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COMMISSION RECOMMENDATION (EU) 2024/2002

of 24 July 2024

setting out guidelines for the interpretation of Article 11 of Directive (EU) 2023/1791 of the European Parliament and of the Council as regards energy management systems and energy audits

(notified under document C(2024) 5155)

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 the Union level by 2030.
- (2) In its Commission Staff Working Document SWD (2013) 447 final ⁽²⁾, the Commission provided guidance to the Member States for transposing and implementing the energy audits and energy management systems under Directive 2012/27/EU, supporting them in putting in place the adequate schemes, 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 on the energy management systems and energy audits.
- (4) In accordance with Article 11 of Directive (EU) 2023/1791, an enterprise's average energy consumption is to be the criterion for defining the application of energy management systems or energy audits.
- (5) Therefore, Member States are to ensure that the enterprises with the energy consumption above 10TJ taking all energy carriers together and averaged over the past three years, are subject to energy audits whereas enterprises with the energy consumption exceeding 85TJ implement energy management systems.
- (6) Enterprises that are below the consumption threshold in Article 11(1) of Directive (EU) 2023/1791 should nevertheless be encouraged to undergo energy audits and to implement the recommendations resulting therefrom.
- (7) In order to create appropriate conditions and offer support to Small and Medium Enterprises (SMEs), Member States are encouraged to implement mechanisms such as energy audit centres for SMEs and microenterprises, where these are not in competition with private auditors, to provide energy audits, as well as other support schemes for SMEs. In the development of their support schemes and programmes for the SMEs, Member States should ensure that their programmes include also support to the SMEs in quantifying the multiple benefits of energy efficiency measures, development of energy efficiency roadmaps and development of energy efficiency networks for SMEs, facilitated by independent facilitators.

⁽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⁾ Guidance note on Directive 2012/27/EU on energy efficiency – Article 8: Energy audits and energy management systems, SWD (2013) 447 final, 6.11.2013.

⁽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) Member States should ensure that energy audits and energy management systems take into account relevant European or International Standards, such as EN ISO 50001 (Energy Management Systems), or EN 16247-1 (Energy Audits), or, if including an energy audit, EN ISO 14000 (Environmental Management Systems) and thus be also in line with the provisions of Annex VI to the EED recast.
- (9) While energy audits can be carried out on a standalone basis or be part of a broader environmental management system or an energy performance contract, in all such cases those approaches are to comply with the minimum requirements of Annex VI to Directive (EU) 2023/1791.
- (10) Member States are to bring into force the laws, regulations and administrative provisions transposing Article 11 of Directive (EU) 2023/1791 by 11 October 2025, except for the provisions of Article 11(1) on the implementation of the first energy management systems and the provisions of Article 11(2) on the conduct of the first energy audit by the newly obliged companies under the scope of the Directive, which are to be transposed by 11 October 2027 and 11 October 2026 respectively.
- (11) Member States can choose at their discretion the way of transposing and implementing the requirements regarding energy management systems and energy audits 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,

HAS ADOPTED THIS RECOMMENDATION:

Member States should follow the interpretative guidelines in the Annex to this Recommendation when transposing Article 11 of Directive (EU) 2023/1791 into their national law.

Done at Brussels, 24 July 2024.

For the Commission
Kadri SIMSON
Member of the Commission

ANNEX

1. INTRODUCTION

These guidelines provide guidance to Member States on how to interpret Article 11 of Directive (EU) 2023/1791 when transposing it into their national legislation.

These guidelines replace the previous guidance note, Guidance note on Directive 2012/27/EU of 6 November 2013 on energy efficiency – Article 8: Energy audits and energy management systems SWD (2013) 447 final. Some parts of the previous guidance note may still be useful for the Member States for the implementation of the energy audit related provisions.

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

Energy audits and energy management systems are essential tools for companies (and other entities such as public bodies) to assess the existing energy consumption and identify opportunities for saving energy. Directive (EU) 2023/1791 therefore maintains many of the provisions from Directive (EU) 2018/2002.

Article 11 of the Directive (EU) 2023/1791 replaces Article 8 of Directive 2012/27/EU.

The most important difference between Article 11 Directive (EU) 2023/1791 and Article 8 of Directive (EU) 2018/2002 concerns the scope of the obligation for enterprises to implement an energy management system or an energy audit.

Whereas the provisions of Directive (EU) 2018/2002 define the scope through the nature of enterprise (i.e. SME or not), under Article 11(1) of Directive (EU) 2023/1791: 'Member States shall ensure that enterprises with an average annual consumption higher than 85 TJ of energy over the previous three years, taking all energy carriers together, implement an energy management system'.

Moreover, under Article 11(2), 'Member States shall ensure that enterprises with an average annual consumption higher than 10 TJ of energy over the previous three years, taking all energy carriers together, which do not implement an energy management system are subject to an energy audit'.

Article 11(1) and (2) does not exclude any sectors based on their activity (for example, Emissions Trading Systems (ETS) installations or Integrated Pollution Prevention and Control (IPPC) licence holders).

3. KEY TERMS USED IN THESE GUIDELINES

The following key terms are the most relevant in the context of interpreting the scope of the obligations under Article 11 of Directive (EU) 2023/1791.

3.1. Terms defined in Directive (EU) 2023/1791 and Regulation (EC) No 1099/2008 of the European Parliament and of the Council ⁽¹⁾*Energy products*

'Energy products' mean combustible fuels, heat, renewable energy, electricity, or any other form of energy as defined in Article 2, point (d), of Regulation (EC) No 1099/2008.

Energy management system

'Energy management system' means a set of interrelated or interacting elements of a strategy which sets an energy efficiency objective and a plan to achieve that objective, including the monitoring of actual energy consumption, actions taken to increase energy efficiency and the measurement of progress, as defined in Article 2, point (16), of Directive (EU) 2023/1791.

⁽¹⁾ Regulation (EC) No 1099/2008 of the European Parliament and of the Council of 22 October 2008 on energy statistics (OJ L 304, 14.11.2008, p. 1, ELI: <http://data.europa.eu/eli/reg/2008/1099/oj>).

Energy audit

'Energy audit' means a systematic procedure with the purpose of obtaining adequate knowledge of the energy consumption profile of a building or group of buildings, an industrial or commercial operation or installation or a private or public service, identifying and quantifying opportunities for cost-effective energy savings, identifying the potential for cost-effective use or production of renewable energy and reporting the findings, as defined in Article 2, point (32), of Directive (EU) 2023/1791.

Final energy consumption

'Final energy consumption' or 'FEC' is defined in Article 2, point (6) of Directive (EU) 2023/1791 to mean all energy supplied to industry, to transport, including energy consumption in international aviation, to households, to public and private services, to agriculture, to forestry, to fishing and to other end-use sectors, excluding energy consumption in international maritime bunkers, ambient energy and deliveries to the transformation sector and to the energy sector, and losses due to transmission and distribution as defined in Annex A to Regulation (EC) No 1099/2008.

3.2. Terms not defined in Directive (EU) 2023/1791 nor in other legally binding Union acts

Enterprise

'Enterprise' is not defined in Directive (EU) 2023/1791. However, the Annex to the Commission Recommendation 2003/361/EC⁽²⁾, is referred to in Article 2(30) and (31) of Directive (EU) 2023/1791. Article 1 of Title I of that Annex refers to 'enterprise' as 'any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity'⁽³⁾.

In the context of Directive (EU) 2023/1791, the Commission interprets this to mean that:

- Only enterprises within the territory of a Member State are obliged to comply. However, when assessing their energy consumption, all linked enterprises within the territory of EU should be considered.
- Enterprises, which are partly or wholly owned or controlled by public bodies, are also covered by the obligations of Article 11(1) and Article 11(2).
- Member States should promote the implementation of energy management systems and energy audits within the public administration at national, regional and local level, as indicated by Recital (84) of Directive (EU) 2023/1791.

4. METHODOLOGIES FOR THE CALCULATION OF AN AVERAGE ANNUAL CONSUMPTION OF AN ENTERPRISE

The criteria used to determine whether an enterprise falls under the scope of the obligation in a given year 'n' under Article 11(1) or Article 11(2), are based on the average annual final energy consumption over the previous three years (n-3, n-2 and n-1). With a transposition deadline of 10 October 2025, the obligation for 2025 has to be assessed based on an enterprise's average of annual final energy consumption amounts in 2022, 2023 and 2024.

The recommended approach for calculating this metric described in this section aims to ensure a reasonable effort for both Member States and enterprises, and therefore only considers the energy bills invoiced⁽⁴⁾ to an enterprise (see 4.2.) and the self-consumption of energy produced by renewable energy.

⁽²⁾ Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (notified under document number C(2003) 1422)(OJ L 124, 20.5.2003, p. 36, ELI: <http://data.europa.eu/eli/reco/2003/361/oj>).

⁽³⁾ Judgment of 16 June 1987, *Commission v Italy*, Case C-118/85, ECLI:EU:C:1987:283, paragraph 7; judgment of 18 June 1998, *Commission v Italy*, C-35/96, ECLI:EU:C:1998:303, ECR I-3851, CNSD, paragraph 36; judgment of 19 February 2002, *Wouters*, C-309/99, ECLI:EU:C:2002:98, paragraph 46.

⁽⁴⁾ For energy carriers which are not invoiced on the basis of units of energy, units of weight (e.g., tonne for coal) and of volume (e.g., m³ for wood) may be considered in the energy bills.

Nevertheless, if an enterprise already has a more accurate estimate of its annual final energy consumption, for example because it has already implemented an energy management system or undertaken an energy audit, this information should be used.

4.1. System boundaries

System boundaries are not defined in the Directive (EU) 2023/1791 and this section should serve as a guideline only. System boundaries can be viewed as the physical or organisational limits of an analysed system, in the case of energy audits and energy management systems of the enterprise in question.

In the context of the Directive (EU) 2023/1791, energy consumption should be considered in terms of 'final energy consumption' as defined in Article 2(5).

All energy carriers and all energy uses (e.g., ventilation, lighting, heating, cooling, transport, data storage, and production processes) should be taken into account when calculating the average annual energy consumption of an enterprise.

4.2. Energy bills invoiced to the enterprise

When calculating the average annual consumption of an enterprise for the purpose of identifying obligated enterprises, mostly the energy bills invoiced to the enterprise would be taken into account. However, energy consumed, which was delivered by an energy service provider ⁽⁵⁾ to the enterprise (e.g., by energy service contracting) should also be taken into account by the purchasing enterprise.

Regarding the share of self-consumption of energy produced by renewable energy within the system boundaries (e.g. when electricity is produced by PV panels on the site of the enterprise), it should be also included ⁽⁶⁾. However, the share of produced energy that is fed into the grid or network should be subtracted from the metered and invoiced consumption, if this was not already done automatically.

4.3. Assessment of enterprises with complex structures

Assessing the average annual consumption of energy over three years is relatively straightforward for the autonomous enterprises ⁽⁷⁾. For enterprises with a more complex structure, the annual final energy consumption can be calculated in the same way as the figures on employees, annual turnover or annual balance sheets are calculated in line with the 'user guide to the SME definition' ⁽⁸⁾. This methodology to assess the SME status is well known by national authorities and enterprises.

This document provides a guidance on how to process the data according to the category of an enterprise and the relationships with other enterprises (see Figure 1). The suggested approach in this guidance for the calculation of the annual energy consumption would take into account only linked (with more than 50 % control) but not partner enterprises.

⁽⁵⁾ Definition of energy service provider is included in Article 2(29) of Directive (EU) 2023/1791.

⁽⁶⁾ Member States may allow the exclusion of the self-consumption of energy produced by renewable energy (with the exception of bioenergy).

⁽⁷⁾ 'Autonomous enterprise' means 'an enterprise is autonomous if it is either completely independent or has one or more minority partnerships (each less than 25 %) with other enterprises' according to Article 3 §1 in Title I of the Annex to the Commission Recommendation 2003/361/EC.

⁽⁸⁾ European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, User Guide to the SME Definition, Publications Office, 2020, DocsRoom – European Commission (europa.eu).

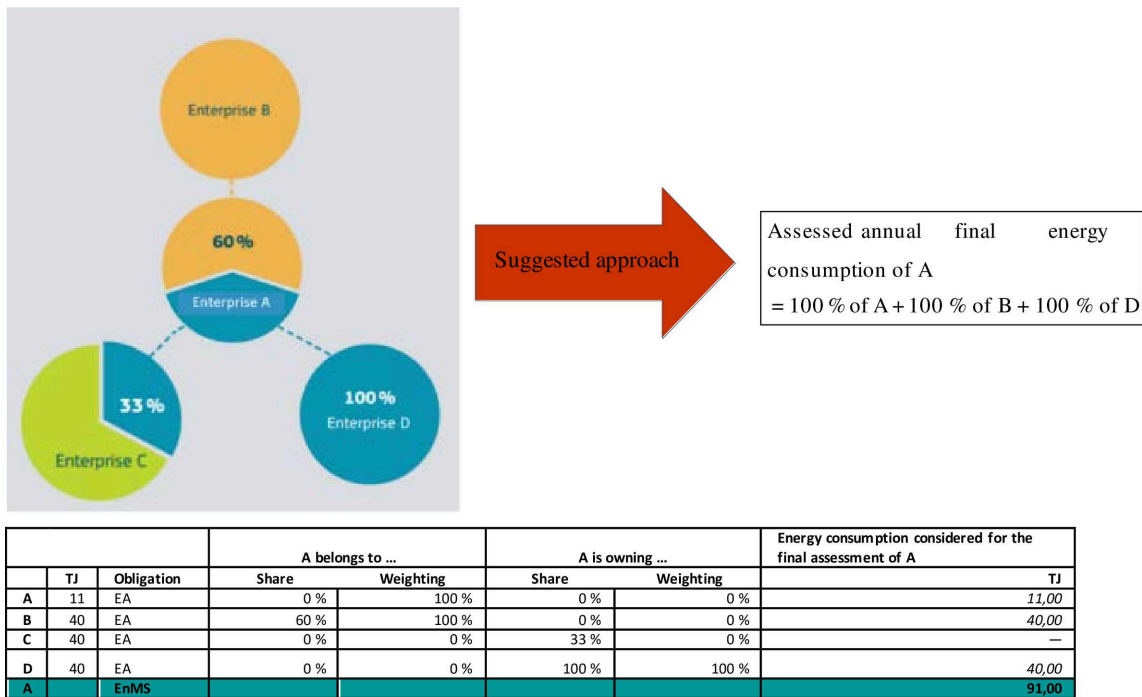


Figure 1

Approach to calculate the annual final energy consumption of more complex enterprises (based on the User guide to the SME definition, EC 2020)

The enterprises themselves have to report to a national authority, if their energy consumption exceeds the 10 TJ or 85 TJ threshold in a given year, as stated in Article 11(3) of Directive (EU) 2023/1791. Consequently, enterprises will be responsible for assessing their energy consumption and may use the approach presented in Figure 1 and provide information on the calculation methodologies, including the assumptions made.

To facilitate this, it is recommended that Member States provide enterprises with information about obligations stemming from Directive (EU) 2023/1791, with also guidelines for calculating the annual final energy consumption. An online reporting tool (that can be based on the methodology of the Recommendation 2003/361/EC) or another system for reporting the required information should also be considered. Each enterprise, including those with complex structures, would then be able to calculate their annual energy consumption according to their specific situation and deliver the required information.

In the example pictured in Figure 1, enterprise A, which consumes more than 10 TJ itself, if it was an autonomous enterprise, it would be obliged to carry out an energy audit. As A is a linked enterprise, all enterprises linked to A have to be taken into account when calculating the energy consumption of A. As A is linked with B and D, therefore energy consumption of B and D are added to consumption of A. Since A owns less than 50 % of C, C is not a linked enterprise to A and the energy consumption of C may therefore not be taken into account⁽⁹⁾. The total energy consumption of A and its linked enterprises is 91 TJ and therefore enterprise A is obliged to implement an energy management system.

Member States are encouraged to ensure that enterprises understand how to assess the energy consumption by providing examples and, if necessary, templates and/or tools.

4.4. Identification of obligated enterprises by Member States

To facilitate the identification of enterprises that fall under the scope of Articles 11(1) and 11(2), Member States may oblige all enterprises to report every year on their annual energy consumption to a national authority, when transposing Article 11(3) into the national legislation.

⁽⁹⁾ Member States may also take a different approach and include in the calculations also the energy consumption of the partner enterprises.

If Member States oblige enterprises only to report once they have exceeded 10 TJ or 85 TJ threshold, there will be a lack of data to calculate the average energy consumption over three years. Accordingly, Member States could develop a more elaborated approach to identify the relevant enterprises. Based partly on the best practices of the implementation of the EED 2018, a possible approach would be the following (Figure 2):

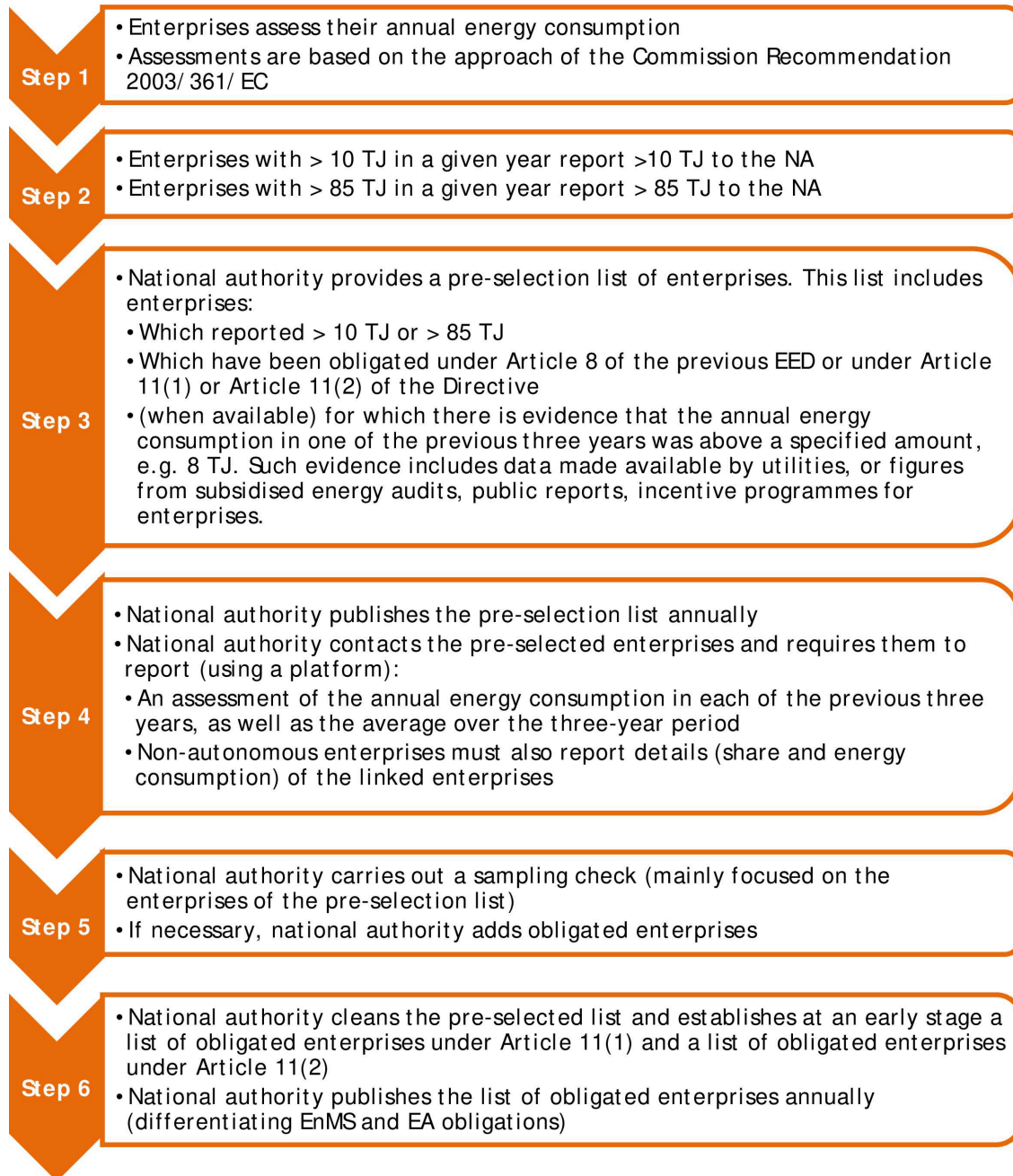


Figure 2

Suggested approach to identify the obligated enterprises

Member States may oblige at a national level an enterprise to assess its annual energy consumption based on reporting from an ongoing energy management system or based on a recent energy audit (not older than four years) or to self-assess (see point 4.3.).

Each year, Member States could publish a pre-selected list of enterprises considered to be subject to Article 11(1) or Article 11(2). As indicated in Figure 2, the pre-selected list could include the following enterprises:

- Which have reported to the national authority an annual energy consumption of more than 10 TJ at least once in the previous three years (see above).

- Which were already obliged under Article 8 of the EED 2018 or under Article 11(1) or Article 11(2) of Directive (EU) 2023/1791. These enterprises may already be listed in a national database.
- For which evidence is available that their annual energy consumption exceeded a given threshold, e.g., 8 TJ, once in the previous three years. It may happen that these enterprises exceeded the 10 TJ threshold within the previous three years. Evidence may include data provided by utilities, within the framework of the implementation of the EU ETS (Directive 2003/87/EC, as amended by Directive (EU) 2023/959), figures from energy audits, incentive programmes for enterprises, and public reports (e.g., EMAS declarations or reports under the Corporate Sustainability Reporting Directive ⁽¹⁰⁾).

Member States are encouraged to publish the pre-selected list and to contact the identified enterprises. The pre-selected list should include the following information:

- Name of the enterprise.
- Address of the enterprise.
- Final energy consumption of at least 10 TJ: Yes/No.
- Final energy consumption of at least 85 TJ: Yes/No.

In addition, the name, surname and email address of the contact person for the enterprise should also be gathered, but not published.

Member States could then require:

- Enterprises on the pre-selected list to report the annual energy consumption of each of the previous three years alongside the average energy consumption over this time period; non-autonomous enterprises should also provide additional information (energy consumption and shareholding) of the linked enterprises.
- Any enterprise not included in the pre-selected list but fulfilling the requirements of Article 11(1) or of Article 11(2) to self-declare and report the annual energy consumption of each of the previous three years alongside the average energy consumption over this time period; non-autonomous enterprises should also provide additional information (energy consumption and shareholding) of the linked enterprises.

In addition, national authorities could carry out sampling checks (primarily focused on enterprises on the pre-selection list) to check whether the information reported by the enterprises is correct.

Enterprises should report the required information to the national authority in charge of the implementation of Article 11 using a national platform, or another online tool, either pre-existing or designed specifically for this purpose.

The national authorities could publish on a yearly basis the final list of the enterprises which fall under the obligation of Article 11(1) or Article 11(2), as well as the three-year average energy consumption, and the type of obligation (energy audit or energy management system).

National authorities may then contact all of the enterprises subject to Article 11(1) or Article 11(2) in order to inform them of their obligations (incl. deadlines).

To reduce the burden on enterprises, Member States may at every stage of the process:

- Inform the enterprises (also via e.g., sectoral associations) about the obligation of Article 11(1) and Article 11(2).
- Prepare guidelines and/or FAQs to improve communication.
- Facilitate the self-declaration process (e.g., by providing an online system).

⁽¹⁰⁾ See 6.1.

5. OBLIGATIONS RELATED TO THE ENERGY MANAGEMENT SYSTEM PROVISIONS UNDER ARTICLE 11(1)

5.1. Scope of the requirement in accordance with Directive (EU) 2023/1791

Enterprises with an average annual energy consumption higher than 85 TJ over the previous three years are obliged to implement an energy management system.

The energy management systems have to be ‘certified by an independent body in accordance with the relevant European and international Standards’. To ensure a high quality of the energy management system that is internationally comparable and encompasses goals, processes, coverage of energy segments, implementation and updates, Member States should encourage enterprises to refer to these standards and to carry out energy audits in accordance with Annex VI of Directive (EU) 2023/1791 within the implementation of the energy management system. The most relevant international standard from this perspective is ISO 50001, which is widely applied. Ensuring high-quality energy management systems is an important prerequisite for a high implementation rate of the identified and recommended energy saving measures.

In accordance with ISO 50001, energy management systems include energy reviews as an inherent part of the continuous plan-do-check-act cycle. Even though the ISO 50000 standard family includes standards for energy audits (see Figure 3), ISO 50001 does not include a direct reference to ISO 50002 (energy audits). Therefore, energy audits ⁽¹⁾ in accordance with ISO 50002 or EN 16247-1 are not necessary for the certification of energy management systems. However, both ISO 50001 and ISO 50002 state that energy audits can support energy reviews.

An energy audit can be seen as a stand-alone instrument to assess the energy performance of an entity (e.g., a group of linked enterprises, an enterprise, a facility or a building), including recommendations for improvement measures. In contrast, an energy review is integrated within a continuous process of improving energy performance and has to be reviewed and updated regularly, typically on an annual basis.

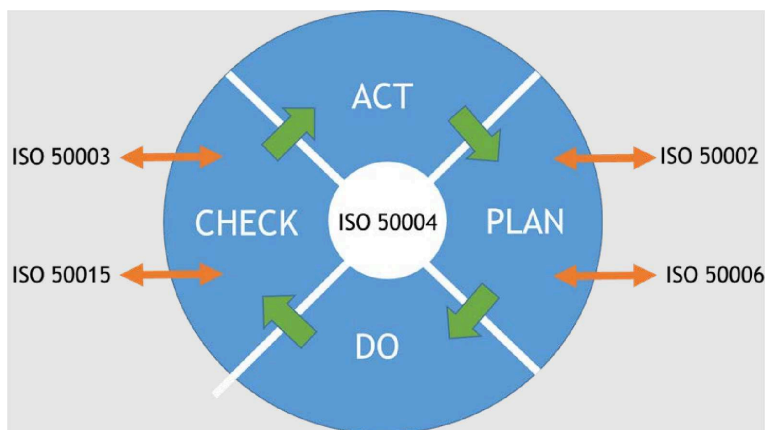


Figure 3

General framework of the ISO 50000 family (based on www.weka.de/energie/die-normenfamilie-der-din-en-iso-50001)

In practice, energy audits are commonly carried out in accordance with the aforementioned international and European standards (as part of energy management systems), since these standards provide useful guidance for high-quality energy audits that can support the energy review. Energy reviews (or energy audits) in energy management systems have to be updated regularly, typically in annual cycles.

Annex VI clarifies that energy audits, including those carried out as part of energy management systems, must fulfil a list of criteria, which are intended to guarantee a high level of quality, thereby increasing the probability of implementation leading to energy savings and the use of renewable energy.

⁽¹⁾ Please note that ‘internal audits of energy management systems’ should not be confused with ‘energy audits’.

Furthermore, Annex VI requires that the 'data used' in energy audits should be 'storable for historical analysis and tracking performance'. This data requirement can be used by national authorities to monitor the identification and implementation of energy saving measures in Member States. For this purpose, Member States should define the structure and format of the data that needs to be reported to the authorities or bodies responsible for monitoring in the Member States.

Typically, energy reviews as part of energy management systems are carried out by internal energy experts or energy managers. To guarantee the independence of in-house energy experts, these persons should not be directly responsible for any of the energy sectors (buildings, processes, transport) that are subject to the energy review. In some cases, energy audits are carried out by external energy auditors, who typically refer to the energy audit standards. These energy audits directly support the energy review. Certification of the energy management systems by an independent body requires continuity of processes and helps to improve the rate and quality of the implementation of energy performance improvement actions.

5.2. Deadlines

Article 11(1) defines a clear deadline of two years after the transposition deadline (i.e., 10 October 2027) to have an energy management system in place for enterprises, which have an average annual energy consumption of more than 85 TJ.

Although not explicitly stated in Directive (EU) 2023/1791, following the same logic and in order to treat all the enterprises equally, also enterprises that become subject of the Article 11(1) obligation at a later date, will have two years to introduce the energy management system.

However, Directive (EU) 2023/1791 does not set a clear date for the provision of the certification. Therefore, Member States may require an energy management system certification as proof of fulfilment of the obligation within the two-year period.

5.3. Quantification of the achieved (cumulative) end-use energy savings

In accordance with minimum criteria for energy audits enshrined in Annex VI of Directive (EU) 2023/1791, energy audit should identify energy efficiency measures to decrease energy consumption. As energy savings cannot be measured directly, they require the definition of an energy baseline for comparison with the actual – or expected – energy consumption.

Member States could encourage enterprises to refer to international protocols or standards such as the International Performance Measurement and Verification Protocol (IPMVP), ISO 50006, ISO 50015 or EN 16212 to calculate the energy savings or the increase of energy efficiency. These standards and protocols are widely applied in energy management systems and energy performance contracts.

5.4. Measurement, monitoring control, quality and verification by Member States

Together with a summary of the energy audits or the energy reviews, a summary list of recommendations for energy efficiency improvement measures, including the resulting figures for the economic assessment (payback period or similar indicators) of energy savings, should be reported to the national authority responsible for monitoring. Member States should provide guidance documents and define minimum standards for reporting (e.g., by providing templates and/or online-tools).

6. OBLIGATIONS RELATED TO THE ENERGY AUDIT PROVISIONS UNDER ARTICLE 11(2)

6.1. Scope of the requirement

Enterprises with an average annual energy consumption higher than 10 TJ over the previous three years that do not implement an energy management system, must carry out an energy audit and the recommendations from the energy audit have to result in a concrete and feasible **Action Plan**.

Such an Action Plan has to 'be transmitted to the management of the enterprise' and has to include all the recommendations that are 'technically or economically feasible'. Furthermore, the Action Plan has to be 'published in the enterprise's annual report' along with the 'recommendation implementation rate', which must be 'made publicly available'. As long as the enterprise has an obligation in accordance with Article 11(2), the Action Plan and the status of the (updated) recommendation implementation rate has to be published annually.

When defining requirements for the content of the Action Plans that enterprises have to prepare, Member States are encouraged to limit such requirements to the maximum extent possible and to be mindful of the need to avoid unnecessary reporting burden on enterprises.

Member States are also encouraged to ensure, as far as possible, that enterprises are not subject to duplicate or overlapping reporting requirements. In particular, Member States are encouraged to consider the disclosure requirements and the data points existing in the European Sustainability Reporting Standards (ESRS) and in the voluntary sustainability reporting standard for SMEs under development by EFRAG, and as far as possible to base the requirements for the content of the Action Plans on those disclosure requirements and datapoints.

Member States should allow enterprises that are subject to the reporting requirements of the Corporate Sustainability Reporting Directive⁽¹²⁾ (Directive (EU) 2022/2464, hereinafter CSRD) and the European Sustainability Reporting Standards to fulfil the requirement to publish an Action Plan by integrating the necessary information about the Action Plans into the climate transition plan that the enterprises publish under the CSRD/ESRS.

ESRS E1 (General requirements) explicitly allows enterprises to include in their sustainability statement additional information stemming from other Union or national legislation which requires the undertaking to disclose sustainability information.

Moreover, a concerned enterprise will already report under E1-5 its annual energy consumption and under E3-4 its total water consumption in m³, if such information is considered material in accordance with ESRS. ESRS1 7.1 further ensures comparative information in respect of the previous period for all quantitative metrics reported.

Based on the energy audit, the Action Plan could provide a structured summary of the energy performance improvement actions (EPIAs) which are part of the energy audit. If useful for the particular enterprise, EPIAs could be further differentiated into low (including no), medium, and high investment measures and could give indications of the respective payback periods or other appropriate economic indicators. For the specific cases, improvement measures could further be assigned to central production processes of the enterprise, including production lines, and ancillary processes including lighting, heating, ventilation, air conditioning or compressed air.

All this information would help to increase the rate of implementation. The implementation rate is understood here as the number of fully implemented EPIAs compared to the whole list of recommended EPIAs, and the subsequent energy savings could also be included.

Enterprises with an annual energy consumption of more than 10 TJ or 85 TJ respectively have to make this information available to the national authorities in charge of implementing of the Article 11 (see point 4.4.). An existing or a new platform for data collection can be used for this purpose. Member States may wish to consider the future European Single Access Portal in this regard. To fulfil the obligations required to implement an energy management system or an energy audit respectively, the detailed data requirements and appropriate timelines should be defined by Member States.

6.2. Deadlines

Article 11(2) defines a clear deadline of 1 year to comply with the energy audit requirements for enterprises with an average annual energy consumption of more than 10 TJ at the time of the transposition of Directive (EU) 2023/1791. Although not explicitly stated in Directive (EU) 2023/1791, following the same logic and in order to treat all enterprises equally, also enterprises that become subject of the 11(2) obligations at a later date, will have one year to comply with the energy audit requirements.

If the average annual energy consumption falls under the 10 TJ threshold, an energy audit is not required (even if an obligation existed in the previous year(s) under the EED 2018).

⁽¹²⁾ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting (OJ L 322, 16.12.2022, p. 15, ELI: <http://data.europa.eu/eli/dir/2022/2464/oj>).

6.3. Quality criteria for the energy audit (Annex VI of Directive (EU) 2023/1791)

The quality of an energy audit is decisive for the implementation of energy efficiency measures. Quality assurance may concern the qualification of the energy auditors and may contain criteria for the process of carrying out an energy audit and the content and level of detail required by the energy audits and the respective reports. This is reflected in Article 11(2), which states that energy audits have to be either 'carried out in an independent and cost-effective manner by qualified or accredited experts, in accordance with Article 28' or 'implemented and supervised by independent authorities under national legislation'.

There are European and international standards for energy audits, in particular ISO 50002:2014, which is based on EN 16247-1:2012. Both are trustworthy references regarding the quality of energy audits in terms of goals, processes, coverage of energy segments, assessment and recommendations of measures. These standards can provide useful guidance when developing national minimum criteria based on Annex VI. Furthermore, EN 16247-1, recently updated in 2022, was developed specifically in the context of the former Energy Services Directive and could be applied as a consistent tool as part of a wider management system (e.g., ISO 50001 or ISO 14000). It should be noted that, although reference is made to both ISO 50001 and ISO 14000, ISO 50001 specifically targets energy consumption, while ISO 14000 focuses on more general environmental improvements. In 2021, ISO 50005 was introduced as the standard dedicated to the stepwise implementation of energy management systems in SMEs. The consideration of European and/or international standards is useful to create a level playing field for enterprises with activities in several Member States.

Point (c) of Annex VI for the first time explicitly requires that the energy audit should 'identify energy efficiency measures to decrease energy consumption'. This is in line with the requirements set in ISO 50002:2014 and EN 16247-1:2012, where the energy auditor has to identify opportunities to improve energy performance. Management systems (e.g., ISO 50001 or ISO 14000) also have similar requirements. In practice, the audit should also include an evaluation of the improvement opportunities including the financial savings, required investments, economic analysis and non-energy benefits. Possible interactions between energy efficiency measures should be presented and a comparison should be provided, if alternative energy efficiency measures are proposed.

Furthermore, Annex VI (d) includes a new requirement to 'identify the potential for cost-effective use or production of renewable energy'. Depending on the energy carrier, this could lead to counteracting energy efficiency efforts, e.g., if (highly efficient) gas boilers are replaced by (typically less efficient) biomass solid fuel boilers. Nevertheless, the use of renewable energy sources reduces the emissions of greenhouse gases needed to achieve climate goals. For energy audits an approach already implemented in the context of the EPBD could be applied, where the possibility of using or producing renewable energy has to be taken into account and analysed⁽¹³⁾. The analysis would have to be documented in the energy audit.

6.3.1. Content of the audit and the audit report

Annex VI (f) states that energy audits must be 'proportionate, and sufficiently representative to permit the drawing of a reliable picture of overall energy performance'. Thus, defining the minimum coverage (de minimis⁽¹⁴⁾) of an energy audit is an important prerequisite to fulfilling this requirement⁽¹⁵⁾.

⁽¹³⁾ Assessing the technical, environmental and economic feasibility of high-efficiency alternative systems based on renewable energy.

⁽¹⁴⁾ Further details are provided in: Behling, I. et al., 2018: Development of recommendations on the implementation of certain aspects of Article 8 and Annex VI of the Energy Efficiency Directive. Final Report for DG ENERGY.

⁽¹⁵⁾ European Commission, 2016: A Study on Energy Efficiency in Enterprises: Energy Audits and Energy Management Systems. Report on the fulfilment of obligations upon large enterprises, the encouragement of small- and medium-sized companies and on good-practice. Study prepared by the Fraunhofer Institute for Systems and Innovation Research ISI and Ricardo Energy & Environment for the European Commission. Karlsruhe/Oxon.

In the context of the implementation of the EED 2018, in some Member States, the total energy consumption has to be included in the energy audit. In various Member States, an explicitly defined minimum percentage of the total energy consumption of the enterprise must be covered by the energy audit; this typically ranges from 65 % to 90 %. Another approach requires the inclusion of all areas of energy consumption (in accordance with European standards EN 16247-2 for buildings, EN 16247-3 for processes, and EN 16247-4 for transport) with a minimum share of 10 % of energy consumption, resulting in a total coverage of at least 80 %. In energy management systems, in accordance with ISO 50001, significant energy uses (SEUs) have to be identified. These are defined as areas with substantial energy consumption and/or considerable potential for energy performance improvements. A similar approach could be considered for defining the minimum coverage of energy consumption in energy audits, as data for all areas of energy consumption will have to be collected in energy audits. Excluding areas below a certain share (e.g., 10 %) of total energy consumption for the in-depth analysis allowing to increase cost-effectiveness of energy audit seems adequate for the fulfilment of Annex VI (f).

Energy audits should be sufficiently representative. A Member State may consider applying a 'sampling approach' in its territory for those enterprises with a number of similar sites (e.g., shopping chains). The samples chosen have to ensure representativeness of the whole audited sites with at least the square root of the total number of objects with similar characteristics like energy consumption profiles, energy uses, energy sources and prices, number of employees, size, process, etc. to be taken into the consideration. The criteria needed to ensure sufficient similarities between sites could include the heated and/or cooled floor area, building age, technical equipment etc. The minimum percentage of energy consumption and a sampling approach could be combined, for example, by allowing a sampling approach that still requires a certain percentage of energy consumption to be covered in the energy audit. The relevant characteristics of the sampling cluster have to be documented in the energy audit report and the selection of the sample has to be justified.

To increase the cost-effectiveness of energy audits, Member States could provide guidelines for de minimis, clustering and sampling. It is recommended to use flexible approaches across different enterprises. Selection of clusters, sampling methodology and the appropriateness of the de minimis rule have to be justified and documented ⁽¹⁶⁾.

It is necessary to define how the energy consumption of buildings and transport is included in an energy audit. It must be decided whether the energy audit includes transport services. If this is the case, guidance will be needed for how to assess mass transport including flights, trains, buses, coaches, ships, and taxis. It must also be specified how to handle cross-border transport as part of energy audits. Member States could require the inclusion of all transport that is connected to the purpose of the business, including cross-border transport.. For buildings, it should be clarified who is responsible for energy audits in buildings that are owned or rented. The relevant criteria here could be the responsibility for the operational use of the building, or if an enterprise has a significant influence on the building's energy consumption. This could also be based on dividing the energy consumption within the scope of the enterprise (e.g., electricity for servers, computers and office lighting) and the scope of the building owners (including central heating and cooling) into their energy audit.

6.3.2. Required level of detail

To ensure a certain level of detail, Member States could provide guidelines with good practice examples and tables of contents and/or templates for energy audits. All the relevant areas (buildings, processes, and transport) should be included in these templates, but with the option to delete sections that are not relevant in the specific cases. Crucial sections include the executive summary and the list of recommendations that form the basis for the Action Plan. The content required for these sections should be specified in detail. It will also be necessary to clearly define a data structure for the data that has to be provided to national authorities, preferably by uploading them to a database (summary of the energy audits, list of recommendations, CAPEX, savings, payback period etc.) ⁽¹⁷⁾.

⁽¹⁶⁾ See Behling, I. et al., 2018: Development of recommendations on the implementation of certain aspects of Article 8 and Annex VI of the Energy Efficiency Directive. Final Report for DG ENERGY.

⁽¹⁷⁾ European Commission, 2016: A Study on Energy Efficiency in Enterprises: Energy Audits and Energy Management Systems. Library of typical energy audit recommendations, costs and savings. Study prepared by DNV GL. Oxon.

Annex VI outlines the minimum criteria for energy audits. These criteria also have to be met by energy audits that are part of energy or environmental management systems.

6.4. Admissibility of experts

To secure high quality energy audits, energy auditors should have the necessary qualifications. Only qualified and/or accredited energy auditors should be included in a public register.

A scheme for certification and/or accreditation should include at least the following criteria ⁽¹⁸⁾:

- Education of energy auditors. Most Member States require energy auditors to have a bachelor's or master's degree in the relevant technical subjects (e.g., engineering, architecture). In some Member States, secondary school education may be sufficient, but this would need to be combined with longer or more extensive work experience.
- Experience in the field of expertise. Certification/accreditation should be limited to actual work experience in the relevant fields (e.g., buildings, processes, mobility). Depending on the level of education, a minimum number of years of relevant experience should be required, ranging typically between two and five years. Reference projects (energy audits or similar activities) could be submitted as proof.
- Training in the areas of expertise. Member States should provide officially approved training programmes to be developed by the respective responsible national authority. Training will be required to extend the fields of certification/accreditation and may be required for re-certification or re-accreditation (e.g., every three years).
- Examination. In some Member States, it is common for energy auditors to have to pass an exam.
- Registration, certification and/or accreditation of energy auditors. Only registered, certified and/or accredited energy auditors should be allowed to carry out energy audits in accordance with Article 11.

7. EXAMPLES OF APPLYING THE OBLIGATIONS OF PARAGRAPHS 1 AND 2 OF ARTICLE 11

Some specific examples are given below to illustrate how the requirements of Articles 11(1) and (2) could be applied in cases, where an enterprise has had an average annual energy consumption over the previous three years around the 10 TJ or 85 TJ threshold:

- The three-year average energy consumption in year n ⁽¹⁹⁾ is > 10 TJ but still < 85 TJ and exceeds 85 TJ in year $n+1$: the enterprise should carry out an energy audit by year $n+1$ at the latest (unless an energy audit is available that is less than four years old by then) and should have an energy management systems in place by year $n+3$ at the latest.
- The three-year average energy consumption in year n is > 85 TJ: the enterprise should have an energy management system in place by year $n+2$. However, if the three-year average energy consumption in year $n+1$ falls under 85 TJ, only an energy audit obligation will apply from year $n+1$ meaning that an energy audit should be carried out by year $n+2$ at the latest (unless an energy audit is available that is less than four years old). However, in year $n+2$, there is no longer an obligation to have an energy management system in place.
- The three-year energy consumption exceeds the 10 TJ threshold only in year n : the enterprise would be obliged to carry out an energy audit by year $n+1$ at the latest (unless an energy audit is available that is less than four years old), regardless of the three-year energy consumption in year $n+1$.

⁽¹⁸⁾ JRC, 2015: Survey of energy audits and energy management systems in the Member States. Preparation of the transposition of the Energy Efficiency Directive in Member States. JRC Science for Policy Report.

⁽¹⁹⁾ Where year n refers to any given year after the transposition of the Directive.

- The three-year energy consumption was always slightly above 10 TJ, but falls under 10 TJ in year n: the enterprise has no obligation in year n. If the three-year average energy consumption exceeds the 10 TJ threshold again in year n+1, the enterprise would be subject to all Article 11(2) requirements. An energy audit should be carried out in year n+2 the latest (unless an energy audit is available that is less than four years old by then).

It is particularly advisable for enterprises that may be moving from one obligation to another to carry out an energy audit rather than a simple energy review as part of an energy management system, as a simple energy review will not fulfil the requirements of an energy audit.

Furthermore, considering the deadlines explained in sections 4.2. and 5.2. and as illustrated in some of the examples above, there is a strong incentive for enterprises that have exceeded a threshold in a given year to implement energy saving measures as soon as possible in order to fall below the threshold again within one year.

8. PROMOTION OF HIGH-QUALITY ENERGY AUDITS TO ALL FINAL CUSTOMERS

With regard to the promotion of energy audits to final customers, Directive (EU) 2023/1791 emphasises that ‘relevant European or international Standards’ should be considered when defining ‘the minimum criteria for energy audits’. Furthermore, Directive (EU) 2023/1791 recognises the need to ensure that the timelines for conducting energy audits set out in paragraph 2 of Article 11 are complied with and the minimum criteria set out in Annex VI are correctly applied’. Directive (EU) 2023/1791 also requires Member States to designate a ‘competent authority or body’ for this role.

The designated authority or body could play an important role in assuring the high quality of the energy audits. It could be responsible for the development and implementation of the quality assurance scheme, and carrying out the necessary quality checks, including random sampling. The designated authority could process the certification and/or accreditation of the energy auditors and be responsible for the supervision of training programmes. Furthermore, data collection and analysis of energy audits could be carried out by the designated authority thereby providing summary reports and benchmarks. Together with energy service associations, promotional programmes could be launched for enterprises that are under any obligation from Directive (EU) 2023/1791 (e.g., SMEs, public authorities etc.).

8.1. Quality checks of energy audits to be implemented by Member States

Member States should ‘put in place a scheme to assure and check’ the quality of the energy audits. These schemes should be based on good practice examples observed from Member States who implemented the EED 2018 ⁽²⁰⁾. Such a scheme may include the provision of:

- Detailed guidelines on how to conduct audits.
- A template for energy audits, to facilitate and standardise the reporting process, thus contributing to quality improvement.

Furthermore, to have easy access to the full energy audits or at least to the energy audit summaries, national databases can be set up to monitor the implementation and allow formal checks of the completeness and structure of energy audit summaries. If possible, the main data of the energy audit should be collected in a machine-readable format to allow the detection of possible errors and to check the plausibility of the figures (e.g., based on benchmarking the energy savings measures ⁽²¹⁾). In this respect, Member States should pay particular attention to facilitating the information and data submission process (e.g., by setting up hotlines or helpdesk services, providing a FAQ section, etc.).

⁽²⁰⁾ See: Guidance for national authorities on overcoming challenges in the implementation of Article 8 EED. 2021. <https://doi.org/10.24406/publica-304>, elaborated within the H2020 project DEESME for the implementation of Article 8 of the previous EED. Many of the recommendations are still relevant for the implementation of Article 11 of this Directive.

⁽²¹⁾ The DEEP database (<https://deep.eefig.eu>) of the EEFIG be a potential reference for benchmarking data for energy efficiency projects.

Beyond the basic validity checks on all the collected energy audit reports, in-depth quality checks on a smaller sample will be carried out on a random basis. If full energy audit reports are available, the national authority could use this database to make detailed assessments of (random) samples of energy audits. If only summaries have been submitted, full energy audit reports must be provided on request. The number of in-depth quality checks varies and can range from 1 % up to 5 % of all obligated enterprises.

8.2. Cost-effectiveness of energy audits

There is no strict definition of the cost-effectiveness of energy audits. However, the cost-effectiveness of energy audits can be assessed using the payback period (years), which is the ratio between the costs to execute an energy audit and the annual net cost savings (expressed in net present value) generated by the energy efficiency measures identified in the energy audit and implemented by the enterprise. The net cost savings consider the gross cost savings per year (related to the reduced energy consumption) as well as the investments required to improve the energy efficiency.

A recent study ⁽²²⁾ assessed the cost-effectiveness of energy audits expressed as a payback period for several typical enterprises. In general, the payback period of energy audits is 3,1 years or less, depending on the enterprise considered; for enterprises with an energy consumption larger than 10 TJ, the payback period is less than 1,16 years.

Finally, internal costs (e.g., personal costs of the staff involved in supporting the energy audit or the implementation of the energy efficiency measures) as well as the cost savings related to non-energy benefits may be taken into account in the cost-effectiveness calculation.

8.3. Multiple benefits

One of the reasons why enterprises – and SMEs in particular – do not invest more in energy efficiency is that project proposals usually only focus on energy savings (see classical approach in Figure 4), which is not the core business of most enterprises. However, by quantifying and communicating all the benefits of improved energy efficiency (see multiple benefits approach in Figure 4) including improved product quality, enhanced productivity, better indoor environment, etc., project proposals become more competitive and more attractive to enterprises ⁽²³⁾.

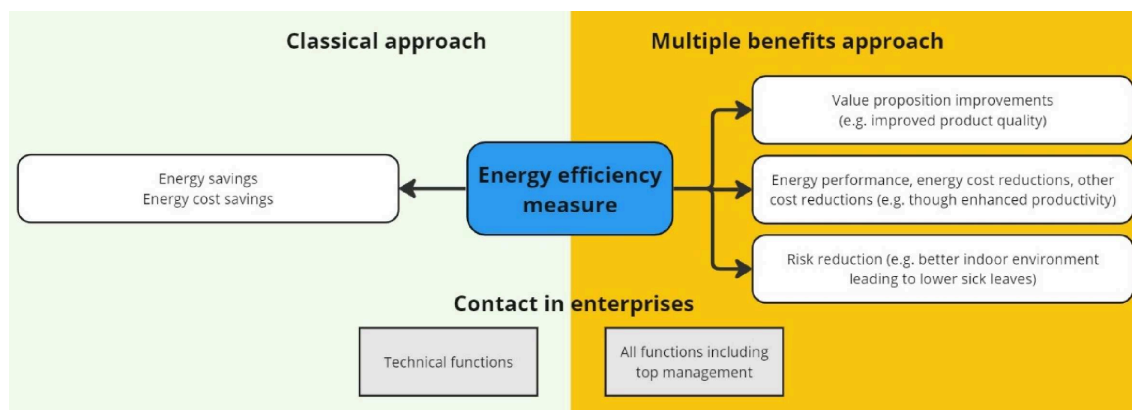


Figure 4

Classical vs. multiple benefits approach to promoting investments in energy efficiency measures (based on www.mbenefits.eu)

⁽²²⁾ European Commission, Directorate-General for Energy, Groen, W., Egenhofer, C., Musmeci, R. et al.: Technical assistance on assessing the effectiveness of the implementation of the definition of small and medium-sized enterprises for the purposes of Article 8(4) of the Energy Efficiency Directive – Final report, Publications Office, 2021, <https://data.europa.eu/doi/10.2833/051248>.

⁽²³⁾ Relevant materials (e.g. background information, guidelines, xls-sheets...) to support national authorities and enterprises in including, quantifying and promoting the multiple benefits of energy efficiency are provided by some H2020 projects such as: M-Benefits (<https://www.mbenefits.eu/>), DEESME (<https://www.deesme.eu/>) or ICCEE (<https://iccee.eu/>).

8.4. Energy efficiency networks

An energy efficiency network (EEN) is a proven concept to foster the implementation of energy efficiency measures in enterprises. The EEN concept can be defined as a structured, moderated and temporally limited (typically two to four years) exchange of knowledge and experience between enterprises, with the aim of facilitating the implementation of energy efficiency measures. The first step typically is to identify the energy saving potential in the enterprises that are part of the EEN by conducting an energy audit. The recommended energy efficiency measures are used to set individual, non-binding saving targets. Usually, an overall saving target is also set for the EEN as a group. Next, internal and external energy professionals meet at regular intervals to discuss energy efficiency and possible measures, and if necessary, involve external experts with specific areas of expertise. This gives the participants of the EEN access to knowledge, good practices, and first-hand experience. This approach also helps the participants to justify the necessary investments within their respective enterprise and increase the implementation rate for energy efficiency measures. The concept and impact of EENs have been documented in the literature and several reports ⁽²⁴⁾.

9. EXEMPTION FROM THE OBLIGATIONS DUE TO THE IMPLEMENTATION OF AN ENERGY PERFORMANCE CONTRACT

In accordance with Article 11(10), enterprises should be exempted from the requirements of paragraphs 1 and 2 if they implement an energy performance contract that fulfils the following conditions:

- The energy performance contract covers the necessary elements of the energy management system.
- The energy performance contract complies with the requirements set out in Annex XV of the EED ⁽²⁵⁾.

In general, the principle of comparable impact must be applied for this exemption to be valid. This means that the energy performance contract would need to cover the entire enterprise including all its sites and all its energy-consuming systems and processes; these would have to be covered by an energy management system that complies with the EED requirements. In practice, such a case is hardly imaginable, since energy performance contracts have clearly defined system borders and usually only cover specific sites or energy systems.

Nevertheless, the use of energy performance contracts can facilitate the introduction of an energy management system in an enterprise. Those parts of an enterprise that have already improved their energy use through an energy performance contract can be excluded from the activities required under the energy management system. For example, if there is an energy performance contract that optimises the lighting of production halls, this area no longer needs to be addressed in the energy management system. It only has to be ensured that the information required and useful for the energy management system is provided by the energy performance contract project to the internal reporting process.

10. EXEMPTION FROM THE OBLIGATIONS DUE TO THE IMPLEMENTATION OF AN ENVIRONMENTAL MANAGEMENT SYSTEM

Article 11(11) permits exemptions to the requirements of Article 11(1) and Article 11(2) for enterprises that implement 'an environmental management system, certified by an independent body in accordance with the relevant European or international standards' under the condition that it 'includes an energy audit on the basis of the minimum criteria set out in Annex VI'.

⁽²⁴⁾ Such as:

Carlén, A. et al., 2016: Energy efficiency networks for small and medium sized enterprises: boosting the energy efficiency potential by joining forces. In ECEEE Industry Summer Study 2016. European Council for an Energy Efficient Economy (ECEEE). IPEEC (International Partnership for Energy Efficiency Cooperation). 2015. Energy Efficiency Networks – An effective policy to stimulate energy efficiency. Paris: OECD/IPEEC.

In addition, comprehensive documentation (in German) can be found on the website of the Energy-Efficiency-Networks Initiative <https://www.effizienznetzwerke.org/>.

⁽²⁵⁾ Detailed information on the definition of energy performance contracting is included in the guidance on Article 29.

In the context of Article 11(11), the exemption from the energy management system (or energy audit) obligation for enterprises above 85 TJ (or 10 TJ) refers specifically to formalised environmental management systems complying with relevant European and International Standards like the ISO 14000 (Environmental Management Systems) or the Eco-Management and Audit Scheme (EMAS).

This exemption only applies if the environmental management system concerned includes an energy audit based on the minimum criteria set out in Annex VI (see 6.3.). The certification status of the management system and of the certification body (or for self-certification where applicable) needs to be checked to ensure that the implementation of the management system fulfils the requirements described in Annex VI. Evidence that an energy audit meets the requirements of Annex VI, and the specific requirements of the Member State should be provided to the national authorities.

An environmental management system is based on a plan-do-check-act cycle. Accordingly, if an enterprise has an environmental management system in place which includes an energy audit in line with Annex VI, it has been implementing a continuous improvement process to increase its energy efficiency performance and is deemed to satisfy the requirements of Article 11(1) or Article 11(2). The enterprise is therefore exempted from the requirements of those articles.

11. REPORTING REQUIREMENTS

11.1. Update of the integrated National Energy and Climate Plans

In accordance with Article 14(2) of Regulation (EU) 2018/1999 of the European Parliament and of the Council ⁽²⁶⁾, 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 (NECP). 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 accordance with Annex I of the Regulation (EU) 2018/1999, for the energy efficiency dimension, Member States should include among others, for example measures to promote energy audits and energy management systems in accordance with the Article 11 of Directive (EU) 2023/1791 (replacing Article 8 of Directive 2012/27/EU).

11.2. Progress Reporting

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

In accordance with Annex IX, part 2 of Regulation (EU) 2018/1999, Member States are required to report the number of energy audits carried out in in year X-3 and X-2 and in addition, the total estimated number of the companies in their territory to which Article 11(2) of Directive (EU) 2023/1791 (replacing Article 8(4) of Directive 2012/27/EU) is applicable and the number of energy audits carried out in those enterprises in the year X-3 and X-2.

The first National Energy and Climate Progress Reports were due 15 March 2023 after which the Member States need to report progress biennially.

⁽²⁶⁾ 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>.