	3,60 %	14,90 %	12,50 %	8,45 %
Estonia	2,50 %	7,20 %	13,80 %	21,70 %	11,30 %
Finland	1,80 %	7,80 %	4,10 %	11,60 %	6,33 %

France	6,20 %	5,60 %	11,50 %	13,60 %	9,23 %
Germany	2,50 %	2,20 %	12,00 %	14,80 %	7,88 %
Greece	17,90 %	32,50 %	12,50 %	17,90 %	20,20 %
Hungary	5,40 %	10,20 %	22,30 %	12,30 %	12,55 %
Ireland	4,90 %	8,90 %	12,50 %	13,10 %	9,85 %
Italy	11,10 %	4,50 %	14,00 %	20,10 %	12,43 %
Latvia	8,00 %	8,70 %	19,30 %	22,90 %	14,73 %
Lithuania	26,70 %	7,50 %	14,00 %	20,60 %	17,20 %
Luxembourg	2,40 %	2,40 %	15,40 %	17,50 %	9,43 %
Malta	7,80 %	6,50 %	7,60 %	17,10 %	9,75 %
Netherlands	3,00 %	1,50 %	14,70 %	13,20 %	8,10 %
Poland	4,20 %	5,80 %	10,80 %	15,40 %	9,05 %
Portugal	18,90 %	4,30 %	24,40 %	17,20 %	16,20 %
Romania	9,30 %	13,70 %	9,40 %	23,80 %	14,05 %
Slovakia	7,80 %	8,40 %	5,70 %	11,90 %	8,45 %
Slovenia	2,30 %	11,20 %	20,60 %	12,00 %	11,53 %
Spain	7,50 %	6,50 %	14,70 %	20,70 %	12,35 %
Sweden	1,90 %	2,30 %	7,00 %	17,10 %	7,08 %

Source: Eurostat data (see links for each indicator in Table 3).

4.4.2. Definition of the target group(s)

The term ‘people affected by energy poverty’ relates to the definition of energy poverty set out in Article 2, point (52), of Directive (EU) 2023/1791, which refers to the relevant national context. In Commission’s view, that allows each Member State to adopt its own legal definition of energy-poor households.

The concept of ‘vulnerable customers’ is set out in Article 28(1) of Directive (EU) 2019/944 of the European Parliament and of the Council ⁽⁶⁾:

The concept of vulnerable customers may include income levels, the share of energy expenditure of disposable income, the energy efficiency of homes, critical dependence on electrical equipment for health reasons, age or other criteria.

The same Article requires Member States to define the concept of vulnerable customers. That definition should apply for the provisions of Article 8(3) of Directive (EU) 2023/1791.

The term ‘people in low-income households’ has no definition in Union law. However, the Commission notes that the indicator of at-risk-of-poverty rate mentioned in Article 8(3) of Directive (EU) 2023/1791 refers to the threshold of 60% of the national median equivalised disposable income after social transfers. That threshold should therefore be used to define the group of ‘people in low-income households’ in the context of Article 8(3) of Directive (EU) 2023/1791, unless the use of another national definition can be justified (e.g. related to the eligibility criteria to certain social benefits).

⁽⁶⁾ Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (OJ L 158, 14.6.2019, p. 125, ELI: <http://data.europa.eu/eli/dir/2019/944/oj>).

The term 'social housing' has no definition in Union law but is defined by the 2020 Policy Brief of the OECD as residential rental accommodation provided at sub-market prices that is targeted and allocated according to specific rules, such as identified need or waiting lists. Nevertheless, differences can be noted across Member States in the definition, size, scope, funding, target population, and type of provider (e.g. public, private, non-profit or limited-profit entities, co-operatives, or a mix of these). The definition of social housing in the Member States has evolved over time, alongside changing policy approaches to shifting market conditions. Some Member States use a different terminology to refer to social housing such as 'Housing at Moderate Rent' in France, 'Common Housing' or 'Not-for-profit housing' in Denmark, 'Housing Promotion' in Germany, 'Limited-Profit Housing' or 'People's Housing' in Austria, 'Protected Housing' in Spain, 'Public Utility' housing in Sweden, etc. Depending on the Member State, it can refer to the legal status of the landlord, the rent regime, funding method or target population⁽⁷⁾. Member States willing to include people living in social housing in the scope of Article 8(3) of Directive (EU) 2023/1791 should provide a national definition for social housing.

Member States are to ensure that at least the cumulative energy savings established in accordance with point 4.4.1.1. or 4.4.1.2. of this Annex are achieved among the target groups mentioned in Article 8(3) of Directive (EU) 2023/1791. The savings are to be achieved among the target groups collectively, and not in each group individually.

In doing so, Member States should consider the specificities of each group or sub-group and tailor the policy measures accordingly. For example, households in the upper range of the low-income group and the most vulnerable households might not face the same difficulties.

When the energy savings reported for the purposes of Article 8(3) of Directive (EU) 2023/1791 result from policy measures, which are not exclusively targeted at the target group(s) selected from the ones listed in Article 8(3), Member States are to explain how the share of energy savings achieved among those target groups is calculated and monitored among the total energy savings reported from those policy measures. Those explanations are to be included in the notification of the policy measure, in accordance with point (5)(g) of Annex V to Directive (EU) 2023/1791. In Commission's view, specific eligibility criteria (e.g. income threshold, eligibility to social benefits, energy class of the dwelling before intervention) can be used for the provisions focused on energy poverty alleviation (e.g. higher grant rate, complementary zero-interest rate loan). The monitoring of the implementation of those provisions enables to distinguish the interventions and resulting energy savings that can count to the energy poverty ringfence. Another approach could be that organisations in direct contact with the priority groups (e.g. social bodies, local authorities, NGOs and charity organisations) are mandated to help households with applying for financial incentives or other support. Those organisations could then monitor the interventions that can count to the energy poverty ringfence.

4.5. **Avoiding and mitigating adverse effects (Article 8(3) of Directive (EU) 2023/1791)**

In Commission's view, at least three types of adverse effects referred to in Article 8(3) of Directive (EU) 2023/1791 should be distinguished.

A first type of adverse effect is when a policy measure leads to an increase in energy prices (e.g. energy efficiency obligation schemes (EEOs) or energy taxes, see also Section 7.9.2 about distributional effects), which is not compensated by energy efficiency improvements that reduce energy costs. That can increase the risk of households falling into energy poverty. Such adverse effect can be avoided or mitigated by ensuring that the groups for which the higher energy prices could represent a major risk, will benefit from the policy measure (or from complementary mitigation measures) that at least compensate the impact of higher energy prices. In doing so, Article 8(3) of Directive (EU) 2023/1791 requires Member States to make the best possible use of public funding, including funding facilities established at Union level, and revenues from Emissions Trading System (ETS) allowances.

A second type of adverse effect consists in non-economic side-effects that can impact households' living conditions and health. For example, renovation programmes may not properly address ventilation, possibly resulting in respiratory diseases. That can be avoided by considering indoor air quality or environmental impacts in the design of the policy measure.

⁽⁷⁾ European Parliament, 2013: Social Housing in the EU, [https://www.europarl.europa.eu/RegData/etudes/note/join/2013/492469/IPOL-EMPL_NT\(2013\)492469_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/note/join/2013/492469/IPOL-EMPL_NT(2013)492469_EN.pdf).

A third type of adverse effect concerns other economic side-effects, for example an increase in the price of energy efficient solutions. This can make it more difficult for final customers with lower financial means to afford those solutions. Such adverse effect can be avoided or mitigated through the introduction of specific provisions or complementary measures (e.g. voluntary agreement with retailers or installers; more favourable conditions for the priority target groups).

Corresponding analysis and explanations about how adverse effects have been assessed and are avoided or mitigated is to be included in the notification of the policy measures, as required by point (5)(i) of Annex V to Directive (EU) 2023/1791.

4.6. Contribution of Article 8 to Article 4 (Article 8(14), point (b) of Directive (EU) 2023/1791)

Article 8(1) of Directive (EU) 2023/1791 is designed to generate energy savings additional to other mandatory Union legislation, as stipulated in point (2) of Annex V. Therefore, Member States are to explain how the policy measures reported to Article 8 of Directive (EU) 2023/1791 are meant to achieve energy savings that would otherwise remain untapped, and thereby contribute to the achievement of their national contribution pursuant to Article 4 of that Directive. When assessing this, the following points should be considered:

- Changes in final energy consumption can be due to various factors, including energy efficiency improvements. Methods such as decomposition analysis can be used to separate energy efficiency improvements from variations due to other factors (e.g. weather conditions, economic activity).
- Energy efficiency improvements can be related to Article 8(1) energy savings, but also result from other policies (e.g. from other legally binding Union acts) and non-policy effects.
- Article 8(1) energy efficiency improvements may result in indirect rebound effects (increases in the consumption of energy services as a result of economic growth stimulated by the more efficient use of resources or as a result of unexpected events such as COVID-19 crisis or price shocks) that will not be taken into account in Article 8(1) energy savings calculations.
- Energy efficiency improvements under Article 8(1) of Directive (EU) 2023/1791 among target groups listed in Article 8(3) of that Directive (see Section 4.4 of this Annex) are likely to lead to direct rebound effects (i.e. part of the energy efficiency improvement is used to improve thermal comfort up to decent levels, instead of reducing energy consumption). Energy savings reported for the purposes of Article 8(3) of Directive (EU) 2023/1791 will thus not (fully) deliver equivalent energy consumption reductions in the context of Article 4 of that Directive (see Section 7.1 of this Annex).

That assessment provides input to help Commission to monitor if Member States are on track to deliver their national contribution pursuant to Article 4 of Directive (EU) 2023/1791, and if not the case, to what extent the gap can be related to under-achievement or over-estimation of energy savings reported to Article 8(1) of that Directive.

The first level of assessment is to monitor the trends in final energy consumption (Article 4 of Directive (EU) 2023/1791) and reported energy savings (Article 8 of that Directive) to see if they are consistent and on track of the current objectives. A second level of assessment can then look at explanations of the changes or gaps observed, for example with the following approaches:

- The assessment of the progress of Member States towards meeting their energy efficiency contributions, as described in Article 4(6) of Directive (EU) 2023/1791, can be used as a source of analysis for assessing the policies and measures falling under the remit of Article 8 of that Directive.
- A decomposition analysis, an econometric analysis or other top-down methods can be used to explain the changes in final energy consumption or in energy intensity, and the differences with the expected trend (Article 4 of Directive (EU) 2023/1791 on monitoring).
- A comparison between achieved and expected results can be carried out to identify whether policy measures are under- or over-performing (e.g. participation, number of actions) and this will allow to monitor the policy measures reported to Article 8 of Directive (EU) 2023/1791.

- A review of the results from monitoring and verification can be carried out to identify possible sources of over- or under-estimation of energy savings.

In that assessment, priority should be given to improving the accuracy of savings estimates under Article 8(1) of Directive (EU) 2023/1791 through evaluation studies.

The more inconsistencies found between the trends monitored for Article 4 and 8 of Directive (EU) 2023/1791 and/or the larger the gaps found between the trends monitored and the trajectories to meet the objectives of the current obligation period, the deeper the assessments mentioned above should go.

4.7. Eligibility of policy measures (Article 8(14)(c))

Point (5) of Annex V to Directive (EU) 2023/1791 and Annex III to Regulation (EU) 2018/1999 of the European Parliament and of the Council ⁽⁸⁾ list the details to be provided by Member States when notifying policy measures under Article 8 of Directive (EU) 2023/1791. The required short description of the policy measure could refer to the legal text or other official information publicly available presenting the objectives of the policy measure. When the official objectives of the policy measure do not explicitly mention the achievement of end-use energy savings, further justifications should be given, e.g. by explaining how the policy measure promotes energy efficiency actions eligible to Article 8(1) of Directive (EU) 2023/1791, or how final energy savings are demonstrated. The justification could also consist of the description of the intervention logic of the policy measure, which would help to demonstrate its materiality (see also Appendix IX of the Annex to Recommendation (EU) 2019/1658).

5. OBLIGATIONS RELATED TO THE REVISIONS TO ARTICLE 9 ON ENERGY EFFICIENCY OBLIGATION SCHEMES (EEOSS)

Guidance about the design, implementation and documentation of EEOSSs can be found in Section 4.1 and Appendix II of the Annex to Recommendation (EU) 2019/1658, since these provisions have not changed compared to Directive 2012/27/EU.

The most relevant additions or changes in Article 9 of Directive (EU) 2023/1791 (compared to Article 7a of Directive 2012/27/EU) are listed here:

- New Article 9(2): Member States are entitled to appoint an implementing public authority to administer the EEOSSs,
- Addition in Article 9(3): Obligated parties are allowed to include transmission system and distribution system operators (note: energy distributors were already included as possible obligated parties),
- New Article 9(5), (6) and (7): Member States are entitled to require EEOSSs to achieve energy savings among priority target groups, as required by Article 8(3),
- Update in Article 9(8): the reference for net calorific values is now Annex VI to Commission Implementing Regulation (EU) 2018/2066 ⁽⁹⁾ and the reference for primary energy factors is Article 31 of Directive (EU) 2023/1791. If other conversion factors are used, this is to be justified,
- New Article 9(10): requirement to provide information in the national energy and climate progress reports (NECPRs) on the measurement, control and verification systems put in place, including methods used, issues identified and how they were addressed. Where the EEOSSs are reported as part of a policy package, see Section 6.1 of this Annex about guidance on reporting energy savings from the policy package,

⁽⁸⁾ Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1, ELI: <http://data.europa.eu/eli/reg/2018/1999/oj>).

⁽⁹⁾ Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012 (OJ L 334, 31.12.2018, p. 1, ELI: http://data.europa.eu/eli/reg_impl/2018/2066/oj).

- Article 9(9) deals with the interaction between EEOs and the EU Emissions Trading System, addressed in Section 7.6.1 of this Annex.

6. OBLIGATIONS RELATED TO THE REVISIONS TO ARTICLE 10 ON ALTERNATIVE MEASURES

Guidance about the design, implementation and documentation of alternative measures can be found in Section 4.2 and Appendix III of the Annex to Recommendation (EU) 2019/1658.

Directive (EU) 2023/1791 includes two additions compared to Article 7b of Directive 2012/27/EU.

The first one is Article 10(3), which is similar to Article 9(10) for EEOs, which requires Member States to provide information in the NECPRs on the measurement, control and verification systems put in place, including, but not limited to, information on methods used, issues identified and how they were addressed. That complements the existing provision of point (3)(e) in Annex V about transparency, requiring Member States to make data on energy savings publicly available in annual reports.

The second one is Article 10(4) about the need to demonstrate effectiveness of taxation measures and is discussed in the section below.

6.1. Measurement, control and verification when reporting a policy package

The reporting for Article 8 of Directive (EU) 2023/1791 is primarily about reporting the results achieved per policy measure. That makes it easier to document materiality (about materiality, see also Appendix IX of the Annex to Recommendation (EU) 2019/1658). Member States might use a package of policy measures targeting the same sector and types of individual actions (e.g. a programme for energy advice and a financing scheme).

The first option to report energy savings from a policy package is to report the package as if it were a single policy measure:

- Either by selecting the main policy measure from the policy package, and reporting savings from this policy measure only: that avoids the risk of double counting between overlapping policy measures, and only the reported policy measure should be notified and documented in compliance with the Annex V requirements.
- Or by reporting the policy package as a policy measure: in that case, the notification and documentation about this policy package should clarify in particular how materiality is ensured, how the implementation of individual actions resulting from the policy package are monitored, and how double counting of the same individual action is avoided or corrected.

A second option is to report separately the policy measures included in the package. Each policy measure is then notified and documented, and the process to avoid or correct for double counting should be explained. That process could for example be:

- To use a centralised database that keeps track of identifiers for the individual actions (e.g. addresses or ID numbers of the electricity meters) to control for double counting: in that case, the energy savings reported for each policy measure under Article 8 of Directive (EU) 2023/1791 should be corrected to remove energy savings that would be counted several times.
- To define rules for the allocation of energy savings among the reported policy measures (e.g. according to the shares of funding provided).

The requirements set in Annex V to Directive (EU) 2023/1791 apply to policy packages as for single policy measures.

6.2. Taxation measures (demonstrating effectiveness) (Article 10(4) of Directive (EU) 2023/1791)

This section complements Section 4.2.8 on energy or CO₂ taxes of the Annex to Recommendation (EU) 2019/1658.

The new requirements introduced by Article 10(4) of Directive (EU) 2023/1791 about demonstrating the effectiveness of taxation measures are equivalent to the materiality requirement included in point (3)(h) of Annex V to that Directive for EEOs and alternative measures, so that all policy measures are treated equally.

When notifying a taxation measure for the purpose of Article 8 of Directive (EU) 2023/1791, Member States are to explain how the design and implementation of that taxation measure ensures a proper impact mechanism.

This could be done for example by explaining how the tax rate has been set and why changes over time were decided (when relevant), stating if the reasoning for a change is to actually induce a behavioural change, reduce consumers' burden due to price hikes or similar external conditions, in view of achieving energy savings. That should also explain how it is ensured that all consumers have the possibility to change their behaviours, including low-income households or consumers in a situation of split incentives. That could be done for example by explaining how accompanying measures complement the taxation measure in place.

For further explanations, see also Section 7.9 of this Annex on determining energy savings from taxation measures.

7. OBLIGATIONS RELATED TO THE REVISIONS TO ANNEX V

7.1. Calculating energy savings for the purposes of Article 8(3) of Directive (EU) 2023/1791 (energy poverty share)

Point (1)(d) of Annex V to Directive (EU) 2023/1791 specifies that, when calculating the energy savings referred to in Article 8(3) of that Directive, Member States might estimate those energy savings based on engineering estimates 'using standardised occupancy and thermal comfort conditions or parameters, such as parameters defined in national building regulations'.

Energy efficiency improvements in dwellings occupied by the target groups of Article 8(3) of Directive (EU) 2023/1791 might not lead to the same reductions in final energy consumption as the same actions done among non-energy poor households. That is likely to be the case in situations of material deprivation (e.g. inability to keep home adequately warm) before the energy efficiency actions: energy consumption before the energy efficiency actions can be lower than what is estimated with standard assumptions, as used for example in Energy Performance Certificates. For instance, the indoor temperature might be lower than that assumed in building regulations; some rooms might not be heated, or might be heated only a few hours per day, etc. That lower energy consumption compared to standard assumptions is called prebound effect. In those situations, energy efficiency improvements might be used to achieve a decent thermal comfort (e.g. setting the thermostat to a higher temperature than before; heating some rooms for more hours per day, etc.).

That phenomenon of higher energy service (here comfort) instead of reduction of energy consumption is generally called the direct rebound effect. Both effects (prebound and rebound) should normally be taken into account when calculating energy savings reported to Article 8(1). That means that the calculated energy savings from actions done among the priority groups under Article 8(3) of Directive (EU) 2023/1791 could be small, creating a paradox vis-à-vis the objective of that provision.

Point (1)(d) of Annex V of Directive (EU) 2023/1791 acknowledges that, in those particular situations, the rebound effect can be a positive impact of the policy measures, when it contributes to alleviating energy poverty, by enabling households to reach a decent thermal comfort, in accordance with the definition of energy poverty set in Article 2, point (52), of that Directive that refers to '*basic levels and decent standards of living and health*'.

That is why that provision also requires Member States to explain '*the way comfort is considered for actions in buildings*' in the notification details about the calculation methodologies used for the policy measures reported to Article 8. When part or all of the energy efficiency improvements are used to reach the comfort level defined as 'decent', then those might be counted as energy savings under Article 8. The part of the energy efficiency improvements that would be used to reach a comfort beyond the decent standards is to be considered rebound effect and to be corrected in the energy savings calculations.

Decent standards of thermal comfort can for example be defined according to the assumptions about occupants' behaviours used in building regulations, or calculation methodologies set for the Energy Performance Certificates established according to the Directive 2010/31/EU of the European Parliament and of the Council⁽¹⁰⁾.

⁽¹⁰⁾ Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153, 18.6.2010, p. 13, ELI: <http://data.europa.eu/eli/dir/2010/31/oj>).

7.2. **Demonstrating the objective to achieve end-use energy savings and providing documentary evidence that energy savings are caused by a policy measure (point (2)(a) of Annex V to Directive (EU) 2023/1791)**

Point (2)(a) of Annex V to Directive (EU) 2023/1791 requires Member States:

- (1) to demonstrate that one of the objectives of the policy measures reported to Article 8(1) is the achievement of end-use energy savings; and
- (2) to document evidence that the reported energy savings are caused by a policy measure.

That complements the provisions on materiality and additionality included in Directive 2012/27/EU, and in Article 8(14), point (c), of Directive (EU) 2023/1791 about the eligibility of the policy measures (see Section 4.7 of this Annex). Guidance about materiality and additionality can be found in Appendixes IX and XI of the Annex to Recommendation (EU) 2019/1658.

The requirement on documenting evidence could also provide the further justifications needed if the policy objectives do not explicitly include the achievement of end-use energy savings. Examples of documentary evidence include explanations about:

- How an incentive was designed to ensure its triggering effect, and how the use of the incentive is monitored (e.g. assessing willingness to pay to set appropriate grant rates; using an online platform to record the actions benefitting from an incentive);
- How a voluntary agreement was designed to ensure that commitment leads to action (e.g. with strong enough incentives and penalties; performance requirements to go beyond business-as-usual), and how the effects of the voluntary agreement are monitored (e.g. through annual reports by the participating parties and verifications done by the implementing public authority or a third party);
- How a behavioural measure was designed to ensure that information leads to behavioural change (e.g. through tailored information and regular feedback; using pilot tests to identify the most effective approaches), and how the effects of the behavioural measure are demonstrated (e.g. with Randomised Control Trials);
- How a taxation measure was designed to ensure its energy saving effect (see also Section 6.2 about demonstrating the effectiveness of taxation measures).

7.3. **Derogations (point (2)(c) of Annex V to Directive (EU) 2023/1791)**

7.3.1. *Article 9 of Directive 2010/31/EU*

Point (2)(c) of Annex V to Directive (EU) 2023/1791 provides that the derogation for savings related to the renovation of existing buildings⁽¹¹⁾ includes those savings resulting from the implementation of minimum energy performance standards (MEPS) in buildings in accordance with Directive 2010/31/EU, as long as the materiality criterion under point (3)(h) of Annex V to Directive (EU) 2023/1791 is ensured. That is a derogation from the additionality principle, namely that savings resulting from the implementation of mandatory Union law is not to be claimed as energy savings for the purpose of Article 8(1) of Directive (EU) 2023/1791.

Particular attention should be paid to avoid the double counting of energy savings from the implementation of MEPS in buildings and other policy measures supporting building renovation, such as subsidy programmes and EEOs. A building renovation undertaken to meet national MEPS could generate energy savings that can count towards a Member State's energy savings obligation. A building renovation undertaken to meet national MEPS and supported by a subsidy programme could also generate energy savings that can count but should be reported only once to avoid double counting.

7.3.2. *Articles 5 and 6 of Directive (EU) 2023/1791 (public sector provisions)*

Point (2)(c) Annex V of Directive (EU) 2023/1791 allows Member States to count for the purposes of Article 8 of that Directive the energy savings stemming from energy efficiency measures in the public sector pursuant to Articles 5 and 6 of that Directive, provided that they comply with the requirements of Annex V to that Directive. For example, the renovation of a public sector building could generate energy savings that count towards a Member State's energy savings obligation, and also contribute towards the achievement of a Member State's public sector obligations.

⁽¹¹⁾ See Section 7.3 on 'Additionality' in the Annex to Recommendation (EU) 2019/1658.

7.4. Emergency regulations (point (2)(d) of Annex V to Directive (EU) 2023/1791)

The provision of point (2)(d) of Annex V to Directive (EU) 2023/1791 clarifies that energy efficiency improvement measures aimed at reducing gas demand by 15 % between August 2022 and March 2023 ⁽¹²⁾, subsequently extended until March 2024 ⁽¹³⁾ and reducing gross electricity consumption during peak hours between December 2022 and March 2023, averaging at least 5 % per hour ⁽¹⁴⁾ can count towards Member States' energy savings obligations.

This provision limits the eligibility of policy measures to energy efficiency improvement measures, explicitly excluding energy savings resulting from rationing or curtailment measures that do not improve energy efficiency. The terms 'rationing' and 'curtailment measures' are defined neither in Directive (EU) 2023/1791 nor other Union legislation. In that context, they should be considered as measures that temporarily limit the amount of energy supplied to consumers, for example by requiring – or providing incentives for – an industrial consumer to reduce its energy consumption by shutting down a production process, or by asking retail consumers to avoid consuming energy during given periods of time. Rationing or curtailment measures could also be measures indirectly impacting energy consumption, for example when limiting the opening hours or days of shops or public services.

7.5. Effort sharing (point (2)(e) of Annex V to Directive (EU) 2023/1791)

The provision of point (2)(e) of Annex V to Directive (EU) 2023/1791 clarifies that energy efficiency policy measures that both save energy and reduce emissions within the scope of Regulation (EU) 2018/842 of the European Parliament and of the Council ⁽¹⁵⁾ can generate energy savings that can count towards the energy savings obligation, provided that they comply with the other provisions in Annex V to Directive (EU) 2023/1791. That clarification does not change the eligibility of policy measures, or the calculation of energy savings compared to the previous Directive.

7.6. Interactions with the EU ETS (point (2)(f) of Annex V to Directive (EU) 2023/1791)

7.6.1. Clarification on additionality to EU ETS and its application to new sectors

The provision of point (2)(f) of Annex V to Directive (EU) 2023/1791 clarifies that energy savings resulting from energy efficiency policy measures in sectors covered by the EU emissions trading systems can count, as long as they comply with the Annex V rules governing the calculation of energy savings (including the fossil fuel exclusion, see Section 7.7 of this Annex). That means that energy savings of fuels covered by Directive (EU) 2023/959 of the European Parliament and of the Council ⁽¹⁶⁾ (i.e. the new EU ETS in the buildings, transport and industry sectors), can be treated in the same way as energy savings of electricity in these sectors, as well as fuels in large industry installations, covered by the existing EU ETS, namely Directive 2003/87/EC of the European Parliament and of the Council ⁽¹⁷⁾.

⁽¹²⁾ Council Regulation (EU) 2022/1369 of 5 August 2022 on coordinated demand-reduction measures for gas (OJ L 206, 8.8.2022, p. 1, ELI: <http://data.europa.eu/eli/reg/2022/1369/oj>).

⁽¹³⁾ Council Regulation (EU) 2023/706 of 30 March 2023 amending Regulation (EU) 2022/1369 as regards prolonging the demand-reduction period for demand-reduction measures for gas and reinforcing the reporting and monitoring of their implementation (OJ L 93, 31.3.2023, p. 1, ELI: <http://data.europa.eu/eli/reg/2023/706/oj>).

⁽¹⁴⁾ Council Regulation (EU) 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices (OJ L 261 I, 7.10.2022, p. 1, ELI: <http://data.europa.eu/eli/reg/2022/1854/oj>).

⁽¹⁵⁾ Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (OJ L 156, 19.6.2018, p. 26, ELI: <http://data.europa.eu/eli/reg/2018/842/oj>).

⁽¹⁶⁾ Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system (OJ L 130, 16.5.2023, p. 134, ELI: <http://data.europa.eu/eli/dir/2023/959/oj>).

⁽¹⁷⁾ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32, ELI: <http://data.europa.eu/eli/dir/2003/87/oj>).

Emissions trading systems can increase the price of energy, which in turn has an impact on investment and consumption behaviours, which is to be taken into account to ensure the additionality and materiality of energy savings from energy efficiency policy measures. For example, in the following cases:

- when designing programmes in the industrial sector, Member States could set minimum payback requirements, e.g. of more than 3 years. If, in order to support energy efficiency actions in the industrial sector, energy prices rise, this would automatically decrease the payback periods of energy efficiency actions, potentially excluding some from policy support,
- when evaluating the impact of a behavioural policy measure, Member States could estimate the impact of energy price changes, including the ETS, on energy consumption, using estimates of price elasticities. That effect could then be netted off the observed changes in energy consumption. Using randomised control trials would automatically take account of changes in energy prices, assuming that the same prices apply equally to people affected and unaffected by the policy measure. More information on calculating energy savings from behavioural measures can be found in Appendix VI of the Annex to Recommendation (EU) 2019/1658.

The new Article 30e of Directive 2003/87/EC allows Member States to exempt, until 2030, regulated entities from the obligation to surrender allowances in the sectors covered by the new EU ETS, provided that between 2027 and 2030 they are subject to a national carbon tax with a tax rate at least as high as the average auction clearing price. Where a Member State opted for this derogation, energy savings from national taxation measures covered by the EU ETS could only be counted if the tax rate was higher than the average auction clearing price, and only for the difference between the tax rate and the auction price.

In particular:

- Energy savings are not to be counted from energy efficiency actions in EU ETS installations where there are no national policy measures, eligible under Article 8 of Directive (EU) 2023/1791.
- Similarly, energy savings are not to be counted from energy efficiency actions caused by the increase in the price of electricity resulting from the EU ETS (and with the extension of emissions trading, increases in the prices of other final energy products) where there are no national policy measures.
- Energy savings could be counted where there is a national policy measure. For example, white certificates schemes, voluntary agreements and subsidy programmes might support energy efficiency actions in the EU ETS installations, except in the case where the installations receive a free allocation of EU ETS allowances and are obligated under Article 11 of Directive (EU) 2023/1791 (see Section 7.6.2 of this Annex).
- Similarly, electricity savings, for example from national policy measures supporting the take-up of energy efficient electrical appliances could count, as could energy savings from national policy measures of fuels covered by the extension of emissions trading, subject to their compliance with the provisions excluding energy savings from fossil fuels (see Section 7.7 of this Annex).
- Energy savings from national taxation measures could be counted if the derogation from the extension of the EU ETS (Article 30e of Directive 2003/87/EC) has not been taken up. If the derogation has been taken up, only the difference between the tax rate and the average auction price could be used to estimate the eligible energy savings.
- When designing national policy measures and estimating their energy savings, Member States are to take into account the impact of the EU ETS on the prices of energy carriers to ensure the respect of the principles of additionality and materiality.

Point (2)(f) of Annex V to Directive (EU) 2023/1791 and Article 9(9) thereof also provide that, if an entity is an obligated party under a national energy efficiency obligation scheme under Article 9 of that Directive and under the EU ETS for buildings and road transport, the monitoring and verification system is to ensure that the carbon price passed through when releasing fuel for consumption is taken into account when calculating and reporting the energy savings of its energy saving measure.

Those provisions highlight a requirement related to the EU ETS for buildings and road transport that is also to be applied to other Union law, as set out in point (2)(b) of Annex V to Directive (EU) 2023/1791, that energy savings are to be shown to be additional to those that would have occurred in any event without the activity of the obligated, participating or entrusted parties or implementing authorities.

As obligated parties pass on the costs of purchasing EU ETS allowances, energy prices will be higher than without the EU ETS, affecting energy use and demand. The passing through of the carbon price under the EU ETS for buildings and road transport fuels will increase energy prices in a similar way as the carbon price is passed through under the EU ETS for the power sector, which affects the price of electricity. The same pertains to the application of minimum rates of taxation under Council Directive 2003/96/EC⁽¹⁸⁾ across multiple fuels. In all those cases, the higher energy prices resulting from Union law are to be taken into account when considering the additionality of national policy measures that save energy. In practice, Member States should consider whether the increase in the price of energy means that some energy efficiency actions would take place without the national measure. If that is the case, relevant energy savings could not be counted for the purpose of Article 8 of Directive (EU) 2023/1791.

7.6.2. Non-additionality of energy savings linked to access to free allocation of EU ETS allowances

Point (2)(f) of Annex V to Directive (EU) 2023/1791 provides that Member States can only count energy savings that go beyond the implementation of actions linked to the allocation of free allowances under the EU ETS Directive.

Article 10a of the EU ETS Directive states that: *'If an installation is covered by the obligation to conduct an energy audit or to implement a certified energy management system under [Article 11 of the Energy Efficiency Directive] and if the recommendations of the audit report or of the certified energy management system are not implemented, unless the pay-back time for the relevant investments exceeds three years or unless the costs of those investments are disproportionate, then the amount of free allocation shall be reduced by 20 %. The amount of free allocation shall not be reduced if an operator demonstrates that it has implemented other measures which lead to greenhouse gas emission reductions equivalent to those recommended by the audit report or the certified energy management system for the installation concerned.'*

The provision in point (2)(f) of Annex V to Directive (EU) 2023/1791 explicitly rules out energy savings from actions that operators of industrial installations would have to take in order to receive their full allocation of free EU ETS allowances⁽¹⁹⁾. The affected installations are limited to those that are subject to Article 11 of Directive (EU) 2023/1791. The affected energy savings are those recommended in the audit report or certified energy management system unless:

- (1) the pay-back exceeds three years;
- (2) the investment costs are disproportionate; or
- (3) a measure leading to an equivalent greenhouse gas emissions reduction has been implemented, for example the use of lower carbon gases in an industrial process.

Ultimately, the decision on whether, for specific measures, pay-backs exceed three years, investment costs are disproportionate, or equivalent greenhouse gas emission reductions have been achieved are at the discretion of the regulatory authorities responsible for allocating free EU ETS allowances. Member States should ensure that regulators report only energy savings that go beyond the implementation of the actions needed for installations to receive their full quota of free allocation.

⁽¹⁸⁾ Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51, ELI: <http://data.europa.eu/eli/dir/2003/96/oj>).

⁽¹⁹⁾ Only those recommendations related to the industrial process should be taken into account in the context of the conditionality of the allocation of free allowances. More information is provided in the Guidance Document n°12 on the harmonised free allocation methodology for the EU ETS – 2024 revision: https://climate.ec.europa.eu/document/download/6bdefaa1-2aa8-4306-a4a2-4eb7d751f5ae_en?filename=12_gd12_neff_conditionality_en.pdf.

7.7. Fossil fuel exclusion

Points (2)(h), (i), (j) and (m) of Annex V to Directive (EU) 2023/1791 introduce restrictions for energy savings and policy measures related to technologies using direct combustion of fossil fuels to be eligible to energy savings obligation ⁽²⁰⁾.

Figure 1 provides a guide to assess whether energy savings regarding the use of direct fossil fuel combustion can be counted for the purpose of Articles 8, 9 and 10 and Article 28(11) of Directive (EU) 2023/1791, representing two successive tests: whether the policy measure is eligible, and then whether the energy savings resulting from this policy measure are eligible.

⁽²⁰⁾ The EPBD recast proposal introduced a general restriction of public support to fossil fuels combustion technologies in buildings sector. The final agreement on these provisions in the EPBD recast will have to be considered also in the context of the energy savings obligation under Article 8 of Directive (EU) 2023/1791.

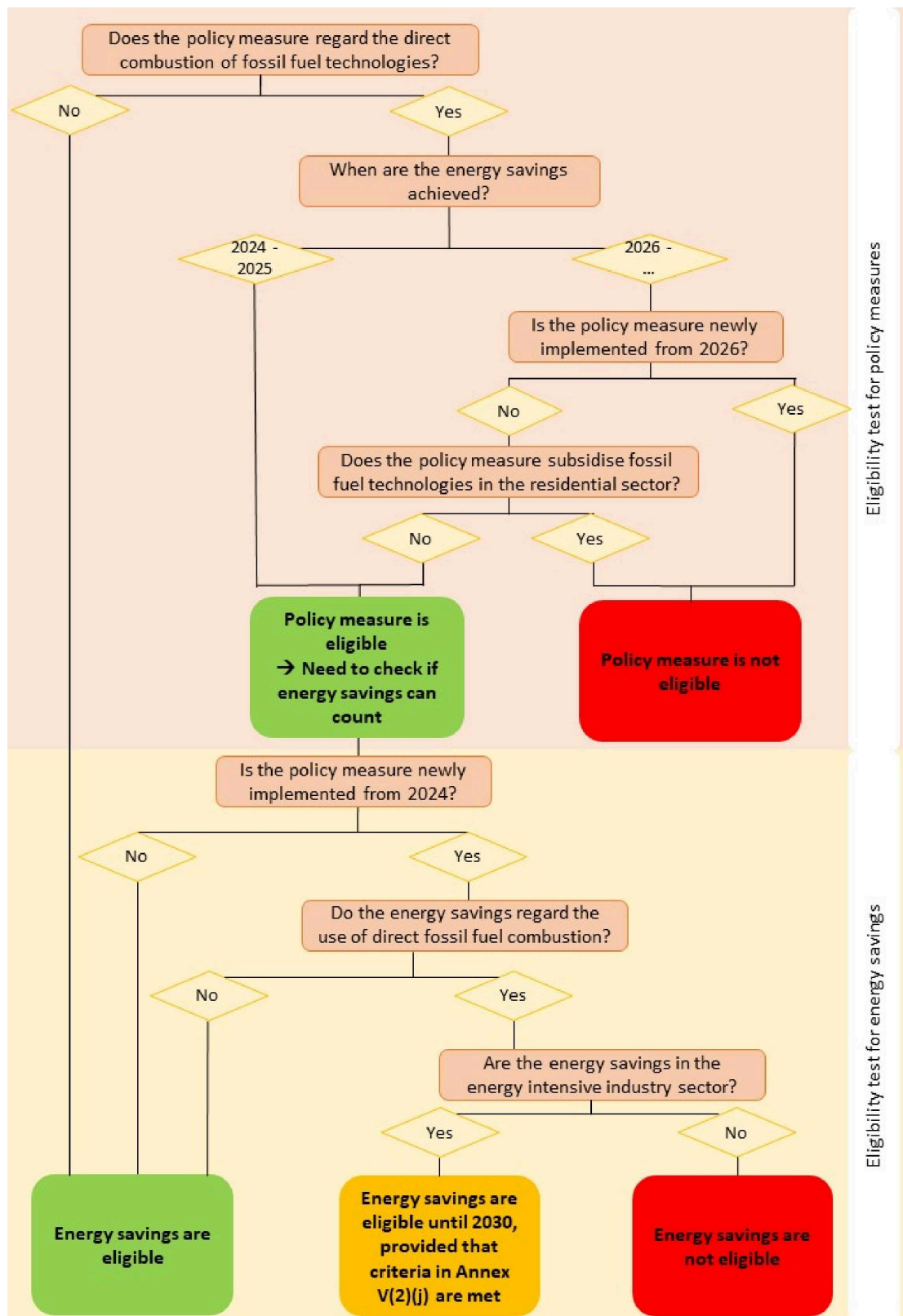


Figure 1

Eligibility of energy savings from policy measures regarding the use of fossil fuel technologies ⁽²¹⁾

Recital (65) of Directive (EU) 2023/1791 clarifies that those provisions apply to cases where Member States support the uptake of efficient fossil fuel technologies (like fossil fuel boilers, or vehicles running on gasoline) or the early replacement of such technology by similar products. In Commission's view, that means that:

- The restriction does not apply to indirect fossil fuel usage, for example where a building has been insulated, thereby reducing fossil fuel usage, or where the electricity used to run new equipment is generated using fossil fuels.
- Policy measures targeting behavioural or organisational changes to reduce the consumption of fossil fuel from existing installations or equipment, such as eco-driving schemes or the promotion of car-pooling, remain eligible.
- Policy measures aiming at improving the efficiency of existing equipment are eligible if they do not involve additional capital investment into equipment. For example, policies promoting the use of lower flow temperatures in the existing fossil fuel boiler fleet are eligible, but policies financing the upgrade of motors using fossil fuels are not eligible.

If a policy measure started before the restrictions apply, it can deliver savings until the end of the period. For example, a subsidy scheme supported the installation of a fossil fuel boiler in January 2023. The Member State can count energy savings from that installation for up to 8 years (2023-2030), provided that other conditions in Annex V are respected.

What is included in this section and in Directive (EU) 2023/1791 is without prejudice to the Member States' obligations under Regulation (EU) 2017/1369 of the European Parliament and of the Council ⁽²²⁾ setting a framework for energy labelling, in particular Article 7(2) thereof, or to the provision on the phase out of incentives for the installation of boilers powered by fossil fuels in buildings in Article 15 of the proposal for a recast of the Energy Performance of Buildings Directive ⁽²³⁾ (EPBD recast proposal). If adopted, that provision in the EPBD recast proposal will have to be considered in the context of the energy savings obligation under Article 8 of Directive (EU) 2023/1791.

7.7.1. Eligibility of policy measures

Point (2)(h)(i) of Annex V to Directive (EU) 2023/1791 provides that policy measures 'regarding the use of direct combustion of fossil fuel technologies that are newly implemented as from 1 January 2026' are not eligible. That would be the case even if such a policy measure also generates energy savings from non-fossil fuel technologies. In Commission's view, 'newly implemented' means that the restriction applies to new policy measures as well as existing policy measures that are entering a new implementation cycle. For example, if a subsidy scheme depends on an annual budget decision, the restriction would only apply from the date a new budget is allocated, even if this is after 1 January 2026.

Point (2)(h)(ii) of Annex V to Directive (EU) 2023/1791 provides that policy measures 'subsidising the use of direct combustion of fossil fuel technologies in residential buildings as from 1 January 2026' are not eligible. In Commission's view, that means that in the residential sector, the eligibility restriction applies from 1 January 2026 onwards, regardless of whether the policy measure is 'newly implemented' or not. For example, a subsidy scheme would become ineligible from 1 January 2026 if at least one of its actions promotes the installation of fossil fuel heating systems in the residential sector, even if a new implementation cycle has not started yet.

⁽²¹⁾ In this flowchart we assume that no other issues affect the eligibility of the energy savings.

⁽²²⁾ Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU (OJ L 198, 28.7.2017, p. 1, ELI: <http://data.europa.eu/eli/reg/2017/1369/oj>).

⁽²³⁾ Proposal for a Directive of the European Parliament and of the Council on the energy performance of buildings, COM(2021) 802 final.

7.7.2. Counting energy savings from eligible policy measures

Point (2)(i) of Annex V to Directive (EU) 2023/1791 provides that energy savings from policy measures regarding the use of direct fossil fuel combustion are not eligible if the policy measures are 'newly implemented' from 1 January 2024. That date is also reflected in point (2)(m) of Annex V. In Commission's view, that applies to actions stemming from 'newly implemented' policy measures, even if calculation methodologies have been in place before the start of the new implementation period.

In the case of policy measures promoting combinations of technologies, the share of energy savings related to the fossil fuel combustion technology are not eligible as from 1 January 2024. From 2026 onwards, the 'mixed' nature (means including the support to a technology directly using fossil fuel) of the measure would render the whole policy measure ineligible, so that accounting challenge would not come up anymore.

Energy savings from direct fossil fuel combustion technologies improving the energy efficiency in energy intense enterprises in the industry sector are covered by a dedicated derogation in point (2)(j) of Annex V to Directive (EU) 2023/1791. Those energy savings are only eligible if they meet a number of conditions outlined in that provision. The derogation is conditional to the energy audit providing the proof that there is no technically feasible alternative than the direct fossil fuel use in a given application of the energy intensive sector (e.g. due to a very high temperature needed for the industrial processes) The audit results should also confirm that the technology related to direct fossil fuel combustion under the derogation does not increase the amount of energy needed or the capacity of an installation, that it complies with the most up to date corresponding Union emission performance legislation and that it prevents technology lock-in effects by ensuring future compatibility with climate-neutral alternative non-fossil fuels and technologies. Moreover, based on the audit result an Implementation Plan should be developed including all the recommended actions with a payback period of 5 years or less.

7.8. Provisions supporting solar thermal technologies

Point (2)(l) of Annex V to Directive (EU) 2023/1791 clarifies that *'the heat produced by solar thermal technologies from solar radiation can be excluded from their end-use energy consumption'*. That provision is in line with the way ambient heat is considered for heat pumps, thereby ensuring that both technologies, solar thermal and heat pumps, are treated equally.

The hot water generated by the solar thermal installation cannot contribute to the energy supply of the overarching energy system. Therefore, the energy demand at the energy system level is reduced by the solar thermal installation. That is why the heat produced by solar thermal technologies can count in the calculation of end-use energy savings related to a given end-use (e.g. domestic hot water).

The eligible energy savings delivered by the solar thermal installations include the amount of energy for a given end use only; not for the entire heat production of the solar thermal installation.

Electricity generated from on-site solar PV panels cannot be counted as end-use energy savings in the context of Article 8 of Directive (EU) 2023/1791. The clarification added in point (2)(l) of Annex V to Directive (EU) 2023/1791 is specific to the harmonisation of the rules for devices generating heat (heat pumps and solar heat technologies). It does not include cases of electricity generated on-site, also due to the fact that Article 8(1) of Directive (EU) 2023/1791 is focused on end-use energy savings, and solar PV does not reduce end-use energy consumption. Solar PV changes the source of the electricity, but does not reduce the electricity consumption of appliances, lighting, electric vehicles, or other end-uses.

7.9. Determining energy savings from taxation measures

7.9.1. Use of elasticities and overlaps with other policy measures and Union legislation

Appendix IV of the Annex to Recommendation (EU) 2019/1658 already provides guidance on the requirements sets in points (4)(a), (b) and (c) of Annex V to Directive (EU) 2023/1791, related to the calculation of energy savings from taxation measures. Those requirements were complemented with new or revised requirements in points (4)(b), (d), and (f) of Annex V to Directive (EU) 2023/1791, discussed in this section, as well as with a new point (4)(e) of Annex V to Directive (EU) 2023/1791, discussed in the next section.

The provisions of point (4) Annex V to Directive (EU) 2023/1791 on the methodology and use of elasticities to calculate energy savings from taxation measures have been revised to clarify and emphasise that:

- Only short-run elasticities should be used when assessing the energy savings from taxation measures that can be eligible to Article 8(1) of Directive (EU) 2023/1791 (new point (4)(d) in Annex V): long-run elasticities should not be used for this purpose, unless it can be justified how double counting of energy savings from other Union legislation and other policy measures reported to Article 8(1) of Directive (EU) 2023/1791 has been avoided or corrected (revised point (4)(b) in Annex V).
- The other Union legislation to be considered when dealing with risks of overlaps and double counting is in any case to include the legislation mentioned in point (2)(f) of Annex V to Directive (EU) 2023/1791 (i.e. Regulation (EU) 2019/631 of the European Parliament and of the Council⁽²⁴⁾, and Directive 2009/125/EC of the European Parliament and of the Council⁽²⁵⁾), and in points (4)(a) and (f) of Annex V to Directive (EU) 2023/1791 (respectively Directive 2003/96/EC and Council Directive 2006/112/EC⁽²⁶⁾, and Directive (EU) 2023/959).
- The short-run elasticities used in the calculations is to be applicable for the Member State that reports the energy savings and justified with accompanying studies from an independent institute (revised point (4)(b) in Annex V to Directive (EU) 2023/1791).

The purpose of those provisions is to ensure that there is no double-counting when using elasticities to estimate energy savings. An example of a taxation policy measure for which both short- and long-run elasticities could be used to estimate energy savings, would be one in which all overlapping policy measures or requirements have been accounted for, at both Union and Member State level. That would mean accounting for the minimum level of taxation required by Directive 2003/96/EC and accounting for other policy measures that impact investment decisions and the energy savings that follow. Key policy measures at the Union level include Eco-design, new vehicle CO₂ regulations and EED energy audit requirements. At Member State level, overlapping policy measures might include EEOs, subsidy programmes and voluntary agreements amongst others. Where taxation policy measures overlap with other reported policy measures affecting investment decisions, Member States should only use short-run elasticity estimates to calculate the impact of the taxation measure. Long-run elasticity estimates should be used only if savings are not reported for the overlapping national policy measures. In this way, double-counting would be avoided.

More guidance on those points related to the assessment of energy savings from taxation measures and the calculation of short-run elasticities in the context of Article 8 of Directive (EU) 2023/1791 can be found in Appendix IV of the Annex to Recommendation (EU) 2019/1658.

It should also be noted that, under part 3.3(f) of Annex III to Regulation (EU) 2018/1999, Member States are to provide information on their calculation methodology, including the price elasticities they have used and how they have been established, in accordance with point (4) of Annex V to Directive (EU) 2023/1791. Therefore, the new requirements highlighted in this section of the Annex are also to be addressed in the information and justifications in Member States' notifications and reporting.

⁽²⁴⁾ Regulation (EU) 2019/631 of the European Parliament and of the Council of 17 April 2019 setting CO₂ emission performance standards for new passenger cars and for new light commercial vehicles, and repealing Regulations (EC) No 443/2009 and (EU) No 510/2011 (OJ L 111, 25.4.2019, p. 13, ELI: <http://data.europa.eu/eli/reg/2019/631/oj>).

⁽²⁵⁾ Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (OJ L 285, 31.10.2009, p. 10, ELI: <http://data.europa.eu/eli/dir/2009/125/oj>).

⁽²⁶⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1, ELI: <http://data.europa.eu/eli/dir/2006/112/oj>).

7.9.2. *Distributional effects and their mitigation*

Point (4) of Annex V to Directive (EU) 2023/1791 is complemented with a new point (e) that requires Member States to determine distributional effects of taxation and equivalent measures on the target groups of Article 8(3) of that Directive. It also requires Member States to show the effects of mitigation measures implemented in accordance with Article 24(3) of Directive (EU) 2023/1791.

The Commission considers that there could be distributional effects across income groups (vertical equity impact) or within the same income groups (horizontal equity impacts). The latter can be for example when households with similar income have a different energy burden due to their location (e.g. areas with older or more recent building stock or climatic differences).

Point (4)(e) of Annex V to Directive (EU) 2023/1791 is focused on the risk for taxation measures to worsen energy poverty. The assessment should thus focus on direct distributional effects. Such an assessment (direct incidence analysis) is usually made with micro-economic modelling, looking at the tax effect on the share of energy expenditure vs. either income or total expenditure, according to income or expenditure groups. Main data sources for such assessment are usually Household Budget Surveys. The quantified adverse (or positive) effect of the tax is based on the income dimensions, as the compensating variation is used as an index, and expresses the amount by which the mean total expenditure of low-income households would have had to increase/decrease in the target year (2030) to have maintained the baseline year ratio of absolute expenditure in relation to the overall mean energy expenditure. However, the introduction of certain policy measures typically does not add to the total energy expenditure but rather introduces new investment costs on households. How much the income would have to increase for a specific household to keep the same welfare level should therefore be calculated through the compensating variation (welfare loss) where Member States can demonstrate the adverse effects of introducing the taxation without any financial support covering the increased burden on the income.

Another optional parameter to better reflect the distributional effects is to calculate them based on the energy consumption for the 1st or 2nd income quintiles (or deciles), or both, as the latter are expressed in Union statistics. That requires micro-modelling of attributing the energy consumption in each income group, but it would provide more accuracy in isolating the taxation effects.

Mitigation measures for the distributional effects of taxation measures include financial support (e.g. reduced tax rates, social tariffs or transfer or compensation) and targeted energy efficiency improvement policy measures. Reduced tax rates and social tariffs reduce the energy saving effect of taxation measures. Therefore, transfer or compensation measures would be more in line with the energy saving objective. However, if they are provided after energy is paid for, or require an application process, they might not be as successful in reaching affected groups and mitigating distributional effects. Similarly, vulnerable households with high energy consumption requirements might not be adequately compensated for unavoidable additional expenditure. Energy efficiency policy measures that target low-income households reduce the cost of energy services to benefiting households and reduce the need for mitigation measures that require financial support without improvements in energy efficiency. In the case where the number of households in priority groups affected by the taxation measures is larger than the number of households that can receive sufficiently deep energy efficiency actions before the start of the taxation measure, a mixture of energy efficiency improvement policy measures and financial support is likely to be needed in the short-to-medium term. In any case, Member States are to demonstrate the energy saving objective of the mitigation measures for energy savings to be eligible for the purposes of Article 8 of Directive (EU) 2023/1791.

In accordance with Article 24(3) of Directive (EU) 2023/1791, the assessment should therefore show how the mitigation measures contribute to support for the target groups, by:

- anticipating the distributional effects and reducing their risk to be in a situation of energy poverty,
- ensuring that they can access and benefit from energy efficiency improvement measures.

8. REPORTING REQUIREMENTS

8.1. Update of the integrated National Energy and Climate Plans

In accordance with Article 14(2) of Regulation (EU) 2018/1999, Member States are required to submit by 30 June 2024, and subsequently by 1 January 2034 and every 10 years thereafter, an update of their latest notified integrated **national energy and climate plan**. Article 14(1) requires the Member States to provide a draft update of the NECP always a year prior to the submission deadline of Article 14(2).

In addition to Regulation (EU) 2018/1999, Article 8(10) and (11) of Directive (EU) 2023/1791 require Member States to notify the Commission of the amount of the revised required energy savings pursuant to the new ambition of Article 8(1) and (3) of Directive (EU) 2023/1791 in their updated NECPs as well as in the following NECP iterations. The information should include the calculation of the amount of energy savings to be achieved over the period from 1 January 2021 to 31 December 2030 and should, if relevant, explain how the annual savings rate and the calculation baseline were established, and how and to what extent the options referred to in Article 8(8) of Directive (EU) 2023/1791 were applied. More information on the options under Article 8(8) of Directive (EU) 2023/1791 (previous Article 7(4) of Directive 2012/27/EU) can be found in Section 3.4 of the Annex to Recommendation (EU) 2019/1658.

Article 8(4) of Directive (EU) 2023/1791 also requires Member States to include information about the indicators applied, the arithmetic average share and the outcome of policy measures established in accordance with Article 8(3) of that Directive. More information on this point can be found in Section 4.4 of this Annex.

Furthermore, Article 8(14) of Directive (EU) 2023/1791 also should be taken into account by Member States in their updated NECPs or in their national energy and climate progress reports (see also Section 8.2 of this Annex). In accordance with Article 8(14) of Directive (EU) 2023/1791, Member States are to demonstrate including, where appropriate, with evidence and calculations:

- (a) that where there is an overlap in the impact of policy measures or individual actions, there is no double counting of energy savings;
- (b) how the achieved energy savings contribute to the attainment of their national contribution to the overall 2030 EU energy efficiency targets under Article 4 of Directive (EU) 2023/1791;
- (c) that policy measures are established for fulfilling their energy savings obligation, designed in compliance with Article 8 of Directive (EU) 2023/1791 and that those policy measures are eligible and appropriate to ensure the achievement of the required amount of cumulative end-use energy savings by the end of each obligation period.

Points (a) and (b) of Article 8(14) of Directive (EU) 2023/1791 were already included in Article 7(12) of Directive 2012/27/EU. More information on those reporting requirements can thus be found in Section 7.9 and in Appendix XI of the Annex to Recommendation (EU) 2019/1658. For more information on the reporting requirements of Article 8(14), point (c), of Directive (EU) 2023/1791, see Section 4.7 of this Annex.

8.2. Progress reporting

Article 17 of Regulation (EU) 2018/1999 requires Member States to submit their NECPRs covering all five dimensions of the Energy Union, energy efficiency being one of the dimensions.

Article 21, point (b)(3), of Regulation (EU) 2018/1999 and Part 2, points (b), (c) and (d), of Annex IX thereto specify the information to be included on energy efficiency covering the reporting related to the obligations in Articles 8, 9 and 10 of Directive (EU) 2023/1791.

In addition to Regulation (EU) 2018/1999, Member States are required to include the information detailed in Article 8(4), (10) and (14) of Directive (EU) 2023/1791 as explained in Section 8.1 of this Annex. The reporting requirements for those provisions pertain in fact both to the NECPs and their subsequent iterations as well as to the NECPRs and their subsequent iterations.

Moreover, Article 9(10) and Article 10(3) of Directive (EU) 2023/1791 include additional reporting requirements, namely for Member States to include in their NECPRs information on the measurement, control and verification systems put in place, including the methods used, the issues identified and how those issues were addressed. More information on the measurement, control and verification systems can be found in Section 6.1 of this Annex.

— The first NECPRs were due by 15 March 2023 after which Member States need to report their progress biennially.